

FTC and CFPB Hold Debt Collection Roundtable Focused on Data Integrity

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On June 6, 2013, the Federal Trade Commission (“FTC”) and the Consumer Financial Protection Bureau (“CFPB”) hosted a roundtable discussion entitled: “Life of a Debt: Data Integrity in Debt Collection.” The roundtable consisted of several data-driven presentations about the industry and several panel discussions between representatives from federal and state agencies, consumer protection advocates and industry leaders. Among the topics discussed were how and what information flowed from an original creditor to a debt buyer or debt collector, debt collection litigation and the collection of time-barred debts.

But no matter the topic, the conversation seemed to focus on the two same areas – (1) availability of documentation and data; and (2) the need for better communication with consumers. All sides agreed that document availability concerning the debt is an issue plaguing every stage of the debt collection process. Consumer advocates urged that better document availability would decrease the frequency of debt collectors contacting the wrong person or seeking the wrong amount and would improve debt collectors’ responses to consumer disputes. Industry representatives explained that they want to provide as much information to the debtor as possible so that the debtor is more likely to recognize the debt as his, but lamented the lack of a nationwide standard that every participant in the debt collection process would have to live by. In essence, the industry just wants to know what the rules are.

While the sides disagreed on the scope and magnitude of the problem and the effect the problem has on consumers, they collectively asked the agencies to draft a nationwide standard establishing the type of information that an original creditor must forward to a debt collector or debt buyer. Everyone also agreed that some form of collection notes ought to be forwarded from one debt collector to the next to avoid compounding the problem of two or more debt collectors contacting the wrong phone number, address or person.

While both sides agreed that consumer interaction is a problem, they disagreed about potential solutions. Consumer advocates argued that debt collectors do not provide consumers with enough information to recognize the debt. They suggested that every debt collection communication contain information about charge-off date or date of last payment, identification of the original creditor, the retailer for private label cards, the last account statement, and a breakdown of the balance being sought into principal, interest and fees. If such information were provided to the consumer, argued consumer advocates, fewer mistakes would be made and fewer lawsuits would be filed.

Industry representatives stated that face-to-face interaction with consumers is the most effective manner of collection in terms of both time and expense. Yet such interaction is easily the most perilous, given the likelihood of consumer confusion. It is also the most frustrating, given the volume and complexity of disclosures that must be given to a consumer. One panelist noted an independent study which found that the Section 1692g validation notice a debt collector must give a consumer reads at a graduate student level. The industry representatives suggested that providing more information on the validation notice would only add to the confusion. They urged the agencies to revise the disclosures they are required to give and to provide safe harbor forms and language based on a deliberative, effective, sample-driven process.

All in all, the roundtable provided another opportunity for the credit and collections industry to voice practical challenges faced when attempting to comply with outdated and often conflicting obligations under the FDCPA. Now that the CFPB has FDCPA rulemaking authority, there may be some hope that these challenges will be addressed in a meaningful way.

This roundtable comes nearly contemporaneously with the FTC's recent issuance of guidance on FCRA compliance, which also focuses on data integrity and accuracy (read our articles on the [Red Flags Rule Guide here](#) and on the [Furnisher Rule guidance here](#)).