

Dyson, Araceli@DFPI

From: Fernandez Stephen [REDACTED]
Sent: Friday, January 20, 2023 10:50 AM
To: DFPI Regulations
Cc: Bae, David@DFPI
Subject: RE: PRO 03-21 - CONSUMER COMPLAINTS AND INQUIRIES

Follow Up Flag: Follow up
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We are a minority family-owned small business. We help other small businesses in our community by supporting them in recovery of monies owed to them. CVCS is small business and employee 11 people. We value and appreciate our employees and have had the opportunity to be blessed with long term employees. We are also thankful for our clients supporting us over the years. The cost of doing business as a small business in California has and is now becoming very expensive, some of the new proposed regulations that are being discussed are putting additional financial constraints upon us as a small business as we are one of the highly regulated businesses under Federal and State laws. We are now having to deal with additional proposals that will cause additional time, cost, and undue burdensome paperwork. These are some of our concerns regarding the definition of “Complaints” in the proposed regulations, covered persons will likely have to consider each of the following a “complaint”:

1. Each letter sent by a credit repair organization, sent 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 time a consumer says, “you are harassing me,” and hangs up.
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.
5. CFPB complaints.
6. DFPI complaints.
7. Any time a consumer complains about a bill from anyone in the Medical field i.e., Doctor, Dentist, Optometrist: that they didn’t like the service, manners, short time of visit, etc.
8. Any time a consumer complains about the original creditor.
9. Due to the broad definition of “complaint” and “inquiry,” CVCS may have to log, track, respond to, and report (in a detailed manner) more than _____ “complaints” and “inquiries.” That will be a substantial cost.
10. We estimate that we will have to add time and resources of staff to handle complaints as defined by DFPI because the definition is so broad.
11. Excessive amount of letters that have to be sent to the consumer and the huge increase to our postage, paper, and envelope cost.

In addition to the financial impact there are several issues with the proposed rules as well:

Section 1071(a) of the proposal defines a “complaint” to include an oral or written expression of dissatisfaction from a complainant regarding a specific issue or problem with a financial product or service (except for the listed exclusions). This overly broad definition will impose impractical obligations on companies like mine. It will be extremely challenging to determine the difference between a complaint, a dispute and an inquiry.

If during any call a consumer mentions to a collector any form of dissatisfaction or frustration with a financial product or service or even mentions a negative comment about a service provider, that comment would be subject to the proposed regulations. This broad approach is overly burdensome and will do little to help the consumer. Under this approach, actual complaints would take the same level of resources as a mere comment made by a consumer.

A “complaint” is defined expressly to include an oral or written expression of dissatisfaction from a complainant regarding a specific issue or problem with a financial product or service (except for the listed exclusions). This definition is rather broad and will impose unrealistic requirements on covered persons. Determining the difference between a complaint, a dispute and an inquiry will be challenging enough based on their definitions. Having to log, track and report oral complaints will be unduly burdensome, time consuming and costly.

Section 1072(b)(1) requires certain written disclosures to be included in all written communications with consumers. These additional disclosures will add significantly to our printing, postage, and mailing costs. Mandating that these disclosures are included in every communication and not just the initial written communication is excessive and will over burden the consumer with excessive paper.

Debt collectors are required to send a 5-day receipt letter, a 15-day response letter and possibly an 18-day letter if additional time is needed to complete an investigation. This series of letters would then be followed by another letter with the investigation response. Adding these new disclosures, in addition to the already required disclosures under Regulation F, SB 531, AB 424, and AB 1020 will only lengthen an already cumbersome written communication process and increase costs to our company significantly.

This Section requires a covered person to include certain written disclosures in all written communications with consumers in 12-point font. How are we going to handle electronic communication? Why does this have to be on ALL communication.

Section 1072(b)(2) requires certain information to be displayed prominently on any web pages of a covered person relating to a financial product or service. The DFPI needs to provide clarification on what is meant by “prominently”. Additionally, this requirement should be limited to the main page of a website. Requiring this a disclosure on any web page is unnecessary and excessive.

Section 1072(c)(3) This Section requires covered persons to return a consumer’s voicemail within two (2) business days. This is too short.

Section 1072(d)(3) This Section is unnecessarily narrow as it authorizes a covered person not to respond to a repetitive complaint only if the complaint is the identical act, omission, decision, condition, or policy.

Additional Suggestions:

How about the DFPI having a complaint portal like the CFPB, why should be collection agencies be responsible for the costly burden to track complaints, disputes and inquiries?

How about the DFPI suggest there be an exemption to the rule for covered parties with an annual revenue of over \$3 Million.

How about the DFPI suggest there be a rule that if complaints are against the original creditor that those complaints must be filed with the appropriate board or bureau that regulates them by the California Department of Consumer Affairs.

I would like to thank the DFPI for the opportunity to provide these comments in response to the Notice regarding PRO 03-21. In addition to my brief comments above, I encourage the DFPI to strongly consider the comments being submitted by my state trade association, the California Association of Collectors (CAC) and American Collectors Association (ACA).

Best regards,

Stephen Fernandez ext 223
Coachella Valley Collection Service

THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

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