

## State AGs and FTC Combine Forces for Consumer Protection

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A dozen bipartisan State Attorneys General and the Federal Trade Commission (FTC) recently instigated a medieval siege dubbed “[Operation Game of Loans](#)” against alleged student loan relief scams. This coordinated nationwide enforcement effort targets companies charging upfront fees to consumers for promises of relief from student loan debt – currently estimated to involve \$95 million in claimed illegal fees. While this enforcement action is focused on apparent student loan debt relief scammers, there are some broader takeaways for companies about State AG authority.

State Attorneys General conduct multi-state actions that can have a broad national effect equal to that of a federal agency. Here, states ranging from Florida to Illinois, Kansas, Pennsylvania, Texas, Washington, and the District of Columbia show a diversity of political and geographical interests for consumer protection.

Three distinct powers upon which State AGs rely in their enforcement actions show the breadth of their reach. First, AGs can enforce state prohibitions on unfair and deceptive acts and practices (UDAP) pursuant to their own statutes. Every state has one, and often the standards for what constitutes deception or unfairness can be influenced as much by public policy as by legal precedent. Any company with a consumer touch would be wise to have a “UDAP strategy” to evaluate its own plans and practices.

Second, State AGs also can enforce similar federal prohibitions, arising under both Section 5 of the FTC Act and Title X of the Dodd-Frank Act. In 2010, Title X of the Dodd-Frank Act gave States AGs and the Consumer Financial Protection Bureau (CFPB) authority over entities within the CFPB’s jurisdiction to prevent unfair, deceptive, or “abusive” acts or practices (so-called UDAAP) in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. With the choice of state or federal law, AGs can use more beneficial investigatory powers usually available under their state statutes, and allege violations of federal statute that often carry greater penalties.

Third, AGs can enforce certain FTC rules, as well as any CFPB rule. For instance, in the student loan debt relief crackdown, the FTC and the Florida AG sued Student Aid Center, Inc. for violations of the FTC’s Telemarketing Sales Rule, federal UDAP, and Florida’s UDAP statute based on debt relief enticements such as “*Get Your Student Loans Forgiveness Now!*” and “*\$17,500 in Up Front*

*Forgiveness?*,” that allegedly proved false after consumers paid fees including monthly installments of \$199.

This triple-threat of state and federal law options allows State AGs to select their best weapons to go on the attack. In this modern version of “Game of Thrones,” AGs can take up enforcement actions in alliance with other states to create a powerful, nationwide force in the name of consumer protection.

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National Law Review, Volume VII, Number 298

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