

AUTHORS

Jonathan L. Pompan
Alexandra Megaris

RELATED PRACTICES

Consumer Finance
Regulatory
Advertising and Marketing
Advertising and Marketing
Litigation

RELATED INDUSTRIES

Consumer Financial
Protection Bureau Task
Force
Credit Counseling and Debt
Services
Financial Services

ARCHIVES

2013 2009 2005
2012 2008 2004
2011 2007 2003
2010 2006

Articles

October 14, 2013

Continued CFPB Scrutiny of Credit Card Market; Focus Turns to Disclosures

The credit card market continues to be high on the Consumer Financial Protection Bureau's hit list. As noted in prior [blog posts](#), the CFPB is focused intently on advertising and marketing of financial products and services. Because large advertising dollars are spent on credit card marketing, card issuers need to proceed with caution.

So far, the CFPB has brought three enforcement actions related to credit card add-on products; with the potential for more credit card market actions in the future.

In mid-September, the CFPB chased down allegations that a major bank engaged in unfair billing practices for certain credit monitoring products, which were offered to consumers as 'add-ons' to credit card accounts. Like its first two actions involving similar facts (announced in July and September 2012), the CFPB entered into a consent order with the bank imposing, in addition to a civil monetary penalty, significant conduct requirements around its credit card marketing, including the sale of add-on products by phone.

About a week later after announcing the settlement, the CFPB released a [report](#) detailing how the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) reduced penalty fees and made the cost of credit cards clearer to consumers. But, the report also highlighted the CFPB's continued areas of concern:

- **Add-on products:** According to the report, the CFPB "remains concerned about the ways these products are marketed and will continue to pursue deceptive practices in the market."
- **Fee harvester cards:** High application and user fees were addressed in the CARD Act, and the CFPB said it will "continue to monitor the use of application fees in connection with account openings to determine if it should take action under its available authorities."
- **Deferred interest products:** The CFPB intends to study the risks and benefits of cards that allow users to finance purchase without interest for a period of time.

Finally, and perhaps most significantly, the report reveals the CFPB has "outstanding concerns" about disclosures in three different areas: (1) online disclosures; (2) disclosures concerning rewards products; and (3) disclosures concerning grace periods. Although the CFPB did not articulate *how*, it made clear that it intends to review whether such disclosures are being made in a clear and transparent manner. However, based on the frequency and number of recent enforcement actions, the CFPB has shown its readiness to flex its enforcement muscle.

Although the general principles of advertising law apply across all mediums and topics, we all know that issues can arise when disclosures are used to help provide important information to consumers and comply with technical requirements that apply to credit card offers (e.g., TILA). Credit card marketers will want to be sure they review all existing disclosures and consider the CFPB's track record of credit card market place enforcement as new advertising is developed.

* * * * *

For more information, please contact [Jonathan L. Pompan](#) at 202.344.4383 or ; and [Alexandra Megaris](#) at 212.370.6210 or .

Jonathan L. Pompan, a partner in the Washington, DC office of Venable LLP, co-chairs the firm's Consumer Financial Protection Bureau Task Force. His practice focuses on providing comprehensive legal advice and regulatory advocacy to a broad spectrum of clients, such as nonbank financial products and services providers, advertisers and marketers, and trade and professional associations, before the CFPB, the FTC, state Attorneys General, and regulatory agencies.

Alexandra Megaris is an associate in Venable's regulatory practice groups, where she advises clients on advertising and marketing and general business matters, including compliance with the Consumer Financial Protection Act and the Federal Trade Commission Act. She also assists clients with civil investigations before the CFBP, FTC, U.S. Congress, and various other federal and state enforcement agencies.

This article is not intended to provide legal advice or opinion and should not be relied on as such. Legal advice can only be provided in response to a specific fact situation.