



August 9, 2011

Submitted electronically at: <https://ftcpublishcommentworks.com/ftc/dotcomdisclosures/>

Federal Trade Commission
Office of the Secretary
Room H-113 (Annex I)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Re: Dot Com Disclosures, P114506

Ladies and Gentlemen,

The Online Lenders Alliance (“OLA”) appreciates the opportunity to comment on the Federal Trade Commission’s (“FTC”) proposed updating and reissuing of the “Dot Com Disclosure” Business Guidance Publication.

OLA’s Interest in Commenting

OLA represents the growing industry of companies offering online consumer short-term loans. OLA’s members include online lenders, as well as vendors and service providers to lenders, such as lead generators and internet marketing companies.

All of OLA’s member companies have agreed to a Best Practices and Code of Conduct developed by OLA. OLA’s members are committed to compliance with federal consumer protection requirements and any FTC guidance that is used or applied for the disclosure of information to the consumer. The Best Practices begin by requiring compliance with federal consumer protection laws and rules, but then go beyond the legal requirements to provide that consumers should be fully informed and fairly treated and to encourage consumers to use all lending products responsibly.

OLA’s Advertising and Marketing Best Practices

OLA’s goal is to enhance the consumer experience and promote the online industry’s reputation by establishing cohesive standards that ensure quality services. OLA’s Advertising and Marketing Best Practices provide guidance to its members regarding basic legal and ethical requirements for the promotion of lending products.

It is OLA’s position that illegal, deceptive, or misleading communications negatively impact the industry as a whole and the customer experience.

A member of OLA who engages in online advertising and/or marketing, or use agents to advertise or market on their behalf, MUST post on their web site(s) clear and conspicuous terms and conditions that describe the services provided by the advertiser. In this context, “clear and conspicuous” means that the disclosure is presented in a manner and placement that will be readily understandable and unavoidable to the consumer, directly on the web page where the consumer submits application information, and/or any other appropriate location that is directly visible to the consumer.

No text, graphics, or other marketing materials used by an advertiser should contradict any aspect of the terms and conditions as stated. Further, any advertiser that is not also a lender should conspicuously state that it: (1) does not actually provide short-term loans but refers consumers to lenders who may provide such loans; (2) will share application information provided by the consumer with one or more lenders; (3) cannot guarantee that it will match a consumer with a lender, or that the consumer’s application will be approved by a lender; (4) cannot guarantee the amounts of funds that may be extended to the consumer if any lender approves the consumers application; and (5) a credit check may be performed.

Finally, OLA is serious about the disclosure of application information and how it is used by member companies. OLA’s Advertising and Marketing Best Practices require member companies that disclose application information to third parties to accurately describe the types of information that may be collected and shared and the categories of third parties with whom such information may be shared. Additionally, there must be a clear and conspicuous notice to the consumer that the application information provided may be shared with other lenders and, if applicable, other third parties who may use the information for marketing purposes.

Updating the “Dot Com Disclosure” Guidance Manual

Since the “Dot Com Disclosure” guidance manual was introduced in 2000, the online space has changed dramatically. Additionally, due to the frequency of changes in using the internet for different ecommerce purposes, it is difficult, if not impossible, to predict what guidance, if any at all, will be needed in the future. The rate of change continues to accelerate, and strict disclosure guidance risks stifling ecommerce or prohibiting practices that have become accepted by regulators, the industry and consumers. Any guidance provided by the FTC should be general in nature. If the FTC should continue to rely upon examples in the “Dot Com Disclosure” guidance manual, the examples should be clearly described; however, it should be noted that the example is not exhaustive of the manner in which to comply with the appropriate and/or applicable disclosure requirement(s).

As explained above, OLA has taken a proactive approach by instituting self regulatory measures that ensure accurate online disclosures. OLA believes that self regulation has reduced the need for detailed guidance and/or regulation. Additionally, case law and FTC enforcement actions have set a standard by which online advertisers and marketers must follow in order to avoid liability.

Ultimately, OLA hopes the “Dot Com Disclosure” guidance manual will not disadvantage the online advertising industry in relation to other advertising and marketing industries.

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We thank you again for the opportunity to comment on this important issue. If you have any questions or need additional information, please feel free to contact me at LMcGreevy@onlendlendersalliance.org.

Very truly yours,

Lisa S. McGreevy
President and CEO