



6530 West Campus Oval
New Albany, Ohio 43054

p: 614.939.9955
f: 614.939.9954
mcpslaw.com

Practice Areas:

Do-Not-Call Compliance

Teleservices

Automotive

Advertising Compliance

Charitable Matters

Gift Planning

Organized Fundraisers

Privacy

Compliance Audits

Debt Collection

Assisting clients in matters
before state Attorneys
General, FTC & FCC

A New Sheriff in Town: Jon Liebowitz Named New FTC Chairman



**Betty
Montgomery**

The Federal Trade Commission has a new chairman. Jon Liebowitz was selected by the president March 2, 2009 to fill this critical post. A commission member since 2004, the 50 year old lawyer now serves as the only Democrat on the FTC.

Liebowitz is a Phi Beta Kappa graduate of the University of Wisconsin in 1980 and a New York University School of Law graduate in 1984.

The new FTC chair has worked in private practice, served as Chief Counsel to Senator Herb Kohl, worked for the Senate Subcommittee on Juvenile Justice, acted as Chief Counsel and Staff Director for the Senate Subcommittee on Terrorism and Technology, served as Democratic Chief Counsel and Staff Director for the Senate antitrust Subcommittee and Vice President for Congressional Affairs for the Motion Picture Association of America.

Liebowitz has been very involved in various internet issues, from fighting spam and spyware to creating guidelines for online behavioral targeting (using a consumer's browser history) to ensuring that website privacy policies are clear and accessible to consumers. With this appointment the FTC is anticipated to be more aggressive in antitrust and drug issues, as well as in financial and health-related consumer privacy and marketing issues. He has recently warned marketers that they need to do a better job of self regulation or "put simply, this could be the last clear chance to show that self-regulation can-and will-effectively protect consumer privacy in a dynamic online marketplace.

In This Issue:

A New Sheriff in Town: Jon Liebowitz Named New FTC Chairman

The Importance of Training

Bureau of Consumer Protection's New Director David Vladeck

MPS Updates

The Importance of Training



Michele Shuster

Every year I review many companies' telemarketing compliance programs, processes and procedures. A common theme has emerged over the years: companies are really good at developing policies and procedures, but not so good at training their employees on these processes and procedures.

Another common theme is that employees that are trained well provide better customer service and their employers experience fewer complaints from customers and regulators.

Employees must be trained because the best policies and procedures are only as good as the execution by employees; and this requires training.

Training is also important because federal and state laws provide safe harbor provisions for companies that have written compliance policies and procedures, train their employees on the policies and procedures and a violation of the law occurs as a result of an error. By way of example, the Telemarketing Sales Rule (TSR) has a safe harbor. Under the TSR safe harbor, if a telemarketer can show that, as part of its routine business practice, it meets all the requirements of the safe harbor, it will not be subject to civil penalties or sanctions for mistakenly calling a consumer who has asked for no more calls, or for calling a person on the registry. To meet the safe harbor requirements, the seller or telemarketer must demonstrate that:

1. It has written procedures to comply with the do not call requirements
- 2. It trains its personnel in those procedures**
3. It monitors and enforces compliance with these procedures
4. It maintains a company-specific list of telephone numbers that it may not call
5. It accesses the national registry no more than 31 days before calling any consumer, and maintains records documenting this process
6. Any call made in violation of the do not call rules was the result of an error.

So what is required to meet the training component of the safe harbor? At a minimum a company must:

- Train all new employees on legal requirements at the time of hire

- Conduct ongoing training on at least an annual basis; semiannually would be preferable
- Train all employees when new applicable laws are enacted
- Train all employees when new policies or procedures are enacted by your company
- Document all trainings sessions and the employees in attendance with sign in sheets that contain the subject of the training, the date of training, who conducted the training and the employee's signature acknowledging that he or she received the training.
- Maintain records of the training for at least two years.

I recommend that individual training records be kept in employee personnel files as well as a master training file. Take an opportunity to review your company's files. If the FTC initiated an investigation of your company, would you be able to produce records necessary to meet safe harbor requirements?

Bureau of Consumer Protection's New Director David Vladeck



Shaun Petersen

The Federal Trade Commission named David Vladeck as director of the agency's Bureau of Consumer Protection yesterday. A law professor at Georgetown University, Mr. Vladeck has spent close to 30 years with the Public Citizen Litigation Group, an organization that specializes in cases involving health and safety regulation, consumer rights, access to the courts, open government, and the First Amendment.

Mr. Vladeck has announced that dealing with the rise of consumer financial fraud brought about by the economic downturn will be his first priority as director. With a new task force announced by the FTC to assist in the repair of consumer credit and prevent questionable lending practices, Mr. Vladeck and the FTC are taking new steps to ensure the protection of consumers—which means stricter enforcement of current consumer protection law and a keener eye on business.

MPS Updates

- Check out our new Charitable Fundraising Regulatory Guide [here](#)

If you would rather not receive upcoming newsletters from MPS, please respond to this e-mail with the subject line "Remove from list"

