



July 5, 2022

Re: PRO 03-21

Department of Financial Protection and Innovation,  
Attn: Sandra Sandoval  
300 S. Spring Street, Suite 15513  
Los Angeles, CA 90013

Submitted via email to: [regulations@dfpi.ca.gov](mailto:regulations@dfpi.ca.gov)

With CC to : [REDACTED] [@dfpi.ca.gov](mailto:[REDACTED]@dfpi.ca.gov).

Dear Sandra Sandoval:

The Consumer Relations Consortium (CRC) is an organization comprised of more than 60 national companies representing creditors, data/technology providers, and compliance-oriented debt collectors that are larger market participants. Established in 2013, CRC is dedicated to a consumer-centric shift in the debt collection paradigm. It engages with all stakeholders—including consumer advocates, federal and state regulators, academic and industry thought leaders, creditors and debt collectors—and challenges them to move beyond talking points. The CRC's focus is on fashioning real world solutions that seek to improve the consumer's experience during debt collection. CRC's collaborative and candid approach is unique in the market.

CRC members exert substantial positive impact in the consumer debt space, servicing the largest U.S. financial institutions and consumer lenders, major healthcare organizations, telecom providers, government entities, hospitality, utilities, and other creditors. CRC members engage in millions of compliant and consumer-centric interactions every month at all stages of the revenue cycle. Our members subscribe to the following core principle:

**“Collect the Right Debt, from the Right Person, in the Right Way.”**

We appreciate the opportunity to respond to the Notice of Proposed Rulemaking regarding the implementation and interpretation of Financial Code section 90008. The CRC supports the regulations issued by the DFPI. However, as explained in the enclosed comment, we believe that creating form reporting templates, and either creating a complaint portal or utilizing the portal controlled by the Consumer Financial Protection Bureau (CFPB) will better serve California consumers.

Sincerely,

/s/Missy Meggison

Missy Meggison

Executive Director, Consumer Relations Consortium

## COMMENT TO NOTICE OF PROPOSED RULEMAKING

### Statement of Position

CRC members believe that consumers should be free to express dissatisfaction about their experiences with debt collectors and that debt collectors should be responsive to consumers' complaints. Moreover, consumers should have a ready and accessible means to make inquiries about communications they receive from debt collectors. The CRC supports reasonable procedures and logistics to support consumer inquiry and consumer dispute communications. CRC and its members work hard to make it easy for consumers to make inquiries or lodge complaints directly to the debt collection company so that the company can investigate and respond to the inquiry or complaint in a timely manner, while maintaining the highest respect for the consumer's privacy.

While CRC supports consumers' ability to make inquiries and lodge complaints, CRC members are increasingly concerned about the growing number of credit repair and debt management companies seeking extensive information about consumers by filing generic and duplicative complaints "on behalf of" consumers, or, alternatively, providing consumers with generic forms that lead to duplicative "complaints." As a result, the CRC believes that appropriate verification should be a prerequisite for a third party to use California's system to file a complaint or inquiry on behalf of a consumer or failing that – that California should design and implement a web-portal system that allows consumers to comfortably file inquiries or complaints on behalf of themselves.

### **Proposed Section 1071(a)**

As stated above, the CRC fully supports complaint and inquiry management processes. To avoid confusion, the CRC recommends the addition of a sentence to the definition of "complaint" that states in substance, "notwithstanding anything to the contrary in this definition, a 'dispute' related to information contained in a consumer's credit file as covered by the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*, is not a 'complaint' for purposes of this regulation." CRC believes this addition makes an important delineation between a "complaint" (expression of dissatisfaction) and credit reporting disputes, which are governed by the FCRA under a wholly separate process.

### **Proposed Section 1071(b)**

While the CRC is not opposed to persons lawfully representing consumers in the inquiry or complaint process, as in the case of California's privacy laws, the CRC believes that any person other than the

consumer themselves must provide proof or verification of their authority to act on the consumer's behalf. At a minimum, the CRC believes the DFPI should allow a covered person to respond by requesting proof of representation and/or authority to act and should not be obligated to respond until such documentation is supplied. Without such proof of "authority to act on a consumer's behalf," this broad definition could expose consumers' sensitive non-public information to disclosure in a way that is inconsistent with California's privacy laws.

### **Proposed § 1072 – Complaint Process**

The CRC strongly favors the automation and standardization of the entire inquiry and complaint process, including reporting and retention requirements, via a web portal maintained by the Department, similar to the Consumer Financial Protection Bureau's ("CFPB's") complaint portal. The Department would then be in complete control of, not only the specific information it requires to be submitted but would have full access to any data it needs to fulfill its responsibilities to report on, track and trend all inquiries and complaints and their respective resolutions. Furthermore, such a web portal is much more likely to assist with the resolution of inquiries and complaints. Instead of designing its own system from the ground up, the Department could borrow from the CFPB's already existing platform that has been around for a decade.

In addition, as California is now licensing debt collectors, the complaint system could interact with California's licensing database so consumers would know when they are logging either a complaint or inquiry whether or not they are dealing with a licensed California debt collector. There have been many enforcement actions related to fraudsters who impersonate debt collectors and this nexus between California's licensed agency records and its inquiry and complaint database would provide consumers with much needed information regarding whether or not they are dealing with a real debt collector or a fraudster. To facilitate resolution, a central tool maintained by the DFPI could also allow for consumers to self-serve the status of their inquiries and complaints and would allow for the development of wraparound consumer educational information on how to file an inquiry or complaint and what to expect throughout the process. Again, the CFPB's complaint portal is an excellent model for this approach.

As noted above, the CRC supports requirements that debt collectors include in their compliance management systems written compliance documents memorializing their complaint and inquiry handling processes. Procedures that obligate debt collectors to log, investigate and respond to complaints are supported by the CRC. The CRC further notes that the compliance expectations published from time to time by the CFPB for debt collectors can and should serve as *a de minimis* baseline for compliance in California. Stated otherwise, debt collectors should be entitled to rely on the standards set by the CFPB to assure compliance in California with respect to complaint management. The reporting requirements of Sec 1071(h) could be better achieved with the

development of a portal, which will allow DFPI to determine in real time whether a debt collector, especially a licensed debt collector, is in compliance. The resources needed by DFPI to review these quarterly reports will be extensive; having the reporting requirements baked into a portal would be more efficient.

CRC recommends that the California complaint intake form include information from the consumer regarding whether or not they filed the complaint previously and whether or not they brought the subject matter of the complaint to the attention of the affected covered person. The CRC believes consumers should be encouraged to bring complaints and inquiries directly to covered persons to provide for a more direct and immediate handling and resolution of their inquiry or complaint. Where possible, the CRC recommends drop down choices for responses so that data is received in a uniform and sort-able manner.

Proposed § 1072(h) states, in pertinent part, that

The covered person shall submit to the Department a quarterly complaint report, which shall be made available to the public. The report shall include information regarding all complaints received by the covered person, including complaints forwarded to the Department.

CRC agrees with the proposal that covered entities should be required to log and track all complaints received, but the Department's failure to prescribe a model form for the complaint log is troublesome. While certain information is mandated to be included in the complaint, *see* Proposed §§ 1702(h)(1)-(15), the lack of a model report or form means that covered entities are free to compile the mandated data in any form and then transmit it to the Department. In turn, this means the Department is going to receive hundreds, if not thousands, of quarterly submissions with each submission being a different format. The Department must then expend additional resources (both time and expense) to collate and digest the information received in order to effectively process and prevent potential consumer harm. Without a standardized form or resource, the CRC is concerned that all the needed datapoints might not be included in the wide array of quarterly reports thus causing the DFPI and debt collectors alike to spend administrative time and resources revising or amending reports. CRC believes that the inefficiency of the proposed system does not present a likelihood that this process will assist with the goal of preventing consumer harm. As noted above, were the DFPI to host a portal or tool such as the CFPB's the reporting and other capability would be built into the DFPI's system, thus not requiring any human involvement or intervention to cull together and analyze data about complaints.

Both Proposed §§ 1072(e)(4) and 1073(c)(2) make important points and are fully supported by the CRC. In the event a covered person has investigated and responded to a complaint or inquiry, the



CRC supports the opportunity to respond to any subsequent duplicative complaints or inquiries with a copy of the prior response or a written response that because the complainant previously submitted the same complaint or inquiry and provided no new information, the covered person is not obligated to respond.

A final note, the CRC believes it is critically important for consumers with questions and concerns but not expressions of dissatisfaction to be giving the opportunity to make a choice when logging into a tool maintained by the DFPI. Specifically, the CRC favors a clear option for consumers to log an “inquiry” to which a debt collector would be obligated to respond in a timely manner. The CRC believes that a bifurcation of “inquiries” and “complaints” would be valuable in improving both the trust and accountability in a consumer’s experience with one or more debt collectors. In short, a web portal would be a trusted and centralized vehicle for communications between consumers and debt collectors, under the regulator’s purview.