

FTC Files Complaint Against Lending Club for Allegedly Deceptive and Unfair Online Loan Practices

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The FTC today filed a [complaint](#) against Lending Club alleging that it deceived consumers by advertising loans with “no hidden fees” and subsequently concealing substantial loan origination fees. The complaint points to consumer complaints and internal compliance documents as evidence that Lending Club knew that consumers were being misled and continued to misrepresent the loans anyway.

The complaint charges four distinct violations:

- Deception regarding up-front fees. While advertising loans with “no hidden fees,” the Commission alleged that Lending Club actually charged substantial loan origination fees (on average, about 5% of the loan amount) and failed to clearly and conspicuously disclose those fees – both in advertising and throughout the application and approval process. The complaint provides screenshots of the consumer experience from advertisement to sign-up to approval. In both the desktop and mobile environment, the FTC charged that consumers were deceived because they would need to do either of the following to learn about the fee: (1) hover over a hyperlink explaining advertised APR to learn that the represented rate includes the loan origination fee; or (2) scroll to the bottom of the loan approval page and notice the fee disclosure embedded in the middle of a text heavy page. The FTC cited frequent consumer complaints and internal compliance documents referencing potential deception to argue that Lending Club knew it was deceiving consumers and decided to continue its practices anyway.
- Deception regarding loan approval. The complaint also alleges that Lending Club made deceptive representations that loans were “on the way” or were “100% backed,” notwithstanding that it knew that a more significant approval step had yet to be completed and many consumers would not ultimately obtain the allegedly approved loans. According to the complaint, Lending Club uses a two-step “front-end” and “back-end” approval process and misleadingly suggested that consumers were approved after just the first step, despite knowing many consumers would be rejected after the “back-end” step.
- Unfair billing practices. The complaint also alleges that Lending Club engaged in unfair acts by withdrawing money from consumers’ bank accounts without authorization, or in amounts in excess from consumers’ authorizations. Many of these unauthorized charges occurred after consumers had already paid off their loans with Lending Club, according to the complaint.
- Gramm-Leach-Bliley Act (GLBA) violations. Lastly, the complaint alleges that Lending Club

violated GLBA by failing to deliver initial privacy notices to consumers as required under GLBA and FTC and CFPB implementing regulations. The complaint explains that Lending Club was subject to GLBA because it is a financial institution under the Act in that it services loans, notwithstanding that the loans are actually made by a third-party bank. The GLBA allegations are a good reminder that the definition of “financial institution” under GLBA is a tricky one that is distinct from similar definitions under other statutes.

The complaint was filed without a consent judgment in federal court in the Northern District of California, and was approved by both remaining Commissioners, Chair Ohlhausen and Commissioner McSweeney. McSweeney recently announced that she will leave the Commission at the end of this week on April 27. Five new Commissioners nominated by President Trump are presently awaiting a full Senate confirmation vote.