

**Excerpt from Online Lenders Alliance (“OLA”) Webinar  
“Update on the Current Regulatory and Litigation  
Environment” – Federal Trade Commission**

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# Federal Trade Commission Update

- Continuing to move forward with ongoing investigations and litigation; and new investigations.
- Chairman appears to be seeking consensus; but commissioners are objecting to staff work and settlement conditions. What does this mean?
- Safeguarding of consumers during the Coronavirus Pandemic.
- Notable recent developments:
  - Settlement w/ rent-to-own payment plan company (financing)
  - Settlement w/ comparison shopping website
  - Staff Report on Forum on Small Business Financing
  - Settlement w/ student loan debt relief companies, and credit repair company
  - *FTC v. LendingClub*, filed in 2018, FTC MSJ pending as of April 2020, LC pushing for trial and testimony (alleged misreps re “no hidden fees”)
  - Co-host of Workshop w/CFPB on Credit Reporting
  - Focus on privacy and data security, w/record settlement
  - Safeguards Workshop on June 13
  - Ongoing litigation over FTC’s enforcement authority, 7<sup>th</sup> Circuit upends precedent and creates split



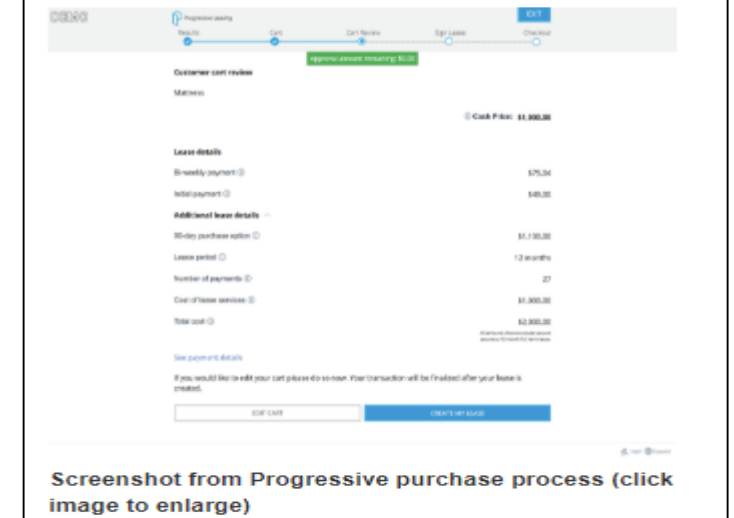
The screenshot shows the Federal Trade Commission (FTC) website. The header includes the FTC logo and the text "FEDERAL TRADE COMMISSION PROTECTING AMERICA'S CONSUMERS". Below the header is a navigation menu with links for "ABOUT THE FTC", "NEWS & EVENTS", "ENFORCEMENT", "POLICY", "TIPS & ADVICE", and "I W". The main content area displays a news article titled "FTC Chairman Simons' statement regarding consumer protection" by Lesley Fair, dated March 26, 2020. The article includes social media sharing options for Facebook, Twitter, and LinkedIn, and a list of tags: "Bureau of Consumer Protection", "Consumer Protection", "Advertising and Marketing", "Credit and Finance", and "Privacy and Security". The article text discusses the FTC's commitment to consumer protection during the coronavirus pandemic and mentions a statement from Chairman Simons.

# FTC v. Progressive Leasing

- Rent-to-own payment plans in retail stores
- Alleged misleading marketing of payment plans, e.g., “same as cash,” or “no interest.”
- Alleged company was aware of consumer confusion with > 15k complaints in 15 month-period
- \$175m settlement for refunds, prohibition on misrep. the cost, terms, or nature of its plans, and must get consumers’ express, informed consent before charging or billing them; monitoring of third party, such as retailers.
- Dissent - Commissioner Rebecca Kelly Slaughter contended that the proposed settlement does not adequately remediate harm or achieve appropriate deterrence. She advocated for (i) higher monetary relief, closer to the total amount Progressive charged consumers over the cash price—in excess of \$1 billion; (ii) individual liability for Progressive’s CEO because he participated directly in the allegedly illegal practices or had authority to control them and because Progressive’s parent company, Aaron’s, had been subject to prior FTC actions; and (iii) charging Progressive with a violation of the Restore Online Shoppers’ Confidence Act (ROSCA).
- **Takeaways:** FTC will look at company more than once; importance of disclosure and digital design; responsibility for third parties, such as retailers (e.g., lead generators for financing)



Screenshot from Progressive purchase process (click image to enlarge)






Screenshot from Progressive purchase process (click image to enlarge)

# In the Matter of LendEDU, et al.

- Website compares student loans and other financial products
- Alleged misleading marketing that led consumers to believe website provided objective product information, when in fact they provided higher rankings and ratings to companies that paid for placement.
- FTC's complaint alleged operators of LendEDU.com falsely claimed that the website provided "objective," "accurate," and "unbiased" information about consumer financial products, such as student loans, personal loans, and credit cards. Specifically, LendEDU misrepresented that the information on its website was not affected by compensation from advertisers. Also, alleged made-up consumer reviews.
- \$350k settlement and prohibition on making the alleged misreps.
- **Takeaways:** disclose material connection, and endorsements; disclosure and placement of influence of compensation on content or other material connections; disclose and placement of any material connection between endorser and advertiser.




**Top 9 Companies for Student Loan Refinancing:  
In-Depth Reviews**

1. SoFi

  Reduce your payment and interest rate.  
Members save \$22,359 in 15 minutes!  [VISIT SITE >>](#)




✓ Refinance and consolidate both federal and private student loans ✓ 5, 7, 10, 15, 20 year repayment terms  
✓ Rates as low as 2.89% for variable rates ✓ No application fees, origination fees, or pre-payment fees  
✓ Rates as low as 3.25% for fixed rates ✓ Unemployment protection is available  
✓ Easy application process

2. Earnest

  You could save a boat load.  
Customers save \$21,810 on average!  [VISIT SITE >>](#)

✓ Refinance and consolidate both federal and private student loans ✓ Fixed rates as low as 3.25%  
✓ 5 - 20 year repayment terms ✓ Data-driven customer evaluation helps you get qualified  
✓ Variable rates as low as 2.57% ✓ Zero application fees, origination fees, or pre-payment fees

3. LendKey

  You deserve a better student loan.  
Average client saves \$16,657!  [VISIT SITE >>](#)

*LendEDU's Allegedly Paid-For Student Refinancing Rankings*



# Questions?



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