



March 7, 2022

Chairman Sherrod Brown
Senate Committee on Banking, Housing and
Urban Affairs
Washington, D.C. 20510

Ranking Member Patrick Toomey
Senate Committee on Banking, Housing and
Urban Affairs
Washington, D.C. 20510

Dear Chairman Brown and Ranking Member Toomey:

On behalf of ACA International, the Association of Credit and Collection Professionals (ACA), I am writing regarding the Senate Committee on Banking, Housing and Urban Affairs' hearing, "Examining Mandatory Arbitration in Financial Service Products." ACA represents approximately 2,100 members, including credit grantors, third-party collection agencies, asset buyers, attorneys, and vendor affiliates in an industry that employs more than 125,000 people worldwide. Most ACA member debt collection companies, however, are small businesses. Women make up 70% of the total debt collection workforce and it is ethnically diverse.

ACA members' compliant work to help consumers represents an average savings of more than \$700 for every American household. The accounts receivable management (ARM) industry plays a critical role in keeping America's credit-based economy functioning with access to credit at the lowest possible cost. Data from 2018 shows that the total net debt returned to creditors through the ARM industry's work with consumers amounted to nearly \$90.1 billion. This work benefits all American consumers and keeps the costs of goods and services down during a time when rising prices are harming Americans throughout the country. ACA members have numerous compliance and ethical standards that they work toward through industry-sponsored education and certifications. In short, ACA members are committed to helping consumers resolve their legally owed debts in a responsible way, consistent with the Collector's Pledge that all consumers are treated with dignity and respect.

ACA supports the use of arbitration as an alternative to addressing and resolving consumer complaints through formal legal proceedings. Alternative dispute resolution through arbitration benefits consumers by reducing the time to achieve a resolution of claims brought by or against consumers, decreasing the expenses of all parties to the arbitral proceeding as compared to litigation, and limiting the legal and administrative fees of formal litigation. Notably, debt collection companies do not enter into arbitration agreements directly with consumers; rather they can implicitly or explicitly flow through to a debt collector from an underlying creditor contract. Nevertheless, arbitration plays a crucial role in the resolution of debt collection disputes.

In the ARM industry, class-action lawsuits are frequently filed despite plaintiffs lacking the necessary criteria to move forward as a class. Often, such class filings are used strategically in hopes of increasing a settlement offer. As mentioned earlier, most businesses in the ARM industry and among ACA's members are small businesses. The Consumer Financial Protection Bureau even recognized during its Small Business Regulatory Enforcement Fairness Act panel process for arbitration rules, which were later overturned by Congress, that small businesses are impacted when the arbitration process is eliminated. In instances when arbitration agreements contain class-action waivers, they play an important role by offering legitimate debt collectors, especially small businesses, a way to defeat inappropriate class-action lawsuits quickly and easily.

ACA members are committed to working with their clients to resolve any disputes, which is reflected in the high percentage of responses to any inquiries through the CFPB complaint database. According to monthly data from WebRecon LLC, timely ARM industry responses to consumer complaints to the CFPB consistently remain around 97%. Class-action litigation, on the other hand, often leads to limited relief for consumers. This relief can include something as miniscule as a few dollars or a coupon. There is also evidence that consumers can pay less in the arbitration process compared to litigation.¹ As the Senate Banking Committee examines the arbitration process, as well as the Arbitration Fairness for Consumers Act, we ask that it also consider consumer benefits related to arbitration.

Thank you for your leadership and attention to the concerns of the ARM industry.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Purcell". The signature is fluid and cursive, with the first name "Scott" written in a smaller, more legible script than the last name "Purcell", which is written in a larger, more stylized cursive.

Scott Purcell
Chief Executive Officer

¹ Jason Scott Johnston & Todd Zywicki, The Consumer Financial Protection Bureau's Arbitration Study: A Summary and Critique, Mercatus Center, George Mason University (Aug. 2015), available at <http://mercatus.org/sites/default/files/Johnston-CFPB-Arbitration.pdf>.