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Sent via Email to: regulations@dfpi.ca.gov with a copy to David.Bae@dfpi.ca.gov

Subject: PRO 03-21 - CONSUMER COMPLAINTS AND INQUIRIES

Date: 4/28/2023

My name is Courtney Reynaud and I am a third-generation owner, operator of Creditors Bureau USA, a retail & commercial collection agency in Fresno, California. I am writing to submit the comments below regarding the DFPI's Notice of Modification to Proposed Rulemaking under the CCFPL: Consumer Complaints and Inquiries (PRO 03-21).

Creditors Bureau USA is a small business that helps recover outstanding payments for products and services provided by California businesses, hospitals, and community lenders. We are an extension of our community's businesses. We work with large and small businesses across the state, as well as consumers, to obtain payment for the goods and services already received by consumers. Our services allow lenders to extend credit to consumers of all means, as they are assured that they will be able to collect on that debt.

While I support the DFPI's underlying goal providing an accessible area for consumers to submit complaints, I have significant concerns about the burdens the proposal will have on my company and the clients we serve.

I respectfully request the DFPI consider my comments below and work toward uniformity with federal law. I believe that including Debt Collectors and Debt buyers under this proposed rule is duplicative and unnecessary as we are currently required to comply with DFPI Debt Collection Rules which includes rulemaking, furthermore, these proposed rules are confusing to business owners and consumers alike. Establishing duplicative and conflicting federal and state, processes, timelines, disclosures, and documentation requirements will only confuse the consumer and create an impossible compliance situation for California companies.

As I have stated in my previous responses, if the DFPI seeks clarity and consistency with the consumers and the companies it regulates, it should consider a consumer complaint portal similar to the CFPB. Creating this type of complaint portal would create consistency for all consumers. A complaint portal should focus on receiving actual consumer "complaints" as defined by the CFPB and not "inquiries" which would inadvertently catch thousands of trivial interactions.

The proposed requirements in PRO 03-21 will significantly increase operating costs for any small business to implement. The broad definition of complaints and inquiries will require small businesses, like mine to create a system to log, track, respond to, and report both complaints and inquiries and will require us to attempt to categorize consumer complaints and inquiries based on a list of options that is open-ended and unclear. The creation of these reports and internal processes that will attempt to categorize these complaints/inquiries will be very costly.

My company would need to re-assign at least one full-time staff member or more just to develop and manage the implementation and ongoing management of the processes and procedures required by the proposal. A large portion of this individual's time would be spent handling negative comments and simple inquiries rather than actual complaints or inquiries.

Section 1072: (b)(1) of the proposal states that an annual notice will be issued to consumers at least once per year and in the initial communication to each consumer including information about how a Covered person can file a complaint. This will be extremely costly to covered businesses and is inconsistent with existing statute under FDCPA and Regulation F. While this third modification to the text has improved, I propose the following language:

"In the initial written to each consumer related to a particular financial product or service used by the consumer, the covered person shall disclose the procedures for filing a complaint. These disclosures may be provided electronically if the consumer has agreed to receive electronic correspondence from the covered person and shall, in a clear and conspicuous manner, provide the following information..."

Regulation F and the FDCPA clearly define a time period in which a consumer may dispute a debt. Providing additional disclosures under CA law will require Covered persons to print the initial notification on more than one page (as the back of the initial communication is already filled with existing CA statutory language in size 12 font). Furthermore, communicating to all consumers annually is misleading for consumers and is extremely costly for California businesses prices continue to rise.

Section 1072: (2) of the proposal states that the company's main homepage or the main contact page of the website must contain a link to the DFPI complaint portal. This statement is overly broad as "Company's Main Homepage or Contact Page has not been clearly defined. Please clarify and define what website the DFPI would define as the company's main webpage or main homepage in the instance where a company has a website geared for Creditors/Clients but also has a separate web page for consumers and customers.

Section 1072: (3) will require Covered Parties to incur additional costs to employ, staff and maintain a telephone line with live representatives during a time when California businesses are struggling with staffing shortages and inflation. This provision is unfair and will be particularly burdensome for small businesses with limited staff.

Section 1072: (5) of the proposal may confuse consumers as the statute of limitations under existing law is one (1) year from the date of the act, not the date of discovery.

Section 1072: (d)(2) of the proposal is burdensome and will result in confusion for consumers. Currently the 1692g notice required under Regulation F and the FDCPA allows for the use of the backer for state required language. Based on the current statutory requirements in California, the California required language is using the complete backside of the letter on an 8" by 14" paper. It is not possible to include additional language on a backer in size 12-font without extending to the tear off section or requiring a second page which would be costly and burdensome for businesses.

Section 1072: (f) of the proposal will be costly and overly burdensome to California businesses as businesses will need to hire and/or designate a Complaint Officer to monitor the complaint processes. This burden will be greater for the small businesses impacted by this provision as officers or other individuals that would qualify

as a Complaint Officer are often required to wear many hats within an organization and are often overextended.

Section 1072: (g) of the proposal is burdensome for small businesses and creditors. Many, if not all, disputes will require creditor input, and this is an extremely limited timeframe for a response. The FDCPA and FCRA as well as the CFPB have longer timeframes for response. I would not be opposed to language that states a Covered Party would be unable to communicate with a consumer (complainant), by any means without first responding to a consumer complaint in writing.

Section 1072: (j)(11) of the proposed rule does not provide sufficient time for a business to thoroughly investigate a complaint. This proposed rule would create a hardship on small businesses and the businesses who provide services and support other small businesses within our community.

Section 1072: (h)(13) & (14) of the proposed rule is cumbersome, costly and may result in decreased security for the consumer. Providing or supplying links to information used to respond to a complainant could violate the Federal FDCPA's third party disclosure and create a HIPAA violation.

Section 1072: (14) (A-N) of the proposed rule is overly broad and confusing. It is unclear how a Covered Party is supposed to determine the dispute type as many complaints and disputes are unclear and vague. This proposed rule would require a Covered Party to make assumptions about the type of complaint they received, likely resulting in the misidentification and misclassification of complaints. Furthermore, **Section 1072: (14)** (M) is vague, and unclear. Please provide clarification or explanation as to what types of entities this section would apply to.

Section 1073: (c) of the proposed rule is a burden for small businesses and creditors. Many, if not all inquiries will require creditor input and the time frame is too limited as written.

Section 1072: (j)(11) of the proposed rule does not provide ample time for a business to thoroughly investigate a complaint. This proposed rule would create a hardship on small businesses and the small businesses who serve other small businesses within our community.

Section 1072 (5)(f) of the proposed rule states that the covered person shall designate an officer to monitor the complaint process who shall be ultimately accountable. This is confusing and overly broad as "ultimately accountable" is not defined.

Section 1072: (h)(13) & (14) of the proposed rule is cumbersome, costly and could result in decreased security for the consumer and/or a possible HIPAA violation. Providing or having links to information used to respond to a complainant could possibly violate FDCPA's third party disclosure and HIPAA. Furthermore, this information can be found in the consumer record.

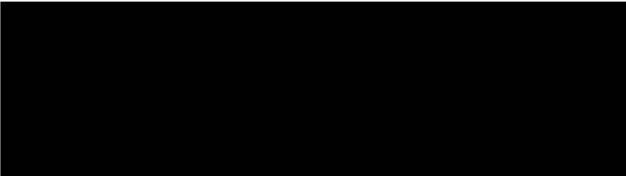
Section 1072: (14) (A-N) of the proposed rule is overly broad and confusing. It is unclear how a Covered Party is supposed to determine the dispute type as many complaints and disputes are unclear and vague. This proposed rule would require a Covered Party to make assumptions about the type of complaint they received, likely resulting in the misidentification and misclassification of complaints.

Section 1073: (c) of the proposed rule is a burden for small businesses and creditors. Many, if not all inquiries will require creditor input and the time frame is too limited as written.

Section 1073: (j)(1) and (D) is overly burdensome and confusing. Currently the CFPB allows for an extension to respond to a complaint, up to 60 days. It would be reasonable if the DFPI matched that timeframe in the instance where the Covered Party needs additional information from the Creditor to resolve the complaint

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.

Respectfully Submitted,



Courtney Reynaud, President
Creditors Bureau USA