

**Comments to the Federal Trade Commission
regarding
Hearings on Competition and Consumer Protection in the 21st Century**

FR Doc. 2018–16608, 83 Fed. Reg. 38307 (Aug. 6, 2018)

by the

**National Consumer Law Center on behalf of its low income clients,¹
Americans for Financial Reform,² Consumer Action,³ and the
National Association of Consumer Advocates⁴**

August 20, 2018

Comments on Topic 11: The agency’s investigation, enforcement and remedial processes

We thank the Commissioners for the opportunity to comment on the matters described in its request for public comment on its proposed Hearings on Competition and Consumer Protection in the 21st Century. These comments address Topic 11. Per the Commission’s instructions, we have separately submitted brief comments on Topic 10. If the Commission schedules hearings on these or other topics affecting consumers, we will likely file more detailed comments at that point.

Topic 11 asks several questions about its investigation, enforcement and remedial processes. In general, we encourage the FTC to more aggressively pursue enforcement actions in areas where private or state enforcement is not feasible. These include areas where state regulators lack resources or jurisdiction, or where arbitration clauses and class-action bans prevent private attorneys from stopping widespread or repeat misconduct.

Given the lack of a private right of action under the FTC Act, strong federal enforcement of the Act is vital. Courts, states, and private litigants often take their lead from FTC actions. The FTC also has enforcement powers not available to others. These include the ability to pursue scammers falsely claiming tribal sovereign immunity or operating internationally and broad powers to enjoin future misconduct. The FTC’s enforcement power is particularly important when bad actors use arbitration clauses and class action waivers to insulate themselves from private litigation. The FTC’s authority to enforce the Equal Credit Opportunity Act is especially important, and we urge the FTC to use its enforcement processes to address discrimination in lending.

We particularly encourage the FTC to pay more attention to deceptive debt relief services—including those involving student loans, internet lead generators that sell consumer information to scammers, payday lenders—that routinely violate state and federal laws. We also urge the FTC to make renewed efforts to enforce the Do-Not-Call Rule.

¹ Since 1969, the nonprofit **National Consumer Law Center® (NCLC®)** has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC’s expertise includes policy analysis and advocacy; consumer law

and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

² **Americans for Financial Reform (AFR)** is a nonpartisan coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups. Formed in the wake of the 2008 crisis, we are working to lay the foundation for a strong, stable, and ethical financial system—one that serves the economy and the nation as a whole.

³ **Consumer Action** has been a champion of underrepresented consumers since 1971. A national, nonprofit 501(c)3 organization, Consumer Action focuses on financial education that empowers low to moderate income and limited-English-speaking consumers to financially prosper. It also advocates for consumers in the media and before lawmakers and regulators to advance consumer rights and promote industry-wide change particularly in the fields of consumer protection, credit, banking, housing, privacy, insurance and utilities.

⁴ The **National Association of Consumer Advocates (NACA)** is a nonprofit association of more than 1,500 consumer advocates and attorney members who represent hundreds of thousands of consumers victimized by fraudulent, abusive and predatory business practices. As an organization fully committed to promoting justice for consumers, NACA's members and their clients are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.