



May 26, 2015

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

Re: Request for Information Regarding the Consumer Complaint Database
Docket Number CFPB-2015-0013; 80 Fed. Reg. 15583 (March 24, 2015)

Dear Ms. Jackson:

The National Association of Retail Collection Attorneys (“NARCA”) appreciates this opportunity to submit the following comments in response to the Consumer Financial Protection Bureau’s *Request for Information Regarding the Consumer Complaint Database* (“RFI”).

I. BACKGROUND

The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Act”) requires the Consumer Financial Protection Bureau (“Bureau”) to provide certain information to Congress about complaints and responses. In particular, the Bureau is required to report annually to Congress information and analysis about complaint numbers, types, and, when applicable, resolution.¹ The Act permits the Bureau to exercise its authority for purposes of ensuring that “consumers are provided with timely and understandable information to make responsible decisions about financial transactions” and that “markets for consumer financial products operate transparently and efficiently.”²

On July 14, 2014, the Bureau issued a *Notice of Proposed Policy Statement* (“Narrative Proposal”)³ in which it expressed its intent to expand the public-facing portion of the Consumer Complaint Database (“Database”) to include unstructured consumer complaint narratives. In its *Final Policy Statement*,⁴ the Bureau noted that “[s]everal trade associations and companies commented that the Consumer Complaint Database should include positive narratives about companies in conjunction with complaint narratives,” and expressed its intent to “further explore ways in which positive company behavior may be highlighted.”

The purpose of the current RFI is “to solicit and collect input from the public on the potential collection and sharing of consumer compliments about providers of consumer financial products and services and more information about a company’s complaint handling.”⁵

¹ 12 U.S.C. 5493(b)(3)(C).

² 12 U.S.C. 5511(b)(1), (5).

³ 79 Fed. Reg. 42765 (July 23, 2014).

⁴ 80 Fed. Reg. 15572, 15577 (March 24, 2015).

⁵ 80 Fed. Reg. 15583 (March 24, 2015).

NARCA is a not-for-profit trade association comprised of more than 600 law firms and in-house counsel engaged in the practice of debt collection law. Attorneys employed by NARCA member law firms are committed to the fair and ethical treatment of all participants in the debt collection process. They are required to practice law in a manner consistent with their responsibilities as officers of the court and must adhere to applicable state and federal laws, rules of civil procedure, state bar association licensing and certification requirements and their respective rules of professional conduct. NARCA has also adopted a Code of Professional Conduct and Ethics which imposes professional standards beyond the requirements of state codes of ethics and regulations that govern attorneys.

As the only national trade association dedicated solely to the needs of attorneys engaged in debt collection, NARCA has a significant interest in ensuring that the Bureau’s policy development and rulemaking are consistent with its members’ professional responsibilities to their clients, the courts, consumers and the general public.

II. COMMENTS

NARCA believes the Bureau’s Database is a useful mechanism for resolving issues, inquiries and misunderstandings and for providing metrics that can be analyzed by consumers, companies and the Bureau. NARCA commends the Bureau for its interest in exploring the best options for highlighting consumer satisfaction with companies, products and services.

In its RFI, the Bureau explains that it “conceives of two potential avenues for sharing positive consumer feedback about companies: (1) By providing more information about a company’s complaint handling, and (2) by collecting and providing consumer compliments (independent of the complaint process).”⁶ NARCA believes the second avenue should be the primary focus though not necessarily to the exclusion of the first.

Collecting and providing positive consumer feedback independent of the complaint process is essential to the purpose of the Database, which is “providing consumers with timely and understandable information about consumer financial products and services, and improve the functioning, transparency, and efficiency of markets for such products and services.”⁷ Limiting positive consumer feedback to complaint handling would not provide the “marketplace of ideas”⁸ with any information regarding consumer satisfaction with financial products and services.

III. SUGGESTIONS

A. Collecting Positive Consumer Narratives

NARCA believes that the process for collecting positive consumer narratives should be similar to the process for collecting consumer complaints. As an example, and in comparison to the collection of debt collection complaints, the consumer could:

⁶ *Id.* at 15584.

⁷ *Id.*

⁸ 80 Fed. Reg. at 15577.

- Select the product or service,
- Identify the type of debt,
- Provide a narrative description of what happened with an opt-in to have the description published and scrubbed to de-identify any personal information and minimize the risk of re-identification;
- Identify the company;
- Provide personal information to verify the existence of the commercial relationship;
- Provide (optional) contact information for the Bureau to contact the consumer about the feedback; and
- Identify any military affiliation.

The advantage of this channel of collection is that it may allow the Bureau to utilize a platform and framework almost identical to that currently used to collect consumer complaints with the only difference being the exclusion of certain data fields. This would likewise lend itself to inclusion of the data in a database format similar to that for consumer complaints.

NARCA respectfully suggests that for this to be effective, the Bureau should be as proactive in promoting its availability as it is in promoting the complaint function. The option to provide positive feedback should also be in proximity to, and as conspicuous as, the “Submit a Complaint” link at the top of the Bureau’s homepage.

B. Company Dashboard

The Bureau is “also seeking input on the most effective and user-friendly ways to make the above data available to the public,” and referenced options such as comparison tools, dashboards, and visualizations. NARCA believes the dashboard approach may provide a good, though perhaps partial, solution.

A company dashboard could be a collaborative tool that provides information provided by both the company and the Bureau Database. For example, a company dashboard could include the following information:

- Company description (provided by the company);
- Description of products and services (provided by the company);
- Number of customers per product line or, in a debt collector example, number of consumer contacts per year (provided by the company as a basis for normalization);
- Percentage breakdown of company responses by category (provided by Database);
- Percentage of consumer disputes to company responses broken down by company response category (provided by Database);
- Percentage breakdown of company public responses by category (provided by Database).

The normalization aspect of this suggestion is particularly important, as evidenced by this portion of The Consumer Bankers Association’s response to the Bureau’s Narrative Proposal:

These raw numbers can be used to paint an unjustified picture of certain institutions represented in the Database. For example, 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 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.⁹

C. Company Narrative

The Bureau’s Narrative Proposal envisioned consumers and companies providing opt-in narratives that would appear side-by-side. However, some companies and trade associations commented “they would be limited in their ability to provide meaningful public-facing unstructured narrative responses and that such responses would be impracticable or unhelpful.” In its Final Policy Statement, the Bureau adopted an alternative approach in which a company has the option to choose a public response from a drop-down list of standard options.

NARCA appreciates the Bureau’s responsiveness to the concerns expressed by some companies and trade associations. However, NARCA respectfully suggests that a broader range of interests could have been addressed by simply providing companies the option of providing a public narrative in addition to the structured public response. As Director Cordray explained, “[w]e also believe strongly in something that Texas-native Walter Cronkite once said: ‘In seeking truth you have to get both sides of a story.’”¹⁰ By providing a narrative option in addition to the structured responses, companies and the Bureau would have the best of both worlds with narratives that tell a story and structured responses that provide quantifiable data.

D. Disputes vs. Complaints

The most recent Consumer Response Annual Report¹¹ provided data showing on average, companies close 73% of complaints with only an explanation, or less, which indicates a very large percentage of “complaints” are more likely inquiries. This would appear to be especially true since a relatively small percentage of consumers actually dispute company responses of this nature.

⁹ *CBA – CFPB Complaint Narrative Comment - Final*, The Consumer Bankers Association (September 22, 2014), p.10. Retrieved May 15, 2015, from <http://www.regulations.gov/#!documentDetail;D=CFPB-2014-0016-0101>.

¹⁰ *Prepared Remarks of CFPB Director Richard Cordray at the Consumer Response Field Hearing* (July 17, 2014). Retrieved September 8, 2014, from <http://www.consumerfinance.gov/newsroom/prepared-remarks-of-cfpb-director-richard-cordray-at-the-consumer-response-field-hearing/>.

¹¹ *Consumer Response Annual Report*, Consumer Financial Protection Bureau (March 2014), pp. 41-42. Retrieved May 15, 2015, from: http://files.consumerfinance.gov/f/201503_cfpb_consumer-response-annual-report-2014.pdf.


NARCA agrees with other industry stakeholders that the Bureau should take steps to separate inquiries from complaints. The Bureau defines consumer complaints as “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.”¹² NARCA understands that once a consumer files a complaint, that complaint cannot later be removed if it is determined, in fact, to be only an inquiry.¹³ However, a solution may be to add “Inquiry – not a complaint” as a company public response category. The existing category of “Misunderstanding” is unclear because it does not state whether the misunderstanding was on the part of the company, consumer or both. “Company acted appropriately” is more accurate in the case of an inquiry, but is not as precise a description as “Inquiry – not a complaint.”

IV. CONCLUSION

NARCA appreciates its collaborative relationship with the Bureau and supports its mission to help “consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives.”¹⁴

Thank you for your time and consideration of NARCA’s comments and suggestions.

Sincerely,



Joann Needleman
President

¹² *Id.* at p. 5, footnote 2.

¹³ “[D]ata already downloaded by the public cannot be recalled by the Bureau.” 80 Fed. Reg. at 15579.

¹⁴ *Consumer Financial Protection Bureau Strategic Plan FY 2013 – FY 2017*, Consumer Financial Protection Bureau (April 2013). Retrieved September 8, 2014, from <http://www.consumerfinance.gov/strategic-plan/>.