



**Consumer
Relations
Consortium**

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July 16, 2018

Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552

Re: Comments of the Consumer Relations Consortium Regarding Consumer Complaints and Inquiries

To Whom It May Concern:

The Consumer Relations Consortium (“CRC”) submits this response to the request from the Bureau of Consumer Financial Protection (“Bureau”) for comments Consumer Complaints and Inquiries.

The CRC was founded in 2013 in response to the release of the Larger Market Participant Rule for Debt Collectors. The group is comprised of about 60 organizations covering the ecosystem of collections, including creditors, large collection agencies and data/technology providers. We focus on two areas: advocacy and innovation.

From an advocacy perspective, the CRC proactively engages with regulators, consumer groups and other thought leaders to produce common sense, consumer-centric solutions to issues facing debt collection stakeholders. Our approach is to discuss practical solutions in a non-public, candid, off-the-record environment where all parties can get well beyond talking points. We established ourselves in both the consumer community and with the BCFP rulemaking body as a thoughtful, respected and productive group.

We appreciate the opportunity to provide comment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stephanie Eidelman', is written over a light blue horizontal line.

Stephanie Eidelman
Executive Director, Consumer Relations Consortium



1. Specific statutorily-permissible suggestions regarding how the Bureau currently allows consumers to submit complaints and inquiries, including:

- a. *Should the Bureau require consumers to classify their submissions affirmatively as a consumer complaint or inquiry prior to submission?***

The CRC believes the Bureau should require submissions to be classified as either complaints or inquiries, however, we believe this classification may be done behind the scenes, as consumers likely don't have a motivation to make a distinction, and they may very well view any submission to the Bureau as a complaint.

However, such a high-level 'behind-the-scenes' distinction would assist the Bureau in: (1) quickly analyzing the data as it prepares its reports to Congress, (2) tracking trends in problem areas, (3) increasing the accuracy of its reporting on complaint volume data, and (4) minimizing the undeserved negative impact on legitimate businesses that operate in a space that is inherently adversarial.

- b. *How should the Bureau explain the difference between a consumer complaint and a consumer inquiry to consumers at the point of submission?***

Per our response to the first question, the CRC doesn't believe it's necessary to explain the difference to consumers. For purposes of categorization *for reporting purposes*, the CRC suggests the following definitions:

An inquiry is a question or dispute about facts relating to the account/debt. For example, claims that the account is not the consumer's debt, or that the consumer has already paid all or a portion of it, would be treated as inquiries.

A complaint expresses dissatisfaction with the conduct of an identified entity, which may be the creditor or lender, an attorney firm, a collection agency, or another entity associated with the original creditor. For example, allegations that the identified entity threatened the consumer, claimed to be from law enforcement, or repeatedly called after the consumer submitted a cease communications request, would all be considered complaints.

The CRC suggests mapping the existing complaint categories to either an "inquiry" or a "complaint." This may require a minor amount of re-defining categories. One issue in particular our members have noted is that the form is lacking categories that relate to the types of inquiries common with collection of healthcare accounts. It would be useful if there were an option in Step 2 of the complaint intake process for consumers to make a distinction between concerns about billing or reimbursement and concerns about the quality of care they received.

- c. *Should the Bureau develop a process to reclassify consumers' submissions? If so, what criteria should the Bureau establish to help companies differentiate consumer complaints from consumer inquiries?***



CRC members have observed that consumers often misclassify their submissions to the Bureau (see Exhibit A), as consumer-selected categories frequently do not match what is stated in the narrative of the complaint.

Definitions and examples could help. However, examples require a person to be motivated to read them and to work harder to file their complaint. Because not all consumers will do so, the Bureau should also develop a reclassification process.

It may be unreasonable to expect the Bureau to review each submission to ensure the categories match the narrative, however such discrepancy leads to inaccurate data for purposes of identifying the root cause of problems and deploying resources effectively.

One solution is to give companies the ability to reclassify the submission category. Companies already review the submissions in full to meaningfully respond, so minimal additional work would be required to select the correct category.

Another alternative is to allow the company to suggest (and provide justification for) the appropriate category using standardized options, free-form text boxes, or a combination of the two. Sample standard options might include:

- This is a request for verification
- This is a fraud or identity theft dispute
- This is a claim that the debt was previously paid
- This is a balance dispute
- This company has no identifiable relationship with this consumer (i.e. wrong company)
- The consumer is not happy with the outcome of the exchange

Additionally, we recommend that the Bureau provide a process for requesting reclassification in other areas. For example, student loans are frequently misclassified (e.g. classified as a private student loan by the consumer, when it is a federal student loan), and healthcare-related complaints are often generated as a result of dissatisfaction with the quality of the care/treatment, or by an understanding that insurance would cover the bill. Note: because the Bureau has no jurisdiction over medical providers, there is no top level Healthcare/Medical category to choose, so these complaints end up categorized under debt collection.

Providing a process for companies to request reclassifications would increase the accuracy of the data collected and reported by the Bureau.

2. Specific statutorily-permissible suggestions regarding the Bureau's consumer complaint processes, including:

- a. *The Bureau currently receives complaints via six channels: website, referral from Federal and State entities/agencies, telephone, mail, fax, and email. Should the Bureau add or discontinue any channels for accepting complaints?*



The Bureau should be able to accept complaints and inquiries from consumers in whatever their preferred channel may be, so long as it can facilitate collection of enough information to accurately identify the consumer, the company, and the nature of the complaint or inquiry (see response to Question 3, below). Critical, however, to allowing complaints and inquiries to arrive from multiple avenues would be implementation of a de-duplicating process to assure that the same complaint or inquiry is not classified multiple times (i.e. creating duplicates which are counted separately) and to avoid consumer confusion when a company prepares and submits a response. The CRC also believes it may be helpful to have a “yes/no” checkbox asking if the consumer has submitted the complaint or inquiry via another means as well (e.g., BBB, state law regulator, attorney general, etc.).

On a related note, CRC members urge the Bureau to enhance its intake process by taking additional steps to verify the accuracy of the information provided through any channel before sending the complaint to a company for response. CRC members have seen a substantial increase in the number of complaints that appear to be submitted by unauthorized persons such as Credit Repair Organizations (CROs)¹.

If the Bureau was not aware, CROs have been flooding debt collectors, other data furnishers and Credit Reporting Agencies with millions of templated, generic mass disputes on an annual basis.

Under the Fair Credit Reporting Act (FCRA)² a data furnisher is not required to investigate disputes submitted by, prepared on behalf of the consumer by, or submitted on a form supplied to the consumer by, a credit repair organization³. CROs attempt to circumvent this exclusion by filing disputes in the consumer’s name rather than in their own name, in potential violation of the FCRA and the Credit Repair Organizations Act⁴ because they are disputing accounts that are not in fact disputed. At the very least these mass disputes violate U.S. Postal Laws⁵.

To contend with the influx of these letters, data furnishers are forced to commit considerable resources⁶ towards processing these bogus disputes sent with the sole purpose of getting accounts (that are not disputed by the consumer) removed from the consumer’s credit report. In recent years, CROs have begun to also submit these same mass disputes to regulatory agencies. A CRC member reports that 58% of the complaints it processed from the Bureau between January and

¹ 15 U.S.C. 1679a(a)(3)(A)

² 15 U.S.C. 1681 et seq.

³ 15 USC 1681s-2(a)(8)(G)

⁴ 15 U.S.C. 1679 et seq.

⁵ One CRC member learned through discussions with the postal inspector that companies are provided a discount for bulk mail, but the bulk mail rules require that the companies return address match the postmark. By listing the consumers name and address and not the return address of the CRO, the CRO is not in compliance with the bulk mail rules.

⁶ One CRC member spends in excess of \$100,000.00 on an annual basis to process just the disputes that are received directly. This number does not account for disputes that are received through e-OSCAR or complaints filed with a regulatory agency under the guise of the consumer, which is difficult to quantify.



May 2018 were templated complaints filed by CROs. See Exhibit B attached for an exemplar of a complaint submitted by a CRO.

This practice also contributes to what the industry perceives is a flawed process for reporting complaints by the Bureau. By way of explanation, the Bureau provided examples of consumer narratives⁷ in its most recent complaint report⁸. These narratives are exactly the types of false allegations that are being perpetrated by CROs.

- b. *Consistent with the Dodd-Frank Act’s definition of “consumer,” the Bureau currently allows consumers to authorize someone else (e.g., lawyer, advocate, power of attorney) to submit complaints on their behalf. Should the Bureau expand, limit, or maintain the ability of authorized third parties to submit complaints?***

Under the FDCPA (unless limited by a more restrictive state law, such as Massachusetts or federal law like HIPAA which would allow a patient/member to “restrict” third party disclosures further) a debt collector is permitted to speak only with the consumer⁹, which includes the consumer’s spouse, parent (if the consumer is a minor), guardian executor, or administrator¹⁰. Additionally, a debt collector is permitted to speak with the consumer’s attorney and any third party the consumer if the consumer has provided **direct** consent to the agency to speak with the third party¹¹. This would exclude persons (e.g., advocates or powers of attorney) where the consumer has not provided the debt collector with direct consent.

From a third-party debt collection perspective, the Bureau should only permit complaints to be filed by persons that a third-party debt collector lawfully could communicate with. As the Bureau would have no way of knowing which third parties were persons with whom the debt collector could discuss the debt, the Bureau should not accept complaints from third parties absent an express exception to the FDCPA’s current restrictions.

3. Specific statutorily-permissible suggestions regarding the Bureau’s consumer inquiry processes, including:

- a. *The Bureau currently accepts consumer inquiries via telephone and mail. Should the Bureau add or discontinue any channels for accepting inquiries?***

⁷ Examples of narratives include: “Consumers complained about debts appearing on their credit or consumer reports without prior written notice of the existence of the debt....Some of these consumers stated that before submitting a complaint to the Bureau they had asked the debt collector for additional information about the debt and for negative information to be removed from their credit history.”; “Consumers also complaint that they had not received written notifications about the existence of the debt. Other consumers asserted that they wrote to companies and requested additional information, but the companies did not respond.”

⁸ Complaint snapshot: Debt collection released on May 31, 2018

⁹ 15 U.S.C. 1692a(3)

¹⁰ 15 U.S.C. 1692c(d)

¹¹ 15 U.S.C. 1692c(b)



CRC recommends that the Bureau add channels for accepting inquiries. Pursuant to two of the Bureau's statutory objectives, one being to provide consumers with "timely and understandable information to make responsible and informed decisions" (*see* 12 USC §5511(b)(1)), and another being to help "consumer financial products and services operate transparently and efficiently to facilitate access and innovation" (*see id.* at §5511(b)(5), CRC believes the two current methods (telephone and mail) limit the accessibility and effectiveness of the current inquiry process. At a minimum, to make the inquiry process more accessible, consumers should have the option to submit an inquiry by email or through the Bureau's website (equivalent to how accessible and easy it is to submit a complaint).

According to an online research article published by the Pew Research Center¹² roughly 77% of Americans own a smartphone and half own a tablet computer. These statistics suggest that using a smartphone or tablet to send an email, or to submit an inquiry through a website, is easier and more efficient for many consumers when compared to preparing and sending an inquiry through the traditional mail process.

b. *Should the Bureau develop web chat systems to support consumers' submission of inquiries?*

Given the wide use of smartphones and tablets, CRC recommends that the Bureau develop web chat systems as another communication method. CRC members believe this would increase consumers' use and access to the Bureau's inquiry process. Information suggests consumers prefer web chat over making a phone call because they don't have to wait on hold.¹³ Information also suggests that consumers prefer typing more than talking.¹⁴ Offering this communication channel is consistent with the spirit of 12 USC §5534, which mandates the Bureau provide "reasonable procedures to provide a timely response to consumers, in writing where appropriate. . ."

In a similar vein, CRC encourages the Bureau to develop rules for the use of modern communication channels (such as web chat, email and text) so that the industry may also offer them as a meaningful way to communicate with consumers.

c. *Should the Bureau develop a process for companies to provide timely responses to consumer inquiries sent to them by the Bureau? If so, how should the Bureau balance its objective of providing timely and understandable information to*

¹² Smith, Aaron (2017, January 12). Record Shares of Americans Now Own Smartphones, Have Home Broadband. Retrieved from <http://www.pewresearch.org/fact-tank/2017/01/12/evolution-of-technology/> (last visited 6/14/2018).

¹³ James, Daniel (2016, January 25). 8 Essential Live Chat Customer Support Statistics. Retrieved from <https://www.inc.com/nicolas-cole/the-power-of-live-chat-5-surprising-statistics-that-show-how-consumers-want-thei.html> (last visited 6/14/2018).

¹⁴ Shropshire, Corilyn (2015, March 26). Americans Prefer Texting to Talking, Report Says. *Chicago Tribune*. Retrieved from <http://www.chicagotribune.com/business/ct-americans-texting-00327-biz-20150326-story.html> (last visited 6/14/2018).



consumers with its objective of reducing unwarranted regulatory burden on companies?

CRC recommends that the Bureau provide companies with the opportunity to respond to consumer inquiries. As discussed in Section 1, CRC members suspect the Bureau's reported complaint volumes are inaccurate. Inquiries get categorized as complaints since currently consumers must use the Bureau's complaint process to submit an inquiry to a company through the Bureau.

We believe allowing companies to respond to inquiries would accomplish many of the Bureau's objectives and functions as set forth in 12 USC §5511:

- Allow for consumers to have timely information to assist them in making informed decisions. Often consumers have specific questions about their accounts, and the Bureau will not have this information unless it collaborates with the company holding the information.
- Encourage transparency and fairness in the financial services market since consumers would be able to classify their submission correctly (i.e. as an inquiry rather than a complaint). Data from our members suggests that as much as 65% of complaints received are not "complaints" about the company's behavior, but rather inquiries and/or disputes about the debt itself.
- Company responses to inquiries would provide the Bureau with another data set to study and research. This data would assist the Bureau with developing and conducting financial education programs, identifying risks to consumers, and rulemaking.

Furthermore, one reading of 12 USC §5534 suggests that the Bureau is obligated to provide a process for companies to respond to inquiries. This is because the statute consistently includes "inquiries" with complaints. To date, the Bureau has only provided a process for companies to respond to complaints. This is arguably not aligned with the statute, as well as unfair and prejudicial against companies.

CRC believes the Bureau can balance its objective of providing timely and understandable information to consumers with its objective of reducing unwarranted regulatory burden on companies by using its existing tools to facilitate this process. The current online complaint portal could be modified/expanded to also allow for the separate processing of consumer inquiries and companies' responses. Companies could then modify their existing procedures for processing complaints to accommodate the processing of inquiries, reducing the likelihood that responding to inquiries will become an unwarranted burden.

d. Should the Bureau publish data about consumer inquiries? If so, what types of data or analyses about consumer inquiries should be shared with the public?

CRC does not recommend that the Bureau publish data about consumer inquiries or complaints. The data lacks important context, which puts the largest entities that, by definition have the most



consumer contact, at a disadvantage, and makes them targets for investigations that may be unwarranted.

Companies should use the data about their own inquiry trends to drive improvements in (1) their written communications with consumers, (2) the content and resources offered on their websites, and (3) the training curriculum developed for consumer facing personnel. Bureau staff have access to this data and can work with industry through guidance and supervisory activities to highlight improvement opportunities; this does not require public shaming based on unverified data.

In the event that the Bureau does decide to publish inquiry (and complaint) data, the CRC suggests that it should publicize data after a certain period of time that allows for appropriate reclassification. At least at this point the data would have more of the proper context than it does today.

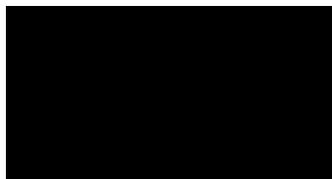
Finally, the CRC suggests that any published data about complaints and inquiries should be accompanied by some measure that provides normalization, such as contact volume. The CRC would be happy to work with the Bureau to develop a way to provide a normalizing benchmark.

Exhibit A

For a 6 month period in 2017

Company:	A	B	C	D	E	F	G	H	I	J	K	L	TOTAL
1) Total number of CFPB complaints received for the period	11	23	42	21	9	42	16	51	69	816	87	549	1,736
2) Total number of those where narrative does not match the complaint category selected by the consumer	7	12	13	12	9	0	5	4	20	55	13	124	274
#2 divided by #1	63.6%	52.2%	31.0%	57.1%	100.0%	0.0%	31.3%	7.8%	29.0%	6.7%	14.9%	22.6%	15.8%
3) Total number where the complaint was a dispute inquiry, not a complaint about the agency's behavior	2	8	19	9	9	0	11	20	18	437	55	546	1,134
#3 divided by #1	18.2%	34.8%	45.2%	42.9%	100.0%	0.0%	68.8%	39.2%	26.1%	53.6%	63.2%	99.5%	65.3%

Exhibit B



FAX COVER SHEET

January 19, 2018

TO: Consumer Financial Protection Bureau

Fax: 855 237-2392

FROM:



Re: Credit Disputes

NO PAGES TO AND INCLUDING COVER SHEET 19

4849-7987-9514, v. 1

01/16/2018

Re: Acct # [REDACTED]

To Whom It May Concern:

This letter is regarding account # [REDACTED], which you claim I owe \$ [REDACTED]. This is a formal notice that your claim is disputed.

I am requesting validation, made pursuant to the Fair Debt Collection Practices Act and the Fair Credit Reporting Act, along with the corresponding local state laws. Please note that I am requesting "validation"; that is competent evidence bearing my signature, showing that I have (or ever had) some contractual obligation to pay you.

Please also be aware that any negative mark found on my credit reports (including Experian, Transunion and Equifax) from your company or any company that you represent, for a debt that I don't owe, is a violation of the FCRA & FDCPA; therefore if you cannot validate the debt, you must request that all credit reporting agencies delete the entry.

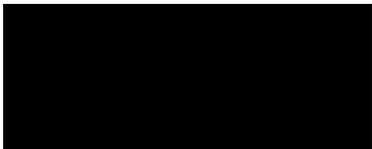
Pending the outcome of my investigation of any evidence that you submit, you are instructed to take no action that could be detrimental to any of my credit reports.

Failure to respond within 30 days of receipt of this certified letter will result in small claims legal action against your company at my local venue. I will be seeking a minimum of \$1,000 in damages per violation for:

- 1.) Defamation
- 2.) Negligent Enablement of Identity Fraud
- 3.) Violation of the Fair Debt Collection Practices Act (including but not limited to Section 807-8)
- 4.) Violation of the Fair Credit Reporting Act (including but not limited to Section 623-b)

Please Note: This notice is an attempt to correct your records, and any information received from you will be collected as evidence should any further action be necessary. This is a request for information only, and is not a statement, election, or waiver of status.

My contact information is as follows:



P.S. Please be aware that dependent upon your response, I may be detailing any potential issues with your company via an online public press release, including documentation of any potential small claims action. I am also including a copy of my complaint to the organizations below:

Cc: Consumer Financial Protection Bureau

Cc: Attorney General's Office

Cc: Better Business Bureau