Consumer Finance Monitor (Season 3, Episode 24): What's Happening at the FTC (Part I), With Special Guests From the FTC

Speakers: Alan Kaplinsky, Chris Willis, Andrew Smith, and Malini Mithal

Alan Kaplinsky:

Welcome to the Consumer Finance Monitor podcast, where we explore important new developments in the world of consumer financial services and what they mean for your business, your customers and the industry. I'm your host today, Alan Kaplinsky. I'm the practice group leader of the Consumer Financial Services Group at Ballard Spahr. I'll be moderating today's program for you. Today's podcast and the podcast that we're going to release next week, are essentially based on a webinar that we recently did, that we thought was so important to our listeners, that it should be memorialized in the form of a two part podcast. So we'll be doing half of the webinar today, and the other half will be next week. There were very minimal slides for this webinar, so there's not slides really that are available, or that you need.

Alan Kaplinsky:

Well anyway, our topic today, is Consumer Protection: What's Happening at the Federal Trade Commission? I'm going to be joined today, not only by my partner Chris Willis, but also two very special guests from the Federal Trade Commission, Andrew Smith and Malini Mithal. Let me give you a little bit of background about Andrew and about Malini. First of all Malini is the associate director of the Federal Trade Commission's Division of Financial practices. She supervises investigations and enforcement actions, challenging unfair or deceptive practices in the provision of non-bank financial services, including in the areas of FinTech, lead generation, short-term loans, debt collection, student loan debt relief, mortgage relief and automobile advertising and financing. Under Malini's leadership, the division has also engaged in significant policy initiatives including hosting workshops or issuing reports on marketplace lending, block chain, artificial intelligence, peer to peer payments, crowd funding, lead generation, mobile payments and mobile cramming. Malini has held numerous positions at the commission and she has been at the FDC since 2005.

Alan Kaplinsky:

Andrew Smith is the Director of the Bureau of Consumer Protection. Andrew is in effect the staff leader of the Bureau of Consumer Protection. He came to the FTC from private practice at the law firm of Covington and Burling, where he co-chaired the financial services practice group. Earlier in his career, Andrew, was a staff attorney at the FTC, where he led the agency's efforts to make several rules under the Fair Credit Reporting Act. Andrew has written extensively consumer protection and financial services issues. And like myself, served as the chair at one time of The American Bar Association's Consumer Financial Services committee.

Alan Kaplinsky:

Getting to our podcast today, while the leadership priorities of the FTC have changed under the Trump administration, the FTC continues to take an active role in the enforcement of consumer financial services laws. During today's podcast, we're going to discuss a wide range of topics, including at the beginning, we're going to dig pretty deeply into the many actions that the FTC has already taken in response to the COVID-19 pandemic. And of course, those actions have been taken mostly using the FTC's authority under Section Five of the Federal Trade Commission Act, which gives it the right to proceed against companies that are engaged in unfair or deceptive acts or practices.

Alan Kaplinsky:

We're then going to talk about important consent orders and enforcement litigation involving consumer financial services during the last year and priorities going forward. Our topics will include FTC coordination with the Consumer Financial Protection Bureau and State Attorneys General. Current activities involving credit reporting, lead generation. And then, we'll talk about FinTech companies and the small business lending, as well as issues arising from the use of artificial intelligence and algorithms. We will then, the podcast which we're going to do next week, is going to begin with a discussion of privacy and data security developments, which is a really important part of the FTC's enforcement agenda. Much more so than the CFPB. We'll talk about improvements to orders and data security cases, the status of litigation, challenging the FTC's authority to seek restitution and a variety of other topics. So with that, let's get to it.

Alan Kaplinsky:

Okay, we're going to start with you Andrew. What actions has the FTC taken in response to the COVID-19 pandemic?

Andrew Smith:

Thanks Alan. Thanks for the nice intro. I also will offer this for both me and Malini, our standard disclaimer that we speak for ourselves only and not for the commission or any individual commissioner. So with respect to coronavirus response, I think it was March 13, when I sent everybody home in the Bureau of Consumer Protection. So for folks who may not know, we have about 425 FTE in the Bureau of Consumer Protection. The FTC has to many functions as you probably know, but two missions. One is the consumer protection mission, where Malini and I work. The other is the competition mission and that's our anti-trust mission and that's our Bureau of Competition. So just dedicated to the consumer protection function, people who do consumer protection all day long, we have about 425 of those. They are in eight regional offices, as well as our headquarters office in Washington D.C. So they're spread out around the country. Some places that are, or were hotspots, for example Seattle, which felt the pinch from coronavirus before the rest of us did, and also San Francisco. And some of those offices were already in telework.

Andrew Smith:

March 13, I sent everybody home and said, "Mandatory telework now." We didn't really know how it was going to work. We didn't know one, whether our systems would hold up. That's a difficult thing to have everybody in the agency dialing into the network at precisely the same time, eight or 10 hours a day. The other thing was just the supervisory issue. We had never done that. We had never had divisions like Malini's, who are typically composed of between 40 and 50 people, have those on telework 100%. And would be people able to be productive in that kind of an environment? I think, I mean, I have been amazed at how we have been able to fair during this pandemic and this stay at home order.

Andrew Smith:

Not only are we continuing to do the important work of the Bureau of Consumer Protection, which if you take a look at our website you will see probably every day there's an announcement made about something else that we're doing, whether it is a report that we are issuing or an enforcement action that we are taking. Less news probably on workshops and things like that, because it's going to be hard. We're doing a virtual workshop in July on our safeguards rule, but that will be, I think, will be our first virtual workshop and those are going to be harder to do. But so, we are continuing to do the important work of BCP, but we're also job one now has become coronavirus response. So our focus there has been on scams and on outreach to consumers and to businesses.

Andrew Smith:

With respect to law enforcement and scams we've issued now many more than 100 warning letters, but closing in on 200 warning letters, which we found to be amazingly effective at getting people to take down false of unsubstantiated advertising claims. We've had warning letters on health claims, like you might imagine certain products prevent COVID-19. Sanitation claims for air cleaners and disinfectants. A lot of robocalling cases. Companies making earnings claims for stay at home opportunities, including MLM companies. Government check scams, which we're seeing more and more now that consumers are receiving their IRS checks. Some small business financing issues, which Malini may talk about as we go along this morning.

Issues with online retailers that don't fulfill. So people selling N95 masks and purporting to sell them. Taking your money, but not fulfilling. And apps and other online services that collect, share, use data, some of which have been in the press and some of which have not.

Andrew Smith:

So we have a lot of law enforcement investigations open. We've sent as I say, many more than 100 warning letters. We're now moving on to the TROs and injunctive relief. We've brought a couple of those actions. So we're going to hurry it up emergency fashion. Malini's group was responsible for at least one of those. We are coordinating with our fellow federal and state partners, so in particular the Food and Drug Administration, the Department of Justice, the Federal Communications Commission. We've also been talking to EPA for the air purifiers used, to the bank regulators, the CFDB, criminal authorities, State Attorneys General, our international partners. We've had good partnerships of the big online sellers in terms of referring complaints. Their referring complaints to us, us referring complaints to them, I think pretty good cooperation.

Andrew Smith:

Also, good coordination with USTelecom, which is the trade association for landline telephone providers and they've been helping us with tracing back robocalls in an expedited manner. That's been really an amazing endeavor and working with the Federal Communications Commission and the Department of Justice and State AGs have been able to really I think, make a dent in robocalls. We have noticed since the beginning of this year, because of these new trace back measures, that the number of robocalls has been dropping dramatically, which is weird a little bit and anamolized, but it's something that we're very pleased about. Finally, we've been engaged in a tremendous amount of outreach, as well as research with respect to complaint data and the like.

Andrew Smith:

We are getting historically high use of our Consumer Sentinel Network by law enforcement partners who are dialing into it for targeting purposes. We've got now about 30,000, probably more than 30,000, coronavirus related complaints in the database that we're analyzing. We're targeting as well. We have issued dozens of blogs and other consumer and business education pieces, translated into a variety of languages about not just COVID related scams, but also financial relief, working from home and other relevant topics. We've been doing a tremendous amount of outreach to our state partners, as well as local and regional media, consumer advocacy groups, AARP and BBBs, including co-sponsoring webinars practically every day. And we have a lot of resources on our website ftc.gov/coronavirus, for anyone who's interested. So with that, I'm going to ask Malini, is there anything that you want to add on coronavirus response?

Malini Mithal:

Oh, thanks Andrew. Yes. Just really briefly I did want to highlight one of the cases that you were referring to. I know small business financing is a topic we're going to discuss in more detail today, but I just wanted to highlight, it really is an area in which the FTC has been very active and interested. So for example, one of the TRO cases we filled in the last couple of weeks, was against a company that is based in Rhode Island. It's doing business, or it was doing business, as Small Business ... Or sorry, as SBA Loan Program. So during calls it would cold call consumers and say it was calling from the SBA and it said it was offering PPP loans under the CARES Act. The website in fact claimed that it was a direct PPP lender, but we alleged that it's not authorized to make PPP loans and is not affiliated with the SBA.

Malini Mithal:

We were really concerned about these practices, because of course, the funding is first come first served, so consumers who were applying to this group instead of applying to actual SBA authorized lenders were losing out on opportunities to obtain important relief right now. In any events, we filed our CRO and we ended up stipulating through a preliminary injunction with the company. It can no longer make the claims and it has to notify small businesses that applied with it, that it's actually not authorized to make PPP loans and it's not affiliated with the SBA. The reason I wanted to highlight that case in particular is because whatever form small business financing issues take, the FTC is really interested in hearing from companies about what they're experiencing when seeking financing, and we're very, very committed to protecting small business consumers in this area.

Alan Kaplinsky:

So Malini, I'm curious as to how this company intended to make money. Was there an application fee that they required consumers to send to them before they'd be able to apply?

Malini Mithal:

Alan, you ask a great question. That's not something we talked about in the complaint. I mean, just generally speaking a company in addition to charging fees could be doing things like pitching other products to consumers that come in the door. That's going to be another topic that we discuss more generally today with the lead generation context. What kind of claims are you trying to make to get a consumer in the door, but then, what other products are you pitching to them? So it could be a variety of things. But it certainly was activity that we were concerned about.

Alan Kaplinsky:

I've got it. Okay, let's pivot away from COVID-19 and talk more generally. I would then like to address my question to you, Malini, as to what have been the most important consent orders and enforcement matters involving consumer financial services during the last year? And what are the FTC's enforcement priorities this year? I know that's a very broad question, but I did want to get that on the table.

Malini Mithal:

Absolutely. Thanks, Alan. It's been an incredibly active time at the agency. As Andrew said, we've been really active recently and this has been true since Andrew's joined and since the chair and new commissioners began more than a year ago now. True to the chair's promise when he began, we've continued our vigorous law enforcement. We've focused a lot of areas like FinTech, lead gen. and small business lending. I know we're going to be talking more about each of those areas. So rather than diving into a particular type of financial product or service right now, I just wanted to talk about how a general principal that you'll see in FTC cases, is that we are really, really focused on rooting out deceptive claims that companies might make to get consumers in the door, regardless of what type of product or service you're offering.

Malini Mithal:

A recent case that illustrates these principles is our action against Progressive Leasing. Very briefly, Progressive's the subsidiary of Aaron's Rent to Own. So like Aaron's is sells RTO products, but unlike Aaron's it doesn't have brick and mortar stores. It sells its products virtually, at furniture and other retail stores. So according to our complaint, Progressive's training materials for the retailers masked the true cost of Progressive's RTO program plans. What happened is, the sales associate would pitch Progressive's products, then they would have the consumer fill an online application using Progressive's web based platform in the store. On that application, we said that Progressive took a number of steps to hide the true price of the item.

Malini Mithal:

So for example, it would kind of prominently tout the cash price, the actual price that you pay at retail, but then behind clicks and auto scroll disclosures, that it would auto scroll past in the contract, it actually disclosed that the true price of the item was twice as much as the cash price. We said that the defendant received tens of thousands of complaints about this practice. Retailers expressed concerns too. Ultimately we ended up settling for the company for $175 million. We announced that action, I want to say last month. It's a really great order to take a look at if you are in any way using other parties to sell your products and things like that. But for example, the company has to vet and monitor its retailers, including their advertisements and training materials and it has to promptly investigate complaints.

Malini Mithal:

The reason I wanted to start off with this case, is because I think it really illustrates some key commission priorities. As I mentioned at the outset, rooting out deceptive claims, especially about how much consumers will pay, will definitely be a priority for the FTC. You'll also expect to see us continue seeking strong remedies through law enforcement. 175 million was a very important amount that we wanted to get back to consumers and we really pushed hard to obtain relief for these consumers through this action. Also, the whole idea of monitoring your agents, again, that's something that comes up in lead generation and I'll talk more about that later on today's webinar. Thanks, Alan.

Alan Kaplinsky:

Okay. All right. I'd like to go back to you now, Andrew. Let me go to the next slide. I want to discuss or get your comments on recent FTC guidance that you gave about the consumer protection risks of artificial intelligence and algorithms. That drew a lot of attention among the industry using AI. I'd like get your comments and then I'd like to have my partner Chris comment on what you have to say.

Andrew Smith:

Okay, sure. I'd be happy to. This is a blog post that we issued, what, within the last three or four weeks. I remember it was after the whole coronavirus thing blew up, because we were wondering about whether and when we should actually issue it. This is something that had been in the works for a while. What motivated me to put the blog post together, was that what was actually our conversations with European regulators. Last year about this time, the OECD issued principles for AI. I read them and I thought, "Holy mackerel. We already do this. We have the Fair Credit Reporting Act and we have the ECOA and they speak to these principles, which I think are actually it turns out pretty good principles. What the Fair Credit Reporting Act and ECOA show is that they are working principles.

Andrew Smith:

So the principles are transparency. Telling consumers what you're doing, how you're doing it, which we do with adverse action notices, explainability. Sort of the same idea, we've made this decision about you, how did we make that decision, why did we make that decision. Fairness and non-discrimination, so that's of course kind of the heart of the Fair Credit Reporting Act and the ECOA. And fairness in terms of using the right data. Data that people feel is "fair." Like in the Fair Credit Reporting Act, we say, "Don't use data that's more than seven years old." That's a fairness idea. Then of course non-discrimination, which everyone on this call has probably familiar with. And how has that mandate toward the prohibition on discriminating on any aspect of a credit transaction, particularly disparate impact analysis, how has that played out in U.S courts over the last almost 50 years?

Andrew Smith:

So robustness and soundness. So robustness of your data, so that's sort of the accuracy and the dispute provisions of the Fair Credit Reporting Act. Making sure that your models are empirically derived and demonstratively and statistically sound. And then accountability, which is become sort of a buzz word in privacy circles for how do companies hold themselves accountable. What kind of internal governance do we have over these processes, who owns these processes, what's the role of the board in reviewing these processes? So all of those relatively basic principles have been enshrined in the Fair Credit Reporting Act and the ECOA. And all of us on this call have been implementing them for 50 years. 1970 for FCRA and what, 1974 or 76 for ECOA.

Andrew Smith:

In our conversations with the Europeans, this is a revelation for them, because they don't have laws like this. It's funny because AI and algorithms didn't ever strike me as a privacy issue before. But it's shaping up to be a privacy issue. There's privacy legislation before Congress that would incorporate notions of automated decision making, using information to make automated decisions. So it's become a privacy issue, but privacy people, people who are really knowledgeable and care a lot about privacy, aren't necessarily financial services people. So all of us on this call, we understand these concepts sort of innately, but the rest of the world may not. So that was the purpose of the blog post, was to say, "Look, we don't have all the answers here, but there are some important lessons to be learned from these existing laws that we have been actively enforcing and administering for 50 years. And lessons that can be learned for this broader debate about AI."

Andrew Smith:

I think that one of the things that is most amazing to me is that you take these concepts like end consumers. Whenever you make a decision about a consumer, give them a notice and in that notice, explain why you made the decision. I mean, in the abstract, that sounds like an impossible burden, but in fact, we've operationalized it in the financial services industry. So that was what was motivating this. And I do think that these are principles that we would also look to apply outside of the credit context, where it's appropriate. So for example, we did mention our Section Five case against ... Oh golly, what was it? That credit card company in Ohio. The card was issued by, [crosstalk 00:27:37] as I recall.

Malini Mithal:

Is it CompuCredit?

Andrew Smith:

CompuCredit. Yeah, that's right. So we had the CompuCredit side of it and the FDIC had the CB&T side of it. That was a Section Five case and we were saying that CompuCredit was making decisions about people. So it was a fairness idea. CompuCredit was using people's purchasing decisions, or purchasing data on the credit card. So if you bought retread tires or there were payments made to a marriage counselor, they would cut your line based on that. We said, "You know, that's not right. If you're going to do that, you need to tell people about that." So we do have this very broad authority to prevent unfair and deceptive practices in commerce that we also can use where it’s something that might not fit neatly under the Fair Credit Reporting Act or one of the other laws that we enforce. So I hope that's a helpful explanation. We issued the blog and I'd be interested in hearing Chris's commentary on it.

Alan Kaplinsky:

Yeah, go ahead Chris.

Chris Willis:

Thanks, Andrew. I agree with the point that you made that a lot of that blog post was intuitive to us as industry practitioners. The privacy, the FCRA, the co-aspects of it. There was one piece of it that I was somewhat surprised by and it had to do with the discussion about how consumer financial services companies should evaluate models for disparate impact risk under the Equal Credit Opportunity Act. There was a discussion as I recall about making sure first of all that there were no what I will call problem variables in the model. That you don't put race, gender, age, things like that into the model, which would be a clear violation of ECOA. Then of course the necessity of making sure that the model is empirically derived and statistically sound and that it actually predicts credit risk for whatever it is the model is trying to predict. Also, it makes total sense it's coming of course straight from the language of Reg. B.

Chris Willis:

But then, there was a statement that went beyond that that suggested that financial services companies were obligated not only to test the input to the model. That to make sure they're free from problem variables, make sure the model is predictive. But also the output of the model in terms of disparate impact and quantification of that, that was the piece that I was most interested in, because it had been my thinking prior to then that if a model didn't have any protective characteristics or closed proxies as elements, and the model was predictive of credit risk in that it had a legitimate business justification and could satisfy the empirically derived and statistically sound language in Reg. B, it wouldn't be necessary to then further test it for disparate impact, because even if it does have the disparate impact, and I think many credit models probably do, then the business justification and the absence of disparate treatment in the variables selection, would make it not a violation of ECOA to use it.

Chris Willis:

So I wonder whether the statements about testing the outputs of models in a disparate impact sense were designed to signal to market participants that they need to like a proxy based fair lending test of any model that they come up with, for example, to use in the underwriting functions. That was the primary point of interest for me in the blog post.

Andrew Smith:

So I'm looking at the blog post now and that was not the intent to say that you're obligated to do anything new, was not the intent of the blog post. But there surely are people who do perform self-testing as a means of, if challenged, that will be the acid test. To say, "Okay, let's look to see whether there is any disparate impact in controlling for all of the relevant variables we can think of, if that observed disparity remains. And so that observed disparity cannot be explained by anything other than race." So I think that it was not my intention to say that if you have a robust accountability program for the models that you're using, and you can demonstrate that they are empirically derived and demonstrably and statistically sound, and that they've been validated and revalidated in a manner to have to people who are statistical professionals would think was adequate, then that ought to be good enough.

Andrew Smith:

What this was saying instead was, "Look, here are different things that companies do to ensure that their models are empirically derived and demonstrably and statistically sound." I didn't need to say that you would be after engaging in those other fair lending checks, that you would be required to actually do that kind of self-testing that you were talking about. But this is just one method of ensuring validity.

Chris Willis:

Sure. And I appreciate the clarification. The reason I was asking was because a lot of non-banks, in my experience, don't have the sort of infrastructure in place to do that proxy based fair lending testing and so they rely on the other elements that we were just talking about. But of course, I would definitely agree that if you start to use some types of alternative data in a model, that doesn't enjoy kind of the historic presumption of things like credit bureau trade lines, if you start to use more questionable values or variables in a model, then I think that makes the proxy based testing probably more important. I don't know if you agree with that or not, but that's my personal view of it.

Andrew Smith:

Well, so I think that you're in the business of advising people on how to comply with these laws, and so it's always a constant balancing of risk, I would imagine. What is it that you can sort ... You live in the world of the possible. I mean, so there's a risk, we're making decisions about people by the use of this algorithm. There is some risk that where those decisions constitute an aspect of a credit transaction, there's some risk that they might be discriminatory, so how can we manage that risk. It may be that the only way that your study conclusion, is that the only way to really manage that risk, is to figure out the race of each of these borrowers and conduct a full-blown fair lending analysis. But I think that these are just all different ways. What we're doing in the blog post is we're highlighting that here's the risk and here are the different ways that people have managed that risk in the past.

Alan Kaplinsky:

Okay. I think I'd like to move along to a new topic. This time, Malini, I would appreciate if you could tell us what the FTC is currently doing with regard to FinTech companies and small business lending.

Malini Mithal:

Absolutely, Alan. These are two high priority areas for the commission and I'm happy to talk about them. Let me actually talk about small business lending since that's already come up a bit. I'll talk a little bit about a case that we filed recently. Then I'll talk about some broader big picture things that we're thinking about. First of all, I just wanted to briefly highlight our action against FleetCor, which we announced, I think it was earlier this year. By way of background, FleetCor is a company that markets fuel card services to businesses around the country. Basically, it's business customers give the fuel cards to their employees to use in refueling company vehicles. According to our complaint, FleetCor charged a broad array of fees that the defendants, that hid from consumers basically. They charged them in ways that customers did not detect.

Malini Mithal:

For example, we said that these fees were buried in terms and conditions, and even in the terms and conditions, it wasn't clear when different fees would be charged and why. For example, we said the company did things like not charging fees initially, but then started charging fees after a few months and not breaking them separately out on the bill, so consumers wouldn't be on the lookout for them. We also said that when consumers did notice and complain about fees, the company would remove the fee for a short period of time, but then start charging them again later. The reason I wanted to start with this case is, I think it does illustrate some take aways. Make sure that you are not engaging deceptive conduct, you're disclosing fees clearly and conspicuously. Listen to consumer complaints and of course the FTC Act protects small businesses.

Malini Mithal:

On the small business front, this is an area that we're studying closely. In fact, earlier this year, we released a fact perspective paper on small business financing where we outlined what we've heard from stakeholders about the benefits and risks in this area. For example, if small business financing entities promote a simpler application process, they also talk about basing decisions on realtime sales data, more than just a business owner's personal credit score and that means that companies may extend credit to borrowers who might have been turned down in the past. We've also highlighted potential risk associated with small business financing that we've heard from stakeholders.

Malini Mithal:

For example, one thing that's come up, is there inconsistent information out there? Some of these products might not be considered traditional loans. There might not be an APR that you can compare across products and as a result, consumers might have trouble actually seeing how much products cost and what is a better deal for them. Relatively, there's been some concern that there's consumer confusion. I think some people approach this as, "Well, if your consumer is a small business, they must be more sophisticated than your regular consumer." Something that we've always been surprised by is that the vast majority of small businesses are actually sole proprietorships according to various studies.

Malini Mithal:

There were also specific concerns that stakeholders have raised about a specific product called merchant cash advances or MCA. Basically the way these products work, is that MCA providers buy a fixed amount of a business' future receivables. Then the business must repay the cash advance plus a factor that's often between 20 or 50% of the cash advance. Their daily payments are supposed to rise or fall based on daily sales. Stakeholders have raised concerns that there might be misrepresentation being made by the MCA providers or lead generators or brokers that are pitching these products. There have also been concerns about potentially abusive collection practices. That is an area that we are very interested in, it's a priority area, and our commissioners and under their leadership we have been working heavily in this space.

Malini Mithal:

Another area of interest for the FTC and our leadership is FinTech. So Alan, you asked what we've been up to in FinTech. I will say again, in our FinTech cases, just like in other areas, there're certain principles that we uphold time and time again regardless of the specific product or service involved. For example, don't make misreps about material terms. We've also in the FinTech context emphasized that companies should make sure they're handling payments and servicing loans properly. A great example of this that comes to mind is the Avant case, which is an online marketplace lender. We worked on that action when Andrew became bureau director and announced that action then.

Malini Mithal:

So basically that case involved a lot of different issues on servicing. It's a great complaint that companies should take a look at if they service payments, but basically, one of the issues there was that we said it made misreps about what payments it would accept. It didn't credit payments in a timely manner. Charged consumers without authorization. We also said that it had consumers pay by remotely created checks or recurring ACH, which we said violated the Telemarketing Sales Rule and EFTA. So if those are payment methods you are using, I would really encourage you to take a look at our complaint. I know a lot of online companies don't think of the Telemarketing Sales Rule, but Avant, even though it's an online lender it was making phone calls to consumers who hadn't completed their applications for example. So the TSR applied to its activity, the Telemarketing Sales Rule. And that something to think about.

Malini Mithal:

Other FinTech actions include our actions against SoFi. We said that the large student line refinancer misrepresented savings that consumers would achieve when refinancing through SoFi. We're also in litigation against LendingClub, which we also say deceived consumers about fees and got a lot of complaints about the issue, but continued its practice. Again, I think all these cases illustrate similar principles. Make sure you're not making representations, handle payments carefully and listen to consumer complaints and you can certainly expect that the FTC will continue to be interested in issues like that.

Alan Kaplinsky:

Okay. We have concluded out podcast for today. But make sure you tune into our podcast next week, to hear the rest of our conversation with Andrew Smith, Malini Mithal from the FTC and my partner Chris Willis. And make sure that you visit our website, www.ballardspahr.com where you can subscribe to the show. You can also subscribe on Apple Podcast, Google Play, Spotify or whatever your favorite podcast platform may be. Don't forget to visit our blog Consumer Finance Monitor for daily insights of the financial services industry. Stay tuned next Thursday for part two of our podcast entitled Consumer Protection: What's Happening at the FTC, with special guests Andrew Smith and Malini Mithal.