Online Lenders Alliance

2025 POLICY PRIORITIES

INTRODUCTION

According to the Federal Deposit Insurance Corporation (FDIC), approximately one in five Americans are underbanked or unbanked, leaving alternative financial service (AFS) providers as an important source of credit for millions of Americans. [1] While the number of banked U.S. households hit a record high in 2023 [2], many consumers still lack access to the credit products they need. Nearly a third of the population is considered nonprime and another fifth of the population is credit invisible or nonscorable. Consumers seek credit from alternative financial service providers for a variety of reasons [3], including:

- A person without sufficient credit history to properly qualify for a traditional loan;
- An otherwise creditworthy consumer who encountered a destabilizing financial event, like a job loss or unexpected medical issue;
- A person who needs cash quickly; or
- Someone who wants the ease, convenience, and terms offered by the non-bank lender.

Furthermore, data from the Federal Reserve demonstrates that consumers continue to need available and reliable credit options when financial needs arise, with the share of adults reporting that they would cover a $400 emergency expense using cash or its equivalent decreasing to 63 percent in the latest study. [4] 13 percent of adults said they would be unable to pay the expense by any method.

Largely in part due to innovation and competition, a robust marketplace populated with fintech companies now exists, offering more products and choices to meet consumers' unique financial needs. Demand for credit has increased among all sectors and from 2019 to 2023, the number of loans and loan amounts were up across nearly every sector of alternative financial services lending (installment, line of credit, rent-to-own, and secured installment). Only single pay loans experienced a decrease in both unit and dollar volume. [5]

Within this marketplace, online installment lending has become one of the fastest growing sectors in the AFS space because it provides consumers with more flexibility in loan duration, often combined with smaller, more manageable, and amortized payments. [6] Within small dollar lending specifically, data indicates that for every two borrowers who go from an online to a brick-and-mortar storefront lender, there are 10 who migrate to online companies. [7]

In 2023, according to Clarity's data, the average amount of an installment loan from an AFS provider was $1,100. Slightly more than half of loans were taken out in amounts of less than $1,000 and approximately 80 percent were taken out in amounts of less than $2,000. The average repayment term in 2023 was 247 days, with more than 80 percent of installment loans paid in less than one year. The average scheduled monthly payment was $442. [8]

Consumers indicate satisfaction with these financial products. According to data from the Consumer Financial Protection Bureau (CFPB), complaints about these credit products continue to rank at the bottom of those submitted to the agency. In the CFPB's 2024 Consumer Response Annual Report [9], complaints about personal loans comprised only 0.5 percent of total complaints submitted to the Bureau.

Protecting credit options and the marketplace that provides them remains an imperative for consumers' financial well-being, especially when needs arise. This document includes background on key issues impacting the online lending ecosystem and OLA's main policy priorities for consideration by federal and state lawmakers and regulators. We look forward to continuing our work and collaboration with policymakers and opinion leaders to serve consumers' best interests.

ABOUT THE ONLINE LENDERS ALLIANCE

The Online Lenders Alliance's (OLA) core mission is to promote and protect a diverse and responsible marketplace for access to innovative online financial services through education, communication, collaboration, and advocacy with policy makers, the media, and other thought leaders. We do this by expanding access to credit for all consumers—including those who are financially underserved. The products and services that our members offer empower consumers to access non-collateralized, shorter-term, smaller-dollar financial products with competitive, market-leading fees and rates.

OLA members encompass a growing variety of businesses providing credit to a wide array of consumers, including the 100 million nonprime consumers who are often unable to obtain the assistance they need from mainstream financial institutions. We represent distinctly innovative financial technology companies committed to the highest standards of conduct and the best possible customer experience as we strive to provide consumers with innovative, safe, and responsible credit products. Our members work with policymakers to strike a balance between protecting consumers and preserving credit access for the millions of Americans who choose online lending as a preferred financial solution.

As a trade association, OLA has developed a dynamic series of Best Practices[10] that serves to govern our members, influence the industry, and ensure that borrowers receive fair and responsible credit. We work tirelessly to ensure consumers are protected and better understand the credit products available to them. The OLA Seal is a public declaration that the company, through its membership in OLA, is committed to the highest standards of conduct, dedicated to ensuring the best possible experience for its customers, fully compliant with applicable laws, and working hard to protect consumers from fraud.

Moreover, OLA operates a sophisticated and comprehensive policing effort designed to root out those looking to commit fraud or harm consumers. These efforts consist of a Consumer Hotline and web crawling service that scours the Internet for a long list of banned marketing terms that mislead those looking for safe and reliable credit access.

The Consumer Hotline allows consumers to speak with a live operator if they have any outstanding issues they are not able to resolve with a lender in the marketplace. That operator can report this activity and help the consumer navigate the online lending market. Cases of suspected fraud are forwarded to the Federal Trade Commission (FTC). OLA's hotline receives hundreds of calls each month and served as an especially important resource during economic downturns. Our online policing efforts have analyzed more than a million websites, remediating where possible and referring to authorities when companies refuse to act.

KEY ISSUES

APR Caps

OLA Position: To ensure that affordable loan products and options are available to all consumers, including those with thin or poor credit, OLA opposes arbitrary, non-market priced APR caps.

Background: Although in recent years, a small number of banks and credit unions have introduced small dollar lending products with low rates or flat fees, banks and credit unions remain largely absent from the small dollar loan market. A 2022 report from the Government Accountability Office (GAO) found that these traditional financial institutions generally don't offer these products because of cost and regulatory uncertainty. [11]

Although some banks and credit unions offer small dollar lending products, many of these institutions' customers choose to obtain credit through alternative lenders. The Online Lenders Alliance[12] conducted an analysis of 1.4 million customers of several large alternative financial providers and found that 30 percent of them held accounts with credit unions and 27 percent of them held accounts with one of the six largest banks that offer small dollar products. In other words, a considerable percentage of consumers bypassed their own traditional financial institution's options, and instead chose alternative providers to meet their credit needs.

Many opponents of market-priced, short-term, small-dollar loans attack them by advocating for government-imposed maximum allowable caps measured by Annual Percentage Rate (APR). These APR caps on loans do not reduce the cost of credit; rather, they lessen its availability to consumers. The APR is a misleading representation of the true cost of short-term loans for the borrower as the APR calculation is heavily impacted by the duration of the loan. For example, the APR for a $100 loan that charges $1 in interest and fees would be the following:

- If paid in one year, the APR would be 1%
- If paid in one month, the APR would be 12%
- If paid in one week, the APR would be 52%
- If paid in one day the APR would be 365%

The Federal Reserve found that due to the fixed costs associated with making any loan—whether $500 or $5,000—smaller loans result in higher interest rates as the costs are spread across larger loan amounts. [13]

The push to implement rate caps on a state or national level fundamentally ignores the real-world impacts on consumers in states where rate caps have been enacted. While consumer advocates claim that rate caps will benefit consumers by reducing the costs associated with accessing credit, data shows that they actually serve to reduce the availability of credit. This leaves consumers with fewer available options and often leaves them in worse financial situations.

For example, since enactment of the 36% rate cap in Illinois in March 2021:

- The number of licenses held by installment lenders in Illinois declined by 51% [14]
- The number of loans to subprime borrowers declined by 38% [15]
- The average loan size to subprime borrowers increased by 35% [16]

Furthermore, a survey [17] of nearly 700 borrowers in Illinois who had taken out short-term, small-dollar loans prior to the rate cap found that their financial situation did not improve after the rate cap took effect and actually declined in many instances:

- Most borrowers said that they have been unable to borrow money when they needed it;
- Only 11 percent of the respondents answered that their financial well-being increased; and
- Seventy-nine percent answered that they wanted the option to return to their previous lender.
- More than half of former users of short-term, small-dollar loans said they have been unable to pay their bills more than once since the Illinois rate cap took effect in March 2021. As many lenders ceased making loans in the state and consumers were left with few credit alternatives, respondents to a survey reported a wide range of outcomes when they were unable to borrow money from a lender. The top situations were paying bills late and generating fees, skipping or cutting back on everyday expenses, borrowing money from family and friends, and being contacted by a debt collector.

In addition to Illinois, a similar trend was found in New Mexico. One year after New Mexico implemented a 36 percent APR cap in January 2023, the results were strikingly similar, with credit options sharply lower as the number of small loan company licenses had decreased by 50 percent. [18]

It is also notable that the FDIC data shows a sharp uptick in the percentage of underbanked consumers following the enactment of the rate cap legislation in both Illinois and New Mexico. [19]

Moreover, there have been numerous studies on the actual impact of interest rate caps on consumers. After Oregon passed a rate cap, bank overdraft fees and late bill payments increased while the overall financial condition of Oregon residents declined.[20] In Georgia, there were increases in bankruptcy rates, bounced checks, and complaints to the Federal Trade Commission. [21]

A 2018 World Bank study found that rate caps led to negative side effects, including “increases in non-interest fees and commissions, reduced price transparency, lower credit supply and loan approval rates for small and risky borrowers, lower number of institutions and reduced branch density, as well as adverse impacts on bank profitability.” [22] Also, the Military Academy at West Point published a study that found that access to alternative loans may actually reduce involuntary separation in the army. [23]

Some advocates of rate caps point to the Military Lending Act (MLA)’s 36% APR limit as a model for the rest of the nation. However, research data and surveys report negative impacts on servicemembers and their families since the implementation of the law.

While the Military Lending Act was passed in 2006, the Department of Defense in 2015 issued regulations extending MLA prohibitions to all nonmortgage credit. Harris Insights polling found that between 2014, before the MLA was extended, and 2019, the percentage of military personnel suffering financial distress more than doubled, rising from 16 percent to 34 percent. Additionally, the number of military bankruptcies, or military members considering bankruptcies, jumped from essentially zero in 2014 to 40,000 in 2019 and the number of military personnel experiencing active financial difficulties jumped from 40,000 to more than 200,000. [24] Furthermore, borrowing restrictions imposed as a result of the Military Lending Act have resulted in a majority of active duty military households being denied credit.

Additionally, a 2023 study on the MLA’s impact on revolving credit from The Urban Institute determined that “extending the consumer protections of the expanded MLA, including the 36 percent APR cap, to revolving credit products available to all borrowers would not be an effective way of improving the credit health of most Americans.” [25]

Resources:

- Dr. J. Brandon Bolen, Dr. Gregory Elliehausen, and Dr. Thomas Miller: Credit for me but not for thee: The effects of the Illinois rate cap (Revised July 3, 2023)
- Federal Reserve: The Cost Structure of Consumer Finance Companies and Its Implications for Interest Rates: Evidence from the Federal Reserve Board's 2015 Survey of Finance Companies (August 12, 2020)
- Online Lenders Alliance: Three Years Into Illinois Rate Cap, Lender Licenses Are Down 64 Percent, Highlighting How Rate Cap Has Significantly Diminished Consumers Access to Credit (March 24, 2024)
- Online Lenders Alliance: An Illinois Consumer Survey: Understanding the Impact of the 2021 Rate Cap on Consumers
- Online Lenders Alliance: A New Mexico Consumer Survey: Understanding the Impact of the 2023 Rate Cap on Consumers
- U.S. Military Academy, West Point: Much Ado About Nothing? New Evidence on the Effects of Payday Lending on Military Members (2017)
- Government Accountability Office: Banking Services: Regulators Have Taken Actions to Increase Access, but Measurement of Actions' Effectiveness Could Be Improved (February 14, 2022)

Bank-Fintech Relationships

OLA Position: Bank-sponsored consumer lending programs assisted by financial technology companies (fintechs) enable small and mid-size banks to serve more customers, thereby enhancing competition among lenders while giving a greater number of consumers more credit options. Given the importance of banks working with third parties to help provide products and services to customers, policy makers should promote and encourage banks to enter into responsibly managed customer-facing third party agreements. Furthermore, policy makers should not undermine these relationships with arbitrary "true lender" laws (like predominant economic interest tests) or employing efforts to curtail interstate banking by withdrawing from the 1980 Depository Institutions Deregulation and Monetary Control Act (DIDMCA). OLA supports a consumer marketplace where more banks are able to compete for consumers' business and this is achieved with a clear regulatory environment that supports these relationships.

Background: The Federal Deposit Insurance Act (FDIA) and the National Banking Act (NBA) authorize state and federally chartered banks to charge interest rates permitted in the bank's home state to customers in other states. Furthermore, the OCC and FDIC's "valid when made" rules clarified established law that enables banks to sell loans in the secondary market without impacting the original interest rate terms.

Bank partnerships are good for consumers as they boost competition and offer a variety of convenient products—not just the same products from the same very large banks. The Federal Reserve says that banks' partnerships with fintech can provide community banks with access to new technologies, "enabling them to better serve their customers and deploy innovations that may be too costly to develop independently." [26]

Loans originated under bank partnerships not only increase banks' geographic service footprint, they also allow the bank to offer new products to an expanded group of consumers—providing consumers with more options to choose from when determining the best solution for their unique financial needs. The Center for Financial Service Innovation called bank-fintech relationships a "win-win-win" for all involved, including borrowers. [27]

The U.S. Treasury Department recognized this in a 2018 report[28] when it highlighted several ways in which non-bank fintech companies are positively contributing to the financial services industry, including through expanded access to credit and financial services. This expanded access is the result of bank-fintech partnerships' developing business models that take advantage of new types of data and credit analysis and serving consumer and small business borrower segments that may not otherwise have access to credit through traditional underwriting approaches.

The Treasury report also noted that nonbank fintech companies also offer "expanded speed, convenience, and security," as well as a "reduced cost of services and operational efficiencies." These are all outcomes that arise from decades of dedicated work developing technology. Furthermore, they are outcomes that banks want but often lack the technology in-house to achieve.

As service providers to banks in these programs, fintechs must be fully compliant with all applicable regulatory guidance and should only enter into agreements in which the bank has full authority over all aspects of these relationships, the lending process, and customer outcomes. Bank-sponsored programs with fintechs are subject to robust supervision by federal banking agencies. The Federal Reserve, OCC, and FDIC have published detailed guidance for banks to adhere to when managing these relationships, providing a roadmap for agency supervisory staff to follow in exercising oversight of the agreements that govern them.

More recently, there has been movement in states to pass legislation withdrawing from the 1980 Depository Institutions Deregulation and Monetary Control Act (DIDMCA). Under DIDMCA, state-chartered banks and credit unions are able to "export" the interest rate permitted under their home state laws to borrowers in other states. This provision was designed to put state-chartered banks and credit unions on equal footing with national banks and federal credit unions, which already have this ability. However, Section 525 of DIDMCA permits states to opt-out of these provisions.

Iowa and Puerto Rico are the only ones that are currently opted out of DIDMCA; several other states had opted out originally, but then decided to opt-in in the following years. Recently, however, there has been a push in a few states to opt-out of DIDMCA. In June 2023, Colorado HB 23-1229 was signed into law, opting the state out of the interest rate exportation provision. However the opt-out has never gone into effect as the legislation continues to be embroiled in legal challenges.

Still, legislation opting out of DIDMCA undermines the nation's dual banking system, pushes the banking industry in opt-out states back to a regulatory regime that was abandoned five decades ago, and undermines the role that technology and innovation have made in expanding bank credit offerings and options for consumers who need and benefit from them. Opting out of DIDMCA also ultimately reduces access to credit and leaves consumers worse off.

The FDIC and OCC have "valid when made" rules that say if an interest rate was legal when the loan was mad by a bank, that rate remains legal after the sale, assignment or other transfer of the loan. These agencies do not have "true lender" rules which determine which entity is the actual lender in a loan agreement. Absent this federal standard, some states have taken it upon themselves to set their own standard, with some using "predominant economic interest" (PEI) as a form of "true lender" to challenge arrangements where banks partner with nonbank service providers (like fintechs) to originate consumer loans.

Unfortunately, this PEI concept ignores the clear wording in a loan agreement in favor of a calculation of which party holds the predominant economic interest. The PEI concept runs counter to the federal guidance that permits banks to rely on third-party service providers to assist with loan origination activities.

The DIDMCA opt-out and PEI tests are designed to lessen bank-fintech collaboration, and they diminish banks' ability to serve more customers in a more competitive marketplace. A clear, straightforward "true lender" standard would protect consumers while fostering a vibrant marketplace for lending.

Resources:

- U.S. Department of the Treasury: A Financial System that Creates Economic Opportunities: Nonbank Financials, Fintech, and Innovation (July 2018)
- Scott Pearson and Eric M. Knight: Bank-fintech partnerships don't need more regulation (September 29, 2022)
- Federal Reserve, Federal Deposit Insurance Corporation, and Department of Treasury: Proposed Interagency Guidance on Third-Party Relationships: Risk Management
- Lewis Roca: Legal Issues, Problems, and Unanswered Questions Regarding a State's Ability and Potential Departure from the Depository Institution Deregulation and Monetary Control Act of 1980 ("DIDMCA")

Data Security

OLA Position: Data must be both secure and available. The growing patchwork of state laws represents inconsistent policies and uncertainty. OLA supports the development of a national data standard that protects customers, gives them appropriate control over the use of their data, and does not stifle innovation.

Background: As technology revolutionizes the financial services industry, data is at the vanguard. The availability, assessment, and manipulation of vast amounts of information has enabled the industry to reach consumers with new products and services not possible just years ago. While the increased availability of data has made it easier for the financial sector to meet consumer demands, it also exposes the industry to increased risks associated with security breaches. While data privacy rules have a sizable influence over innovation and growth in the fintech sector, an antiquated, patchwork regulatory structure hinders the innovation that benefits consumers.

To maximize fintech's potential, regulators should keep in mind that data-driven technologies are exponentially more powerful and effective when they have access to larger pools of information. The harmonization of definitions, requirements, and expectations for data protection through a national standard would provide a level of legal certainty that would help facilitate the continued growth of these new technologies, while protecting consumers from unwanted access and use of their data.

A national standard should offer the flexibility and space to innovate. It should give companies of all sizes the ability to take a risk-based approach to data security that is tailored to their own business models, needs, and practices. This is particularly critical for startup companies, allowing them to devote limited resources to expanding their products and services instead of towards complying with prescriptive rules unfit for their risk profiles. This also makes it easier for firms to operate securely across various jurisdictions and enter new markets.

Data Ownership/Aggregation

OLA Position: Open banking allows third party fintechs to provide innovative and valuable services to consumers that enhance their overall financial well-being. OLA supports policies that enable the continued development of these products and services while ensuring that consumers have appropriate rights and safeguards around their data.

Background: Open banking is a significant source of innovation in the banking and financial services industry. Open banking allows consumers to share their data with another financial service provider—either a different financial institution or third party—to empower them to use that data to offer an enhanced service or product to that consumer. These third-party providers can include fintechs, currency exchanges, merchants, and other digital platforms. By relying on networks instead of centralization, open banking can also help financial services customers to securely share their financial data with other financial institutions—facilitating processes between financial institutions or looking at consumers' transaction data to identify the best financial products and services for them.

Through the use of networked accounts, open banking could help lenders get a more accurate picture of a consumer's financial situation and risk level in order to offer more favorable loan terms. It could also help consumers get a more accurate picture of their own finances before taking on debt.

Open banking will force large, established banks to be more competitive with smaller and newer banks, ideally resulting in lower costs, better technology, and better customer service.

Section 1033 of the Dodd Frank Act (DFA) authorizes the Consumer Financial Protection Bureau (CFPB) to issue rules governing consumer information in the control or possession of consumer financial services providers. In 2024, the CFPB issued its final rule authorized under Sec. 1033. OLA generally supports this new standard.

In general, OLA believes that all efforts should be structured to promote innovation and the continued development of more products to help consumers, while fostering greater competition in the marketplace.

It is incumbent on all stakeholders—traditional lenders, agencies, and fintechs—to work in concert towards marketplace enhancements. OLA would encourage policy makers to develop clear and practical guidelines that allow consumers greater control over their data by lowering unnecessary barriers that currently limit consumer access. Key in this process is to take a balanced regulatory approach to data access and use. This will enable consumers to access greater choices, ultimately improving their financial health.

Operation Chokepoint

OLA Position: Government at any level should not be able to use access to banking services as a political weapon against lawful industries or companies. Furthermore, governments should not impose policies that impede the flow of capital and credit from investors or banks.

Background: Launched in 2013, Operation Choke Point pushed thousands of legal, licensed, and regulated companies out of business by cutting off their access to the U.S. banking system. Unsealed court documents revealed an effort by high-ranking, unelected FDIC and OCC officials to discontinue banking relationships with small dollar online lenders based on their personal and subjective views of these and other lawful industries.

While the government officially put an end to Operation Choke Point in 2017, OLA supports continued efforts that would ensure the integrity of the banking system and protect the millions of Americans who rely on access to short-term, small-dollar credit products to make ends meet.

This includes the Fair Access to Banking Act (S. 293 in the 118th Congress) which would require banks to provide justification for denying services while penalizing those financial institutions that refuse to do business with legally compliant industries.

OLA also supports protective language similar to that included in the Secure and Fair Enforcement Regulation (SAFER) Banking Act (S. 2860 in the 118th Congress) that would prohibit a federal banking agency from even discouraging a depository institution from having a business relationship with a customer based on reputational risk.

OLA opposes government-imposed Environmental, Social and Governance (ESG) standards that would impact the regular flow of capital and credit to law-abiding industries and companies.

Resources:

- American Banker: There’s no downplaying the impact of Operation Choke Point (November 28, 2018)

CFPB Reform

OLA Position: OLA supports clear laws and regulations that protect consumers in the marketplace and hold the companies that provide these goods and services accountable. OLA also supports the existence and application of adequate checks and balances to ensure accountability from the regulators who are charged with serving the public.

Background: The financial services industry is highly regulated at the state and federal level. At the federal level, fintech lenders are subject to 18 enumerated consumer laws and numerous regulations that stem from those laws.

The Consumer Financial Protection Bureau is the primary federal agency charged with developing regulations for the application of these laws, as well as their supervision and enforcement in the marketplace. The CFPB has unique autonomy that insulates it from the congressional oversight and accountability applied to other agencies. While the Supreme Court issued a ruling on one important question surrounding the constitutionality of the CFPB's funding structure, OLA still believes that there are opportunities for Congress to enact commonsense accountability measures that will ultimately benefit American consumers.

No federal agency should be insulated from proper accountability and constitutional checks on its actions. To bring it in line with other agencies, Congress and Administration should consider common-sense reforms such as: ensuring the CFPB's activity is not insulated from congressional oversight and is subject to authorization and/or appropriations; the CFPB should have its own dedicated Inspector General; and lessening the control of a single director by establishing a commission.

Lead Generation

OLA Position: Lead Generators allow consumers' sensitive information to be presented to multiple lenders in real time, maximizing the opportunity for these consumers to obtain a loan quickly, conveniently, and in a private "faceless" environment-alleviating concerns of judgement or discrimination. OLA supports efforts that ensure consumers receive offers on the products and services they requested from the providers they authorize. OLA opposes efforts that would generally prohibit or restrict lead generators from providing their services to customers who want to use them. This includes the Federal Communications Commission (FCC)'s restrictive one-to-one consent rule in December 2023 that limits consumer choice and options. OLA strongly urges the FCC to reconsider this proposal and look for ways to provide small businesses with more flexibility to comply.

Background: Lead generation is a long-established marketing and advertising method that is used throughout the American business landscape and has become increasingly critical in the age of internet commerce. Specifically, consumer-focused industries rely on third-party internet marketers ("lead generators") to reach specific audiences looking for goods and services. Lead generators accomplish this through independent marketing and advertising, creating marketplaces for consumers seeking goods and services.

Lead generators such as Zillow and Expedia have radically changed the way that consumers find products and services. Also referred to as "performance marketing," lead generation is a faster and more cost-effective way for lenders to maximize their marketing resources. In turn, this benefits the consumer by limiting the exposure of their most sensitive data, saving hours (or even days) of frustrating searches and increasing the likelihood of finding the financial solution they need. Lead generators in the short-term consumer finance market do all this without charging consumers for their service.

A consumer voluntarily provides their information to a lead generator, who can then instantly determine which lenders may be able and willing to work with that consumer. Lead generators and lenders transmit and recive the consumer's data through secure channels, reducing the risk of a devastating data breach while increasing the likelihood of meeting the consumer's needs.

Lead Generators in this industry have clear forms, disclosures, and policies that allow a consumer to understand exactly what information they are furnishing and how that data will be used.

Once a consumer has been connected with a lender, the future of that relationship and any loan offered or accepted is between the consumer and the lender. After being presented with a loan offer and its terms, the consumer remains in control about deciding whether or not to accept the loan based upon their need and the perceived benefits of the offer. It is no different than a consumer performing an online search for a product or service and, upon clicking on the ad, deciding whether or not they actually want to purchase the product or service at that particular moment in time.

In December 2023, the Federal Communications Commission (FCC) adopted a new proposal that eliminates consumers' ability to provide broad consent to be contacted by parties that can fulfill their request. The one-to-one consent mandated by the rule is neither necessary or appropriate as it will likely lead to fewer options, negatively impacting consumer choice. The proposed rule will also increase costs to generate and acquire leads, putting US-based small businesses at a disadvantage as larger companies can dominate SEO visibility.

Lead generation is advantageous for consumers, particularly those who are nonprime and underserved. Nonprime consumers already have a hard time finding credit while simultaneously needing it more quickly. For consumers who need emergency cash for a car repair or emergency dental work, this can save the consumer from having to wait days or weeks for funds to become available.

Resources:

- Online Lenders Alliance: Comment Letter to Federal Communications Commission on its proposed rule "Combatting Illegal Text Messages"

Artificial Intelligence and Machine Learning

OLA Position: OLA supports the continued exploration and development of Artificial Intelligence (AI) and Machine Learning (ML) technologies as ways to increase efficiencies, expand product offerings, and better manage risk in the financial services and lending system. These technologies are complex and overly prescriptive laws and regulations would likely stifle innovation and advancement in the United States. Furthermore, a patchwork of differing state laws without a federal standard will result in regulatory uncertainty and potentially hamstring this technology to the most restrictive standard rather than the best standard.

Background: Driven by advancements in computer science, the use of artificial intelligence and machine learning in fintech has grown dramatically and shows no sign of diminishing. AI and ML has the potential to improve efficiencies in banking procedures, allowing financial institutions to better understand customer needs, transform credit options, and help the underbanked gain more access to traditional financial services.

AI and ML techniques have taken on a prominent role due to the increased availability of data. One unique aspect of these tools is that the value of data does not diminish when used and, in some cases, the value increases as more data is accumulated. These characteristics, coupled with the expanded availability of different types of data, have spurred the adoption of AI and ML in the financial services space, fueling growth and creating new products and services that are revolutionizing the marketplace.

Much of the focus on AI/ML centers around the role it can play in reducing fraud, lowering defaults, and improving overall efficiencies through enhancements in algorithms. These models can minimize human subjectivity and bias. Even more significant, though, are the ways in which these innovations have changed how consumers function in today's financial services environment. Consumers are now able to tailor the process to meet their needs in ways that were not possible a decade ago. The results—expanded credit markets, new product offerings, and greater financial inclusion—are a win-win for lenders and borrowers alike.

OLA opposes state or federal efforts that are duplicative to existing law and would impose unnecessary compliance burdens on lenders that use AI/ML, resulting in decreased credit access and higher cost loans. While data is essential to AI/ML, the issues of data privacy should not be conflated with the issues of when the data is used.

ENDNOTES

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3 Experian's Clarity Services, 2024 Annual Alternative Financial Services Trends Report (June 2024), available at https://www.experian.com/thought-leadership/business/report-2024-alternative-financial-services

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7 Experian's Clarity Services, 2021 Annual Alternative Financial Services Trend Report

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9 Consumer Financial Protection Bureau, Consumer Response Annual Report (March 2024), available at https://files.consumerfinance.gov/f/documents/cfpb_cr-annual-report_2023-03.pdf

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