

LENDERS UPDATE™

ALT & ASSOCIATES NEWSLETTER

A COMPLIMENTARY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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June 5, 2014

CALIFORNIA REQUIREMENTS FOR COMMERCIAL WEBSITES

Lenders frequently ask our firm to perform compliance reviews of proposed advertising pieces for use in mailers, flyers, newspapers, radio and television and electronic mediums. There are so many requirements, both federal and state, and many issues which are missed. When dealing with websites one requirement tops the “missed” list and that is California’s disclosure requirements for commercial websites.

California Business and Profession Code Sec. 22575 was enacted in 2003 and recently amended with a significant new provision which took effect the first of this year. We recommend that if you maintain a site for your company, you should review your site in detail to make sure you comply with these requirements.

Generally, the law requires the operator of a commercial website that collects personally identifiable information to conspicuously post its privacy policy on its site.

The privacy policy and disclosures shall do all of the following:

- ✚ IDENTIFICATION. Identify the type of information the operator collects about individuals who visit the site and the categories of third-party persons or entities with whom the information is shared.
- ✚ DESCRIPTION. If the operator has a process which allows a consumer who uses the site to review and request changes to that information, the operator should provide a description of that process.
- ✚ PRIVACY NOTIFICATION. Provide a description of the process by which the consumer is notified of material changes to the operator's privacy policy.
- ✚ Identify the effective date of the policy.
- ✚ **DISCLOSURE. NEW THIS YEAR.** Disclose how the operator responds to a browser's "do not track" signal that provides a consumer the ability to exercise choice regarding the collection of information about that consumer's online activity, if the operator engages in this practice. An operator may satisfy this requirement by providing a hyperlink to an online location containing a description of the effects of any program or protocol the operator follows that offers the consumer that choice.
- ✚ OTHER PARTIES DISCLOSURE. Disclose whether other parties may collect information about a consumer's online activities over time and across different web sites when the consumer uses the operator's site.

Advertising compliance is a technical and sometimes subjective task. It is also a "hot button" issue with state and federal regulators.

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ALT & ASSOCIATES provides regulatory, compliance, operational advice and transactional assistance, as well as litigation representation, to the financial services industry. Over the past three decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their operations.

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