



Lead Generation Regulation and Enforcement: Government Perspectives

Sandhya Brown, Federal Trade Commission
Nathan Blake, Iowa Department of Justice
Marty Collins, QuinStreet, Inc.

*March 21, 2017, 1:30 - 2:20 pm PT
Las Vegas, NV @ The Paris*

Jonathan L. Pompan, Venable LLP, *Moderator*

Important Information



Views expressed are those of the speakers only, and do not represent the views of their organizations.

This presentation is for general informational purposes only and does not represent and is not intended to provide legal advice or opinion and should not be relied on as such. Legal advice can only be provided in response to specific fact situations.

This presentation does not represent any undertaking to keep recipients advised as to all or any relevant legal developments. ATTORNEY ADVERTISING.

Meet the Panelists



Jonathan L. Pompan

Partner, Venable LLP



Sandhya Brown

Assistant Director, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission



Nathan Blake

Assistant Attorney General
Iowa Department of Justice



Marty Collins

SVP Corporate Development, Legal & Compliance, QuinStreet, Inc.



Welcome



- Opening Comments
- Overview of the FTC Staff Perspectives from the Lead Generation Workshop
- Insight into recent state Attorneys General initiatives and enforcement activity, including development of a code for education lead generation
- An industry perspective
- Q & A

Opening Comments



VENABLE[®]
LLP

Jonathan L. Pompan
Partner
jlpompan@venable.com

Overview of the Political and Legislative Landscape



Key House Leadership



Left: Kevin McCarthy (House of Representatives),
Right: Steve Scalise (Majority Whip)

Speaker of the House



Rep. Paul Ryan (R-WI)



Left: Nancy Pelosi (House of Representatives),
Right: Steny Hoyer (Minority Whip)

Key Senate Leadership

Republicans



Left to right: Majority Whip Rep. John Corryn (R-TX)
and Majority Leader Rep. Mitch McConnell (R-KY)

Democrats



Left to right: Minority Leader Rep. Chuck Schumer (D-NY)
and Minority Whip Rep. Dick Durbin (D-IL)

The Shifting Landscape



Presidential Activity

- Presidential Executive Orders
- “Midnight regulations” options
- Disapproval under the *Congressional Review Act* (for “major” rules only)
- Appointments & Regulatory Interpretation
- Legislative repeal
 - New, Deregulatory Rulemakings
 - Federal Budget Process and Appropriations

Agencies Relevant to Lead Generation

- **Education:** Secretary Betsy DeVos
- **CFPB:** Director Richard Cordray’s term expires in July 2018, but there are a number of variables in play that may cut that short.
- **FTC:** Chairwoman: Commissioner: Maureen K. Ohlhausen’s (R) term ends April 2019, Commissioner Terrell McSweeney’s (D) term ends April 2021. 3 vacancies: Two Republicans, and one Democratic.

Uptick in State Attorneys General and Regulatory Activity



BUSINESS INSIDER

'First line of defense': Democratic attorneys general vow to fight Trump in court



Lawrence Hurley, Reuters
© Nov. 18, 2016, 6:37 AM 10,259

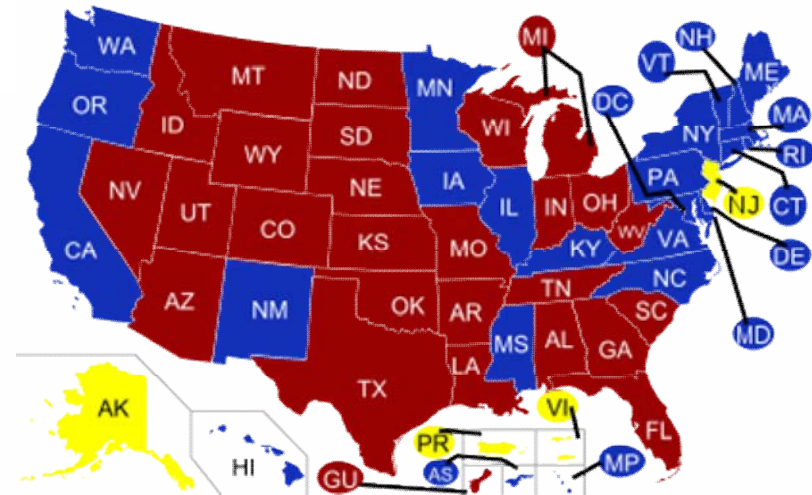
On consumer protection, states can both challenge any Trump efforts to loosen regulations and ramp up their own enforcement efforts, said Doug Gansler, a Democrat who served as Maryland's attorney general from 2007 to 2015.

"If the federal government abdicates that responsibility, the more aggressive and progressive state attorneys general will fill that vacuum," he said.



State Regulators Aim To Fill Trump's Vacuum

By Evan Weinberger





FEDERAL TRADE COMMISSION



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

Overview

- (1) The FTC's Role
- (2) Enforcement
- (3) Workshop and Staff Perspective paper

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*)

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. Sitemsearch*)
- Confidential Phone Records
(*FTC v. Accusearch*)
- Debt Portfolios
(*FTC v. Cornerstone, FTC v. Bayview Solutions*)



“Follow the Lead” Workshop

STAFF PERSPECTIVE | SEPTEMBER 2016

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



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.



Nathan Blake

Assistant Attorney General
Consumer Protection Division
Iowa Department of Justice
nathan.blake@iowa.gov

State Attorneys General

- Unfair and Deceptive Acts and Practices (UDAP)
- Iowa Code § 714.16





Quinstreet

- 2012 multistate settlement
- GIBill.com
- Disclosures/disclaimers
- Prohibitions on misrepresentations

EDMC

- 40-state settlement in November 2015
- Basic substantive provisions
- “Good faith” effort in developing a Code of Conduct





ENABLING 21ST CENTURY PREFERENCES
FOR CONSUMERS, CLIENTS, PUBLISHERS & REGULATORS

PERFORMANCE MARKETING TECHNOLOGIES



LEADSCON | MARCH 2017

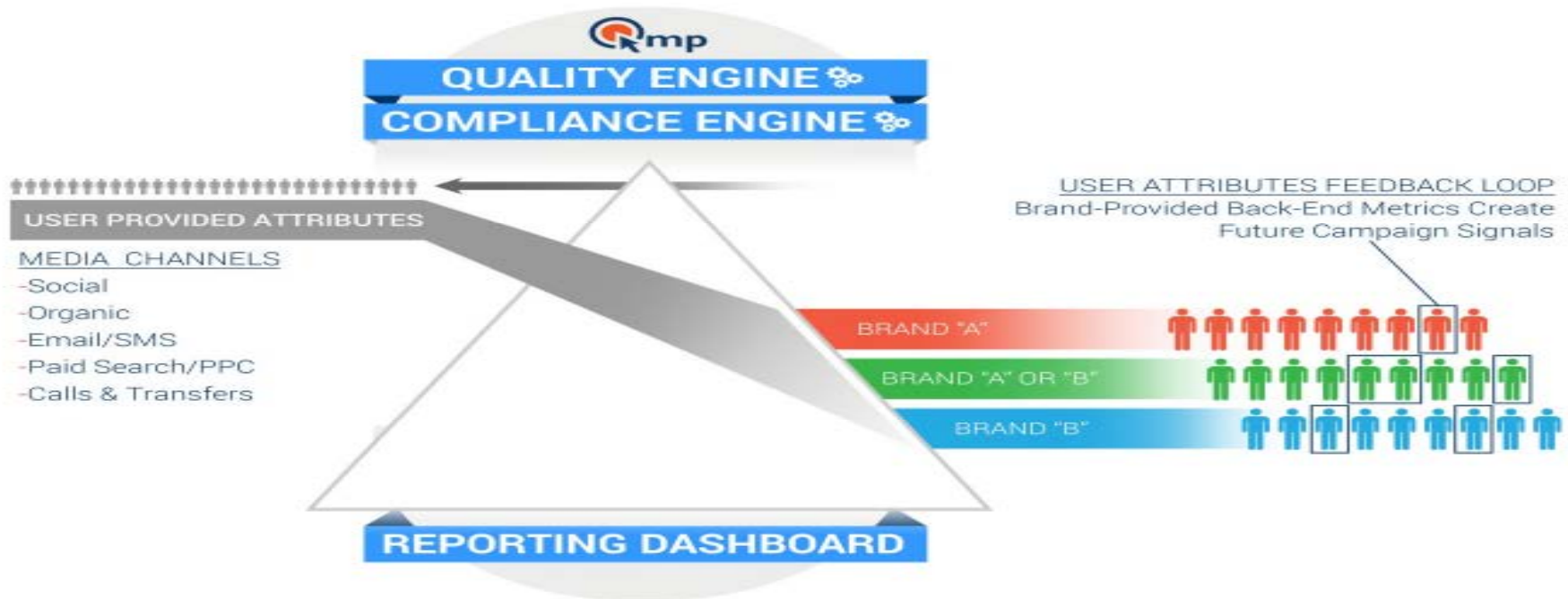
#

21

Consumer UX: Prefer Considered Comparisons



Client UX: Segmenting For Quality, Compliance, and Reporting



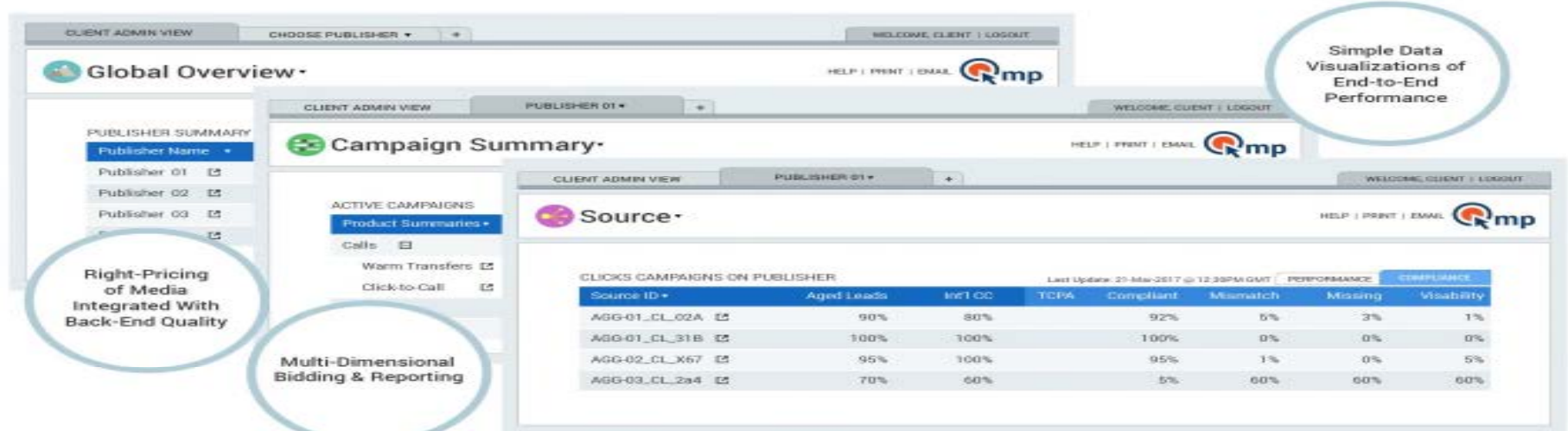
Qmp Dashboards: Real-Time CRM Across All Campaigns and Entire Network



*

Availability %	Downtime/year
90% ("one nine")	36.5 days
99% ("two nines")	3.65 days

mp Client Dashboard: Detailed View



The screenshot displays a multi-tiered dashboard interface. At the top, there's a navigation bar with 'CLIENT ADMIN VIEW', 'CHOOSE PUBLISHER', and 'WELCOME CLIENT | LOGOUT'. Below this, the 'Global Overview' section shows a 'PUBLISHER SUMMARY' with a list of publishers (01, 02, 03) and 'ACTIVE CAMPAIGNS' including 'Product Summaries', 'Calls', 'Warm Transfers', and 'Click-to-Call'. The 'Campaign Summary' section is currently selected, showing a 'Source' view with a table of 'CLICKS CAMPAIGNS ON PUBLISHER'. A callout bubble points to a 'Simple Data Visualizations of End-to-End Performance' area. Another callout bubble highlights 'Right-Pricing of Media Integrated With Back-End Quality' near the publisher list. A third callout bubble points to 'Multi-Dimensional Bidding & Reporting' near the active campaigns list.

Source ID	Agged Leads	Int'l CC	TCPA	Compliant	Mismatch	Missing	Visibility
AGG-01_CL_02A	90%	80%		92%	5%	3%	1%
AGG-01_CL_31B	100%	100%		100%	0%	0%	0%
AGG-02_CL_X67	95%	100%		95%	1%	0%	5%
AGG-03_CL_2a4	70%	60%		5%	60%	60%	60%

mp Publisher Dashboard: Detailed View



The screenshot displays the Publisher Admin dashboard with the following sections and callouts:

- Overview:** Shows a summary of earnings, including "Earned \$4,895.00 Month-to-Date (M)", "Leads - earned \$3,802.24 MTD", and "Clicks - earned \$1,092.76 MTD". A callout circle highlights this section with the text: "Track Earnings MTD by Product Type".
- Daily Earnings by Product:** A bar chart showing "LEADS" (orange) and "CLICKS" (blue) over a period of days. A callout circle highlights this chart with the text: "Data Visualizations of Daily Earnings".
- Widget Center:** A grid of monetization widgets including:
 - Chatbot:** SEO-friendly automated chat that's engaging and easy to deploy.
 - Welcome Lightbox:** Introduce users to highly-relevant content.
 - Leadmagnet:** An engaging call to action with relevant content.
 - Gallery:** Feature image-relevant content listings.
 A callout circle highlights this section with the text: "Monetization Widgets Are Easy to Select & Publish".

Closing Observations - Thank You



Jonathan L. Pompan

Partner, Venable LLP

VENABLE[®]LLP

Sandhya Brown

Assistant Director, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission



Nathan Blake

Assistant Attorney General
Iowa Department of Justice



Marty Collins

SVP Corporate Development, Legal & Compliance, QuinStreet, Inc.

QUINSTREET