TAKING A CLOSER LOOK:

An Analysis of the Consumer Financial Protection Bureau's Current Debt Collection Complaints

November 2013

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About the Authors:

ACA International (www.acainternational.org)
With offices in Minneapolis and Washington, D.C., ACA International is the largest trade association representing the consumer credit and debt collection industry. Our nearly 5,000 member organizations employ more than 300,000 men and women as third-party debt collectors, debt buyers, collection attorneys, creditors and industry service providers. ACA has 41 state-level units representing the 50 states and one unit representing more than 60 countries abroad. The recovery of consumer debt is vitally important to America's credit-based economy and, according to an economic impact study by Ernst & Young, third-party collection agencies recovered $55 billion on behalf of creditor clients in 2010.

Ernst & Young (www.ey.com)
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

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I. Executive Summary

Introduction

ACA International members take consumer complaints very seriously. It is estimated that each year third-party debt collectors make one billion contacts to consumers to recover rightfully owed debt. We strongly advocate for improving communication between consumers and debt collectors as contact from a debt collector can often elicit an emotional response from consumers. ACA commissioned Ernst & Young to conduct analysis of 5,625 consumer complaints released by the CFPB specific to debt collection to look beyond the topline findings (as of Nov. 11, 2013) to help debt collectors better understand the concerns of consumers.

Ernst & Young Key Findings

The CFPB released data including company name, consumer zip code, product, sub-product, issue, complaint submission date, response timeliness, and whether a consumer disputed the company's response:

- CFPB data comingles first-party and third-party collection complaints. Of the 5,625 consumer complaints made public, approximately 1,221 or 22% were made against companies conducting first-party collections (financial companies or other direct creditors).
- Of the 597 third-party collection companies listed, 511 had fewer than 10 complaints. Moreover, 430 third-party companies had fewer than five complaints.
- The highest number of identifiable complaints was for credit card and medical debts. However, nearly 40% of the complaints were not associated with a particular debt collection product.
- The most reported concern for consumers was being contacted about a debt they did not believe they owed. This was followed by disclosure verification of a debt and communication tactics.
- Nearly all of the complaints received by the CFPB were responded to in a timely fashion. Based on the data, 95% of the complaints were responded to with a timely response.
- Ninety-three percent of complaints were "closed, closed with non-monetary relief or closed with explanation" in the database; of these about 1% of complaints were listed as "closed with monetary relief."

ACA Key Concerns with CFPB's Complaint Database

- There is a lack of clarity in the data as to whether complaints are against first-party or third-party debt collection companies. Lumping these together creates uncertainty about complaints reported more than once and paints an inaccurate portrait of third-party debt collectors.
- The limited amount of information provided about consumers to debt collectors in the CFPB complaint process makes accurate identification and timely response difficult.
- The CFPB's description of a complaint, coupled with the fact that it does not investigate whether any real wrongdoing has occurred or whether it is an inquiry/request for additional information, enables the data to create an inaccurate perception of the extent of wrongful conduct.
- Due to the 60-day lag time from company response to consumer dispute of the company response, coupled with a lack of completeness in the database, an accurate assessment on the number of disputes cannot be made at this time.

ACA Recommendations to the CFPB and Others Regarding Complaints

- Clearly identify first-party collections from third-party collections to ensure accuracy in complaint reporting and avoid the potential for double counting.
- Maintain context by resisting the temptation to use a broad-brush to paint debt collectors negatively or make assumptions about the behavior of an entire industry solely on top line volume data.
- Provide more consumer detail to debt collectors who are the subject of a complaint to increase the likelihood of more easily identifying the information needed to resolve the consumer's complaint.
- Adopt a definition of a complaint that is limited to consumer allegations of wrongful conduct and does not include the amorphous concept of general consumer dissatisfaction outside of wrongful conduct.

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II. Overview

The Purpose of this Report – Analyzing CFPB Consumer Complaint Data

In 2010 the U.S. Congress passed the Dodd-Frank Act that created the Consumer Financial Protection Bureau (CFPB). Among its many responsibilities, the CFPB supervises the third-party debt collection industry and maintains a database of complaints against debt collectors.

In July 2013, the CFPB officially began accepting consumer complaints pertaining to debt collection. Through this process, consumers may register a complaint and have it reviewed and resolved through communication with a debt collector. Information, excluding identifiable consumer data, has been made publicly available, searchable and easy to assemble into a report by users.

A total of 5,625 debt collection complaints were publicly released by the CFPB in early November 2013 with additional complaints to regularly be added by the CFPB. To better understand the data beyond the total number of complaints, ACA commissioned Ernst & Young to undertake a thoughtful analysis of the available findings.

ACA Members and Complaints

Third-party debt collectors make approximately one billion contacts to consumers per year. ACA members take consumer complaints seriously and want to work with consumers to resolve concerns. ACA's Code of Ethics requires each ACA member company to identify a specific contact designated to work with consumers to address complaints. ACA is committed to helping members better understand and comply with federal, state and local laws governing the collection of consumer debt. Moreover, we provide exceptional training to help members prevent complaints from occurring and to meaningfully resolve them if they do.

From a practical perspective, ACA members appreciate the opportunity to work directly with consumers to resolve complaints. Communication is the cornerstone for effective consumer debt collection and, when given the opportunity, ACA members continue to show they can be successful in appropriately resolving consumer complaints. According to the Better Business Bureau, in 2012, collection agencies resolved 86% of the consumer complaints received compared to the national average of 77% for all other industries combined.

ACA and the CFPB

ACA has sought a mutually respectful and collaborative relationship with the CFPB. Consumer debt collection is an important industry. ACA has sought to help the CFPB to better understand its complexities while helping our members better understand the CFPB oversight of their businesses. In addition to general oversight and complaint resolution, since January 2013 the CFPB has examined Large Market Participants in the debt collection market. ACA's efforts have included, but are not limited to, the following:

- Meeting with the CFPB leaders to educate them on the complexities of the debt collection industry.
- Monitoring the CFPB's actions and responding as appropriate on behalf of ACA members.
- Inviting CPFB leaders to speak at our conferences and interact with industry members.
- Participating in industry relevant hearings, work groups and panels.
- Communicating with members to prepare for supervision, rulemaking, enforcement and complaint resolution.

The Recovery of Consumer Debt is Vital to Federal, State and Local Economies

The recovery of rightfully owed consumer debt is a critical function for maintaining America's credit-based economy. Without it, consumers, businesses and government would face significant adverse impacts including:

- An increase in the price for goods and services to cover creditor losses.
- Credit that is more expensive and less available for consumers.
- The elimination of businesses that rely on recovered debt for operational essentials such as rent, utilities, supplies, salaries and employee benefits.
- The failure to recover outstanding tax revenue, thereby leaving a hole in federal, state and local government budgets that prompt spending cuts or tax increases to cover shortfalls.

ACA regularly conducts research to assess the actual impact third-party debt collection has on the national and state economies. Our most recent data, conducted by Ernst & Young in 2011, can be found at www.acainternational.org/impact.

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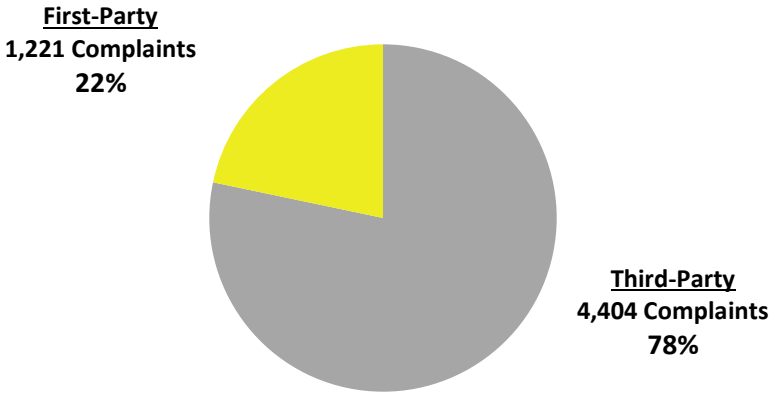
III. EY Findings

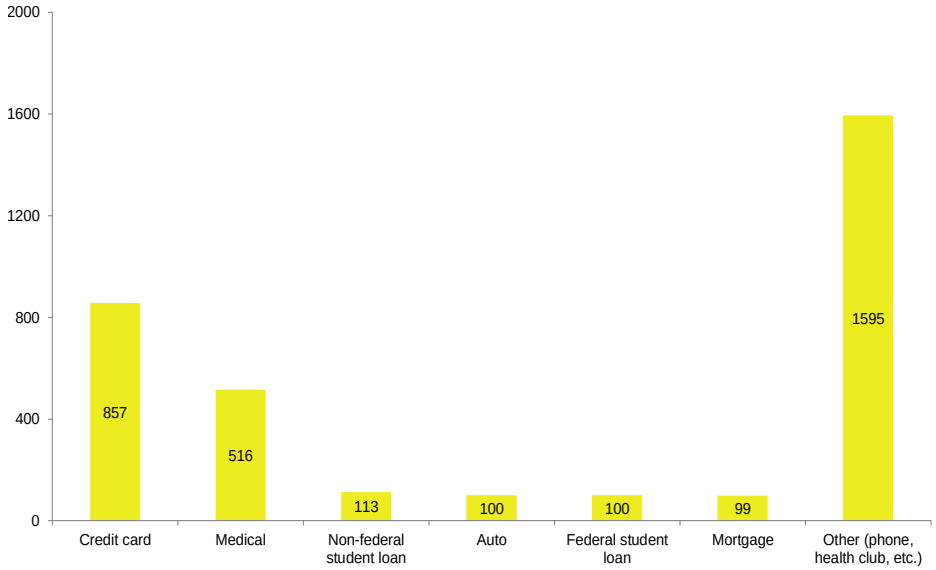
The following analysis by Ernst & Young is based on 5,625 consumer complaints made publicly available on Nov. 11, 2013. The CFPB released data including company name, consumer zip code, product, sub-product, issue, complaint submission date, response timeliness, and whether a consumer disputed the company's response.

- **CFPB data comingles first-party and third-party collection complaints**. Of the 5,625 consumer complaints made public, approximately 1,221 or 22% were made against companies conducting first-party collections (financial companies or other direct creditors). EY reviewed the list of companies and was able to identify, in conjunction with ACA, a number of companies that were not third-party debt collectors, including a number of banks and large financial institutions. Complaints against third-party debt collectors were co-mingled with complaints against the debt collection efforts of these organizations, so that the number of complaints against the third-party debt collection industry are lower than they may appear upon initial examination of the data.



- **Of the 597 third-party collection companies listed, 511 had fewer than 10 complaints.** Moreover, 430 third-party companies had fewer than five complaints. Based on this data, most third-party collection agencies have a relatively small number of consumer complaints and they are widely distributed across the industry. While this doesn't excuse debt collectors from receiving complaints, it does more accurately portray that the occurrence per agency is fairly nominal when compared against the sheer volume of annual contacts made to consumers and the inaccurate portrayal that every agency is a bad actor.

- **The highest number of identifiable complaints was for credit card and medical debts.** However, nearly 40% of the complaints were not associated with a particular debt collection product.



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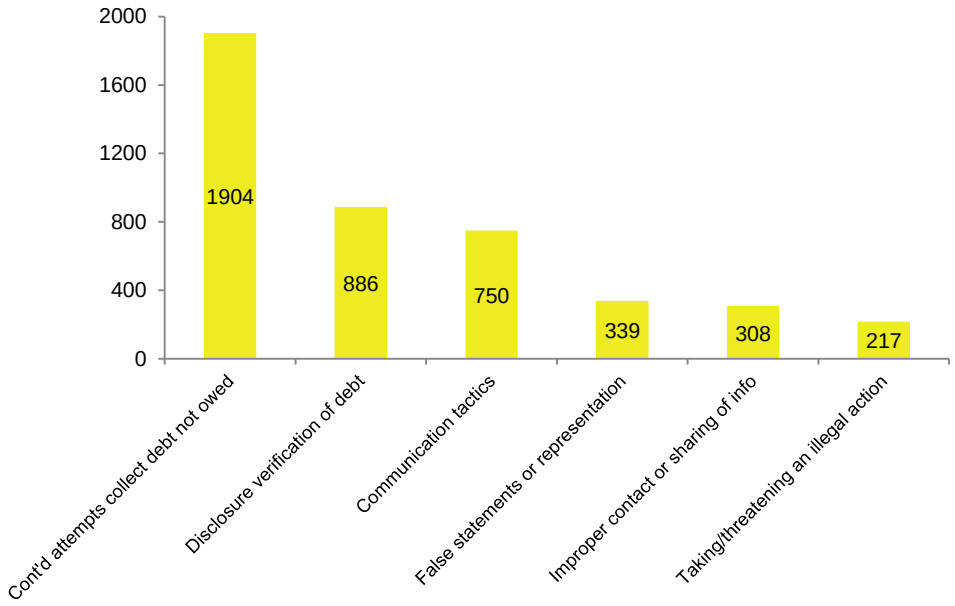
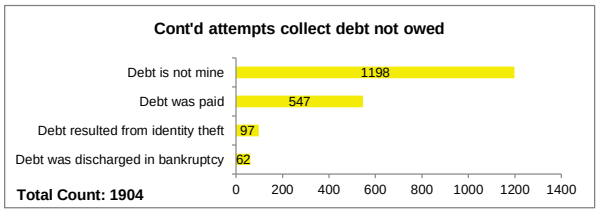
- **The most reported concern for consumers was being contacted about a debt they did not believe they owed.** This was followed by disclosure verification of a debt and communication tactics.

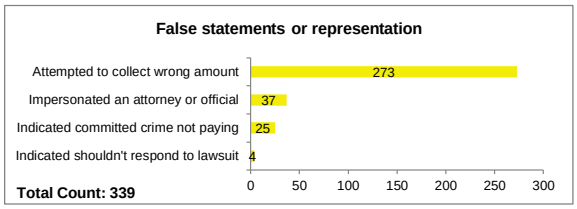
Key Issues

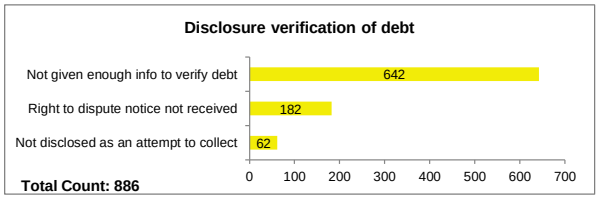


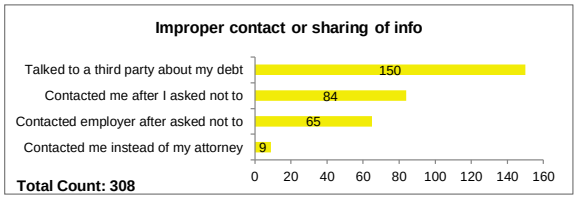
Breakdowns of Issues by Sub-Group

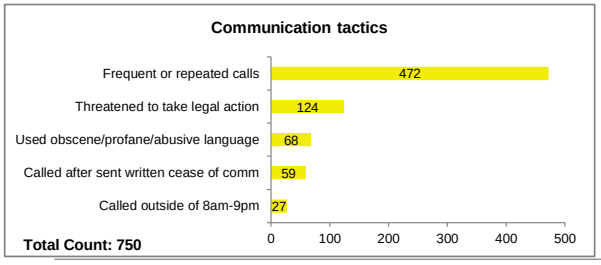
EY further analyzed these issues by the key sub-issues listed by the complainants for each of the six primary issues noted above. The following are the results of that analysis.

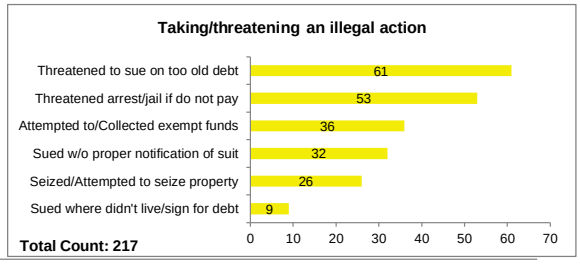












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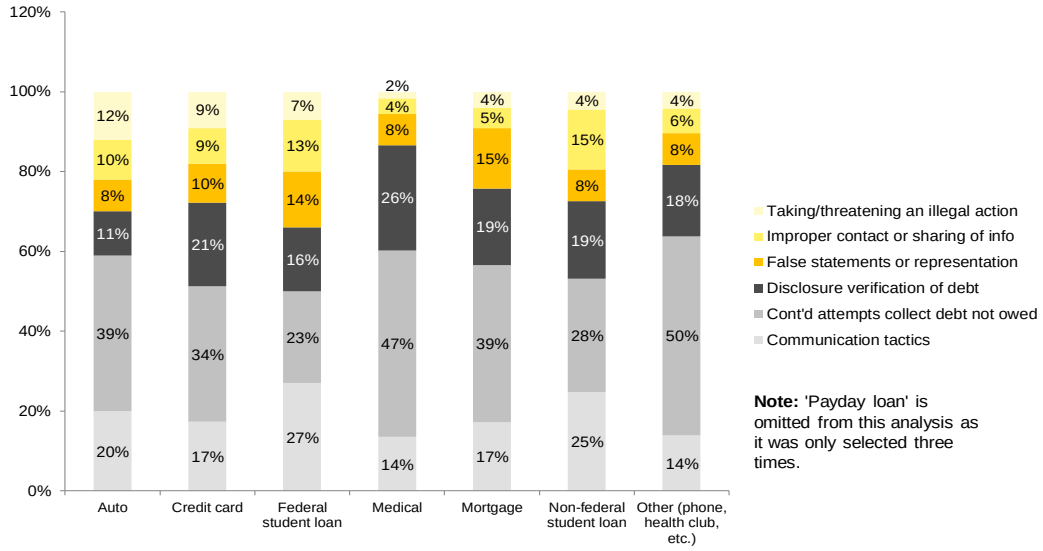
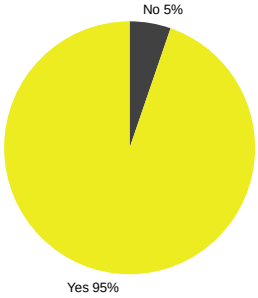
Allocation of Issues by Sub-Group

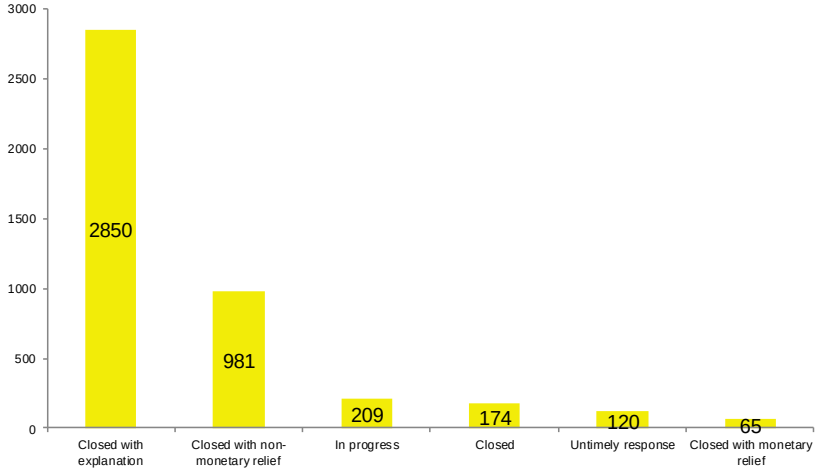
Finally, EY compared the key issues across the product types noted previously. Medical debts have a relatively high rate of complaints related to "continued attempts to call" and "disclosure/verification of debt", student loans have the highest rate of "communication tactics" complaints and mortgage debts have a the highest rate of complaints related to "false statements or representation."



- **Nearly all of the complaints received by the CFPB were responded to in a timely fashion.** Based on the data, 95% of the complaints were responded to in a timely response.



- **A majority of consumer complaints against third-party debt collectors, 3,831 of approximately 4,400, were "closed with explanation" or "closed with non-monetary relief."** In all, 93% of complaints were listed as 'closed' in the database; of these about 1% of complaints were listed as closed with monetary relief.



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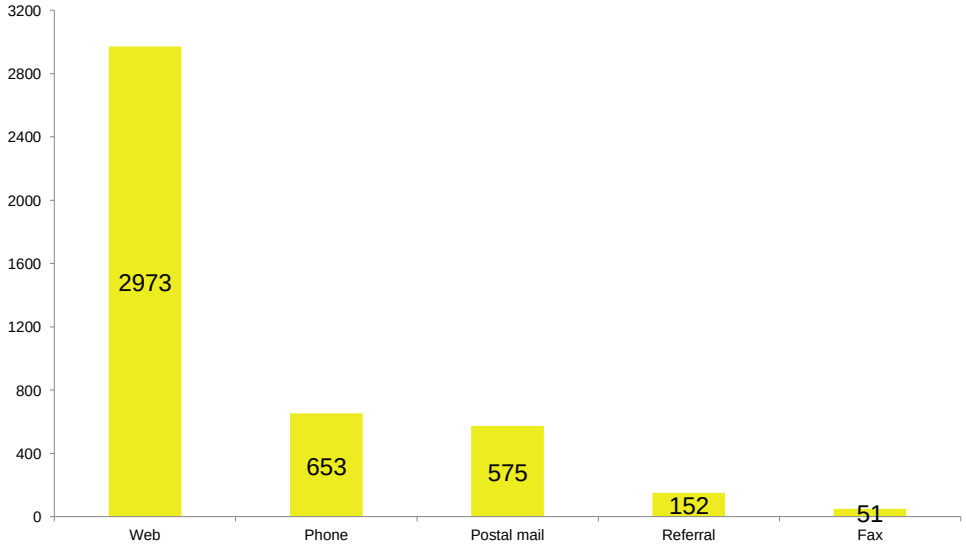
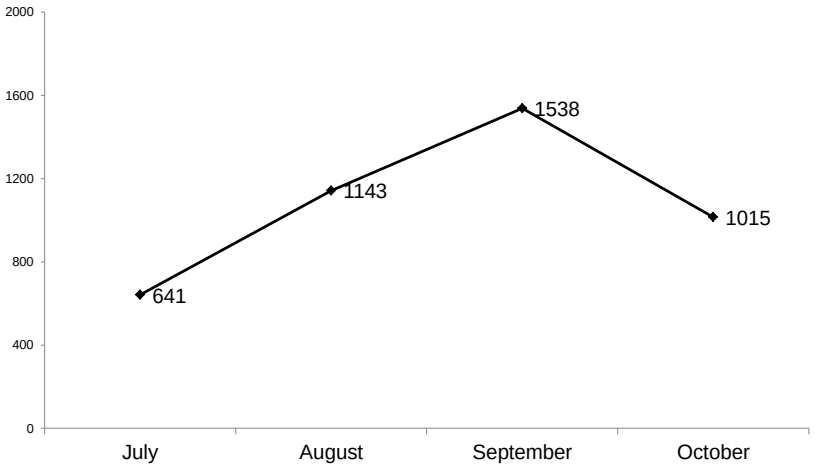
- **CFPB's website facilitated the most complaints by a significant margin.** This was followed by complaints received by phone, postal mail, fax, email and referral.



- **Of the roughly 4,400 complaints received against third-party debt collectors by the CFPB since July 2013, September was the busiest month.** This does not reflect complaints received against first-party collectors during this same time frame. Complaints received in November are not included.



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- **Not surprisingly, large states generated the most complaints – California, Florida, Texas and New York.** The following states generated more than 100 consumer complaints each: Virginia, Pennsylvania, Ohio, New Jersey, Maryland, Illinois, Georgia and Arizona. When taken together, states averaged 85 complaints each. These data only include third-party collection complaints.

State	Complaints	% of Complaints	Total Debt collected 2010 (in millions)[1]	% Debt Collected 2010[2]	Difference
AL	50	1.1%	$ 753.77	1.4%	-0.2%
AK	4	0.1%	$ 74.15	0.1%	0.0%
AZ	108	2.5%	$ 2,274.29	4.1%	-1.7%
AR	28	0.6%	$ 435.38	0.8%	-0.2%
CA	642	14.7%	$ 4,400.60	8.0%	6.7%
CO	81	1.9%	$ 1,160.44	2.1%	-0.3%
CT	31	0.7%	$ 258.34	0.5%	0.2%
DE	16	0.4%	$ 387.75	0.7%	-0.3%
FL	402	9.2%	$ 2,836.32	5.2%	4.0%
GA	183	4.2%	$ 2,277.83	4.2%	0.0%
HI	6	0.1%	$ 36.16	0.1%	0.1%
ID	17	0.4%	$ 128.69	0.2%	0.2%
IL	127	2.9%	$ 2,658.38	4.8%	-1.9%
IN	64	1.5%	$ 787.55	1.4%	0.0%
IA	19	0.4%	$ 491.73	0.9%	-0.5%
KS	24	0.6%	$ 748.92	1.4%	-0.8%
KY	42	1.0%	$ 668.89	1.2%	-0.3%
LA	65	1.5%	$ 641.92	1.2%	0.3%
ME	13	0.3%	$ 93.18	0.2%	0.1%
MD	104	2.4%	$ 711.87	1.3%	1.1%
MA	69	1.6%	$ 1,324.85	2.4%	-0.8%
MI	90	2.1%	$ 736.41	1.3%	0.7%
MN	44	1.0%	$ 1,833.83	3.3%	-2.3%
MS	27	0.6%	$ 289.07	0.5%	0.1%
MO	64	1.5%	$ 1,300.93	2.4%	-0.9%
MT	10	0.2%	$ 209.47	0.4%	-0.2%
NE	8	0.2%	$ 447.26	0.8%	-0.6%
NV	64	1.5%	$ 643.29	1.2%	0.3%
NH	10	0.2%	$ 402.15	0.7%	-0.5%
NJ	150	3.4%	$ 1,219.92	2.2%	1.2%
NM	25	0.6%	$ 65.60	0.1%	0.5%
NY	302	6.9%	$ 5,310.42	9.7%	-2.8%
NC	82	1.9%	$ 808.56	1.5%	0.4%
ND	4	0.1%	$ 106.65	0.2%	-0.1%
OH	147	3.4%	$ 2,597.93	4.7%	-1.4%
OK	48	1.1%	$ 777.83	1.4%	-0.3%
OR	64	1.5%	$ 486.26	0.9%	0.6%
PA	161	3.7%	$ 2,407.75	4.4%	-0.7%
RI	14	0.3%	$ 27.36	0.0%	0.3%
SC	63	1.4%	$ 597.31	1.1%	0.4%
SD	8	0.2%	$ 205.48	0.4%	-0.2%
TN	81	1.9%	$ 1,999.93	3.6%	-1.8%
TX	446	10.2%	$ 5,329.21	9.7%	0.5%
UT	24	0.6%	$ 381.10	0.7%	-0.1%
VT	3	0.1%	$ 27.97	0.1%	0.0%
VA	142	3.3%	$ 1,057.38	1.9%	1.3%
WA	98	2.2%	$ 1,311.30	2.4%	-0.1%
WV	11	0.3%	$ 355.37	0.6%	-0.4%
WI	43	1.0%	$ 647.06	1.2%	-0.2%
WY	6	0.1%	$ 146.50	0.3%	-0.1%

[1] ACA / Ernst & Young 2011 Economic Impact Survey – www.acainternational.org/impact
[2] ACA / Ernst & Young 2011 Economic Impact Survey – www.acainternational.org/impact

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IV. ACA Key Concerns with the CFPB Complaint Database

ACA International has long advocated that communication between third-party debt collectors and consumers is essential to resolving issues and, according to data from the Better Business Bureau, in 2012, debt collectors resolved 86% of consumer complaints versus 77% for all other industries. The CFPB complaint resolution model and public access to this data is a positive change to the long-used process by the Federal Trade Commission (FTC), which simply tallied consumer complaints and publicly communicated the raw findings as part of its annual report to Congress on the Fair Debt Collection Practices Act (FDCPA).

ACA and others have repeatedly expressed concerns with how the FTC data was publicly communicated in that it tended to be fixated on complaint volume to create sensationalism without a thorough examination of the data or what it means. Specific concerns included:

- Data collected by FTC was not publicly available without submission of a Freedom of Information Act request.
- ACA and third-party analysis found glaring inaccuracies in the data.
- A lack of clarity about what was reported as an actual complaint versus being a consumer inquiry.
- Lack of investigation into the validity of complaints or whether they actually constituted a legal violation.

While the CFPB's more transparent system offers a significantly different approach that is far better for consumers because their complaints are being addressed, we do believe there is room for improvement.

- First and third-party collections are lumped together making it difficult to separate them from one another. Further, ACA is concerned over the potential that complaint data could be double-counted (i.e., counted as a complaint against the creditor and a third-party collector), which would create inaccuracies.
- Collectors work with millions of consumers each year and many have the same or similar names. ACA members have indicated that the limited amount of detail provided about the consumer or their complaint makes it very difficult to make an accurate identification, particularly in a timely fashion.
- The CFPB defines a complaint simply as *"a submission that expresses dissatisfaction with, or communicates suspicion of wrongful conduct by, an identifiable entity related to a consumer's personal experience with a financial product or service."* Because this definition does not solely focus on alleged wrongful conduct, and because the CFPB does not investigate complaints to determine whether any illegal activity has occurred, it enables the data to create an inaccurate perception of the extent of wrongful conduct in the industry thereby inflating the need for a policymaking and/or regulatory response.
- Due to the 60-day lag time from company response to consumer dispute of the company response, coupled with a lack of completeness in the database, an accurate assessment on the number of disputes cannot be made at this time.

V. ACA Recommendations for the CFPB Complaint Database

Thoughtful analysis of consumer complaint data can be a useful tool in determining trends, areas for concern as well as areas for improvement by the industry. ACA pledges to continue working with our members to improve compliance, preventing complaints and resolving them if they occur. ACA desires to help the CFPB improve its complaint database so that collectors, consumers, policymakers, regulators and others have an accurate snapshot.

We offer the following suggestions to the CFPB:

- Clearly identify first-party collections from third-party collections in complaint reporting and avoid the potential for double counting complaints that stem from the same underlying issue.
- Maintain context by resisting the temptation to use a broad-brush to paint debt collectors and make assumptions about the behavior of an entire industry solely on the volume of complaints.
- Provide more detail to debt collectors who are the subject of a complaint to increase the likelihood of more easily identifying the information needed to resolve the consumer's complaint.
- Adopt a definition of complaint that is limited to consumer allegations of wrongful conduct and does not include the amorphous concept of general consumer dissatisfaction outside of wrongful conduct.

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