

December 18, 2015

**VIA ELECTRONIC FILING**

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave NW, Room H-113 (Annex J)  
Washington, DC 20580

**Re: *Follow the Lead: An FTC Workshop on Lead Generation***

Dear Mr. Clark:

LendingTree appreciates the opportunity to comment on the Commission's workshop on lead generation held in Washington, DC on October 30, 2015, and for the opportunity to participate in the workshop as a panelist.

LendingTree believes strongly that when executed properly, lead generation is a powerful marketing tool that bolsters competition and increases the availability and innovation of consumer products and services to the benefit of both consumers and businesses. However, as the Commission's long experience shows, it is possible for any form of marketing to be abused by unscrupulous industry participants, and online lead generation is no exception. Such dishonest business practices harm consumers and competition. However, the current robust regulatory and enforcement scheme at the federal and state level provide the Commission and other law enforcement agencies the tools necessary to root out such unlawful conduct, and the fair and even administration of those tools will serve to promote and encourage legitimate lead generation activity.

**I. Overview of the LendingTree Marketplace**

LendingTree operates a leading online marketplace for consumers to comparison-shop for credit products among our large network of lenders to find the best deal that fits their needs. Our business model requires that we maintain credibility with consumers as a fair marketplace. Borrowers come to us because we are a search engine for credit, rather than just a traditional lead generator. Our website, [lendingtree.com](http://lendingtree.com), allows consumers to easily enter basic information about their credit needs and promptly receive quotes from multiple lenders. Consumers can then choose a lender and communicate with that lender directly to complete the application process and obtain credit. To enhance the consumer experience, we also provide tools and resources like

user-generated ratings and reviews of lenders, personal finance articles, loan calculators, and free credit score information.

Because LendingTree's business is primarily focused on consumer financial products, we operate in a highly regulated sphere, and we set high standards of accuracy and transparency for our lender partners and ourselves. We conduct due diligence of the lenders with whom we partner. LendingTree is licensed and subject to examination in all fifty states and the District of Columbia, and devotes significant resources to compliance. We believe our stringent compliance program sets us apart and enhances our business, as we have become a trusted source for information for consumers and our lender partners.

## **II. Online Marketplaces Benefit Both Consumers and Lenders**

Online marketplaces like LendingTree harness technology to improve consumers' access to credit and to foster competition in consumer credit markets. This is in the interest of both consumers and lenders.

Similar to the way the travel industry shifted to online search engines and revolutionized how consumers shop for travel more than a decade ago, online marketplaces for credit empower consumers to comparison shop and reach a diverse pool of lenders anywhere in the country. The power to match lenders and consumers across the country increases access to credit, including for underserved consumers who historically were limited to local options. In some areas, lenders were few and far between, and these lenders were not necessarily equipped to meet the credit needs of all segments of the local population. In addition to expanding the geographic options for credit, online marketplaces like LendingTree also offer a diverse panoply of credit options. LendingTree's network includes a wide variety of lenders, including large banks, community banks, Internet-only lenders, balance-sheet lenders, and online platforms (also known as "peer-to-peer" lenders). LendingTree's consumer-friendly platform provides access to all of these options and adds value to the consumer by presenting the quotes in an open and transparent manner that helps them to make comparisons across lenders and options. Absent a tool like LendingTree, it would be difficult for a consumer to identify such a wide set of possible lenders and obtain quotes from those lenders individually.

From the perspective of lenders, online marketplaces like LendingTree offer a number of advantages. First, many lenders are successful because they know how to cater to the specific needs of a particular segment of consumers with a specific, often innovative product. Online marketplaces enable these lenders to efficiently reach the right segment of consumers and ensure the best fit for their business model. Second, online marketplaces give all lenders, including both traditional and nontraditional lenders, equal access to consumers to present their unique value

proposition and compete for business. Third, online marketplaces help lenders to scale up their lending operations as they grow, reaching more and more customers.

### **III. Existing Regulatory Safeguards Will Protect Consumers, if Applied and Enforced Evenhandedly**

The lead generation industry is not immune from unscrupulous actors that would prey on consumers, which threatens to undermine the tremendous benefits legitimate activity creates for consumers, lenders, and the market as a whole. However, LendingTree believes that such unscrupulous practices are already illegal under current law and that the existing legal framework provides the tools needed to protect consumers, while allowing legitimate actors the freedom to develop innovative, consumer-friendly products and services.

The Commission has published extensive guidance on unfair or deceptive acts or practices (“UDAPs”) that violate Section 5 of the Federal Trade Commission Act.<sup>1</sup> This includes the Commission’s publication “.Com Disclosures: How to Make Effective Disclosures in Digital Advertising,”<sup>2</sup> which provides detailed examples of how the Commission believes that disclosure requirements should apply in an online setting and also contains a list of over thirty specific rules or guides that the Commission believes apply to online media.<sup>3</sup> Also, the Commission has taken action against certain lead generation activity, such as alleged misrepresentations in online advertisements of what products were actually available; misrepresentations regarding the likelihood that consumers would qualify for a product; and the improper sale of consumer information to data brokers, among other issues.<sup>4</sup>

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<sup>1</sup> 15 U.S.C. § 45.

<sup>2</sup> Available at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf>.

<sup>3</sup> *Id.* at 3 n. 6.

<sup>4</sup> See, e.g., Complaint, *United States v. GoLoansOnline, Inc.*, No. 4:14-cv-01262 (S.D. Tex. May 7, 2014), available at <http://www.ftc.gov/system/files/documents/cases/140508goloanscmpt.pdf> (alleging misrepresentations by lead generator of terms of available products); Complaint, *United States v. Intermundo Media, LLC*, No. 1:14-cv-02529 (D. Colo. Sept. 12, 2014), available at <http://www.ftc.gov/system/files/documents/cases/140912deltaprimecmpt.pdf> (same, as well as alleged misrepresentations by lead generator of likelihood that consumers would qualify for advertised products); Complaint, *United States v. Direct Lending Source, LLC*, No. 3:12-cv-02441 (Oct. 9, 2012), available at <https://www.ftc.gov/sites/default/files/documents/cases/2012/10/121010directlendingcmpt.pdf> (allegations of improper sale of consumer information to data brokers).

Additionally, Regulation Z establishes detailed requirements regarding how credit products are advertised, including key terms that must be disclosed clearly and conspicuously.<sup>5</sup> In the context of mortgages, Regulation Z and the Mortgage Acts and Practices Advertising Rule establish a range of specific prohibitions on misrepresentations about government endorsement, misleading use of the current lender's name, misleading foreign-language advertisements, and claims related to debt elimination, among other issues.<sup>6</sup>

In addition to the above federal requirements, which are enforced by the Commission and the Consumer Financial Protection Bureau, lead generators are also subject to regulation at the state level.

We believe that the Commission and other regulators have the tools necessary under existing UDAP prohibitions and other existing laws to ensure a fair and even playing field in the lead generation market. Government resources should be devoted to taking enforcement measures against rogue and unscrupulous actors, whose behavior falls far below legal and moral expectations, rather than making incremental changes in how responsible companies are regulated and risk stymying further innovation and revolution in the financial marketplace.

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Thank you for this opportunity to comment on the Commission's lead generation workshop. If we can assist further, please do not hesitate to contact John H. Henson, Head of Compliance.

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<sup>5</sup> 12 C.F.R. § 1026.24.

<sup>6</sup> *Id.*; 12 C.F.R. § 1014.3.