



FEDERAL TRADE COMMISSION

WORKING FOR CONSUMER PROTECTION
AND A COMPETITIVE MARKETPLACE

REVERSE MORTGAGE MARKETING AND DECEPTIVE PRACTICES — PART 1 2010 NRMLA POLICY CONFERENCE

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June 8, 2010**



About this Presentation

- **These remarks are those of the author and do not necessarily represent the Commission or any individual Commissioner**

Overview

- **Reverse Mortgages Potential for Growth**
- **Consumer Uncertainty in Mortgage Area**
- **Less Familiar Product**
- **Upswing in Scams, Scammers, and Scrutiny**



FTC Jurisdiction - Broad Focus

- **Spans diverse entities**
 - Includes mortgage lenders, brokers, servicers, advertisers, lead generators, other non-banks
 - Companies and individuals
- **Encompasses many laws**
 - Section 5 of FTC Act – Unfair or deceptive practices
 - Financial Statutes – Truth in Lending Act, Electronic Fund Transfer Act, Equal Credit Opportunity Act, etc.
 - Omnibus Appropriations Act – Rulemakings in progress



FTC Activities

- **Enforcement**
- **Rulemakings**
- **Federal-State Working Group**
- **Educational Materials**
- **Advocacy Filings - FFIEC**

Enforcement

Deceptive Practices

- **A representation, omission, or practice**
 - Documents
 - Employee representations
 - Marketing materials – ads, solicitations, sales presentations
 - Third party representations
 - Any media
 - Print and direct mail
 - Radio
 - TV
 - Mobile
 - Internet and other electronic



Enforcement Deceptive Practices

- **that is likely to mislead**
- **consumers acting reasonably under the circumstances, and**
- **that would be material to consumers**

Enforcement Case Examples

- **Deceptive financial pitches and consumers' economic insecurity**
- **Case examples**
 - Loan modification and foreclosure claims
 - Misrepresentations about the ability to save consumer's home and avoid foreclosure
 - Misrepresentations about modifications and need for payments to current lender
 - Guarantees about effectiveness of services or programs
 - Misleading savings claims
 - Misleading promotions about costs or terms
 - No costs – when the costs are included in the loan
 - No payments – when loan requires payments
 - Ignore those terms or disclosures
 - False affiliation with or endorsement by government
 - Other languages – Misleading mixed-language ads pitched to consumers who primarily speak languages other than English

Enforcement

RM Considerations

- **Misrepresentations about government affiliation**
 - Misuse of government names
 - Misleading symbols or pictures; copycat names or websites
 - Misleading contact information
- **Deceptive representations about current lender**
- **Deceptive representations about obligation – “government benefits”**
- **Deceptive claims about stopping foreclosure and saving home**
- **Deceptive cost statements – no fees, no costs**
- **Deceptive statements about other terms –**
 - No payments
 - Everything's included
 - Stay in your home for life
 - Guaranteed to avoid foreclosure
- **Deceptive savings claims**
- **Misleading promotions with languages issues**

Enforcement Disclosure Caveats

- **Disclosures that are effective to qualify a claim must be clear and conspicuous**
 - Prominence – fine print; too cluttered or obscure; rapid fire delivery
 - Presentation – too technical or full of abbreviations; loaded with contradictory information
 - Placement – buried in other info
 - Proximity – too far from the claim; many clicks away
- **FTC looks at an ad in its entirety**

Enforcement

Truth in Lending Ad Issues

- **Advertisers, not just creditors**
- **Think availability – current and accurate**
- **Closed-end ads (mortgage loans) -- Now bans certain ad practices; examples**
 - Misrepresentations about government endorsements
 - Misleading use of current lender's name
 - Misleading claims of debt elimination
 - Misleading use of term "counselor"
 - Misleading foreign language ads
- **Open-end ads (home equity lines of credit) – Bans certain ad practices**
 - Misleading terms are prohibited

Rulemakings

- **Omnibus Appropriations Act of 2009**
- **FTC entities**
- **Two mortgage rulemakings**
 - Mortgage Acts and Practices
 - ANPR 6/1/2009 Federal Register
 - Advertising – NPR in progress
 - Servicing – NPR in progress
 - Mortgage Assistance Relief Services – proposal generally excludes entities that own or service the loan
 - NPR 3/9/2010 Federal Register
 - Final rule in progress

Other RM Considerations

- **Few FTC RM complaints**
- **Some current examples**
 - Doesn't understand terms – who pays taxes?
 - Consumer moved out – told loan is due now
 - Unwanted marketing calls
 - ID theft
 - Husband died and wife facing foreclosure if doesn't pay

For Your Reference

- www.ftc.gov
- www.federalreserve.gov
- www.hud.gov
- www.gpoaccess.gov
- www.gpo.gov/fdsys/search/home.action (digital in progress)