

February 27, 2015

Consumer Financial Protection Bureau
Attention: PRA Office
1700 G Street NW
Washington, DC 20552

Re: CFPB's Consumer Response Intake Form
Docket Number: CFPB-2014-0035
OMB Control Number: 3170-0011
79 Fed. Reg. 78068 (December 29, 2014)

Dear Consumer Financial Protection Bureau:

The National Association of Retail Collection Attorneys ("NARCA") appreciates this opportunity to submit the following recommendations in response to the Consumer Financial Protection Bureau's ("CFPB's") request for comments on its Consumer Response Intake Form ("Intake Form").

I. BACKGROUND

The Intake Form is designed to aid consumers in the submission of complaints, questions, and comments and to help the CFPB fulfill the CFPB's statutory requirements. Consumers will be able to complete and submit information through the Intake Form electronically on the CFPB's website or by other delivery methods. The questions within the Intake Form prompt respondents for a description of, and key facts about, the complaint at issue, the desired resolution, contact and account information, information about the institution they are filing a complaint against, and any previous action taken to attempt to resolve the complaint. On December 17, 2014, the CFPB invited, in part, comments on ways to enhance the quality, utility, and clarity of the information to be collected.

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 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 CFPB's Consumer Complaint Database ("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 previously expressed its concerns regarding the Database and the information contained therein in its response to the CFPB's request for comments on its *Disclosure of Consumer Complaint Narrative Data* proposal ("Narrative Proposal").¹ NARCA reiterates those concerns and offers these additional comments specific to the Intake Form.

A. Consideration of the Intake Form is Premature

On July 23, 2014, the CFPB issued notice of a proposed policy to expand the public-facing information in its Database to include unstructured consumer complaint narratives ("Narrative Proposal"). The CFPB received 132 comments in response to the Narrative Proposal, many of which included suggestions that could alter the format of the Intake Form if adopted by the CFPB. For this reason, NARCA believes consideration of the Intake Form is premature until the CFPB issues its final declaration of policy regarding its Narrative Proposal.

B. The Proposed Intake Form May Hinder Focused Narratives

The CFPB's current web-based complaint process requires a consumer to first identify the issue and then select the sub-issue before providing the narrative description of what occurred. NARCA believes this approach is appropriate and has practical utility. The process of identifying the issue and sub-issue is a productive exercise that assists the consumer in focusing her or his thoughts on the true nature of the complaint before drafting the narrative which may be up to 3,900 characters in length. Reversing the process may, in many instances, lead to overly-lengthy narratives that include extraneous issues beyond the ability of the CFPB or the responding company to address. A process designed to encourage narratives that remain focused on relevant issues will be of even greater importance in the event the CFPB opts to include the narratives in public-facing portion of the Database.

C. The Intake Form Dissuades Positive Comments

The Intake Form allows a consumer to publish a "comment about a financial institution, product, service, or practice." A number of comments in response to the Narrative Proposal encouraged the CFPB to allow consumers the opportunity to post positive comments with regard to a company or product. The Intake Form does allow a consumer to post a comment, as opposed to a complaint or alert. The consumer is prompted to provide a narrative and to select product or service and sub-product or sub-services. However, the consumer is next requested to identify the "issue" with the product or service. When leaving a positive or complimentary comment, the consumer might not perceive that there was an "issue." The CFPB should consider revising the form to better accommodate, and not dissuade, positive comments regarding companies or products.

¹ Docket Number CFPB-2014-0016, 79 Fed. Reg. 42765 (July 23, 2014).

D. Anonymous Complaints Should Be Excluded

The Intake Form allows a consumer to submit completely anonymously² or to request that the CFPB not identify her or him to the company about which they are complaining.³ These submissions should be excluded from the Database since the consumer's choice will prevent the company from being able to verify the existence of any business relationship or to effectively respond to the complaint.

E. Natural Language Processing May Lead to Inaccurate Results

The CFPB proposes the application of "natural language processing" to the complaint narratives "to suggest possible products, sub-products, issues, sub-issues, and fair resolutions." NARCA's concern is that this creates the possibility of technology selecting incorrect choices for consumers, and some consumers, particularly the least-sophisticated, may simply accept the suggested choices rather than choose or type the more accurate description.

F. Additional Information Should Be Requested

The phrasing of Question 8⁴ presumes the consumer suffered a "loss" and may prompt some consumers to enter an amount simply based upon its suggestive nature. It would be preferable for the question to begin "If you have suffered a loss..." If a consumer does estimate a loss, she or he should be required to provide details or some reasonable basis for that estimate. Finally, for debt collection complaints, the consumer should state whether she or he has previously notified the debt collector to cease communication with respect to the debt.⁵

III. CONCLUSION

NARCA appreciates its collaborative relationship with the CFPB 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."⁶ It is NARCA's belief that though public-private collaboration, this mission can be achieved without unduly burdening legitimate debt collection.

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

Sincerely,



Joann Needleman
President

² "I want to submit anonymously. I understand the CFPB may not be able to respond or take action."

³ "I do not want the CFPB to send information about me to the company. I understand the CFPB may not be able to take action."

⁴ "Estimate the total dollar value of your loss based on what you know right now."

⁵ 15 U.S.C. § 1692c(c).

⁶ *Consumer Financial Protection Bureau Strategic Plan FY 2013 – FY 2017*, Consumer Financial Protection Bureau (April 2013). Retrieved February 21, 2015, from <http://www.consumerfinance.gov/strategic-plan/>.