

Ensuring Effective Compliance in Lead Generation

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About our Panelists



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What's New?

CFPB Under New Management - Mulvaney Takes Reins



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Battle Over Bank Watchdog Whiffs on the Law

Bloomberg - Dec 15, 2017

Even if federal law turns out to favor Trump's claim that the president has the authority to pick a temporary director of the bank-regulation agency, the **Consumer Financial Protection Bureau**, it doesn't let him pick just anybody. It's Trump's particular choice of Mick **Mulvaney**, the White House budget director, ...



Can CFPB's Mulvaney bring politics to independent agency ...

American Banker - Dec 15, 2017

When Mick **Mulvaney** announced plans to hire political appointees to work at the **Consumer Financial Protection Bureau**, many viewed that as antithetical to the workings of an independent regulator. Political appointees don't work at the banking agencies, they said. And that is true. The regulators are ...



An Open Letter To CFPB Acting Director Mick Mulvaney

Fintbeat - Dec 12, 2017

I join my fintech colleagues and working Americans in supporting the **Consumer Financial Protection Bureau's** mission. Regulation done right is a positive thing for consumers and businesses alike. Those of us who are committed to delivering high-quality financial services welcome **CFPB** guidance that ...

Lawcut: Trump appointee Mick **Mulvaney** has 'no more right' to lead ...

Washington Examiner - Dec 12, 2017

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The Fight to Control the CFPB Isn't Over Yet

The Intercept - Dec 13, 2017

A federal court ruling last month, which denied **CFPB** Deputy Director Leandra English's request to block **Mulvaney** from assuming the directorship, was widely seen in the media as legitimizing Trump's appointment of **Mulvaney** and ending English's challenge. But that decision pertained to a temporary ...

DUNA Supports **Mulvaney** as Acting **CFPB** Director

The National Law Review - Dec 13, 2017

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CFPB Changes....



	Cordray Era	Mulvaney Era
Mission Statement	The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov	The Bureau of Consumer Financial Protection is a 21st century agency that helps consumer finance markets work by regularly identifying and addressing outdated, unnecessary, or unduly burdensome regulations , by making rules more effective, by consistently enforcing federal consumer financial law, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov
Frequent Reference Sources	 	 
Oversight focus	<p>Consumer Complaint Database</p> 	 

But, what about prior CFPB Enforcement actions?



- In the Matter of Zero Parallel (Consent Order); and Related Litigation
 - Make reasonable efforts to ensure that leads conveyed to recipients do not result in loans to consumers that are void in whole or in part in the consumer's state of residence based on licensing requirements or interest rate limitations;
 - Obtain and keep information about end users of the company's leads, including copies of licenses required by each state in which the recipient does business if the absence of the license would render a loan void in whole or in part under the laws of the state;
 - Implement a process for reviewing loans resulting from leads the company has conveyed to reasonably ensure compliance with the consent order and federal and state privacy laws;
 - Establish a policy prohibiting lenders to which the company directly or indirectly conveys leads from making consumer loans that are void in whole or in part based on licensing requirements or interest rate limitations in the consumer's state of residence; and
 - Refrain from conveying leads where the company knows or has reason to believe that the leads are likely to result in loans that are void in whole based on licensing or interest rate restrictions in state where consumer resides.

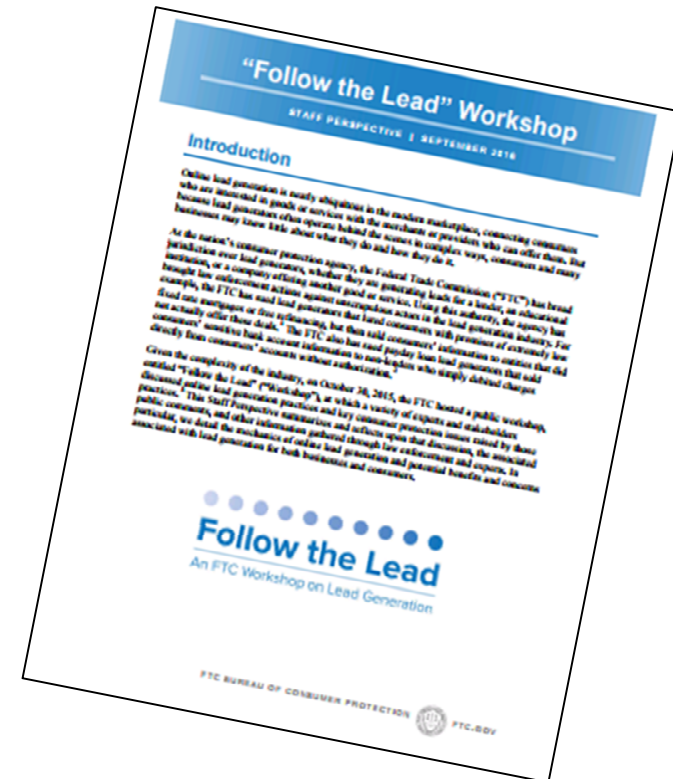
What's the FTC up to?

“Follow the Lead” Workshop

STAFF PERSPECTIVE | SEPTEMBER 2016

- www.ftc.gov/reports/follow-lead-workshop-staff-perspective

FTC Workshop



Key Workshop Takeaways

- Disclose clearly to consumers who you are and how you will share their information.
- Monitor lead sources for deceptive claims and other warning signs like complaints.
- Vet lead buyers and avoid selling remnant leads to buyers with no legitimate need for sensitive data.
- Keep sensitive data secure.

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. Expand, US v. Consumer Education.info*)
- Security of Consumers' Personal Data
(*FTC v. ValueClick*)
- How data would be used
(*FTC v. Blue Global*)

• Deceptive Claims to Consumers

- Who can be held liable
 - ✓ Publisher
 - ✓ Affiliate Network
 - ✓ Service Provider

*(FTC v. LeanSpa, FTC v. Inbound Call Experts,
FTC v. Five Star Auto)*

• Unfair Sale of Sensitive Data

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

There's still the classics:

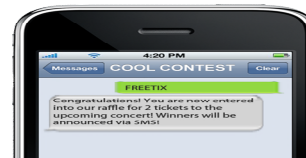
Telemarketing Sales Rule, Telephone Consumer Protection Act, FCC Regulations, State Laws

- Do Not Call requirements (company-specific, national and state registries)
- Disclosure requirements: total cost, material restrictions and terms/conditions, no-refund policy, sweepstakes facts and negative option terms
- Specific requirements to obtain express informed consent for certain payment methods
- Prohibits use of prerecorded marketing calls without prior written consent; also requires opt-out mechanism for prerecorded marketing calls

Classics: Mobile Marketing/Text Promotions



- Under federal law (TCPA), marketer must obtain *express prior written authorization* to send marketing messages.
- How do you make adequate disclosures with limited space available?
 - FTC Dot.com Disclosures provide guidance; FTC has issued mobile privacy guidelines
 - State Ags brought enforcement actions, disclosures/format, with other information presented in a minimum font size/color that contrasted with background.
 - Private Class Action



State Licensing and Compliance

Takeaways

Questions and Answers



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