

## Cabinet News and Views

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### Non-Creditor Advertising of Credit Pre-Approvals Likely Deceptive



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The federal banking regulators have guidance in place regarding the advertising of credit pre-approvals, and, of course, [Regulation Z](#) and the Truth In Lending Act have provisions regarding how and when a pre-approval can be communicated to customers. Further, a “pre-approval” for credit is a standard that is supposed to mean that the consumer’s credit has been evaluated at some level by the creditor (usually via so-called prescreening, or because the customer agreed to an initial evaluation), and that the consumer will be approved for the credit product, assuming an intervening bankruptcy or other extremely adverse credit event has not occurred.

In a recent case involving Credit Karma as the advertiser, the Federal Trade Commission (“FTC”) established that consumers do perceive messaging that they have been pre-approved for credit to be consistent with the standard described. According to disclosures buried in the ads, Credit Karma claimed that 90% of the recipients of the “pre-approved” offers would be approved, when, in fact, more than one-third of customers responding to the advertising were declined for the offers. And, in order for the customers to obtain the pre-approved offers, they needed to agree to allow their credit to be queried, causing a “hard pull” to be made of their credit report, an activity that typically will lower a consumer’s credit score.

In truth, Credit Karma presented advertising telling their customers that they had been pre-approved for various credit products, but had not actually conducted any credit review of the customer and had no contact with the creditors providing the credit products being advertised. As such, [that advertising was found to be deceptive under Section 5 of the FTC Act](#), and despite the FTC’s inability to obtain redress for violations of Section 5 in federal court, Credit Karma agreed to pay \$3 million to the FTC to resolve the allegations in the administrative complaint the FTC had filed against the company.

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