

FTC Hosts Workshop on Lead Generation

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On October 30, 2015, the FTC held a [workshop](#) on lead generation to explore online lead generation in



various industries. Lead generation, also called performance marketing, is the process of identifying or cultivating consumer interest in a product or service, and distributing this information to third parties. Lead generation can facilitate comparison shopping and promote efficient connection of brands and consumers. But the FTC is concerned when lead generation involves deceptive practices and misuse of consumers' personal data.

The workshop brought together a variety of stakeholders, including industry representatives, consumer advocates, and government regulators. Although the opinions represented at the workshop were varied, a few themes recurred across the panels.

First, selling data for purposes beyond the initial consumer inquiry can be beneficial to consumers but also poses risks. Panelists agreed that leads must be accompanied by valid consent, and that consent is limited by the context of data collection and the consumer's expectations. Although cross-selling may connect consumers to products in an efficient way, that benefit needs to be balanced against the risk that the consumer will be bombarded with unwanted inquiries or will be unsettled by the scope of data sharing that has occurred (both of which would reflect poorly on the brand associated with the lead). It is important to clearly disclose to the consumer what the information collected will be used for and how it will be shared, but some panelists questioned whether even strong disclosure language provides adequate warning when data will be widely shared.

Second, companies should prioritize a privacy analysis in their data collection practices. In some industries, it is common for leads to contain sensitive personal and financial information.

Panelists questioned whether any efficiencies of collecting this data at the outset were outweighed by the risk of consumer harm. Some panelists encouraged companies to consider a two-step data collection process, where a lead contains only contact information that an advertiser can use to follow up with an interested consumer. Relatedly, panelists discussed particular risks associated with holding sensitive remnant data, not only because of data security risks, but also because market pressures may drive a company to monetize that data by selling it.

Third, companies should make efforts to know and monitor their data sources and data buyers. Panelists were nearly unanimous in stressing the importance of monitoring upstream buyers of leads and downstream sellers of leads. Multiple efforts are underway to promote best practices in the lead generation and online lending industries. Representatives from LeadsCouncil and the Online Lenders Alliance served as panelists and explained their organizations' goals for self-regulation. In addition, panelists promoted tools aimed at helping companies verify lead information, prevent fraud, track sales of data outside of agreed-upon parameters, and monitor and audit affiliate marketers. Although contract terms may establish compliance responsibilities, contract provisions likely will not fully insulate a company that acts without conducting the proper due diligence and monitoring. And ultimately, good lead generation practices can benefit a brand, while questionable lead generation practices will result in lower quality leads and may reflect poorly on a brand.

Several panelists called for additional guidance from the FTC regarding lead generation practices even as the industry begins to develop its own standards and ethics. We will continue to monitor regulatory developments and industry trends.