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Wednesday, 1:30 - 2:10pm

Navigating a Path to Self-Regulation: Strategies to Bring to Lead Generation

SPEAKERS:

- Sandy Brown, Assistant Director, Financial Practices, Federal Trade Commission
- C. Lee Peeler, President & CEO, Advertising Self-Regulatory Council and EVP, National Advertising, Council of Better Business Bureaus
- Jonathan Pompan, Partner, Venable LLP

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Jonathan L. Pompan Venable LLP jlpompan@venable.com





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Jonathan L. Pompan Partner, Venable



Sandhya P. Brown

Assistant Director, Division of Financial Practices, Federal Trade Commission



Lee Peeler, President & CEO,

Advertising Self-Regulatory Council and EVP, National Advertising, Council of Better Business Bureaus





Introduction

- 1. How did we get here?
- Federal Trade Commission and Lead Generation Advertising
- 3. Self Regulation What is it, and how does it help?
- 4. Discussion



How we got here...

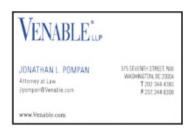
- Use of Lead Generation is increasing...
- Scrutiny of facial lead generation advertising, data use, and vertical specific regulation is on the rise... (e.g., FTC, CFPB, Dept. of Ed., SSA OIG, state Attorneys General, state financial services and insurance regulators)...
- Self-regulation by the industry may make it easier for buyers and sellers of inquiry based advertising to do business.



Traits and Benefits for Effective Self Regulation

- 1. Prompt, flexible, and responsive
- 2. Adaptable.
- 3. Helps increase compliance.
- Process and outcomes can be flexible to market.
- 5. Realities of the market.
- 6. Increases confidence.
- 7. Financial incentives.





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www.ftc.gov



www.asrcreviews.org





FEDERAL TRADE COMMISSION

Sandhya Brown, Assistant Director
Division of Financial Practices
Bureau of Consumer Protection



OVERVIEW

- (1) The FTC's Role
- (2) Enforcement History (briefly)
- (3) Fall 2015 Workshop



FTC's Enforcement Authority

- FTC Act
- Broad jurisdiction
- Section 5
 - Deception
 - Unfairness
- Rules e.g., TSR, MAP



Deceptive Claims to Consumers

- Who is making the offer (FTC v. Mallett)
- What is being offered (FTC v. GoLoansOnline.com)
- Security of Consumers' Personal Data (FTC v. ValueClick)



Deceptive Claims to Consumers

LIABILITY OF:

- Publisher
- Affiliate Network
- Service Provider
 (FTC v. LeanSpa, FTC v. Five Star Auto)



Unfair Sale of Sensitive Data





Unfair Sale of Sensitive Data

- Confidential Phone Records (FTC v. Accusearch)
- Payday Loan Applications
 (FTC v. Sitesearch, FTC v. Sequoia One)
- Debt Portfolios
 (FTC v. Cornerstone, FTC v. Bayview Solutions)



FTC Workshop: "Follow The Lead"

October 30, 2015, Washington, DC





FTC Workshop: "Follow The Lead"

- Hear from industry members
- Understand more about the mechanics of lead generation in different verticals
- Identify consumer protection issues
- Learn about best practices







Friday, October 30, 2015 400 7th Street, SW, Washington, DC leadgen@ftc.gov





Self-Regulation of Lead Generation Claims

Lee Peeler
President & CEO, ASRC
EVP, National Advertising, CBBB



The Advertising Industry's Self-Regulatory System

44 years of success

"Domestically, the FTC views robust self-regulation as an important tool for consumer protection that potentially can respond more quickly and efficiently than government regulation."

— Edith Ramirez, Commissioner, Federal Trade Commission, Nov. 29, 2012, Federal Trade Commission Workshop on Enforceable Codes of Conduct: Protecting Consumers Across Borders











Core Elements

- Strong Standards Tell the truth
- Impartiality Administered by BBB
- Transparency Decisions are public
- Accountability Referral to FTC if non-compliant



Advertising Industry Self-Regulation

Advertising Self-Regulatory Council

National Advertising Division (1971)

Truth and accuracy of national advertising claims

Children's Advertising Review Unit (1974)

Advertising directed to children

Online Interest-Based Advertising Accountability Program (2010)

Regulates online behavioral advertising

Electronic Retailing Self-Regulation Program (2004)

Truthful direct response marketing & telemarketing/seminars



ERSP Process

- Advertising comes to the attention of ERSP through its monitoring of the marketplace and consumer and competitive challenges
- Process
 - Opening Letter
 - Marketer's Reply
 - ERSP Reply
 - Marketer's Response
 - Final Decision
 - Marketer's Statement
 - Press Release
- ERSP final decisions and press releases are published in the ASRC Online Archive



Telemarketing and Lead Generation

- In 2012, ERSP initiated a program to monitor and review lead generation advertising and telemarketing of the coaching and mentoring industry
- In 2013, ERSP further expanded the program to review recordings of free live seminar events
- Participants provide ERSP with access to telesales calls and/or seminar recordings; must be Electronic Retailing Association (ERA) members
- Continuous ongoing review of lead generation advertising



Lead Generation Advertising

- As part of the ERSP Review Program, ERSP has made a concerted effort to monitor lead generation advertising
 - Closed 29 cases to date
 - Referred 10 cases to FTC to date
- Inquiries are initiated by ERSP through its own monitoring and also brought by challengers
- Cases follow established ERSP Policy & Procedures



ERSP Referrals to FTC

- Life Without Limits, Inc. (Million Dollar Edge), Case #294, June 20, 2012
- Maverick Enterprises, LLC (Maverick Money Makers), Case #297, August 10, 2012
- MarksEnterprise.com, Inc. (Super Affiliate Lab), Case #310, February 25, 2013
- The Info Marketing Group, Inc. (The Mini Site Formula), Case #312, April 2, 2013
- Premium Web Marketing, Inc. (Review Riches), Case #301, October 22, 2012
- Richatlast.com (Richatlast.com), Case #317, May 8, 2013
- Hazel Peppergood, Inc. (Hazel Peppergood), Case #320, June 24, 2013
- Internet Secrets (The 7 Day Test), Case #321, June 24, 2013
- MobileMoneyCode.Net (Mobile Money Code), Case #354, September 25, 2014



Challenges for the Future

- New focus on lead generation practices
- Clear legal standards on deception
- Choice more government enforcement? Or stronger industry effort to police itself?



Thank You