Abusive Debt Collection Practices Hurt Vulnerable Consumers

David Newville, Director of Government Affairs
Email: dnewville@cfed.org Phone: 202.207.0147

Anju Chopra, Senior Policy Manager
Email: achopra@cfed.org Phone: 202.207.0133

Consumers Need Credit to Build Assets

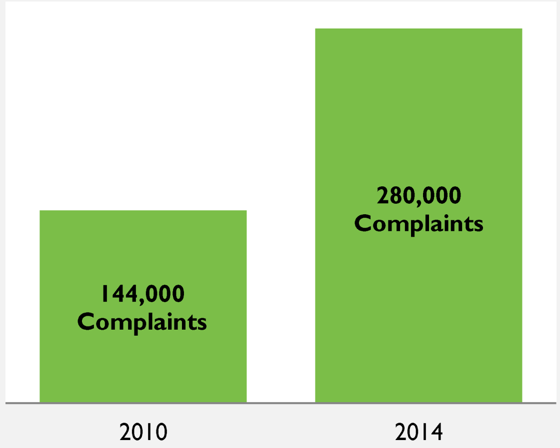
Consumers depend on credit to build wealth, as credit is required to purchase assets like a house or a car. However, accumulating too much debt can destabilize a family's finances by ruining credit records and creating barriers to obtaining housing or even employment. By minimizing losses and working with borrowers who are overly indebted, debt collection services play an important role. They help lenders manage risk and keep the cost of credit affordable. In 2014, approximately 77 million Americans had debt in collections – roughly one out of every three adults with a credit file - and the average debt amount was approximately $5,178.[1] Fair and effective debt collection practices and policies are necessary to support these working families' efforts to move up the economic ladder.

Abusive Debt Collector Practices Create Financial Instability for Families

Abusive debt collection practices are widespread and require more regulation and enforcement. The Consumer Financial Protection Bureau (CFPB) receives more consumer complaints about debt collection than any other issue. In 2015, the Bureau received more than 85,000 complaints about debt collection, which accounted for 31% of the total complaints received, outpacing those for credit cards, student loans, and payday lending.[2] Moreover, the number of complaints is on the rise. The number of complaints received by the Federal Trade Commission related to debt collection nearly doubled from 144,000 in 2010[3] to more than 280,000 in 2014.[4] Abusive debt collection practices include failing to conduct basic due diligence to ensure a consumer actually owes a debt, pursuing debts that are no longer legally owed, harassing consumers at home and at work or through family and friends, and even making threats of arrest or deportation.

Low-income families are significantly more likely to have high levels of debt, and the situation is only getting worse. Approximately one out of every five households that making $41,000 or less annually have a debt-to-income burden that exceeds 40%, and the level of indebtedness is more severe than before the 2008 housing crisis.[5] In fact, the poorest families are the only group to carry more debt than assets.[6]

FTC complaints more than doubled from 2010 to 2014.



Source: FTC Consumer Sentinel Network 2010 & 2014

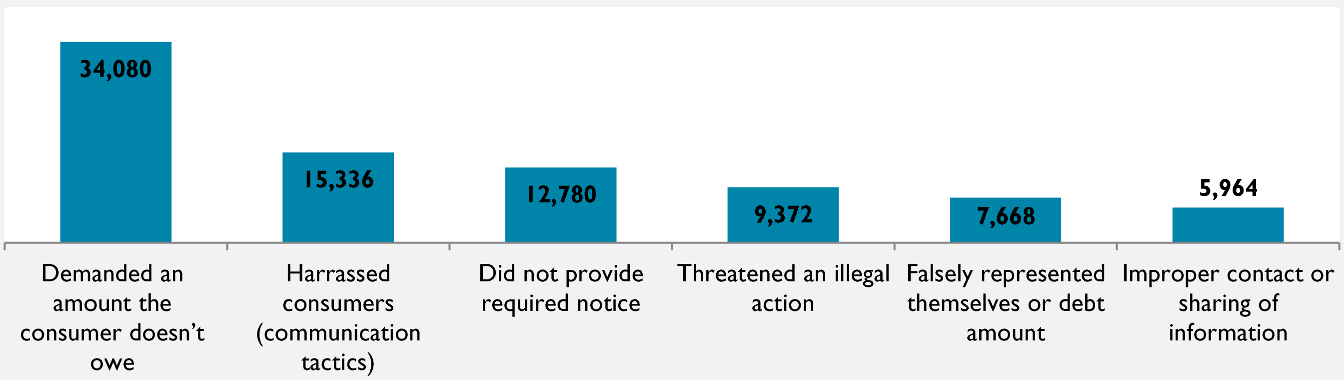
The System is Stacked Against Consumers

Debt collection is a multi-billion-dollar industry in which the odds are stacked against consumers. The debt collection model depends on making claims against consumers, often without evidence, against consumers, through both direct outreach and legal actions.
Consumers are often confused and overwhelmed, and most do not have the time, money or expertise to effectively fight back. In 1977, the Fair Debt Collection Practices Act (FDCPA) was enacted to eliminate abusive, deceptive and unfair debt collection practices, but despite this effort to regulate the system, there are still several fundamental problems with current debt collection practices.

- **Consumers often do not receive adequate information about their debts in collection.** The FDCPA requires that debt collectors send consumers a written notice that includes the amount of debt, the name of the creditor to whom the debt is owed and a statement that consumers have the right to receive verification of the debt, among other provisions. Of the more than 85,200 complaints received by the CFPB in 2015, close to 13,000 concern the notification and verification received (see table below) by the consumer. Of these, 28% were from consumers who did not receive any written notification up front, and 64% were from consumers who thought the documentation provided to verify the debt after they disputed the claim was not adequate enough.[7]

- **Firms frequently do not maintain adequate information about consumers' debts and the system imposes few effective quality controls.** The Federal Trade Commission (FTC) has concluded that "the information received by debt collectors is often inadequate and results in attempts to collect from the wrong consumer or to collect the wrong amount." Some of these false claims went into collection when they had already been settled or paid in full, and still others were someone else's debt and some were the result of identity theft.[8] A report by several New York City nonprofit and legal service organizations found that 35% of debt buyer lawsuits brought against New York City residents were meritless.[9]

CFPB 2015 Complaints by Category Show Prevalence of Abusive Debt Collection Practices



Source: CFPB, 2015

- **Federal and state laws that protect indebted consumers' essential income and property are outdated and poorly enforced.** Since 1970, federal law has protected 75% of a wage earner's pay-check, or 30 hours at the federal minimum wage, whichever is greater. This means that wage garnishment will not reduce a debtor's paycheck below $217.50 (30 hours at the current minimum wage of $7.25 per hour). However, this law does very little for low-income individuals and families, as a weekly paycheck of $217.50 places even a single individual who has no children below the federal poverty level. And, while federal law gives states the option to protect a larger portion of a debtor's paycheck, only 12 jurisdictions protect even a poverty-level wage for a family of four.[10]

- **Methods of collection force families out of the financial mainstream.** Debt collection firms rely heavily on the court system to satisfy debt obligations. Indeed, collectors are one of the most common plaintiffs in court, responsible for hundreds of thousands of debt-related lawsuits each year. For example, in 2014, 47% of the suits brought in New York State were for collecting on a debt.[11] Getting a judgment against an alleged debtor allows debt collectors to freeze bank accounts or withdraw wages or benefits, which can create instability, result in overdraft or late fees, or lead to account closures.[12] Bank account seizures can discourage the use of mainstream financial institutions and push already financially fragile households into the high-cost alternative financial services markets. The practice of seizing accounts also enables some debt collectors to circumvent FDCPA and state and federal protections of wages and federal benefits, as the bank does not have to assess whether deposits come from directly deposited paychecks or government transfers.

How Congress and the CFPB Can Protect Families from Abusive Collection Practices

- **Strengthen the requirements for documentation of consumer debts that creditors and collectors must maintain.** The CFPB should require documentation that establishes whether a particular individual owes the amount specified and whether the entity in question has the authority to collect the debt. These records should travel with the debt each time it is referred and sold. The CFPB should also ensure that consumers can access fair and effective appeals processes when creditors wrongly report delinquency or default to consumer reporting agencies (CRAs).
- **Create standard disclosure forms to help consumers navigate the market and understand their rights.** As mentioned earlier, the FCDPA requires that notices be sent to debtors outlining basic information about the debt. It also spells out a number of consumer rights meant to protect debtors from exploitative debt collection practices. The CFPB recently released an outline that contains a model for both of these requirements, a validation notice with a "tear-off" sheet that makes it easy to dispute or claim debt, and a one-page statement of rights.[13] These models are promising ways to share critical information about a debt and help consumers understand their rights under the FDCPA. They both should be incorporated into the CFPB's final rule on third-party debt collection practices.
- **Prohibit collection of expired debt.** In the vast majority of states, collectors can still pursue the satisfaction of a debt even when the debtor no longer has a legal obligation to pay. The CFPB is considering requiring collectors to disclose to consumers that collectors cannot sue to obtain relief for old debt. While this is an improvement over current practices, the Bureau's own research suggests these types of notices are confusing to consumers.[14] An approach that increases consumer safety would going one step farther and would bar the collection of expired debt.
- **Prevent collectors from circumventing any applicable wage garnishment limits.** To better protect those who dispute whether they owe debt, federally-chartered banks should be required to take additional, proactive measures to prevent improper seizures of debtors' deposits. The CFPB can draw upon the regulations developed by the U.S. Department of the Treasury, which applies a similar standard to prevent garnishment of federally-protected Social Security and other benefits. [15]
- **Update protections of essential income to ensure that families can rebuild their finances.** National Consumer Law Center (NCLC) recommends that federal protections should guard 80 hours at the federal or state minimum wage, instead of the current 30 hours.[16] This protects a debtor against a disastrous reduction in their income, thus enabling them to continue meeting necessary daily expenses. By updating this federal law, Congress must ensure that families' financial security and well-being remain intact while they pay down their debt.

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