

Consumer Watchdog's Proposed Debt Collection Rule Bites Consumers: Authorizes Harassment by Debt Collectors

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Washington - The Consumer Financial Protection Bureau (CFPB) released a proposed debt collection rule today which provides numerous gifts to debt collectors with limited new protections for consumers.

"We are horrified that the CFPB's proposed rule will actually authorize harassment of consumers through phone calls, emails, and texts. We are deeply disappointed that the CFPB failed to use this opportunity to protect consumers," **said Margot Saunders, an attorney at the National Consumer Law Center.**

"Seven calls per debt, per week is simply too many, especially when combined with unlimited emails and texts," **said April Kuehnhoff, an attorney at the National Consumer Law Center who focuses on debt collection.** "A student with eight loans could receive 56 calls per week. The proposed rule would also allow for critical notice to consumers to be provided by email or text message without a consumer's consent as required by federal law. Other emails and text messages have no limits unless the consumer opts out."

"Debt collectors could leave messages on voicemail that may not be private," **added Kuehnhoff.** "And protections from time-barred "zombie" debts would be limited to prohibiting lawsuits and threats of suits on such debts, meaning that the consumer will face continued collection attempts out of court. Consumers will not understand that lawsuits are prohibited or that small payments may, in some states, open the consumer up to being sued."

"And the proposed rule allows critical notices to be sent by email to consumers who may not have regular internet access," **noted Saunders.** "The cell phones used by many low-income consumers do not provide the ready email access or ample data that wealthier people enjoy. They may not be able to use their phones to read emails, open attachments, and click on hyperlinks to see critical disclosures."

Contact with a debt collector is a common experience for Americans. In 2017, 71 million Americans - nearly one in three adults with a credit report - had a debt in collection reported on their credit reports. Nationally, the percent of people with debt in collection reaches 45% for residents of predominantly non-white zip codes.

Abuses by debt collectors are consistently among the top consumer complaints to both the CFPB and the FTC. In 2018, there were 475,517 consumer complaints about debt collection compiled by the Federal Trade Commission. In 2017, the top categories of law violations in debt collection complaints collected by the FTC included "Calls After Getting 'Stop Calling' Notice" (227,917 complaints), "Calls Repeatedly" (210,238 complaints), "Makes False Representation about Debt"

(192,704 complaints), “Fails to Identify as Debt Collector” (84,364), “Tells Someone Else About Consumer’s Debt” (39,760 complaints), and “Falsely Threatens Illegal or Unintended Act” (31,519 complaints).

NCLC’s Key Recommendations to Strengthen the Rule and Rein in Abuses

- **Stop telephone harassment** by limiting collectors to one conversation per week (with up to three attempted calls per collector).
- **Only permit e-mail and text communications** after a consumer has affirmatively opted-in to this method of communication, especially for the delivery of critical disclosures.
- **Protect consumer privacy** by not exempting any collector contacts from the Fair Debt Collection Practices Act and clarifying that collectors cannot leave messages with employers, friends, or neighbors.
- **Stop collection of zombie debt** by prohibiting collection, both in and out of court, of time-barred debt that is too old to be legally sued on.

The public will have 90 days to submit comments on the proposed rule after it is published in the Federal Register.

Related Resources

- **NCLC report:** *Consumer Complaints about Debt Collection: Analysis of Unpublished Data from the FTC and National, State, and D.C. fact sheets*, February 2019
- *CFPB Fair Debt Collection Practices Act Annual Report*, March 2019
- *CFPB’s Study of Third-Party Debt Collection Operations*, July 2016
- CFPB’s Advance Notice of Rulemaking re: Debt Collection, November 12, 2013
- FTC’s report on the *Structures and Practices of the Debt Buying Industry*, January 2013

For more information on NCLC’s extensive body of work on fair debt collection, see <https://nclc-old.ogosense.net/issues/debt-collection.html> and CFPB debt collection rulemaking: <https://nclc-old.ogosense.net/issues/debt-collection-rulemaking-at-the-cfpb.html>