

Optio Solutions, LLC ("Optio") is a member of the California Association of Collectors. Optio is a small business located in Northern California.

Optio submits the following comments in response to the DFPI's Notice of Modification to Proposed Rulemaking under the CCFPL: Consumer Complaints and Inquiries (PRO 03-21), dated December 22, 2022.

As an initial observation, the requirements under PRO 03-21 conflict with the federal requirements for handling consumer complaints that were established years ago by the Consumer Financial Protection Bureau ("CFPB").

The CFPB has a web portal to receive written consumer complaints directly, and has reasonable time frames and options for covered persons to respond. By receiving consumer complaints directly through a portal, this allows the CFPB to access and analyze complaints and other data without relying on reporting by covered persons, and eliminates any burdensome reporting requirements for covered persons. By comparison, the processes proposed in PRO 03-21 for complaint handling are unduly burdensome in terms of both administrative time and expense. With the requirements to internally track, log, and respond to complaints through a process that differs from the CFPB's, followed by preparation of detailed reports for submission to the DFPI, Optio will be required to expend significant resources just to manage this process.

To align with the CFPB's procedures already in place that Optio and other collection agencies already comply with, the DFPI should manage a complaint portal that receives consumers' complaints directly and remove the requirement for such detailed complaint reporting, which will allow the DFPI to efficiently and easily access complaint data and reduce a burdensome process for small businesses like Optio.

With respect to other aspects of the proposed rules, Optio's view is that the definitions of "Complaints" and "Inquiries" are ambiguous and overbroad, and will make compliance extremely difficult.

By way of example, each of the following written and oral communications would likely be considered a "Complaint": (1) each letter sent by a credit repair organization on behalf of a consumer, falsely stating that the covered person has not responded to a consumer, even after the covered person has responded to the consumer, (2) any and every time a consumer expresses dissatisfaction during a telephone call, (3) any time a consumer is not happy that the covered person is reporting an account to their credit report, (4) anytime a consumer complains about a covered person not deleting an account from their credit report when the covered person has no legal or other obligation to delete an account from a credit report, and (5) CFPB and other complaints submitted to regulators.

Not only are oral complaints considered "Complaints" under the proposed rules, which deviates from the CFPB's process and must now be tracked, logged, responded to etc. along with written complaints, duplicative complaints may be considered duplicative only if identical to the first complaint. This is unreasonable.

The proposed rules regarding "Inquiries" place a host of new and detailed obligations on covered persons. Given the unreasonably broad definition of "Inquiry," covered persons may have to develop and maintain an entire database just for these requirements and will have to

commit staff simply to address these requirements. Moreover, a question or request will not be considered an "Inquiry" only if the consumer verbally confirms during the initial contact that the matter has been fully resolved to the consumer's satisfaction. Why is this limited to the initial contact? If a consumer expresses satisfaction with the resolution of the matter in a subsequent contact, that should resolve the "Inquiry." Managing "Inquiries" as proposed by the Rules will impose an unreasonable financial burden on small business like Optio, including those that provide debt collection support to creditors and government agencies.

As proposed, the rules will result in an overwhelming increase in the number of disputes, inquiries and complaints that will be made against covered persons. Combining this with the detailed investigation and reporting requirements regarding the disputes, inquiries and complaints will result in a significant administrative burden to the covered persons, and will add to significantly to the cost of operations. Optio estimates it will have to add at least one full time person to handle complaints and inquiries as defined by DFPI because the definitions are so broad.

The proposed rules also require covered persons to return a consumer's voicemail within two (2) business days. This is too short, and will be difficult to comply with. There have been well publicized challenges facing small businesses in hiring and retaining employees, and the increased reporting requirements imposed at the state and federal level, the time period in this section should be expanded to five (5) days. The inability of a covered person to comply with such a short time period also unnecessarily exposes the covered person to liability in this strict liability environment.

As drafted, the proposed rules require covered persons review certain processes and procedures every three (3) months. This should be extended to one (1) year. The three (3) month period is too short, may not permit sufficient time to make the assessment described in this section, and will require the commitment of substantial staff time.

The proposed rules also require that the reports described in Section 1072(j) be made generally available to the public. What is the purpose of making them available to the public? Optio would submit that this requirement be removed as it has no meaningful purpose for consumers.

As a final comment, Optio would like to note that the cost of doing business in California continues to increase dramatically and is becoming unfeasible for many small businesses like Optio. While Optio remains headquartered in Northern California at this time, it has opened a call center in North Dakota – a much friendlier environment for small businesses like Optio -- and it has engaged a remote workforce. In light of the growing financial burden, Optio continues to consider its options with regard to transitioning more of its operations out of state.

Optio appreciates the DFPI's consideration of these comments, and hopes the DFPI will take action to modify its proposed rules in line with these and other comments submitted by interested parties.

Sincerely,



Chris Schumacher, President and CEO
Optio Solutions, LLC