TruStage™

Cybersecurity Alert

Actionable insights in an era of uncertainty

Awareness | Watch | **Warning**

Pixel tracking class action litigation catches some organizations by surprise

Lawsuits targeting organizations – including credit unions - for their use of digital tracking and web analytics technologies such as session replay tools, chats, and now tracking pixels continue to increase. Recent class action lawsuits and litigation allege that the use of pixel tracking technologies violates certain state and federal privacy laws.

Alert details

Tracking pixels, also known as web beacons, are usually transparent, hidden, or embedded pixel graphics or images present in the background of a website, emails, or cookie banner ads. Tracking pixels can track and send a variety of data, for example, how a user interacts with a web page including specific items purchased.

Commonly used for marketing or web analytics, the use of pixels helps track consumer behavior on websites such as pageviews, clicks, and interactions. This can assist business to better target offerings or marketing messages to users based on their previous online behavior. Two widely used pixels are the Meta (Facebook) and Google pixels.

Regulatory action and class action lawsuits related to pixels and other website technologies has surged particularly within the healthcare industry; however, some credit unions have reported receiving demand letters suggesting class action litigation.

Some plaintiff's attorneys are using various state privacy statutes and federal laws such as The Electronic Communications Privacy Act of 1986 (ECPA), Criminal Fraud and Abuse Act of 1986 (CFAA), Video Protection Privacy Act of 1988 (VPPA) and others, for claims that these tracking technologies record or intercept user interactions without consent, thus, violating state and federal laws.

The allegations in pixel litigation cases vary, but primarily allege that organizations collect, use, and disclose personal information of consumers who browse their website without their consent. Of the cases allowed to proceed, some allege that:

- visitors did not properly consent to the pixel tracking data collection practices
- organizations using pixel tacking had insufficient cookie and privacy policies
- the reasonable person reading would not understand that they were consenting to the collection of their data

Adding to the mix of challenges are claims that report organizations allowed third parties to eavesdrop on users' online activities without consent.

Plaintiff attorneys contend that pixel tracking is an unauthorized collection of consumer information, with some challenging that such information is protected and includes email addresses, IP addresses, and consumer data deemed as protected consumer data.

Date:
March 25, 2025

Risk category:
Data privacy; Lawsuits; Class action; Litigation; Cybersecurity; Pixel; Pixel tracking

States:
All

Share with:

- Executive management
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- Legal/compliance
- Marketing
- Risk manager
- Web development

TruStage Cybersecurity Protection Solution
With our best-of-class cyber solution, you can be confident that we carefully focus on arming policyholders with premier insurance coverage from Beazley along with providing exclusive risk management, legal, computer, breach resolution and mitigation tools and resources.

This exclusive solution provides you with insights on risks, losses, and protection needs with credit union specifics in mind.

Risk mitigation

It is important for credit unions to work with legal counsel to ensure that its website policies and technologies comply with federal and state privacy laws where its website and applications may be accessed.

If a lawsuit is filed against your credit union or you receive a demand letter threatening legal action; policyholders should immediately report it to TruStage™. You can submit claims online or via email at litigation.team@trustage.com.

Credit unions may also consider these action steps:

- Assess your credit union's various tracking technologies used on your organization's websites, mobile applications, and emails by end users. Understand what and how these technologies are used, along with what data is collected from users. It is important to understand tracking tools and technologies used and the types of data these tools collect from consumers. Assessment could include identifying what is an essential cookie, analytics cookie, preference cookie, or targeted advertising cookie.
- Review activity related to third parties involved with function or operation of your tracking technologies.
- If your credit union utilizes tracking technologies, inform the user of the use of tracking technologies, the nature and purpose of data collection, use and sharing of data collected. In some states, simply disclosing the use of tracking technology may not be considered sufficient. It is strongly recommended to speak with your counsel to review and ensure compliance.
- Review your privacy policy and practices to ensure compliance with applicable state privacy laws.
- Periodically audit to ensure that functionality is adequately disclosed upfront to website, email, and mobile application users. These disclosures should be clear and conspicuous under federal and state standards.
- Consult with legal counsel prior to making changes to written policy and privacy governance practices to ensure compliance with local, state, and federal regulations.

Risk prevention resources:

Access the Business Protection Resource Center for exclusive risk and compliance resources (User ID and Password required).

Access the RISK Alerts Library and enter "cyber" and "litigation" as the keyword in the search feature for more Alerts & related resources.

Beazley Insurance policyholders

As a Beazley policyholder, you can also access additional cybersecurity resources and training related to risks, compliance & laws, safeguarding data, and preparing to respond to breach incidents.

Access BeazleyBreachSolutions.com. A separate User ID & Password from Beazley is required.

Risk & Compliance Solutions
800.637.2676
riskconsultant@trustage.com

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