



Monthly Telephone BRIEFING

Friday, March 15, 2024 – 12:00 – 1:30 p.m.

Recent Developments on Contractual Provisions to (Re)Consider: Non-Disparagement and Arbitration Clauses

Consumer contracts for goods and services are constantly under scrutiny, particularly in California. Regulators (as well as the courts) have historically not been shy about weighing in as to whether certain types of provisions should be or should not be allowed in consumer contracts. Therefore, it is helpful to stay informed of developments or trends in this area as the law is constantly a moving target.

There have been two recent developments involving non-disparagement and arbitration clauses in consumer contracts that may be of interest to BCG Members. In November 2023 two very similar lawsuits were filed against banks arguing that non-disparagement clauses in their online contracts were illegal under California law. Additionally, on February 13, 2024, a California court held an arbitration clause in an online terms of service was enforceable.

Please join us at the March Monthly Telephone Briefing when we will discuss these two developments and their potential impact on consumer contracts moving forward.

CCPA Rulemaking Update: ADMT and Privacy Risk Assessment Regulations

The California Consumer Privacy Act (CCPA) remains one of the most comprehensive privacy statutes in the United States. While the law was enacted in 2018, the CCPA has been in an almost constant state of change since it was first introduced. For instance, the final regulations implementing the CCPA (as amended by the CPRA) did not become final until March 29, 2023.

Financial institutions need to start getting prepared because another round of CCPA changes are on the horizon. As part of its supervisory responsibilities, the California Privacy Protection Agency (CPPA) is required to issue regulations that address the following topics: (i) privacy risk assessments (PRA); and (ii) regulations governing access and opt-out requirements when a business uses “automated decision-making technology” (ADMT). The CPPA did not specifically address these topics in the initial set of regulations finalized last March. However, on February 10, 2023, the CPPA announced it had begun its formal rulemaking process to address these issues.

The CPPA has published draft regulations addressing businesses’ use of ADMT and PRA requirements. While these regulations have not been formally adopted, they set forth a new proposed regulatory framework that would likely impose significant new compliance burdens on many financial institutions. It also provides a glimpse into how other regulators may approach regulating artificial intelligence in the future (which would qualify as a form of ADMT).

Please join us for the March Monthly Telephone Briefing where the status of the CPPA’s ADMT and PRA regulations will be discussed in detail.



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Aldrich & Bonnefin is hosting a Monthly Telephone Briefing for Bankers' Compliance Group[®] Members on **Friday, February 16, 2024, at 12 Noon**. This meeting will be presented live and will include at least one question and answer session per topic. Members can ask questions by telephone or email. Each member that registers for the Monthly Telephone Briefing will be given a password and instructions on how to join the Briefing.

ORGANIZE YOUR PARTICIPANTS

BCG Main or Registration Contacts are encouraged to organize multiple attendees to participate at one or more locations. All Briefing connections are included in your BCG Membership.

REGISTRATION

To register, please contact your institution's BCG Main or Registration Contact or, if authorized, log in at <http://register.bankerscompliancegroup.com/subadmin>, and select "Register for Events." Registration closes at noon **two business days** prior to the Briefing date. On the day before the Briefing, registrants will receive an email with call-in instructions and a single-use PIN.

DOWNLOAD THE HANDOUTS

The Handout(s) are *generally* posted on the BCG Website by noon on the business day before the Briefing. All registrants will receive an email notification when the Handout(s) are posted. To download a Handout, go to www.bankerscompliancegroup.com/monthly-telephone-briefing.php and click on the "Download Handout Here" link at the end of each Handout description.

CANCELLATION

It is not necessary for registrants to contact BCG if they cannot attend a Briefing and need to cancel their registration.

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