



Network Branded Prepaid Card Association

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May 18, 2018

Submitted via Email at: FederalRegisterComments@cfpb.gov

Darian Dorsey
Comment Intake,
Bureau of Consumer Financial Protection,
1700 G Street NW, Washington, DC 20552

Re: Bureau of Consumer Financial Protection
Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint
Information
[Docket No. CFPB-2018-0006]

Dear Mr. Dorsey:

This letter is submitted on behalf of the Network Branded Prepaid Card Association ("NBPCA")¹ in response to the Consumer Financial Protection Bureau's ("Bureau") Request for Information Regarding the Bureau's public reporting practices of consumer complaint information (the "RFI").² The RFI seeks to assess potential changes that can be implemented regarding the Bureau's public reporting practices of consumer complaint information. The NBPCA appreciates the opportunity to share its comments on the RFI and looks forward to continuing to work with the Bureau to improve the efficiency and effectiveness of the Bureau's consumer complaint reporting process.

As we will outline in more detail in this letter, while the NBPCA understands the Bureau's statutory obligations to report on consumer complaints, we are concerned with certain aspects of the Bureau's existing reporting processes as they relate to prepaid cards. In particular, our members believe that, in many instances, consumer complaints received by the Bureau relating to prepaid products were not accurately presented to the public. In particular, our members feel the Bureau's description of the complaints linked to prepaid products failed to provide an accurate description of the prepaid industry and the high quality products we provide American consumers. According to the Bureau's own records, including its most recent Consumer Response report, prepaid products account for less than 1% of the more than 1.3 million complaints the Bureau has received since 2011, making prepaid one of the least complained about product verticals tracked by the Bureau.

As an example of such mischaracterization, consider the Bureau's summary of its Consumer Complaint report issued on March 1, 2016, which focused primarily on consumer complaints regarding

¹ The NBPCA is a nonprofit, inter-industry trade association that supports the growth and success of network branded prepaid cards and represents the common interests of the many participants in this rapidly growing payments category. The NBPCA's members include banks and financial institutions, the major card networks, processors, program managers, marketing and incentive companies, card manufacturers, card distributors, payment industry consultants and law firms. The comments made in this letter do not necessarily represent the position of all members of the NBPCA.

² 83 Fed. Reg. 9499 (March 6, 2018).



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prepaid cards.³ Below are some key facts contained in the actual report that the Bureau chose to exclude from its summary:

- At the time the report was published prepaid card complaints represented a mere 0.5% of total complaints submitted to the Bureau since it began taking complains on July 21, 2011.
- At 4,300 total complaints, prepaid products accounted for the fewest number of complaints the Bureau received for any product tracked in their monthly reports.
- Only 7% of consumers identified fees as a major concern with respect to prepaid products.
- While the Bureau highlighted a seemingly large percentage increase in consumer complaints received about two NBPCA member companies, it failed to provide the context that the percentage increases were based on one member company receiving 11 complaints during the reporting period (up from 2 in the Bureau's prior report) and the other company receiving 17 complaints in that same period (up from 9 in the Bureau's prior report).

For an agency that prides itself on gathering and analyzing data to better understand consumers, financial services providers, and consumer financial markets, it is critical to remember that context is a key component to identifying and solving real problems for consumers. At best, the information highlighted in the Bureau's March 2016 report summary was incomplete. The low number of consumer complaints received by the Bureau with respect to prepaid accounts was even highlighted by Acting Director Mick Mulvaney in a memo sent to Bureau staff this past January. In particular, Director Mulvaney noted in the memo that less than 1% of the complaints received by the Bureau in 2016 related to prepaid accounts, and further stated that such data should and will guide the Bureau's actions moving forward.⁴

In short, the context with which the Bureau frames its reporting matters and if the appropriate context is not provided, it may undermine the Bureau's publicly stated objectives and goals, but also the trust needed to be an effective and respected regulator with covered entities.

NBPCA RESPONSES TO FEEDBACK REQUESTED IN THE RFI

I. Feedback Related to the Frequency of the Bureau's Reports on Consumer Complaint Information

With respect to the frequency of the Bureau's reports on consumer complaint information, the NBPCA understands the Bureau is statutorily required to provide an annual report to Congress regarding consumer complaints and responses and that the information required for this report must include analysis about complaint numbers, types, and, where applicable, resolution. The Bureau is also required to submit semi-annual reports to the president and certain congressional committees. These reports must include an

³ Bureau Summary of its Monthly Complaint Snapshot on Prepaid Complaints, (March 1, 2016), available at: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-monthly-complaint-snapshot-examines-prepaid-complaints/>.

⁴ Caroline Basile, Leaked Mulvaney memo: CFPB must end regulation by enforcement, Jan. 23, 2018, available at <https://www.housingwire.com/articles/42357-mulvaney-memo-cfpb-to-end-regulation-by-enforcement> (last visited June 24, 2018).



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analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year.

With respect to the Consumer Complaint Database and monthly reports issued by the Bureau, while the NBPCA supports efforts to assist consumers with making better purchasing decisions with respect to financial services, we are concerned that the particular information the Bureau chooses to include in its reporting may actually mislead consumers and cause them to make negative purchasing decisions that are not in their best interest and that they would not have made but for the information contained in the Bureau's report. For this reason, we urge the Bureau to modify its reporting practices consistent with our suggestions contained in this letter.

II. Feedback Related to the Content of the Bureau's Reporting on Consumer Complaints

A. Feedback Requested On: Whether the Bureau should include more, less, or the same amount of reporting on State and local complaint trends?

NBPCA Response: The NBPCA encourages more coordination and collaboration between the Bureau and other regulators, as well as State and local entities with the jurisdiction and resources to enforce consumer protection laws and regulations. However, as noted above and discussed further below, the NBPCA is concerned about how the Bureau interprets and chooses to report the data it collects from all of its sources and how that data is characterized in its monthly or annual consumer complaint reports, press releases, and public statements.

B. Feedback Requested On: Whether it is net beneficial or net harmful to the transparent and efficient operation of markets for consumer financial products and services for the Bureau to publish the names of the most-complained-about companies?

NBPCA Response: This question raises a key concern our members wish to share regarding the Bureau's complaint reports and the content of the Consumer Complaint Database with respect to specific companies. Namely, our members are concerned that the Bureau does not take steps to verify the accuracy or legitimacy of the complaints it receives and the information it subsequently makes publicly available. This is problematic because consumers likely assume that information reported by the Bureau is vetted and factually accurate when, in truth, the complaints included in the Bureau's reporting are not vetted for accuracy or legitimacy; nor is the appropriate context provided for the number of complaints compared to the number of prepaid accounts offered by the institution overall. Moreover, other practices by the Bureau increase the risk of consumer confusion, for example, the Bureau counts multiple complaints received by a consumer over the same matter as separate complaints and companies are often listed by their company names, as opposed to brand names that consumers would be more familiar with. In addition, the Bureau does not disclose to consumers that companies that are not registered for the complaint database are not represented in the downloadable online portal data and such companies appear to be excluded from the written annual reports as well.

These factors create potentially misleading and inflated complaint numbers for companies included in the Bureau's reports. This, in turn, may lead consumers to potentially negative purchasing decisions, steering them away from a particular product or provider due to potentially inaccurate



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information causing the consumer to make purchasing and other financial services decisions they may not have otherwise made and which may, in fact, be less beneficial to the consumer.

For these reasons, we believe the current policy of publishing the names of the most-complained-about companies has a net negative impact, in that it is likely to mislead consumers and lead to negative purchasing decisions. If the Bureau continues publishing such information, we urge that it should only be made available in a report after appropriate steps have been taken to verify the accuracy and legitimacy of the complaints. Any complaint information that cannot be verified by the Bureau should not be made publicly available and, if made publicly available previously, should be removed. We also urge the Bureau to adopt measures with respect to how it analyzes and reports the information it receives to further mitigate the risk that the Bureau is relying on potentially misleading information. One such step would be to normalize the number of complaints based on the number of accounts held by a particular financial institution. For example, if Bank A has 1,000 complaints as compared with 100,000 accounts, and Bank B has 10 complaints as compared with 100 accounts, Bank A would currently be listed as one of the most "complained about companies" even though its number of complains as a percentage of its total accounts is much lower, 1% to 10%, when compared with that of Bank B.

C. Feedback Requested On: Whether the Bureau should provide more, less, or the same data fields in the Consumer Complaint Database?

NBPCA Response: As noted above, we urge the Bureau to establish a policy on how the agency plans to verify the complaints submitted by individual consumers are legitimate and not part of campaign targeted at a specific company. As part of the data fields in the Consumer Complaint Database, the Bureau should detail the steps and procedures it has taken to verify the complaint. Any complaint narrative that cannot be verified should be removed from the data fields.

D. Feedback Requested On: Whether the Bureau should provide more, less, or the same amount of context for complaint information, particularly with regard to product or service market size and company share?

NBPCA Response: For the reasons noted in our response in Section II. B. above, the NBPCA urges the Bureau to remove unverified consumer narratives from any Bureau reports and the Consumer Complaint Database. Moreover, for complaints and complaint narratives the Bureau does publish, whether verified or unverified, we ask that complained about companies be afforded more time to respond, and that the company's narrative should be posted simultaneously to the consumer's so that persons viewing the report have a full picture of both the complaint and the company's response. Moreover, after a company has addressed a concern submitted by a consumer to the Bureau, the Bureau should either remove the concern from the website, or update its website to reflect the fact that the concern has been resolved and amend its aggregate consumer complaint total.

As for monthly reports, we ask the Bureau to implement policies and procedures to ensure that it provides the appropriate context for the complaints it receives and in order to mitigate the risk that it could inadvertently mislead consumers with respect to the safety or relative number of complaints it receives about a particular product.



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E. Feedback Requested On: Whether the Bureau should supplement observations from consumer complaints with observations of company responses to complaints?

NBPCA Response: Please see our comments in Sections II, B, and D.

F. Feedback Requested On: Whether the Bureau should share more, less, or the same amount of information on month-to-month trends?

NBPCA Response: Please see our comments in Sections II, B, and D.

G. Feedback Requested On: Whether the Bureau should share more, less, or the same amount of information on particular products and services?

NBPCA Response: Please see our comments in Sections II, B, and D.

III. Feedback Related to the Bureau's Reporting Methodology

A. Feedback Requested On: Should the Bureau continue to analyze data for seasonal fluctuations? If so, how?

NBPCA Response: Provided that report information is presented in a consistent manner that does not include potentially misleading information, the NBPCA does not have a position to whether the Bureau should continue to analyze data for seasonal fluctuations.

B. Feedback Requested On: Should the Bureau provide more, less, or the same amount of context for complaint information, particularly with regard to product and service market size and company share, including what data set(s) or data source(s) the Bureau should use?

NBPCA Response: Please see our comments in Sections II, B, and D.

IV. Feedback Related to the Publication Process of Consumer Complaint Information

A. Feedback Requested On: Whether the Bureau should provide the public with a publication schedule?

NBPCA Response: The NBPCA supports providing the public with a publication schedule for complaint reports, but notes that the Bureau is only statutorily required to provide an annual complaint report to Congress.

B. Feedback Requested On: Whether the Bureau should notify the most-complained-about companies of their inclusion in a Bureau report prior to publication and invite company comment?

NBPCA Response: The NBPCA supports notifying complained about companies of their inclusion in a Bureau report and providing those companies an opportunity to comment.



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In addition, in order to further avoid publishing potentially misleading information, the NBPCA urges the Bureau normalize the number of comments based on number of accounts held by a particular financial institution.

C. Feedback Requested On: Whether the Bureau should devote resources to building tools to enable users to analyze complaint information?

NBPCA Response: The NBPCA does not believe it has sufficient information to comment on the Bureau's request. In order to provide substantive feedback, our members would need more detailed information on the sorts of tools the Bureau is contemplating. The NBPCA would be happy to discuss this issue further with the Bureau.

D. Feedback Requested On: Whether the Bureau should expand, limit, or maintain the same level of access to complaint information available to external stakeholders such as financial institutions and the public?

NBPCA Response: Please see our comments in Sections II, B, and D.

CONCLUSION

The NBPCA appreciates the opportunity to comment on the RFI and the Bureau's existing consumer complaint reporting process. While the NBPCA understands that the Bureau is statutorily required to report on consumer complaints, including the numbers, types, and resolution for consumer complaints, we are nevertheless concerned that the current processes employed by the Bureau create misconceptions in the minds of consumers regarding financial products and services in the marketplace. The NBPCA urges the Bureau to modify its complaint reporting processes consistent with our comments provided in this letter.

If you have any questions, please do not hesitate to contact me at the number listed below or at: btate@nbpca.org.

Sincerely,

Brian Tate
President and CEO
NBPCA
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