



May 26, 2015

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Monica Jackson
Consumer Financial Protection Bureau
Office of the Executive Secretary
1700 G Street NW
Washington, DC 20552

**Re: Comments of ACA International on the Request for Information Regarding
the Consumer Complaint Database, Docket No. CFPB–2015–0013**

Dear Ms. Jackson:

ACA International (“ACA”), the Association of Credit and Collection Professionals, submits this comment in response to the Request for Information (“RFI”) related to positive company feedback and consumer compliments issued by the Bureau of Consumer Financial Protection (“Bureau”) on March 24, 2015.¹ In the RFI, the Bureau seeks comment on potential ideas for how it can collect and share feedback on positive performance by financial service providers. Specifically, the Bureau requests input on two different approaches for highlighting positive feedback: (1) providing more information about a company’s complaint handling performance, and (2) collecting and providing consumer compliments (independent of the complaint process).

ACA commends the Bureau for issuing the RFI in response to the concerns voiced by industry stakeholders and others over the skewed nature of the consumer complaint database (“database”) and the lack of a clear mechanism for consumers to describe positive experiences with financial service providers. As the largest and most comprehensive membership organization representing the credit and collection industry, ACA appreciates the opportunity to provide input on how the Bureau should approach the collection and sharing of consumer compliments.

¹ 80 Fed. Reg. 15583 (March 24, 2015)(“RFI”).

MINNEAPOLIS OFFICE
4040 WEST 70TH STREET 55435
P.O. BOX 390106, MINNEAPOLIS, MN 55439-0106
TEL +1(952) 926-6547 FAX +1(952) 926-1624

WASHINGTON OFFICE
509 2ND STREET NE, WASHINGTON, D.C. 20002
TEL +1(202) 547-2670
FAX +1(202) 547-2671

ACA believes that to the extent the complaint database remains publicly available and held out as a source of information for understanding the marketplace, it is critical that the database be as well rounded and reflective as possible. As a result, ACA respectfully urges the Bureau to allow consumers to share compliments and other forms of feedback related to positive experiences with financial service companies on the consumer complaint database. ACA believes that expanding the database to reflect both negative and positive company experiences will result in a fairer and more balanced picture of the consumer financial marketplace than what currently exists.²

Conversely, ACA does not believe it would be a wise use of limited Bureau resources to generate and provide complaint handling feedback as a way to highlight positive behavior. Instead, the Bureau should direct all other efforts towards improving the database's accuracy and meaningfulness by distinguishing between legitimate complaints of wrongdoing from mere feelings of dissatisfaction,³ normalizing complaint data, and developing more appropriate and frequently used database disclaimers.

I. BACKGROUND ON ACA INTERNATIONAL

ACA International is the premier trade association for credit and collection professionals. Founded in 1939, and with offices in Washington, D.C. and Minneapolis, Minnesota, ACA represents nearly 3,500 members, including credit grantors, collection agencies, attorneys, asset buyers, and vendor affiliates, and 230,000 employees worldwide. Given its longstanding history and broad membership, ACA is uniquely positioned to assist the Bureau with information gathering, as well to collaborate with the Bureau on how its proposed policies and regulations will impact the credit and collection industry.

ACA company members range in size from small businesses with a few employees to the very largest of national corporations doing business in every state. The large majority of ACA company members, however, are small businesses that maintain less than 25 employees. ACA members play an important role in the American economy by collecting rightfully-owed debts that would otherwise constitute losses on the financial statements of businesses. In years past, the combined effort of ACA members has resulted in the annual recovery of billions of dollars – a substantial sum that is returned to and reinvested by businesses. In this way, third party debt collection contributes significantly to the economic viability of businesses and, by extension, the American economy.

² Although ACA expects that consumers may be more inclined to voice a complaint to the Bureau over a compliment, we believe that consumers should be offered the choice as both types of feedback provide the Bureau and the public with valuable information that would otherwise be inaccessible.

³ See Bureau of Consumer Financial Protection, *Consumer Response: A Snapshot of Complaints Received*, at n. 2 (March 2015) (“Complaint Snapshot”) (“Consumer complaints are submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer’s personal experience with a financial product or service.”).

Importantly, ACA members are committed to fair, reasonable, and respectful practices and take their obligations in collecting consumer credit card debt very seriously. Our members maintain the highest standards of business conduct by using only legal and ethical means in all their business activities. As legitimate credit and collection professionals, ACA members play a key role in helping consumers fulfill their financial goals and responsibilities while maintaining the facilitation of the credit market.

II. COMMENTS OF ACA INTERNATIONAL

The Bureau poses a variety of questions for comment in the RFI that are broken down into questions related to sharing consumer compliments and publicly disclosing a company's positive complaint handling performance. Please see below for ACA's responses to each.

A. CONSUMER COMPLIMENTS

ACA understands and appreciates that “[l]istening to consumers and reviewing and analyzing their complaints is an integral part of the CFPB’s work in understanding issues in the financial marketplace, and helping the market work better for consumers.”⁴ However, as ACA and numerous other commenters have pointed out, focusing solely on complaints leaves out an equally important component of the consumer experience – interactions with financial service providers that are positive. This is evidenced by the fact that reported complaints represent only a small, fractional percentage of overall communications, the large majority of which do not result in complaints.⁵ The Bureau itself seems to have recently supported this principle, stating that it “finds the consumer stories and data regarding all types of interactions with financial institutions to be extremely valuable.”⁶ As a result, to the extent the Bureau continues to publicly share consumer complaints, it is critical for consumer compliments to be shared as well. Including both complaints and compliments on the database will help portray a more complete picture of consumers’ overall experiences in the financial marketplace.

It is important to emphasize, however, that adding compliments to the complaint database is purely a “second best” solution to ACA’s fundamental concern over sharing company-specific complaints on the CFPB’s public database. Despite heavy criticism that the database is not a meaningful tool given its lack of verification of accuracy or wrongdoing, as well as its lack of normalization of data or appropriate disclaimers, the CFPB has continued to expand the database. Most recently, by allowing consumers to share unstructured and unverified complaint narratives, the Bureau has even further exacerbated these issues. Thus, while ACA continues to object to the unfair and misleading nature of the database, adding consumer compliments will at least mitigate some of the flaws by providing a more balanced view of how financial service companies interact with consumers.

⁴ *Id.* at 46.

⁵ See *infra* p.7 (discussing that, in 2014, the percentage of consumers who actually filed complaints with the Bureau was approximately one-half of 1% of all consumers with debts in collections).

⁶ Bureau of Consumer Financial Protection, *Supporting Statement for CFPB’s Consumer Intake Form (30 Day Notice)*, Docket No: CFPB–2014–0035), at 5 (emphasis added).

With this in mind, ACA offers the following feedback on some of the Bureau's specific questions related to consumer compliments:

1. Should positive company behavior be highlighted by soliciting, collecting, and sharing consumer compliments?

As discussed above, to the extent the Bureau continues to publicly disclose complaints on its database, it should also offer consumers the ability to share their compliments. Although this does not solve some of the fundamental flaws of the database, it at least offers consumers more balanced information to review.

2. Would CFPB's Tell Your Story feature either as-is or altered be an appropriate channel for consumers to share their positive experiences? How could it be expanded?

Currently, the "Tell Your Story" feature allows consumers to share with the Bureau negative or positive experiences with a financial services company. However, the tone of the webpage describing the feature is clearly negative with sentences like "[w]e see trends and work to head off problems" and "[l]earn about our recent enforcement actions."⁷ Thus, while there may be some value in expanding "Tell Your Story" so that the tone is more neutral and the sharing of positive stories is more actively encouraged, this should be secondary to including consumer compliments on the complaint database where their impact will be more tangible and broadly accessed.

3. Should a new channel be launched that is specifically designed to intake only consumer compliments?

Consumers should be able to go to the same place and go through the same process to share feedback with the Bureau whether it is positive or negative. As a result, while modification of the current process may be required, a new channel should not be necessary.

4. If the Bureau established a new database to intake and publish consumer compliments, should the same process apply that currently applies to the complaint process?

Creating a separate database for compliments would require consumers to look in two different spots when trying to obtain information about a company. This unnecessarily requires extra effort and complicates the ability of consumers to obtain an all-encompassing view of a company's performance. To avoid this, the Bureau should: (1) use the same process for soliciting, collecting, and sharing consumer compliments that it does for complaints, and (2)

⁷ Bureau of Consumer Financial Protection, Webpage, "Your Money. Your Story." available at <http://www.consumerfinance.gov/your-story/>.

include complimentary feedback on the same database as complaints so that consumers can view both pieces of information concurrently.

5. How should the Bureau confirm that a commercial relationship exists between the consumer submitting the compliment and the company?

In order to be meaningful, the database must be as accurate as possible. The Bureau should therefore confirm that a commercial relationship exists between the consumer providing positive feedback and the company. To do so, the Bureau should employ the same process it uses in the complaint context.

6. Are there any other operational considerations that would benefit the public that the Bureau should consider when designing, developing, and implementing a system for collecting consumer compliments?

Given the Bureau's own acknowledgment that all information related to a consumer's financial experience is valuable, to the extent the database publicly shares complaint information, it is in the interest of the Bureau and the public to also include positive company feedback as well. To ensure that consumers understand there is a vehicle to share compliments about a company, it is imperative for the Bureau to effectively market this ability and develop a clear and easy process for consumers to share this type of information.

7. How should the CFPB determine which compliments are appropriate for public disclosure?

ACA believes that the Bureau's policies and rules related to complaints should be applied equally to compliments. The Bureau should use an analysis similar to what it uses in the complaint context for evaluating which compliments are appropriate for public disclosure.

B. POSITIVE COMPLAINT HANDLING

In the RFI, the Bureau states that it "is specifically interested in responses that identify potential ways the Bureau could record, calculate, standardize, sort, share, and visualize the data associated with the consumer complaints the Bureau sends to companies in ways that reveal positive company behavior."⁸ While ACA understands that the Bureau is likely well-intentioned in seeking to highlight positive complaint handling by companies, ACA believes this kind of an endeavor is misguided because it would very likely take away resources from the more pressing need to improve the database overall. Furthermore, the benefits of engaging in this effort would be minimal given that such information is already contained in the database.

As a result, ACA respectfully urges the Bureau to forego expending effort on positive complaint handling and instead focus on collecting consumer compliments and adding them to the database to make it a well-rounded source of information. Bureau resources that could have

⁸ RFI at 15584.

been used for positive complaint handling efforts should be dedicated to improving the database overall to make it more meaningful and accurate.

For example, the database currently contains information that is not verified for accuracy or wrongdoing, nor is not normalized so that those looking at the data can place it in any kind of context. Given these fundamental flaws, the disclaimer that is provided by the Bureau on the database is not sufficiently worded to caution a user about the inherent limitations of the data. These are critical shortcomings that deserve the attention of the Bureau so that the database can fulfill its mission to improve the transparency and efficiency of the consumer financial marketplace.

The Bureau should devote resources to verify that a complaint alleges actual wrongdoing. Given the Bureau’s overly broad definition of a complaint as dissatisfaction, the existence of a complaint on the database provides no indication that it is true, but also no indication that even if it is accurate, that the company acted in a way that was unlawful or inappropriate. Annual reports on the Federal Debt Collection Practices Act (“FDCPA”) have repeatedly acknowledged that “not all the debt collection practices about which consumers complain necessarily comprise legal violations.”⁹ In order to make the database more meaningful, the definition of a complaint should be narrowed and complaints should be added to the database only after being screened to determine that the alleged conduct would be unlawful if true. While the veracity of the complaint would still not be addressed, this approach would at least weed out the number of “complaints” that involve companies who have not acted improperly based on the consumer’s own description.

The Bureau should devote resources to normalize data. For quite some time and in several instances, the Bureau has stated that it is exploring data normalization.¹⁰ Without normalization, larger companies are more likely to have a greater number of complaints based purely on their larger footprint. Consumers and others in the marketplace may improperly look at the sheer number of complaints as an appropriate indicator of performance when, once normalized, the rate of complaints might be quite low compared to the number of contacts with consumers. The harmful impact of this cannot be overstated: a consumer who looks to the database to become better informed about the financial market could actually walk away with an inaccurate perception based on raw data thereby potentially causing him or her to make a less informed decision. In addition, we have already seen how conclusions based on raw number data have resulted in news reports that are highly misleading.¹¹ Even the Bureau has recognized

⁹ See e.g., Bureau of Consumer Financial Protection, *FDCPA Annual Report (March 2014)*, at 16, available at http://files.consumerfinance.gov/f/201403_cfpb_fair-debt-collection-practices-act.pdf.

¹⁰ See, e.g., Bureau of Consumer Financial Protection, *Disclosure of Consumer Complaint Narrative Data*, Final Policy, 80 Fed. Reg. 15572, 15579 (March 24, 2015).

¹¹ See, e.g., Comments of the Consumer Bankers Association, Notice of Proposed Policy to Disclose Consumer Complaint Narrative Data, Docket No. CFPB-2014-0016, at 10 (Sept. 22, 2014)(stating “a recent article entitled ‘America’s 10 Most Hated Banks’ singled out banks represented in the Database with the highest levels of complaints. The title was followed by a caption reading, ‘According to the Consumer Financial Protection Bureau, these financial institutions draw the most complaints,’ giving the

that looking solely at raw numbers is not necessarily an appropriate method for evaluating its own performance. According to Sam Gilford, spokesman for the agency, “Each enforcement investigation is different and *merely counting the number of open investigations may not be an appropriate measure of the CFPB's ongoing enforcement work.*”¹²

In the debt collection market, context plays a particularly large role in evaluating performance given the high number of Americans with delinquent debt. The Bureau’s 2015 Annual Report on the Fair Debt Collection Practices Act (“FDCPA”) stated that 77 million individuals had a debt that was subject to the collections process in 2014 and, at the same time, 88,300 complaints were filed with the Bureau regarding debt collectors.¹³ Based on this data, in 2014, over 76.9 million Americans with debts in collections did not file complaints. This means that the percentage of consumers who filed complaints with the Bureau was approximately *one-tenth of 1% of all consumers with debts in collections*. Thus, despite the raw data, the complaint rate is extremely low for debt collectors once placed in appropriate context.

Given the drastic difference that appropriate context can make in the interpretation of data and therefore in its ultimate use by consumers, the marketplace, and policymakers, the Bureau should make normalizing complaint data a high priority.

The Bureau should devote resources to develop a more useful database disclaimer and increase use of the disclaimer in places where complaint data is featured. Until the Bureau makes the above improvements to the database, it is essential for the database disclaimer to better reflect the accuracy and utility of the data to ensure that consumers and others understand the limitations of the data. Currently, the disclaimer on the database states:

“We don’t verify all the facts alleged in these complaints but we take steps to confirm a commercial relationship between the consumer and company. Complaints are listed here after the company responds or after they have had the complaint for 15 calendar days, whichever comes first.”¹⁴

impression that the institutions with the most complaints corresponds with having the most unscrupulous practices. To the contrary, this headline could have instead easily read ‘America’s Most Popular Banks’ as the banks listed are by far some of the largest banks in the country with the most customers”).

¹² Rachel Witkowski, “Backlog Forces CFPB to Slow Down New Investigations,” *American Banker*, (April 23, 2015)(emphasis added), available at <http://www.americanbanker.com/news/law-regulation/backlog-forces-cfpb-to-slow-down-new-investigations-1073951-1.html>.

¹³ Bureau of Consumer Financial Protection, *FDCPA Annual Report (March 2015)*, available at http://files.consumerfinance.gov/f/201503_cfpb-fair-debt-collection-practices-act.pdf.

¹⁴ Bureau of Consumer Financial Protection, Consumer Complaint Database, available at <http://www.consumerfinance.gov/complaintdatabase>.

ACA agrees with many stakeholders that a more appropriate disclaimer that is prominently displayed and consistently used is needed. Specifically, ACA supports the suggestion made by the American Bankers Association to revise the database disclaimer to read:

“The Bureau does not routinely verify the facts alleged in consumer complaints; therefore, complaint data and associated narratives may be inaccurate or incomplete. The Bureau does not endorse the opinions contained in any complaint and does not contend that any complaint is suitable as a basis for consumer reliance.”¹⁵

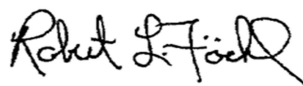
Bureau staff should work to ensure that this more appropriate disclaimer appears on the database itself and whenever complaint data is used, such as in reports, press releases, and news stories, so that improper inferences are minimized.

* * *

ACA appreciates the opportunity to respond to the CFPB’s RFI on positive company feedback and consumer compliments. To the extent the Bureau continues to publicly disclose consumer complaints, ACA respectfully urges the Bureau to also allow consumers to publicly share compliments on the same database. In addition, the Bureau should forego efforts to highlight positive complaint handling which would produce only minimal benefits and instead dedicate those resources to improve the overall operation of the database.

Please feel free to contact me at (952) 259-2103 with any questions.

Respectfully submitted,



Robert L. Föehl
Vice President and General Counsel
ACA International, the Association of Credit and
Collections Professionals
4040 W. 70th St.
Minneapolis, MN 55435
(952) 259-2103

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¹⁵ Comments of American Bankers Association, Notice of Proposed Policy to Disclose Consumer Complaint Narrative Data, Docket No. CFPB-2014-0016, at 28 (Sept. 22, 2014).