CENTER FOR DIGITAL DEMOCRACY

A Report of the USPIRG/CDD Project on
Digital Data and Consumer Protection:
Ensuring a Fair and Equitable Financial Marketplace

U.S. PIRG Education Fund

May 2015

Online Lead Generation: What You Need to Know to Protect Yourself from Companies in the Business of Secretly Selling You to Predatory Payday and Other Short-term Loan Companies

Summary: This report summarizes how the online lead generation (or "lead gen") business works. Companies that look as if they are offering you a loan are actually (often deceptively) collecting information about you to sell your profile (a "lead") to the highest-bidding loan company (and often to fraudulent firms, too). At the end of the report, we offer consumer tips on what you can do to protect yourself.

Here are the details: You go online looking for information about getting an affordable loan, credit card, or some other financial product. The website you visit offers an array of what looks like helpful consumer information and may have a name that includes words like "credit," "loan," or "affordable." The site provides easy-to-use online tools, such as a calculator, for you to find out how long it may take to pay off a loan. It may feature games, apps, or a poll to help you assess your financial status. You are urged to fill out a request for more information, giving the site your name, address, email, and other personal data.

Or you see an ad—on TV, radio, or online—that features a well-known celebrity giving financial advice, someone whose reputation is "trustworthy," who endorses a specific loan company as "the only source you can trust for finding a short-term loan quickly and easily." You call the toll-free number or "click" on the ad to go to its website. It appears to be a legitimate company proving the short-term loan you need.

But you aren't told that they not in the business of lending you money. You are actually dealing with a "lead generator," whose real goal is helping payday and other loan companies find new customers. The "lead gen" company will sell your name and other information for a fee to lenders, who can offer you a sky-high interest rate loan. That's what happened to hundreds of thousands of New York customers of lead gen company MoneyMutual. According to the New York State Attorney-General, consumers lured by MoneyMutual got "trapped **…** in destructive cycles of debt," paying as much as 1,304 percent in interest. New York consumers, said the state AG, were led to MoneyMutual through the reassuring pitches of its celebrity pitchman, Montel Williams. But now both that company and Mr. Williams are barred from selling services in New York that violate the state's usury laws.[1] (See sidebar)

So consumers beware. Many of the websites promising to help you quickly get a loan aren't really in the business of making loans—they are lead generators who profit by identifying someone as a "hot prospect" or "in-market" for a loan, insurance, or credit product. Online lead generators are not interested in delivering the most affordable financial product for you—but rather to take your information and sell it—as a lead. The information the lead generator gathers, using online and offline sources, helps them capture as much data on you as possible. Once a "lead" is identified, it is sold to one or more companies that will target that person for a payday loan, mortgage refinancing, credit card, college tuition loan, or various forms of insurance. The lead might be auctioned off to the highest bidder (such as a short-term-loan company that seeks ideal prospects for their high-cost products); or it might be given to a company affiliated with the lead generator.[2]

Leads to Loans: Your Data Drives Dollars for Lead Generators

Before the Internet and mobile phones, companies discovered prospective leads by running ads in publications or airing TV commercials that urged consumers to call a toll-free number or mail in a form for "free" information. Today, lead generation using the Internet in the U.S. is a big business, with at least $1.75 billion spent by advertisers in 2013 to find "potential customers online."[3] Lead generation has become a part of the "Big Data" digital age, taking advantage of our daily use of mobile devices, social networks, and websites. Marketers know that we rely on the Internet to research and apply for financial products—so lead generator companies have purposefully created appealing websites that feature engaging animation, videos, and games. They promote their sites using search engines, social networks, and mobile ads. These lead gen sites are designed to trigger a "call-to-action," to provoke a response from you that will end up helping them grab your data.

Lead gen companies also can track and target you even when you are no longer on their website. They can use the same tactics employed by Google and Facebook, placing tracking software (known as "cookies") or some other digital "tag" on your device, so they can follow and analyze what you do online. They are able to build a "profile" on you that can include where you go and what you do on websites and mobile phones. Your digital profile can include your email address, your purchase history, and the ways you have interacted with online ads.[4] Having access to this information enables the lead gen companies to identify whether you are a prime prospect, and to make sure you see their ads or offers wherever you are online.[5]

You Don't Know What the Score Is

Lead generators know they will get paid the most money only if they deliver as many accurate details about you as they can. So they want to verify the information you may have given, and even add additional information that you didn't directly provide. Lead companies rely on data brokers to provide what are known as "identity" or "lead verification" services to determine, in real time, your phone number and email address, and to match where your online device is with your zip code. They also check to see if you have provided accurate information on your financial status.[6] Working with these data companies, who have hundreds of millions of records on U.S. consumers, lead generators will analyze your data and give you what's known as a "score." "Lead scoring" involves what's called "predictive modeling"—using computers to digest your data to see if you have the "potential" to take out a loan or buy a product.[7] They can use the latest high-tech marketing tools to determine what offers to make—or even whether to serve you at all if they believe you will not be a profitable customer.[8] Companies targeting under-banked consumers for prepaid cards and looking for leads use these predictive-modeling techniques to identify a prospect who can be more precisely targeted with an offer.[9]

Credit card and other financial companies, auto dealers, for-profit schools, and many other businesses pay online lead generators to obtain the personal information of "qualified potential customers," including their email address, telephone number, and the websites they visit and other online behaviors. There is a massive online lead-generation industry today, involving the major search engines, social networks, financial companies, and what are known as "affiliates." Affiliates are partner websites that make money by attracting you to visit their site in order to capture and sell your data on behalf of the lead generator.[10] Affiliates generate revenues based on whether you take an "action" (called CPA, "cost-per-action"), such as when you fill out a form, generate a new lead (CPL, "cost-per lead"), or "click" through to product offer or sales website (CPC, "cost-per-click").[11] The use of lead generation tactics online played a role in the recent financial crisis, helping lenders find consumers who were urged to take out costly—and unaffordable—subprime mortgages.[12]

Lead Generators Use Big Data to Target You
As the Federal Trade Commission (FTC) explained in a report on the data broker industry, technology enables the merging of multiple sources of information on individuals, including for immediate use online. This practice is called "data appending." As one industry guide to lead gen explained, "through the use of real-time data appending and predictive modeling, marketers can identify data elements that are predictive of lead responsiveness, such as current home ownership and financial status, credit worthiness, recent mover status, etc. These data can be used to prioritize the leads with the highest potential value and likelihood to convert."[13] Technology is used to analyze each lead for profitability, such as for the marketing of prepaid debit cards. All of this is done "without the customer's knowledge," instantly pre-screening that individual.[14]

And it's not just credit cards, payday loans, and insurance that use lead generation practices. Health marketers use them, too, with lead gen companies promising to identify consumers with "pre-existing health conditions," including cancer, depression, drug and alcohol abuse, and heart disease. Without a new federal or state law, there's little that can be done for now to stop lead gen companies from gathering your information. So you should be cautious about providing personal details to a site offering financial information, by refusing to fill out forms (such as a request for more information) and not agreeing to "opt-in" for a site to use your data. It's best to find websites operated by financial companies you know from experience, or those recommended by friends, to be trustworthy.[15]

What You Can Do:

Although the Federal Trade Commission and the Consumer Financial Protection Bureau are critically examining lead-generation and payday-loan practices, there's little that can be practically done for now to stop these companies from secretly collecting a lot of your information. The U.S. doesn't have a national law to protect consumer privacy on the Internet, which means that companies routinely gather information on you through the use of tracking software ("cookies") and other digital identifiers. Another problem is that much of the online data used by online financial companies are said to be just "marketing," not actual offers for credit. USPIRG/CDD believes that today's digital ad technologies use your data to effectively "pre-screen" you to determine your value and to generate an offer—which should trigger the consumer safeguards of the Fair Credit Reporting Act (FCRA). The recent White House Big Data report, as part of a proposal to establish a Consumer Privacy Bill of Rights legal framework, focused on the potential discriminatory practices associated with Big Data, including its role in financial marketing.

Civil rights groups have called for safeguards and issued important principles.[16]

The CFPB has informational resources on lead generators and how payday lenders use them. The agency warns that "you should not depend on the lead generator to shop around for the best deal for you." CFPB also has an **online portal where you can file a complaint** if you believe you have been unfairly treated by a lead generator or any company providing financial services.[17]

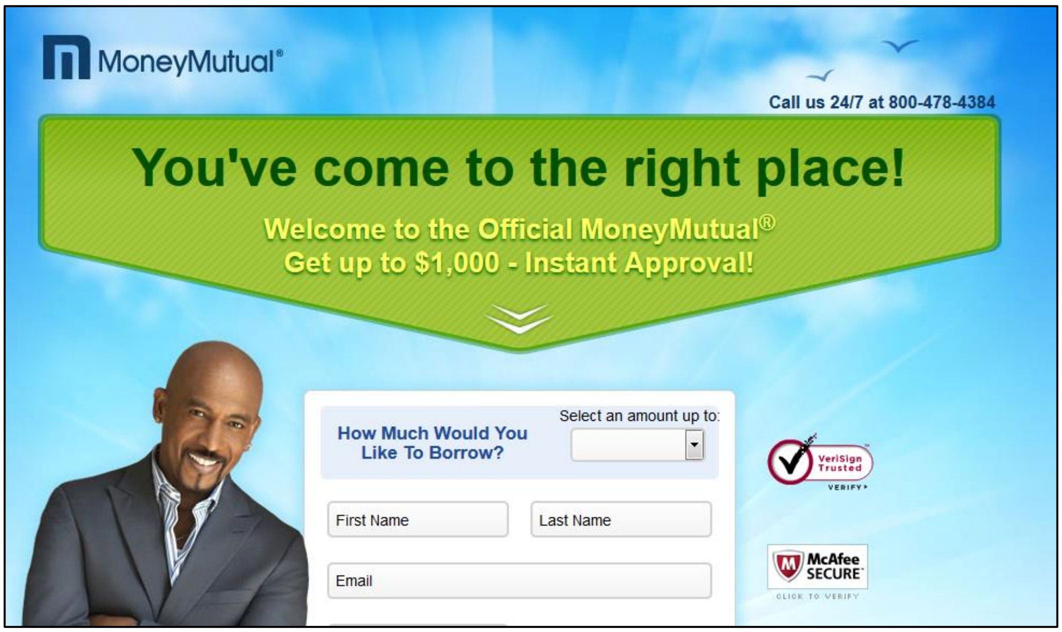
The Federal Trade Commission has sued online lead generators, including one in 2014 that "advertised low interest-rate loans as fixed-rate mortgages, when in fact they were adjustable-rate mortgages that could become more expensive for borrowers over time." One company cited by the FTC allegedly failed to include important disclosures, such as the annual percentage rate, amount of down payment, and repayment terms that figure into the advertised payment amounts and interest rate."[18] The FTC also has an online complaint service where you can send in concerns about lead generators, or privacy or identity theft, or scams and frauds.[19]

Sidebar:

Targeted and "Trapped in Destructive Cycle of Debt"

Misleading practices of lead generation companies have attracted the interest of federal and state consumer protection regulators. For example, 16 online lead-generation companies "suspected of deceptive or misleading marketing" of payday loans were sent subpoenas in December 2013 by New York Financial Services (NYFS). NYFS explained that "Through promises of access to quick cash, the lead generation companies entice consumers to provide them with sensitive personal information—such as social security and bank account numbers—and then may sell that information to payday lenders operating unlawfully in New York and other companies."[20]

New York Action Against Lead Generator MoneyMutual and Montel Williams



In March 2015, the New York State Attorney General completed its "first successful enforcement action" against a payday and short-term loan lead generator, MoneyMutual (operated by a company called SellingSource). According to the "Consent Order" between the NY AG and SellingSource, the payday lead gen company made "false and misleading" ads that failed to inform consumers about the "high interest rates, repayment requirements," and other charges offered by its "network of trusted lenders." "At least sixty payday lenders were sold leads" on nearly 800,000 New Yorkers, who found themselves paying annual percentage rates "well above the limits" of the state's law. MoneyMutual has used celebrity endorser Montel Williams to promote its services in a series of ads that have appeared since 2009 on TV, radio, print, and online (such as banner ads and email). The advertisements featured Mr. Williams promoting MoneyMutual "as the only source you can trust for finding a short term loan quickly and easily." [21]

Consumers were unaware that they would be paying interest rates between 261 percent and 1,304 percent, "sixteen to eighty-two times higher" than the legal limit in New York (where the maximum interest rate for short-term loans by non-banks is 16 percent). According to its investigation of Selling Source, the AG "had not found evidence of a single loan offered to a New York consumer … that complied with the usury limits established by New York law." Every time a lead was sold, MoneyMutual/SellingSource *and* Montel Williams received a fee. The majority of borrowers had repeatedly to roll over or take out additional loans to make their payments, because of the illegal and unaffordable high rates of interests (and were called "Gold" customers by the lenders). Consumers taking out loans from MoneyMutual found themselves "trapped in [a] destructive cycle of debt."

Under the agreement with the New York AG, Selling Source can no longer sell leads from New York residents for loans that violate state law. Nor can Montel Williams promote any loans or services that are illegal in New York. Selling Source is required to state "conspicuously" on all of its online, TV, radio, and other advertising that "**This service is not available in New York or to New York borrowers due to interest rate limits under New York law"** (emphasis in the original). Montel Williams is required to record this warning to ensure that listeners clearly hear it. The company also agreed to pay a $2.1 million civil penalty. It is barred from collecting any "financial or other personally identifiable information" to be used for online leads or to help sell products unless they comply with state regulations. It has to remove "New York postal codes, IP addresses (which are used to target a specific computer), and phone numbers" from all of its online and offline advertising. MoneyMutual.com and any website operated by SellingSource must now prominently ensure that consumers enter their zip code, so New Yorkers aren't targeted with illegal lead gen practices and credit offers. (SellingSource is required to "disable" its websites from "accepting any applications" or storing information from New Yorkers who are applying for loan products that the state prohibits.)[22]

In 2014, the Illinois Attorney General also sued lead generator MoneyMutual and four payday lenders for "illegally offering expensive, predatory loans." MoneyMutual's data collection practices were also a concern, given its extensive collection of personal information that puts "borrowers at significant risk of identity theft."[23]

About the USPIRG Education Fund and Center for Digital Democracy Project on "Data and Consumer Protection: Ensuring a Fair and Equitable Financial Marketplace:"

The project has authored path-breaking research, including the Suffolk University Law Review article "Selling Consumers, Not Lists" and the report "Big Data Means Big Opportunities and Big Challenges: Promoting Financial Inclusion and Consumer Protection in the "Big Data" Financial Era." Project principals Ed Mierzwinski (USPIRG Education Fund) and Jeff Chester (CDD) also participate in events and collaborations hosted by colleagues, civil rights organizations, think tanks and law schools. In 2015, the project is hosting a series of events, such as "Looking Inside the Black Box Society," a conversation with Professor Frank Pasquale, author of "The Black Box Society: The Secret Algorithms That Control Money and Information." (Harvard University Press 2015).

USPIRG Education Fund and CDD acknowledge the support of the Ford Foundation, the Annie E. Casey Foundation, the Rose Foundation for Communities and the Environment and the Digital Trust Foundation for support of our research and education work on data and financial opportunity. We thank them for their support but acknowledge that the work, events, reports and investigations are those of the authors and organizations alone, and do not necessarily reflect the opinions of the Foundations.

Licensing: All materials developed under this project are subject to a Creative Commons Attribution 4.0 International license, which allows you to reuse the materials with attribution subject to its terms. (This license does not extend to the use of images.)

Footnotes:

[1] "NYDFS Announces MoneyMutual Will Pay $2.1 Million Penalty; Montel Williams to Withdraw Endorsement for New York Payday Loans," 10 Mar. 2015 http://www.dfs.ny.gov/about/press2015/pr1503101.htm.

[2] Ion Interactive, "Our Own Examples," http://www.ioninteractive.com/marketing-app-examples/; "Generate More Leads from the Google Display Network (GDN)," Kwanzoo Blog, 20 Mar. 2013, http://www.kwanzoo.com/blog/2013/03; Revi Media, "Verticals," http://www.revimedia.com/verticals/; DATAMYX, "Real-Time Lead Optimization Guide: Boost Lead Generation and ROI," http://cdn2.hubspot.net/hub/38729/file-472559904-pdf/docs/DATAMYX_Real-Time-Lead-Optimization_Guide.pdf.

[3] Bankrate, "Publishers: Solutions," http://www.bankratecreditcards.com/publishers/solutions/; First Impression, "Credit Card Leads," http://www.firstimpression.com/credit-card-leads; IAB 2013 revenue report; MaxBounty, "Frequently Asked Questions," http://www.maxbounty.com/faq.cfm; "Top 20 CPA Networks 2014," Revenue Performance, http://mthink.com/top-cpa-networks-2014/; Matomy Media Group, "Advertisers," http://www.matomy.com/advertisers#passion-for-performance.

[4] MediaAlpha, "Advertisers," http://www.mediaalpha.com/advertisers.html; MediaAlpha, "Publishers," http://www.mediaalpha.com/publishers.html; SiteSpect, "Optimizing Lead Generation while Reducing Risk—with No Negative Impact on SEO," http://www.sitespect.com/resources/optimizing-lead-generation-while-reducing-risk-no-negative-impact-seo; "Earn More in 2014," PeerFly Magazine, https://peerfly.com/media2014.pdf.

[5] A growing practice in the lead industry is the use of powerful computers to sell your "profile" in real-time, through what are known as "ad exchanges." All this is done in mere milliseconds. Michael Foster, "Programmatic Buying Promises Better Leads at Lower Costs," LeadsCon, 22 July 2014, http://www.leadscon.com/programmatic-buying-promises-better-leads-lower-costs/; MediaAlpha, "Advertisers."

[6] ActiveProspect, "Integrations: Lead Scoring & Enhancement," http://activeprospect.com/integrations/lead-scoring/; Neustar, "Customer Intelligence," http://www.neustar.biz/services/customer-intelligence#.U76-aKiZB4s; "Bankrate Chooses eBureau's Lead Scoring and Verification Solutions to power the Bankrate Verified Lead Quality Engine," 12 Dec. 2011, http://www.ebureau.com/press-releases/bankrate-chooses-ebureau%E2%80%99s-lead-scoring-and-verification-solutions-power-bankrate.

[7] Eloqua, "Grande Guide to Lead Scoring," http://www.eloqua.com/content/dam/eloqua/grande-guides/O_Eloqua_GGuide_Lead_Scoring.pdf; Frans Van Hulle, "What You Need: Tech Requirements for Lead Gen," Chief Marketer, 10 Feb. 2014, http://www.chiefmarketer.com/b2b/need-tech-requirements-lead-gen-10022014; Neustar, "Customer Intelligence"; ActiveProspect, "LeadConduit," http://activeprospect.com/products/leadconduit/.

[8] Zeta Interactive, "Solutions," http://www.zetainteractive.com/solutions.html; Conversant, "Annual Report," 2013 https://www.last10k.com/sec-filings/CNVR/0001080034-14-000014.htm; CJ Affiliate, http://www.cj.com/.

[9] "Digital Marketing Manager, Lead Generation Job," TSYS, 5 Oct. 2014, https://jobs.tsys.com/job/San-Mateo-Digital-Marketing-Manager-Job-CA-94401/67926700.

[10] Michael Johnston, "What Are the Largest Lead Gen Niches?" MonitizePros Blog, 9 Jan. 2014, http://monetizepros.com/blog/2014/what-are-the-largest-lead-gen-niches/.

[11] eBay Enterprise, "Affiliate Network," http://www.ebayenterprise.com/marketing_solutions/affiliate_network/advertisers.php; CJ Affiliate, "Affiliate Marketing Glossery: C," http://www.cj.com/glossary/c.

[12] Ed Mierzwinski and Jeff Chester, "Selling Consumers, Not Lists: The New World of Digital Decision-Making and the Fair Credit Reporting Act," *Suffolk University Law Review* XLVI (2013): 845-880, http://suffolklawreview.org/wp-content/uploads/2014/01/Mierzwinksi-Chester_Lead.pdf.

[13] Bankrate, "2013 Annual Report," http://www.sec.gov/Archives/edgar/data/1518222/000151822214000007/rate-20131231x10k.htm; Van Hulle, "What You Need: Tech Requirements for Lead Gen"; Neustar, "Customer Intelligence"; ActiveProspect, "LeadConduit."

[14] "By appending relevant data and scoring at the moment of contact, Real-Time Lead Optimization empowers call centers to qualify each prospect in real-time and maximize sales productivity. As a lead makes contact with the marketer's point of sale—online, in the call center, or on the showroom floor—the lead is matched against a massive database of demographic, summarized credit, and behavioral data. … Predictive modeling, in combination with reverse appends from third-party datasets, enables marketers to segment incoming leads according to their convertibility and projected lifetime value." DATAMYX, "Real-Time Lead Optimization Guide: Boost Lead Generation and ROI," http://cdn2.hubspot.net/hub/38729/file-472559904-pdf/docs/DATAMYX_Real-Time-Lead-Optimization_Guide.pdf.

[15] AllWebLeads, "Health Insurance Leads," http://www.allwebleads.com/insurance-leads/health-leads; Federal Trade Commission, "Data Brokers: A Call for Transparency and Accountability," May 2014, http://www.ftc.gov/system/files/documents/reports/data-brokers-call-transparency-accountability-report-federal-trade-commission-may-2014/140527databrokerreport.pdf.

[16] The Leadership Conference on Civil and Human Rights, "Civil Rights Principles for the Era of Big Data," 2014, http://www.civilrights.org/press/2014/civil-rights-principles-big-data.html.

[17] Consumer Financial Protection Bureau, "Will an Online Payday Loan Website Find Me the Cheapest Loan?" 6 Nov. 2013, http://www.consumerfinance.gov/askcfpb/1619/will-online-payday-loan-website-find-me-cheapest-loan.html; Consumer Financial Protection Bureau, "Submit a Complaint," http://www.consumerfinance.gov/complaint/.

[18] Federal Trade Commission, "Mortgage Lead Generator will Pay $225,000 to Settle FTC Charges That It Deceptively Advertised Mortgage Rates," 8 May 2014, http://www.ftc.gov/news-events/press-releases/2014/05/mortgage-lead-generator-will-pay-225000-settle-ftc-charges-it.

[19] Federal Trade Commission, "FTC Complaint Assistant," https://www.ftccomplaintassistant.gov/#crnt&panel1-1.

[20] New York State Department of Financial Services, "Cuomo Administration Expands Investigation into Illegal Online Payday Lending and Related Consumer Abuses," 3 Dec. 2013, http://www.dfs.ny.gov/about/press2013/pr1312031.htm.

[21] In addition to MoneyMutual.com, leads were also solicited using the company's CreditLoan.com site. New York State Department of Financial Services, "NYDFS Announces MoneyMutual Will Pay $2.1 Million Penalty; Montel Williams to Withdraw Endorsement for New York Payday Loans," 10 Mar. 2015, http://www.dfs.ny.gov/about/press2015/pr1503101.htm.

[22] New York State Department of Financial Services, Financial Frauds and Consumer Protection Division, "In the Matter of Selling Source LLC et al., Consent Order," 10 Mar. 2015, http://www.dfs.ny.gov/about/ea/ea150310.pdf.

[23] Illinois Attorney General, "Madigan Cracks Down on Unlicensed, Predatory Payday Lenders," 8 Apr. 2014, http://www.illinoisattorneygeneral.gov/pressroom/2014_04/20140408.html. See also Carter Dougherty, "Data From Payday Loan Applicants Sold in Online Auctions," Bloomberg Business, 7 June 2012, http://www.bloomberg.com/news/2012-06-08/data-from-payday-loan-applicants-sold-in-online-auctions.html.