

**BEFORE THE**  
**DEPARTMENT OF TRANSPORTATION**  
**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

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**COMMENTS OF THE**  
**OWNER OPERATOR INDEPENDENT DRIVERS ASSOCIATION, INC.;**  
**IN RESPONSE TO AN AGENCY INFORMATION COLLECTION REQUEST:**  
**NATIONAL CONSUMER COMPLAINT DATABASE**

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**Docket Number: FMCSA-2016-0407**

**TODD SPENCER**  
**Executive Vice President**  
**Owner Operator Independent**  
**Drivers Association, Inc.**

**January 30, 2017**

## **INTRODUCTION**

On behalf of the 160,000 members of the Owner Operator Independent Drivers Association (OOIDA), we respectfully submit these comments in response to the Federal Motor Carrier Safety Administration's (FMCSA or Agency) Information Collection Request (ICR) regarding the National Consumer Complaint Database (NCCDB). OOIDA is a not-for-profit trade association incorporated in 1973 and is the largest association representing the interests of independent owner-operators, small business motor carriers, and professional drivers. As such, OOIDA members have experience using the NCCDB to file complaints against unsafe and unscrupulous companies and/or their employees, including shippers, receivers and transportation intermediaries.

Although the ICR is necessary for the Agency to perform its mission, FMCSA must enhance the quality of the collected information, and thereby improve the effectiveness of the NCCDB, by addressing (1) the overall administration of the program, (2) the name of the program, and (3) the inefficiencies of the online portal.

## **COMMENTS**

As currently administered, the NCCDB is an inadequate outlet for drivers to report harassment, coercion, and other violations of commercial regulations. Typically, drivers do not receive a satisfactory response level when they call the NCCDB hotline or submit their problem via the online portal. Additionally, there is insufficient follow-up with drivers after filing a complaint. The lack of response from the Agency results in many unresolved complaints and also discourages drivers from using the NCCDB to report unsafe practices. The Agency must increase their response level to drivers after a complaint is filed. When announcing the enactment of the driver hotline in 1998, Secretary of Transportation Rodney Slater stated, "This

important new initiative will further enhance the Administration's number one transportation goal of safety" and "Every valid report will be vigorously followed up and corrective action will be ordered when necessary."<sup>1</sup> While the hotline and online portal are accessible, the Agency must refocus upon the original intent of the NCCDB and ensure it consistently handles and addresses a driver's complaint once it is submitted. OOIDA will demonstrate the current lack of consistency and efficiency via the following example.

**A. Coercion complaint example.**

On August 1, 2016 OOIDA assisted a member by filing a coercion complaint on his behalf. At the time of the incident, the member was in Georgia while the carrier in question was domiciled in Utah. The member received a phone call from an FMCSA staff member in the Georgia office the following day advising him that the coercion complaint appeared to be in order. The member also received a letter from the FMCSA Utah office notifying him of the submission as well.

However, after receiving no further communication or information regarding the status of the coercion complaint, the member contacted the NCCDB Hotline and was informed that they did not have any information concerning the status of the complaint. OOIDA attempted to assist the member by calling into the NCCDB hotline. Despite having the "Complaint ID #," OOIDA was informed that we were not the individual who filed the complaint and therefore were not given any information regarding the complaint. A second attempt was then made to contact FMCSA by directly calling the Utah office; however the staff member was not able to locate information regarding the case during the initial phone call. Finally, a follow up conversation

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<sup>1</sup> U.S. Department of Transportation Federal Highway Administration News Release: DOT Sets Up Hotline System For Commercial Drivers To Report Safety Violations.

with that same staff member resulted in OOIDA, and the member, receiving details regarding the coercion complaint.

Although the member did receive a call the day after the complaint was filed, the status of the case beyond the initial stages was unclear as the Agency was unable to locate the relevant information and provide it to the appropriate individuals. OOIDA ultimately learned that an unfilled position in the state office was at least a partial cause for the misplaced information. This incident highlights at least two issues with the NCCDB; first, that the Agency lacks the proper mechanisms to accurately track the status of a complaint, and second, that the Agency lacks appropriate measures to ensure that a vacant position does not lead to the improper management of a filed complaint.

Only after OOIDA was finally able to locate the appropriate state office staff member and provide them with sufficient information and time to permit further data collection, did it become apparent that the claim would be handled correctly. If the member had not inquired of the status, and if OOIDA staff had not continued to repeatedly follow up, it is doubtful that this claim would have come to the attention of the appropriate individual. This is especially concerning given the remarks by the individual handling the claim who pointed out the severity of the incident and the role this claim was expected to play in an additional investigation.

#### **B. Confirmation and tracking must be provided.**

Often times, drivers do not receive a tracking number and are unaware of the status of their grievance. Upon completion of the coercion complaint, no confirmation email was sent (this may be connected to the ability to submit the form without having checked the Certification Statement box) and no tracking number or identification number was provided. The final screen

showed a “Complaint ID:” which read “Submitted On: Monday, August 1, 2016.”<sup>2</sup> This appears to have led to problems with OOIDA or its member being able to confirm information in follow up conversations. The letter which the OOIDA member received from the FMCSA field office did show a “Complaint ID” number.<sup>3</sup> However, this number did not provide any assistance to FMCSA staff who attempted to inquire about the status of this filing. The lack of a definitive tracking or identification number which is accessible through FMCSA systems and used by NCCDB Hotline staffers and other field offices, is a hindrance to individuals who are trying to assist the Agency in pursuing entities which may pose a serious threat to highway safety.

The Agency should provide a confirmation that the complaint has been accepted as well as a specific tracking number or other case identifier to assist with follow-up. This would help drivers understand the status of their complaint and be more aware of the process.

### **C. NCCDB Name**

The primary reason the member contacted OOIDA for assistance was the lack of clarity with the name “National Consumer Complaint Database.” This title does not clearly signify a connection between a commercial motor vehicle (CMV) operator and the filing of a coercion complaint. OOIDA believes the NCCDB can help improve safety, but many drivers are unaware that the NCCDB is a tool which they can use to report violations of commercial regulations, nor are they aware that coercion complaints are handled through the NCCDB. The current name does not effectively serve the mission to “further enhance the Administration’s number one transportation goal of safety.”<sup>4</sup> The various components of the NCCDB (household movers’ complaints, truck complaints, and bus complaints) each deserve their own accurately descriptive

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<sup>2</sup> Screen capture included in Appendix

<sup>3</sup> Scan of letter included in Appendix

<sup>4</sup> U.S. Department of Transportation Federal Highway Administration News Release: DOT Sets Up Hotline System For Commercial Drivers To Report Safety Violations.

name so that the program may better serve those communities that it is designed to assist. Appropriate names may include: National Household Movers Complaint Center, National Commercial Truck Complaint Center and National Bus Complaint Center. The Agency can also do a better job in reaching out to drivers and making sure they are aware that the NCCDB is a beneficial tool that can promote safety and eliminate bad actors from the industry. OOIDA would look forward to working with and helping the Agency achieve this objective.

#### **D. The inefficiencies of the online portal**

OOIDA recommends the Agency should make the following modifications to the NCCDB online portal. These changes would improve the portal's efficiency and the overall experience for the user.

##### **Sequence of information.**

Once the NCCDB home page is accessed, a typical OOIDA member would then select the category of "Driver" to file a complaint. At the following screen, under the heading of "Truck Complaint" is the category of "Truck Safety." This incredibly broad description has no further explanation. The next screen, "Incident Information," at first appears to only ask for the date, location, and a typed incident description. Only upon noticing that there are four sub categories under "Complaint Detail" "Truck Safety," may a driver see that those subcategories may be further expanded to show which specific complaints may be selected. This type of information should be presented in the original screen to help the individual filing the complaint determine which type of complaint they need to file. That should be clearly and definitively entered before the date, location, and typed incident description are requested. Without that sequence, a driver wishing to file a complaint may find that they have spent considerable time typing an incident description (up to 4,000 characters), only to discover that they did not choose

the correct category. This level of frustration could potentially result in a driver giving up on the process, which would not lead to safer roads.

### **Knowledge of DOT number.**

The “Company Information” screen asks for the “Company Name or U.S. DOT#.” If the individual filing the complaint does not know the DOT number of the entity they are filing against, the next step is entering the name of the company and clicking on “search.” If the name is not displayed on the list, the next step is to enter the “Company Information.” After filling in the relevant information, the logical step would be to click on the “NEXT” button. Instead the required action is to click on “Add Company.” The command “Add Company” does not seem to reflect the intuitive action at this point since there is no indication of what this will be added too. “Add Company” seems to indicate that the driver would have an additional company to add. Instead, “Select This Company” or “Use This Company Information” would seem to more accurately reflect the required step. After selecting “Add Company,” the following screen presents the company information along with the option to delete it. Below this, the same fields where the company information is to be filled in are presented as they were previously. At this point, it would be useful to clarify to the individual filing the complaint that this information is only required if they need to enter the information for an additional company. It may also be useful to change the heading “Complaint on Carrier(s)” to “Company You Have Entered” or similar language.

### **Lack of consistent language.**

During the process of filing a claim, the language used is not entirely consistent which can lead to some confusion. “Company Information” is asked for at one step, however in the following step, “Complaint on Carrier(s)” is used. Company information is a more appropriate

term since a claim may be against a broker, who would not be considered a carrier by those filing a claim. Furthermore, a drop down box with the terms that describe the entity type would assist the filer and be a convenient clarifier.

### **Selecting the company.**

If the individual filing the complaint knows the DOT number of the entity that they are filing against, the next step is to enter the number and click on “search.” At this point, the company is displayed in the “Search Result” with the option to click “Select”, which appears as a link and not a button. The identical information is also displayed above with the heading “Complaint on Carrier(s)” with the option “Delete” appearing as a link, not a button. At this stage, the most logical choice would seem to be clicking on “Select” in order to select that company. This only brings up the identical screen once again. This screen seems to contain redundant and unnecessary information. The heading “You Have Selected,” followed by the name of the company and its associated information would seem to suffice. This would lead a driver to seek for the “NEXT” button. The “NEXT” button is much lower in the browser window and is not visible unless the driver scrolls down. Less blank space between the relevant information and the button may help make this choice more clear.

### **Acceptable media files.**

The availability to upload supporting documentation electronically is greatly appreciated and a vital component for a successful complaint filing. OOIDA vigorously encourages our members to obtain any available documentation for this very reason. While the NCCDB does permit a variety of file types to be uploaded, it is missing critical file types such as MP4 video. For instance, a severe leak of fluid or the sound of an air leak can only be captured through video and not by a static picture. These are both very common occurrences which may result in a driver



being coerced to continue driving with those conditions present. The NCCDB should be able to accommodate video files which are standard on smart phones as a typical over-the-road driver will not have access or ability to alter a video file type by editing, compressing, or changing a file type or video format. An additional concern regarding a video file being uploaded is the current file size limit of 10 megabytes. Using common smart phones, OOIDA staff found that a video would exceed 10 megabytes after only 6 seconds of footage.

**Back button warning.**

The NCCDB site provides no warning concerning the use of the back button on the web browser. Without this warning, a filer may use the back button intending to return to the previous page. However, as the NCCDB site is currently configured, such action results in returning to the home page and the user must start anew again. Such a scenario must be avoided because it will deter drivers from successfully filing their complaint.

**Conditional Logic is needed.**

When all information is entered into the NCCDB website, the final screen before submission features a “Certification Statement” with a small check box. OOIDA discovered that it is possible to submit the form without noting the check box and clicking it. Omitting this step impeded the ability of the OOIDA staff member who filed the above complaint to follow up. The use of conditional logic, requiring the “Certification Statement” box to be checked before submission is possible would prevent this omission from occurring. Similarly, conditional logic should be used for any other required fields which may be inadvertently left blank or unchecked.

**Ample time.**

One of the stronger points of the NCCDB is the ample time allowed before a user is automatically logged out of a session when there is a pause in data input. This is especially

helpful to OOIDA members who do not control circumstances surrounding their time loading and unloading, which is when they are most likely to access the NCCDB. OOIDA encourages the Agency to retain this feature in order to minimize the potential of a user losing data which has been entered.

## **E. Other Concerns**

OOIDA is concerned that the ICR states, “There is no complaint history for the recently added coercion and harassment complaint categories, or for complaints regarding financial responsibility instruments for brokers and/or freight forwarders. This data will be collected and included in future renewals for the NCCDB.” While we understand that the ICR was initiated many months ago and this prevented the ICR from reflecting the current status, OOIDA is aware of coercion complaints submitted to the NCCDB and recommends the Agency work quickly to include such data in future renewals for the NCCDB.

## **CONCLUSION**

The ICR is necessary for the Agency to perform its mission. As the original 1998 press release announcing the driver hotline indicated, “Drivers are protected by law against being discharged, disciplined or discriminated against regarding compensation, terms or privileges of employment because of the reporting of violations.”<sup>5</sup> This aspect of the Agencies’ mission has only been strengthened by the “Prohibiting Coercion of Commercial Motor Vehicle Drivers” final rule on November 30, 2015.<sup>6</sup>

Additionally, FMCSA must enhance the quality of the collected information, and thereby improve the effectiveness of the NCCDB, by addressing the overall administration of the

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<sup>5</sup> U.S. Department of Transportation Federal Highway Administration News Release: DOT Sets Up Hotline System For Commercial Drivers To Report Safety Violations.

<sup>6</sup> “Prohibiting Coercion of Commercial Motor Vehicle Drivers,” <https://www.regulations.gov/document?D=FMCSA-2012-0377-0100>

program, the name of the program, and the inefficiencies of the online portal. By taking these steps, FMCSA can make the NCCDB a credible and useful resource in promoting highway safety.

Sincerely,

A handwritten signature in cursive script, appearing to read "Todd Spencer".

Todd Spencer  
Executive Vice President  
Owner-Operator Independent Drivers Association, Inc.