



February 14, 2017

Ms. Katie Wortham  
Mr. Evan Zullo  
Federal Trade Commission

**Re: OLA's Comments in Response to "Follow the Lead" Workshop Staff Perspective**

Dear Katie and Evan:

Online Lenders Alliance ("OLA") welcomes the opportunity to respond to the Staff Perspective issued by the Federal Trade Commission's ("FTC" or "Commission") in September 2016 ("Staff Perspective") summarizing the discussion, associated public comments, and other information gathered by the Commission in connection with its public workshop entitled "Follow the Lead" ("Workshop").<sup>1</sup> The Workshop, which took place on October 30, 2015, convened a variety of stakeholders including industry representatives, consumer advocates, and government regulators to explore online lead generation and the practices in various industries. OLA, and our members who participated on several of the panels, appreciated the opportunity to contribute to the Workshop. We look forward to continuing the discussion with the Commission and other stakeholders about the benefits of lead generation as well as the efforts by our industry to ensure the integrity of advertising and marketing in the online lending industry.

Online Lenders Alliance is the center for lending, technology, and innovation, representing the growing industry of innovative companies offering online loans. OLA members abide by a list of Best Practices and a Code of Conduct to ensure that customers are fully informed and fairly treated.<sup>2</sup> Our members provide a number of different loan products including unsecured installment loans to millions of American consumers, a much-needed credit product for consumers who may not have access to traditional forms of credit. These loans offer credit options for many consumer needs including unexpected or emergency expenses or just to make ends meet. These loans provide convenience that consumers value. Our products fill a critical need for over 17 million Americans who use the Internet to access short-term credit. Traditional forms of credit are generally not an option for many of these consumers.

OLA believes that consumers should not only be given more choices, but also the tools and information to make *informed* decisions that suit their individual needs. The ability to search for loan products online, and to access educational financial information online, has empowered consumers in ways never before imagined.

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<sup>1</sup> Federal Trade Commission, "Follow the Lead" Workshop, Staff Perspective, Sept. 2016, *available at* [https://www.ftc.gov/system/files/documents/reports/staff-perspective-follow-lead/staff\\_perspective\\_follow\\_the\\_lead\\_workshop.pdf](https://www.ftc.gov/system/files/documents/reports/staff-perspective-follow-lead/staff_perspective_follow_the_lead_workshop.pdf).

<sup>2</sup> See <http://onlendersalliance.org/wp-content/uploads/2016/03/Best-Practices-2016-1.pdf>.



## Consumer Benefits of Lead Generation and the Ping Tree System

Lead generation is a long-established marketing and advertising method used throughout the world's business community that has become increasingly important in the age of internet commerce. Consumer-focused companies use third-party lead generators to reach people who are looking for specific goods and services. Through their own independent marketing and advertising, lead generators create marketplaces in where consumers looking for particular goods and services are connected with companies that provide these goods and services. As Jessica Rich, the FTC Director of the Bureau of Consumer Protection, noted,

[L]ead generation is a well-established industry that has served an important role in the marketplace for many decades. In fact, lead generators are fairly ubiquitous across many different industries, and offer benefits to both consumers and advertisers. Consumers can spend hours, days, or even weeks, searching for the goods or services that meet their needs, at their price. Advertisers and businesses constantly are searching for new and better ways to reach these consumers. Lead generators serve the important function of connecting the two. That's a good thing.<sup>3</sup>

Lead generators have developed sophisticated automated technology platforms, including technology that is commonly referred to as "Ping Trees," to distribute and offer consumer leads for review and possible purchase by lenders. Lead generators use the Ping Tree system to create a virtual marketplace where prospective borrowers can submit information about their needs and qualifications and connect with prospective lenders who are interested in extending loans to people with those predetermined qualifications.

The Ping Tree is one part of a larger "ecosystem" that has evolved around the advertising of small dollar financial services—including broadcast advertising, direct mail, internet advertising, networks of affiliates and publishers, and sophisticated electronic underwriting techniques.

This ecosystem provides many advantages for consumers, particularly those who are nonprime and underserved by more mainstream financial services institutions. Nonprime consumers have a more difficult time finding credit and small dollar borrowers typically need cash quickly. The online marketplace for leads allows consumers' credentials to be presented to multiple lenders in real time and maximizes the opportunity of these consumers to obtain a loan quickly, conveniently, and in the privacy and convenience of their own home.

The online marketplace provides a positive consumer experience because the consumer will be contacted quickly by a legitimate lender. If the Ping Tree did not exist, consumers would spend hours applying individually on numerous lending websites, trying to find a lender that might offer them a loan. The Ping Tree System model is a much more consumer-efficient and effective method for helping

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<sup>3</sup> Jessica Rich, Fed. Trade Comm'n, [Introductory Remarks to Follow the Lead: An FTC Workshop on Lead Generation](#) (Oct. 2015).



consumers to find an online loan, especially when consumers are seeking these loans to satisfy and fund immediate needs.

The Staff Perspective correctly takes note of these important benefits to both consumers and competition. Specifically, it explains that lead generators can connect merchants and interested consumers quickly and cost-effectively, giving consumers options that they might not find as easily on their own.<sup>4</sup> The Staff Perspective also recognizes that the existence of a marketplace for consumer leads can have positive benefits on price and competition, especially in the financial services sector.

### **Addressing Consumer Protection Concerns**

The Staff Perspective also identifies potential concerns for consumers and competition associated with the lead ecosystem. These concerns are organized into three sections: (1) complexity and lack of transparency, (2) aggressive or potentially deceptive marketing, and (3) potential misuse of sensitive consumer information in payday lending lead generation.

The Staff Perspective describes the process through which leads often are collected, processed, and sold as “very complex and opaque.”<sup>5</sup> While OLA agrees that it behooves the industry to educate the public on how lead generation works—in particular the complex technology that underpins many of the processes—OLA does not believe that this complexity or the “behind the scenes” nature of lead generation is source of consumer harm. Many products and services utilized by consumers every day, including the online advertising ecosystem and online search engines such Google and Bing and like lead generation are technical, complex and difficult to explain to consumers before they make a decision to use the service. Rather than explaining to consumers how these complex systems work, we should build in protections against deceptive or unfair practices.

We agree that lead generators and end-buyer lenders must collect and use the leads in a lawful and responsible manner consistent with the best interests of the consumer.

#### *OLA Best Practices for Lead Generators*

In the online lending industry, responsible industry participants also have taken proactive steps to self-regulate the industry and address some of the unique issues presented by online lead generation for financial products and services. OLA Members abide by a list of Best Practices and Code of Conduct to ensure their customers are fully informed and fairly treated. In addition to requiring compliance with TILA, CAN-SPAM and other legal requirements, OLA Advertising & Marketing Best Practices provide specific guidelines to lead generators and advertisers, including

- (1) advertisements for consumer credit must be accurate and only offer credit terms that are actually available;

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<sup>4</sup> Staff Perspective at 4.

<sup>5</sup> Staff Perspective at 5.



- (2) advertisements should accurately inform consumers when credit will become available; Terms like "instant credit" are prohibited;
- (3) The term "no credit check" is prohibited; and
- (4) websites must include clear and conspicuous terms and conditions that clearly describe the role and services provided by the website operators.

These prohibitions apply not just to the lenders, but to the lead generators as well as the publisher and affiliates that generate traffic. OLA's Best Practices require that lead generators ensure that its publishers, who generate the traffic, also comply with OLA Best Practices. All entities in the lead ecosystem are required to be compliant with OLA Best Practices even if the entity is not an OLA member. The "Vendor Selection and Compliance" section of our Best Practices requires that OLA members only do business with vendors – including lead generators – that adhere to the Best Practices and applicable laws and rules. In this way, the Best Practices seek to ensure compliance throughout the entire online lending ecosystem. This includes: lenders ensuring compliance by the lead generators they do business with and the lead generators also ensuring compliance by those who purchase their leads.

Our Best Practices along with our policing efforts, have resulted in significant enhancements to how companies within the ecosystem operate, with the result that there is an even more secure and consumer focused online lending industry. For example, as the Staff Perspective notes, lead buyers are increasingly making efforts to discover and reject leads obtained through deceptive or other illegal marketing means. Tracking and monitoring tools, which have become more ubiquitous and effective, now make it technically possible to engage in such compliance monitoring and distinguish between responsible and irresponsible actors.

#### *Ensuring the Responsible Use and Disclosure of Sensitive Consumer Information*

It is a top priority for OLA and its members to ensure that sensitive consumer information is collected and shared in a secure and lawful manner. OLA's Best Practices prohibit the mishandling of sensitive consumer information. In addition, OLA's Best Practices prohibit the use or disclosure of sensitive consumer information collected on a lending website or in connection with a loan request or application for any purpose except the purpose of helping the consumer to obtain a loan.

OLA is committed to robustly enforcing this requirement. Members are required to certify compliance with the Best Practices, and the OLA Board, via its Standards Committee, reviews all reported violations of the Best Practices and is authorized to take disciplinary action if a member is found to be in violation of such requirements. OLA strives to help members be compliant with best practices. Rather than kicking out non-compliant members, the OLA community seeks to help these entities become compliant by engaging in a dialogue about the violation and how it is non-compliant with OLA Best Practices. This policing effort has been quite successful in that we have not had many opportunities to evict members. It is our mission to create a culture of compliance that incents the best possible customer experience.



*Policing the Industry*

Last year, OLA lead generators came together to “out” a company that we believe had been selling customer data to fake debt collectors. Through effective seeding programs and a culture of ensuring that we are handling consumer data appropriately, our companies were able to successfully confront a data company that we believe was mishandling data. An OLA member alert was issued and the information was turned over to FTC for further investigation.

We regularly receive information from our members about allegations of bad actors and we take proactive action to publicize this information to our members as well as to inform others including the FTC.

In June of 2016, OLA added to its policing efforts by hiring an independent third party web crawling firm to review websites for adherence to the OLA Best Practices and certain applicable legal requirements. To date, we have reviewed 10,285 pages and found 1,681 violations. The violators have been very cooperative in working towards remediating the violations whether or not they are OLA members.

We applaud the FTC for the efforts that they have undertaken to understand the intricacies of the lead generation system as well as their efforts to investigate and prosecute those who abuse customers. We are proud of the role that OLA and its members have played in furthering the FTC’s efforts. We practice our belief that the industry should be self-policing and that it is our responsibility to be the “cop on the beat” in conjunction with the FTC.

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OLA is hopeful that the information we have provided will assist the Commission to better understand online lead generation. Online lead generators are giving consumers an unprecedented ability to find loans that best suit their individual needs. While we believe that strong self-regulatory protections for consumers already exist in the online lending industry, we welcome comments from the FTC and others on ways that we can strengthen our efforts. OLA’s Best Practices protect consumers from unfair and abusive loan practices, and encourage members to be transparent and fair with their customers. We welcome suggestions for additional Best Practices.

We appreciate the opportunity to provide additional comments to the Commission’s Staff Perspective. If you have questions or need additional information, please feel free to contact me at [lmcgreevy@oladc.org](mailto:lmcgreevy@oladc.org).

Very Truly Yours,

A handwritten signature in blue ink that reads "Lisa McGreevy". The signature is written in a cursive, flowing style.

Lisa S. McGreevy  
President and CEO