

ACA INTERNATIONAL

GUIDE TO ADVOCACY

www.acainternational.org



ACA International is the leading trade association for the accounts receivable management industry, representing credit grantors, third-party collection agencies, asset buyers, attorneys and vendor affiliates.





INTRODUCTION TO THE ARM INDUSTRY



Accounts receivable management professionals make a positive impact on consumers' financial well-being and access to credit.

Businesses, hospitals, and lenders across the country face unprecedented challenges as a result of the changing economy, inflation and labor fluctuations. That's why the work of ACA International members, who play a critical role in protecting both consumers and lenders, is more important than ever.

The accounts receivable management (ARM) industry is instrumental in keeping America's credit-based economy functioning with access to credit at the lowest possible cost. For example, in 2018 the ARM industry returned over \$90 billion to creditors for goods and services they had provided to their customers. As part of the process of attempting to recover outstanding payments, ACA members are an extension of every community's businesses.

On the regulatory side, ACA and its members have worked with the Federal Communications Commission and Federal Trade Commission to inform rules on consumer communications and fees, including ensuring the industry would have time to comply while still protecting consumers.

Work with the Consumer Financial Protection Bureau is a priority for ACA, including advocating for required rulemaking processes that include stakeholder input and are balanced between protecting consumers and supporting financial services companies. This advocacy is to ensure collections processes, which play a critical role in the healthy credit ecosystem and access to credit, continue.

ACA members are committed to fair, reasonable, and respectful practices and take their compliance obligations with consumer protection laws when collecting debt very seriously. As legitimate credit and collection professionals, ACA members play a key role in helping consumers fulfill their financial goals and responsibilities while facilitating broad access to the credit market.

ACA's advocacy team executes a multi-pronged approach to advocacy to help all stakeholders understand the value ACA members provide to their communities by improving the economy, creating jobs, and helping consumers resolve unpaid debt.



"We believe our industry's ability to communicate with consumers is imperative for both consumers and ACA members. ARM industry professionals provide consumers with valuable, pertinent information that helps them maintain their financial health leading to favorable outcomes. Our goal every day, whether it be in our work on Capitol Hill with Congress, at the federal regulatory agencies or in the states, is to ensure that ACA members can run their businesses successfully without facing unnecessary or overburdensome regulations or frivolous litigation based on unclear requirements."

- ACA CEO Scott Purcell



INTRODUCTION TO THE ARM INDUSTRY

ACA International's [Policymakers website](#) features resources on the industry, an overview of our important issues and a library of our advocacy materials.





COLLECTOR'S PLEDGE

This pledge represents our members' commitment to professionalism and ethical practices.

- I believe every person has worth as an individual.
- I believe every person should be treated with dignity and respect.
- I will make it my responsibility to help consumers find ways to pay their just debts.
- I will be professional and ethical.
- I will commit to honoring this pledge.

ACA International, the largest trade association for the accounts receivable management industry, represents approximately



1,700 members

including

third-party collection agencies, credit grantors, asset buyers, attorneys, and vendor affiliates. These companies employ approximately

125,000 employees.



The accounts receivable management (ARM) industry is instrumental in keeping America's credit-based economy functioning with access to credit at the lowest possible cost. For example, in 2018 the ARM industry returned over \$90 billion to creditors for goods and services they had provided to their customers. And in turn, the ARM industry's collections benefit all consumers by lowering the costs of goods and services—especially when rising prices are impacting consumers' quality of life throughout the country.



ACA partners with **32 independent units** representing **48 states** and has international members in **more than 25 countries**.



ACA represents a **diverse industry**. As of 2018, 32% of ACA members indicated they were **women-owned businesses**, while 6% reported they were **minority-owned businesses**. While women constitute roughly 47% of the overall U.S. workforce, the debt collection industry is overwhelmingly female, with women making up 72% of the total workforce. Racial and ethnic minorities make up 42% of debt collection employees, compared to 37% of the total U.S. workforce.



The majority of ACA member debt collection companies are **small businesses**, with nearly 85% with 49 or fewer employees.



U.S. debt collection agencies support the indirect and induced **employment** of more than 89,000 individuals in industries that sell goods and services to debt collection agencies and their employees.

In 2018, third-party collection agencies recovered approximately

\$102.6 billion
in total debt

and

returned

\$90.1 billion
to creditors

This return to creditors represents an
average savings of

 **\$706**
per household


as businesses were not compelled to compensate for lost capital through increased prices.

The third-party debt collection industry supports an
average annual payroll of

 **\$5 billion**

U.S. debt collection agencies and their employees were estimated to directly

contribute more than

 **\$1.2 billion**
in taxes

After analyzing the restrictiveness of various debt collection regulations, the Federal Reserve Bank of New York found that limiting debt collection practices leads to a decline in access to credit and weakens key indicators of financial health. The greatest impact of these restrictions is on borrowers with lower credit scores. Overall, the Fed found that debt collection is a significant resource for creditors to recover on delinquent debt. Therefore, restricting debt collection practices leads to a decline in the overall supply of credit since creditors will be less willing to lend.

Source: [Access to Credit and Financial Health: Evaluating the Impact of Debt Collection, Federal Reserve Bank of New York Staff Report](#)



The Collection Landscape: How Consumers Are Protected

Regulators & Legislators

At the federal level, debt collectors are supervised by the CFPB. Their work also falls under the jurisdiction of the FCC, FTC, Treasury, and several other regulators. Congress also makes laws governing their work.

ACA Ethics Standards

ACA International, the largest trade association for the accounts receivable management industry, represents approximately 1,700 members, all of whom agree to abide by a Code of Conduct when collecting debts. Members also follow the tenants of the Collector's Pledge, which addresses professional and ethical behavior and expects all consumers to be treated with dignity and respect.

Clients

Debt collectors work for their clients, who expect them to treat consumers with respect. If a debt collector fails to do so, clients would likely find out and the debt collector could lose their business. With that kind of reputation, it would be difficult to get additional clients.

Compliance Systems, Governance & Training Programs

ACA provides extensive resources to help its members develop compliance management systems and training programs, focusing on consumer protections.

Public Relations

Social media and online forums are a consumer's megaphone, and this gives them tremendous power. Businesses understand this. Not only can consumers who feel they've been wronged file a complaint with the collection agency and original creditor, they can also reach out to the CFPB, Better Business Bureau and other consumer protection organizations.

Federal Laws

More than two dozen federal laws govern the work of the debt collection industry, including the FDCPA and Regulation F, TCPA, FCRA, and HIPAA, among many others.

State Laws

State legislatures, attorneys general, licensing bodies and/or financial departments in all 50 states oversee debt collectors, many of which have laws that are even more stringent than federal laws. Some have licensing, bonding and registration requirements for collecting debts as well.

Private Litigation

If there are violations of law, or alleged violations of law, the debt collection industry can face time-consuming and resource-depleting litigation.





DEBT COLLECTION:

A HIGHLY REGULATED INDUSTRY

- Consumer Financial Protection Bureau (CFPB)
- Federal Trade Commission (FTC)
- Federal Communications Commission (FCC)
- Congress
- 50 State AGs, Licensing Bodies and Financial Departments
- 50 State Legislatures
- U.S. Judicial System

The ARM industry is regulated by the CFPB pursuant to the Consumer Financial Protection Act of 2010 (CFPA), the FCC pursuant to the Telephone Consumer Protection Act (TCPA) and the FTC under the Federal Trade Commission Act as well as numerous federal laws including the Fair Debt Collection Practices Act (FDCPA).

Additional federal laws regulating third-party debt collectors include:

- The Higher Education Act of 1971, Pub. L. No. 89-329;
- The Bank Holding Company Act, 12 U.S.C. §§ 1841 et seq.;
- The Consumer Leasing Act, 15 U.S.C. §§ 1667 et seq.;
- The Electronic Fund Transfer Act, 12 U.S.C. §§ 222 et seq.;
- The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.;
- The Fair Credit Billing Act, 15 U.S.C. §§ 1666 et seq.;
- The Fair Credit and Charge Card Disclosure Act, 15 U.S.C. §§ 1601 et seq.;
- The Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.;
- The Federal Bankruptcy Code, 11 U.S.C. §§ 101 et seq.;
- The Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.;
- The Health Insurance Portability and Accountability Act, 42 U.S.C. § 1320d-2 et seq., including the Security Rule, Privacy Rule, and Transaction and Code Set Standards promulgated by the Department of Health and Human Services;
- The Home Equity Loan Consumer Protection Act, 15 U.S.C. §§ 1637 et seq.;
- The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, P.L. 107-56, 115 Stat. 272;
- The Right to Financial Privacy Act, 12 U.S.C. §§ 3401 et seq.;
- Telemarketing Sales Rule, 16 C.F.R. §§ 310.1 et seq.;
- Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.;
- Regulation E, 12 C.F.R. § 205.1 et seq.;
- Regulation J, 12 C.F.R. § 210.1 et seq.;
- Regulation M, 12 C.F.R. §§ 213 et seq.;
- Regulation Z, 12 C.F.R. § 226 et seq.; and
- Regulation F, 12 CFR part 1006.

100+ regulators
oversee the ARM
industry



**ACA members comply with
dozens of state and federal
laws and regulations.**



MEDICAL DEBT CREDIT REPORTING



- The Fair Credit Reporting Act (FCRA) and the Health Insurance Portability and Accountability Act (HIPAA) generally allow furnishers to report medical debts to consumer reporting agencies, though some restrictions apply. The policies of the individual consumer reporting agencies impose further restrictions on credit reporting this type of debt.
- In September 2023, the CFPB announced it was considering a rulemaking under the FCRA and released a comprehensive outline of proposals before convening a Small Business Review Panel required under the Small Business Regulatory Enforcement Act. Small entity representatives selected for the panel had less than a month to review and respond to the outline.
- The proposal will create overly burdensome costs for small businesses, which will likely result in the reduction of consumer choice, increased upfront costs and costs overall, and less access for patients to critical care services.
- ACA recognizes that most patients want to resolve their medical accounts, but are often confused by the process to do so. ACA members work to ensure that a consumer is not penalized beyond resolution of the account. As a result of the CFPB's actions, creditors considering extending additional credit to consumers will no longer see a complete picture of their applicant's outstanding debts. Instead, lenders and credit grantors will rely on an underwriting process that no longer includes all debts already owed by an applicant, thereby creating blind spots in a credit reporting system that has always been used to issue new credit.
- The CFPB's final report on the panel discussions identified the proposal is duplicative of several federal statutes and regulations related to credit reporting and recommended clarity on the definition of medical debt and an implementation timeline that reflects the complexity of the rule and compliance burden should it move forward.

ACA Helps Create Best Practices for the Resolution of Medical Accounts

The Healthcare Financial Management Association partnered with ACA International and a task force of stakeholders to establish best practices for the fair resolution of patients' medical bills, available through HFMA [here](#).



"By the CFPB's own admission, medical debt information is less predictive, not 'not predictive.' Thus, underwriters in Montana will have less information to make credit determinations if the CFPB moves

forward with its goal to remove all medical debt from credit reports, and credit will be extended in situations when consumers do not have the ability to repay."

- Jennifer Whipple

ACA International Board Member

3 THINGS TO KNOW:

- 1** The CFPB's November 2023 report to Congress continued to apply broad strokes to medical debt collection issues. The report relies on past data that doesn't reflect recent changes in medical debt credit reporting. And, like previous reports, it gives consumers a false impression that the debt collection industry is responsible for billing issues that occurred on the front end, contrary to the explicit goals of the No Surprises Act.
- 2** Highlighting issues that align with the ARM industry, such as medical debt credit reporting and regulatory processes, congressional committees held hearings with CFPB Director Rohit Chopra in late 2023. Remarks are showcased in a summary video [here](#).
- 3** ACA outlined the actions the CFPB has taken outside of the rulemaking process and their negative impact for the accounts receivable management industry in a [letter](#) to Director Rohit Chopra. *American Banker* also published an [article](#) from ACA about regulators' claims about 'junk fees' and their harm to legitimate businesses.





TCPA AND CALL RULE REFORM

- The FCC is considering new policies related to text messages. Texting is a vital tool for businesses and even some consumer groups, and the CFPB made it clear during the Regulation F rulemaking process that people in collections should be able to use these tools as long as the sender has the right protocols in place.
- Regulations should address messages from invalid, unallocated or unused numbers and those on the Do Not Originate lists. Text blocking needs to be done in a content-neutral manner.
- Time-sensitive calls for which consumers have provided consent are being blocked by voice service providers' use of analytics engines from hundreds of different smaller providers. Consumers are harmed because they may not receive lawful calls affecting their health, safety, or financial well-being.
- It is critical for consumers that these calls be completed without delay, and that the caller and call recipients are notified immediately when a call is blocked.
- The FCC needs to take further steps to prevent blocking and mislabeling based on analytics that rely solely on factors such as high call volume, short duration calls or low answer rates. The application of these factors often results in legitimate, consented-to calls being blocked and mislabeled.
- Call blocking and labeling technologies continue to unfairly impede calls from credit and collection professionals and other legal businesses.

3 THINGS TO KNOW:

1

Overly broad call blocking and labeling efforts, and texting restrictions, can create dangerous circumstances where consumers are not getting the information they want and need.

2

There must be greater consequences for calls being blocked or mislabeled based on faulty analytics.

3

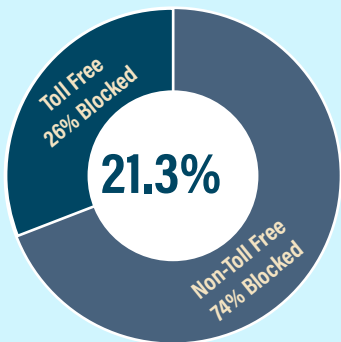
ACA and industry coalition partners are striving for improvements to the FCC's proposed rule on text messages following successful work with the FCC resulting in modifications to when and how companies can complete a consumer's request to revoke consent to calls and text messages.





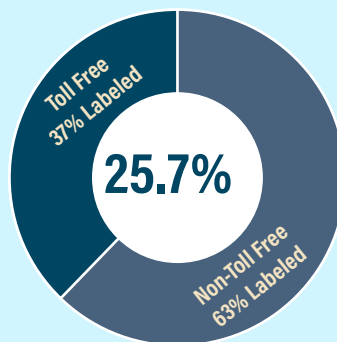
ARM INDUSTRY IMPACT FROM CALL BLOCKING & LABELING

Conducted in February 2020 by Number Sentry LLC, this study measures the impact of current call blocking and call labeling practices on outbound calls placed from ARM industry callers. It measures how a typical consumer can be presented with such calls using the default settings provided by their voice service provider across 20 mobile networks, four cable telephony providers and on the top 10 call labeling & blocking apps.



Over 21% of
ARM Calls
Were Blocked

21.3% of the 223,711
ARM calls in the study
were blocked
(47,704 blocked calls).



Another 25.7% of
ARM Calls
Were Labeled

Of the ~79% of calls
that were not blocked,
25.7% were labeled
(57,465 labeled calls).



24.2% of Labeled
ARM Calls
Were Mislabeled

A call was considered
mislabeled if the applied
label did not reflect the
purpose of the call.

Bottom Line: 21.3% of ARM calls were blocked and an additional 25.7% were labeled. So for every 1 million ARM calls, 213,000 would be blocked and an additional 257,000 would be labeled.

This means 47% or 470,000 ARM calls would be impacted by current blocking and labeling practices.



- ACA members contact consumers exclusively for non-telemarketing and legitimate business reasons.
- The Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act requires the FCC to ensure robocall blocking services are provided with transparency and effective redress options for consumers and callers.
- The FCC continues to consider policies related to call blocking and labeling. ACA and industry trade group partners have advocated for updates that enable all voice service providers to conduct caller ID authentication on their networks.
- Comprehensive legislation is circulating on Capitol Hill to advance protections against “robocalls,” targeting technology used in many industries to contact consumers about financial services, health care, banking and more.

“Certain calls for which consumers have provided consent—including fraud alerts, servicing calls, and past-due notifications—are too often blocked by carriers and their analytic engine partners. Despite callers’ compliance with TCPA regulations and adherence to best practices, such as scrubbing numbers against the Commission’s reassigned numbers database to ensure that the number is still associated with the called party, carriers block or mislabel calls as spam or scam, virtually ensuring the call is not answered.”

- TCPA Coalition September 2023 Meeting Summary with FCC About Text Blocking

In 2021, the U.S. Supreme Court issued a 9-0 decision in *Facebook v. Duguid*, finding that many lower courts were improperly interpreting what types of technology were considered an “automatic telephone dialing system” (ATDS). The Supreme Court justices were clear that Congress drafted the TCPA to address abusive telemarketing, not to punish legitimate business callers. In January 2024, the court declined to hear a case that revisits these issues: *Trim v. Reward Zone USA LLC*. The district court held that the plaintiff failed to adequately plead the use of an ATDS and that the text messages did not use artificial or prerecorded voices, and therefore, did not violate the applicable section of the statute. The plaintiff appealed to the 9th Circuit, arguing that the district court erred in ruling that the messages did not use an artificial or prerecorded voice. Without the U.S. Supreme Court’s review, the ruling in the 9th Circuit, where there are several other cases on this topic, stands.





TELECOMMUNICATIONS LEGISLATION

- U.S. Rep. Frank Pallone, D-N.J., introduced the Do Not Disturb Act to expand the definition of autodialer technology, contrary to the 2021 ruling by the U.S. Supreme Court in *Facebook. v. Duguid*. The legislation would also require companies to disclose the use of artificial intelligence on calls and double fines for violations when AI is used to impersonate a human.
- The bill also incorporates the “Quashing Unwanted and Interruptive Electronic Telecommunications (QUIET) Act” introduced by U.S. Reps. Eric Sorenson, D-Ill., and Juan Ciscomani, R-Ariz., and the “Restrictions on Utilizing Realistic Electronic Artificial Language (R U REAL) Act” introduced by U.S. Rep. Jan Schakowsky, D-Ill.
- Additionally, the bill would implement the Roboblock Act, introduced by U.S. Rep. Darren Soto, D-Ill. This bill instructs the FCC to promulgate regulations requiring voice service providers to offer robocall detection and blocking services to every customer at no additional charge.

The Do Not Disturb Act does the following:

- **Update and Expand Robocall Protections**
The bill replaces the definition of ATDS in the TCPA with the new term “robocall,” which substantially expands the TCPA’s coverage to include most technologies that involve automated calling or texting.
- **AI Disclosure Requirements**
It would require a disclosure at the beginning of an AI-generated call or text if AI is being used.
- **Robocall Blocking**
This bill instructs the FCC to promulgate regulations requiring voice service providers to offer robocall detection and blocking services to every customer at no additional charge.
- **Requirements for VoIP Providers**
The bill would impose obligations on Voice over Internet Protocol (VoIP) providers to identify their customers, monitor their traffic, and subject owners and officers to liability for failing to prevent calls or text that violate the TCPA from using their networks.
- **Inbound Calls**
The bill would direct the Federal Trade Commission to issue regulations imposing the requirements of the Telemarketing Sales Rules (TSR) on inbound calls. The TSR currently only applies to outbound calls.

CFPB REFORM



- Significant movement on possible Consumer Financial Protection Bureau reform came in February 2023 when the U.S. Supreme Court decided to hear a case from the 5th Circuit Court of Appeals on the constitutionality of the CFPB's funding structure.
- The Supreme Court granted the CFPB's petition for certiorari to review the decision, requesting that the court address whether the 5th Circuit Court of Appeals erred in its ruling that the bureau's funding structure through the Federal Reserve rather than the congressional appropriations process violates the U.S. Constitution's separation of powers.
- Depending on the Supreme Court's ruling in the case, Congress could have directives to pass new legislation on the bureau's funding—which was among the several proposals before the House Financial Services Subcommittee on Financial Institutions and Monetary Policy in March 2023.
- ACA has long advocated for the bureau's funding to be through the congressional appropriations process as well as for the bureau to be led by a five-member bipartisan commission. ACA also filed an amicus brief supporting challenges to the CFPB's constitutionality.
- The case, brought by the Community Financial Services Association of America against the bureau and director Rohit Chopra, challenged the CFPB's 2017 payday lending rule in addition to its constitutionality.
- The case could have a significant impact on the bureau's funding and regulatory authority.





FAIR ACCESS TO BANKING



- Credit and collection professionals have had their banking relationships abruptly terminated on numerous occasions since the inception of Operation Choke Point and other similar programs. In states where a banking relationship is required to have a license to operate, this threatened the existence of their businesses and their employees' jobs. There is often little notice and no specific explanation for why a banking relationship was terminated.
- The SAFER Banking Act would allow banks and credit unions to serve cannabis businesses and their workers in states where cannabis is legal. Language in the bill on requirements for deposit accounts has connections to banking services for other industries, such as debt collection and payday lending, in the wake of Operation Choke Point.
- A 2021 rule from the Office of the Comptroller of the Currency sought to ensure fair access to banking services for several industries—including debt collection—previously cut off during the controversial Obama-era program.
- Since then and throughout changes in administration in Washington, components of legislative proposals, such as the Financial Institution Customer Protection Act and Fair Access to Banking Act to protect banking services for industries, have shaped where the issue is today.

3 THINGS TO KNOW:

- 1** On numerous occasions, credit and collection professionals have had their banking relationships abruptly terminated.
- 2** In certain instances, this has threatened the existence of their businesses and their employees' jobs.
- 3** Allowing individuals to pick winners and losers in the financial services marketplace, based on individual unresearched ideologies, is a very dangerous and slippery slope.



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This image shows a full page of blank, lined paper. It features approximately 20 evenly spaced horizontal blue lines across its entire width. The lines are thin and consistent in color, set against a plain white background. There are no margins, text, or other markings present on the page.