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February 1, 2021

Acting Director David Uejio
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

RE: Non-Regulatory Actions Needed on Debt Collection

Dear Acting Director Uejio:

I am writing to highlight important actions that the CFPB should take to protect and assist consumers with alleged debts in collection. This letter focuses primarily on actions needed due to the CFPB's final debt collection rule. However, these actions are intended to supplement, not replace, critical reforms to debt collection regulations that NCLC has outlined separately.¹

Consumer Complaints

Electronic Communications – As a result of the final debt collection rules, debt collectors are likely to adopt or increase their use of electronic communications. This may lead to new types of complaints from consumers that the complaint database is not adequately setup to track.

Recommendation: Adapt debt collection complaint categories to enable them to more easily track consumer complaints about electronic communications. For example, relevant complaint categories for electronic communications include:

- never received validation notice collector claims was sent electronically;
- frequent or repeated electronic communication;
- electronic communication after opt-out;
- electronic communication viewed by third party;
- electronic communication could not be saved or printed;
- electronic communication could not be opened or read; and
- electronic communication at an email address collector knew was provided by employer.

¹ [CFPB Changes Needed to Prevent New Debt Collection Rules from Hurting Consumers](#) (January 2021).

Debt Collection Complaints from Other Sources – The Federal Trade Commission collects and reports on debt collection complaints from a variety of contributors.² This data is under-reported and under-utilized.³

Recommendation: Coordinate with the FTC to analyze debt collection complaints collected in the Consumer Sentinel Network. Include this data in annual reports. Work with the FTC toward standardizing complaint data collection with other data contributors to maximize the value of the data.

Supervision

Racial Disparities - Numerous studies have found evidence of racial disparities at various stages in the debt collection process.⁴

Recommendation: Monitor for racial disparities as part of the standard supervision for debt collectors, including racial disparities that may arise through the use of machine learning or artificial intelligence.

Electronic Communications – As noted above, debt collectors are likely to adopt or increase their use of electronic communications. These practices may raise novel consumer protection concerns and compliance issues.

Recommendation: Review electronic communication strategies and procedures as part of the standard supervision for debt collectors.

Research

Racial Disparities – As noted above, numerous studies have found evidence of racial disparities at various stages in the debt collection process. More information is needed to understand the reasons for these disparities and what can be done to eliminate them.

Recommendation: Conduct research to investigate racial disparities in debt collection, the causes of any disparities, and strategies to reduce and ultimately eliminate these disparities.

Phone calls – Prior research about the number of collection calls needed to reach consumers was conducted before the widespread adoption of electronic communications that is anticipated as a result of the final debt collection rules. Similarly, prior research about capacity to track calls across different accounts for the same consumer that are being collected by the

² A list of Consumer Sentinel Network data contributors is available at:

<https://www.ftc.gov/enforcement/consumer-sentinel-network/data-contributors>.

³ April Kuehnhoff and Ana Girón Vives, [Consumer Complaints about Debt Collection: Analysis of Unpublished Data from the FTC](#) (National Consumer Law Center, Feb. 2019).

⁴ See, National Consumer Law Center, [Fair Debt Collection 1.3.1.5](#) (9th ed. 2018), updated at www.nclc.org/library (collecting research).

same collector was conducted prior to the implementation of the Federal Communication Commission order⁵ that will require such tracking.

Recommendation: Conduct new research about telephone communications in light of these changes. Include research about technology to track calls across accounts, and research the point at which additional calls have diminishing returns or lead to harassment.

Electronic Communications - There is a lack of public data about how debt collectors use electronic communications, and these practices are likely to change in light of the debt collection regulations. There is also a lack of data about consumer experiences with electronic debt collection.

Recommendation: Collect data about the use and effectiveness of electronic communications by debt collectors. Examine data about consumer access to and experience with electronic communications. Include this information in annual reports.

Time-Barred Debts - There is a lack of public data about collection of time-barred debts by debt collectors.

Recommendation: Collect data about time-barred debt collection practices and include this information in annual reports.

Debt Buyers - There is a lack of current public data about the types and volumes of debts being bought and sold, documentation being transferred with the debt, age of the debts at purchase, price being paid for the debt, warranties being provided at sale, the percent of purchased accounts ending up in litigation, etc.

Recommendation: Update the Federal Trade Commission's 2013 report, The Structure and Practices of the Debt Buying Industry.⁶

Consumer Experiences with Debt Collection - There is a lack of public data about many aspects of consumer experiences with debt collection.

Recommendation: Follow up with consumers who use the CFPB's online tool to create letters to debt collectors (discussed below under consumer education). Follow-up questions could be tailored to the type of message that was sent. For example, a consumer who disputed a debt could receive a follow-up survey to ask if the consumer received a response to the dispute, gather data about the type of response, and also ask about consumer satisfaction with the response. A consumer who sent a cease communication letter could be asked if they received subsequent communications, what they were, and whether they were sued.

⁵ Available at: <https://docs.fcc.gov/public/attachments/FCC-20-186A1.pdf>.

⁶ This report is available at: <https://www.ftc.gov/sites/default/files/documents/reports/structure-and-practices-debt-buying-industry/debtbuyingreport.pdf>.

Consumer Education

Electronic Disputes – The debt collection rules clarify that consumers can submit electronic disputes, requests for original-creditor information, refusals to pay, and cease communication requests. Debt relief companies and debt collectors will create tools that consumers can use to do this.⁷ Consumers may not realize that these "free resources" are collecting and storing their data or that this data may be used to target them for debt relief services or future collections.

Recommendation: Convert the CFPB's existing sample letters⁸ into an interactive online tool to help consumers craft communications to debt collectors that they can either submit electronically or print them out to be submitted by mail.

Validation Notices – Many consumers will be confused about the meaning of the validation notices that they receive.

Recommendation: Develop an interactive model validation notice that allows consumers to click on different sections of the notice to learn more about the content in each section.

Consumer Rights – Many consumers do not understand their debt collection rights. Even those who do will not know about new opportunities created by the debt collection regulations to control debt collection communications (e.g. the ability to opt-out of certain types of communications).

Recommendation: Create simple, explanatory one-page summaries, videos, and social media posts.

Limited English Proficiency - Many consumers have limited English proficiency.

Recommendation: Translate the contents of the CFPB's debt collection webpage for consumers,⁹ including the interactive validation notice and consumer rights materials mentioned above, into the 8 languages¹⁰ most commonly spoken by consumers with limited English proficiency. As with the Spanish translation, the additional translated pages should include accurate and accessible translations of all of the content on the English-language page.

Webpage Optimization – The new debt collection rules will require in some cases and allow in others the inclusion of a URL¹¹ directing consumers to the CFPB's consumer resources on debt collection. The Bureau estimates that 140 million validation notices are mailed each year.¹² If even 1% of these notices result in visits to the CFPB's website, that would be 1.4 million additional visitors.

⁷ NCLC, [Comment on CARD Act Rules Review](#) 25 (Oct. 27, 2020) (discussing one existing example).

⁸ Existing sample letters are available online at: <https://www.cfpb.gov/debt-collection>

⁹ Available at: <https://www.consumerfinance.gov/consumer-tools/debt-collection/>.

¹⁰ This webpage is already translated into Spanish.

¹¹ www.cfpb.gov/debt-collection

¹² Consumer Fin. Prot. Bureau, Final Rule, 85 Fed. Reg. 76,734, 76,879 (Nov. 30, 2020).

Recommendation: Recruit consumer testers to review webpage content and usability.
Make design and content changes to maximize the effectiveness of this resource.

Thank you for your time and attention. I look forward to the opportunity to discuss these ideas with the appropriate staff at the CFPB.

Sincerely,

April Kuehnhoff
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