

22 September 2014

The Honorable Richard Cordray
Director, Consumer Financial Protection Bureau
1700 G Street N.W.
Washington, DC 20552

(via regulations.gov web portal)

CFPB Complaint Narrative Comments
Docket Number: CFPB-2014-0016

Dear Director Cordray,

U.S. PIRG and the undersigned state PIRGs (California PIRG, Connecticut PIRG, Illinois PIRG, Iowa PIRG, Maryland PIRG, Massachusetts PIRG, New Jersey PIRG, Oregon PIRG, Texas PIRG, and Wisconsin PIRG) are all non-partisan, non-profit public interest advocacy organizations that take on powerful interests on behalf of their members.

We write today in strong support of the bureau's proposal in this docket to expand the highly successful Public Consumer Complaint Database to include narrative fields.

We also acknowledge in this comment that nearly 10,000 PIRG members agree with our views and have each filed a short comment with the bureau. Here is a summary of what our members urged:

I support adding consumer stories to the Public Consumer Complaint Database so that consumers and researchers can find out more about the problems other consumers face with banks and financial firms.

I understand that you will only include stories for consumers who affirmatively agree to have their details published. Even then, I understand that you will first delete personally identifiable information and take other steps to protect consumer privacy. Further, your proposal will allow public display of the firm's side of the story.

Thank you for asking for my views.

We agree with our members who took the time to send these short comments. The response rate was very positive because consumers care about the treatment that they receive in the financial marketplace.

1. Introduction

By publishing these “consumer stories,” you will enable researchers, other consumers and other firms to better analyze consumer complaints and concerns.

- Researchers will be better able to identify trends and develop more insights about good and bad marketplace practices;
- Other consumers will be better able to more wisely choose institutions based on a more robust understanding of a firm’s behavior toward its customers, accountholders or consumers it maintains files on. Those consumers will also be able to see if a problem that they are having is the same the problem other consumers are having;
- Other firms will be better able to identify patterns and practices that they might change, or affirmatively choose to avoid, and then be able to market their firm as more consumer-friendly, making it easier for good actors to gain market share and stimulating competition positively, by better aligning the interests of firms with those of their customers and potential customers. Firms without “tricks and traps” should do better in a more transparent marketplace. (In fact, news stories are pointing out that industry consultants are recommending improvements to customer service as a best practice;¹ so are consultant reports, such as one from Deloitte²);
- Researchers, armed with more robust data, will be better able to build models to provide early warnings of the kinds of unsafe consumer

¹ See e.g., this 11 September 2013 American Banker story, “Customers Are Now Banks’ Greatest Regulatory Threat” by Rachel Witkowski: “You want to reduce the number of complaints to the CFPB and a way you can do that is to cut them off at the pass,” said Alan Kaplinsky, who heads the consumer financial services group at Ballard Spahr. Banks should “have a very good system in place from the get go to resolve a complaint quickly.”

http://www.americanbanker.com/issues/178_176/customers-are-now-banks-greatest-regulatory-threat-1061975-1.html

² See page 9, “CFPB’s consumer complaint database Analysis reveals valuable insights,” Deloitte, September 2013, available at http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/FSI/US_FSI_CFPBConsumerComplaintDatabase_FINAL2_091913.pdf

practices that could lead to a systematic collapse such as occurred in 2008.

Of course, a critical benefit will also be that more consumers will use the database. This positive feedback loop or “network effect” will increase its value to everyone as the financial services marketplace becomes more transparent.

Of course, the bureau already has access to these fields and may already be using these data points in its supervision, enforcement, rulemaking and public education. But the bureau itself will benefit from more eyes aimed at potential marketplace problems. In addition, the public, including outside academics, “civic hackers” and other researchers may develop new crowd-sourcing and other analytic tools using the new data points.

All of these outcomes will improve the consumer marketplace.

2. U.S. PIRG has taken deep dives into the database, but looks forward to more data points

As you know, U.S. PIRG was among the first outside organizations to use the public database to study the financial markets. In the last year we have published, jointly with our research arm, The Frontier Group, five reports taking deep dives into the database and comparing complaint patterns in each of the bank account, credit card, student lending, credit reporting and debt collection markets.

Those reports have provided valuable insights, for example, they show which companies are the most complained about and for what reasons, which companies are most likely to provide monetary relief and which companies responses are most likely to be disputed.³ We have also provided comparisons based on other cross-tabs, such as where consumers live. We have also normalized the data, where it was possible to do so, to show variations based on the size of the firm.

Yet, in each of our reports, we have also made a series of recommendations to improve the database. The lead recommendation has always been the following:

³ The five U.S. PIRG Education Fund reports analyzing information in the database can all be accessed at this page: <http://www.uspirgedfund.org/page/usf/reports-cfpb-gets-results-consumers>

To improve the quality of the Consumer Complaint Database and make it more user-friendly, the CFPB should:

Add more detailed information to the database, such as actual complaint narratives, detailed complaint categories and subcategories, complaint resolution details, consumer dispute details, and data regarding membership in classes protected from discrimination by law. Expansion of complaint-level details should include more information about amounts and types of monetary and non-monetary relief. Software and other techniques should be used to protect consumer privacy by giving consumers the right not to provide details and by taking steps to prevent the release of personally-identifiable information or the re-identification of consumers. It is critical that the bureau achieve the disclosure of more individual complaint details while simultaneously making every reasonable effort to protect personal data.

In addition to adding consumer stories (narratives), additional recommendations we have made in our database reports include the following:

- Add an additional field listing company subsidiaries, which are often the firms with which consumers actually interact. For example, Encore Capital Group, the company with the greatest number of debt collection complaints in the CFPB database, does business under the names of several subsidiaries. Adding subsidiary company information will enable consumers to better apply the information in the CFPB database to their own experiences and choices they make in the marketplace. Add features such as clear definitions of terms and instructions.⁴
- Provide regular trend analyses and monthly detailed reports on complaint resolutions and disputes.
- Simplify the interfaces that allow users to summarize complaint database reports in graphical and printable formats.
- Publicize information about the CFPB complaints process in forums that are likely to be seen by debtors. The agency should develop more outreach mechanisms for consumer education about the database and its services for

⁴ These recommendations are all taken from the most recent report: "Debt Collectors, Debt Complaints: The CFPB's Consumer Complaint Database Gets Real Results for Consumers," 27 February 2014, available at <http://www.uspirgedfund.org/reports/usf/debt-collectors-debt-complaints>

consumers, including through the creation of educational materials to be distributed on- and off-line, through more events outside Washington, D.C., and through non-profit organizations.

- Develop free applications (apps) for consumers to download to smartphones allowing them to complain about a firm and providing information about how to review complaints in the database.

3. Adding Stories Will Build a Better “Mosaic” By Adding New Measurable and Quantifiable Data Points and Metrics

We believe that researchers will be able to analyze complaint narratives in a variety of ways and create new metrics that will create a more robust “mosaic” (to borrow a term from Director Cordray) that will identify trends. As the director explained:

"I think of the database as a mosaic. While every tile on the mosaic shows only one tiny piece of the picture, you can step back from it and see how the tiles fit together to form the whole picture. That is what the database offers – an aggregation of stories that gives a more complete picture of the consumer financial marketplace. We are now proposing to make that mosaic even more vibrant and clear by including consumers’ own narrative of their experiences, as stated in their own words."⁵

How will researchers be able to better glean insights from a database that includes narratives? How will consumers be more able to compare and select service providers? How will firms be able to learn from the public narratives?

Here are some examples of data points that could be extracted from a narrative story and used to create new metrics:

- What was the specific problem involved? Currently the database describes “issues” within “categories” and “subcategories” but it is difficult to understand an issue such as “problems caused by my funds being low.” Were the funds low due to bounced checks, debit card use or what? What problem was caused? Similarly, what does the issue “Account opening, closing or management” most often specifically refer to? Did “re-ordering” of checks and debits add to the problem? Had the consumer opted-in to “standard overdraft protection?” If it was a “deposit or withdrawal” complaint, was it a late deposit dispute or repeated withdrawals without authorization?

⁵ Prepared Remarks of CFPB Director Richard Cordray at the Consumer Response Field Hearing, 16 July 2014, available at <http://www.consumerfinance.gov/newsroom/prepared-remarks-of-cfpb-director-richard-cordray-at-the-consumer-response-field-hearing/>

- How much money, if any, was in dispute? If money was not in dispute, what was in dispute?
- What was the specific sort of relief provided? If money, how much, compared to the original amount in dispute? Was it a cash payment or were alleged penalty fees or interest or finance charges eliminated or reduced? Are there insights that can be developed by comparing detailed relief data points to the additional information provided on these more specific issues identified in the stories? What specific fact patterns in stories were most common? What specific fact patterns were most likely to result in real relief?
- How many times did a consumer contact a bank or other firm? Over what period of time? Do certain fact patterns exhibit trends over certain time periods but then diminish? Does that mean a firm took a system-wide corrective action (such as changing a computer program or a talk-script or eliminating how/when a fee is charged)?
- Did consumers who contacted the CFPB and/or prudential regulators earlier in the process get a faster or more satisfactory response?
- Which firms responded quickly to consumers and which slow-walked them?
- What channels (in-person, online, phone, etc.) did a consumer use to file a complaint and how many times did she use each channel? Did any particular point of entry prove more effective than another in terms of rapidity of response or satisfaction with response?
- How many different persons (points of contact) did she speak with? Did a consumer who listed a complaint in a certain category include in her narrative that when she called to complain, “all the representative did was try to upsell me some other product rather than solving my problem?” Did a consumer say “I asked for a supervisor and was refused?”
- What sorts of promises were made? What promises were kept?
- The narratives will provide valuable information about accounts or products consumers purchase at banks and other financial firms, but will also add vast amounts of information about the murky interactions consumer have with non-consumer-facing firms, such as the larger credit bureaus and debt collectors under CFPB supervision (including information that will shed some light on the workings of their otherwise “black box” operations).

- Importantly, the CFPB proposal allows banks and other firms to provide a reply narrative. Information from the reply narrative can also be reviewed by consumers, researchers and other firms for patterns and practices. While we support this aspect of the proposal for its fairness, it also will provide additional data points and metrics and allow a comparison of the two stories (the consumer's and the firm's) which will lead to a better "mosaic."
- Our work (and others') analyzing the database will be improved by greater detail on resolutions than is currently provided. This will also help consumers making choices. Information as to how a complaint was - or wasn't - resolved can help shape consumers' perceptions of a company, as well as inform them on how to protect themselves.

So, while narratives, or stories, will provide very important aspects of the human side of market interactions, they will also provide any number of specific data points which can be used to create new metrics to improve the mosaic.

We hope that the above material, largely drawn from our deep-dives into the database, is useful. U.S. PIRG also served as an active part of the committee of consumer advocates that prepared a group comment letter dated 19 September 2014, headlined by Americans for Financial Reform and signed by 48 organizations. The following comments are largely identical to points made in that comment letter.

4. We support consumer choice (opt-in requirement):

We concur with all consumer-side commenters and endorse the Bureau's proposal to leave the decision as to whether to disclose complaint details up to each individual consumer through an opt-in policy. Consumers should have the opportunity to make a personal choice based on the particulars of each dispute. The consent option should be made available before consumers submit their complaints, as this is the time when the details are freshest in their minds and they are most engaged in the complaint process. For efficiency, consumers should be able to note (possibly in a separate disclosure box) if certain details of a complaint should remain confidential, even if the problem is made publicly accessible. We concur that the consumer should be given the opportunity to change her mind and return the complaint to a private setting.

Furthermore, the complaint intake form should include a box that allows consumers to provide permission for a representative (housing counselor, legal aid attorney, consumer advocate) to confer with the CFPB. Disclosure should be clear to all parties acting on behalf of consumers, that if a consumer opts in to including

complaint details in the public database that all parties' comments relevant to the complaint (minus personal information) would be accessible in the database.

5. Other Recommendations

a) Right to update narratives

Unless consumers can update their narratives, the full story will not be told. Complaints could be resolved, left unaddressed, or new issues may develop from when a dispute was first submitted. We would support allowing consumers to update the narrative to ascribe new developments to the situation. Updates could be posted in the database alongside the original complaint with the original ID number and a date for the new submission.

Consistent with the value that the Bureau places on an open data policy, allowing consumers to add further chapters to the original complaint story may also help expose breakdowns in a company's processes, may disclose harmful discriminatory patterns, or may reveal a consumer's misunderstanding or misinformation about a dispute. Updates could also offer a solution to address proposal opponents' outsized fears that information in the database might be inaccurate. For practical purposes, the Bureau may choose to limit the length of updates.

b) Include company response

As we noted above, we support the Bureau's proposal to permit a business to include its response to a complaint, generally published side by side with the original dispute. This makes the data points obtainable from the stories more robust. This approach also allows the public to review the dispute in its entirety.

Complaints should be posted after the 15-day window; company responses can be added as they are submitted. This allows others to draw their own conclusions as to the validity of a complaint, handling of the problem, validity of the resolution, or reasons why a dispute was not resolved. As a matter of fairness, it also allows a company to air its perspective in a dispute and allows for it to address any reputational concerns. Since the various perspectives in a dispute will be displayed simultaneously in the database, the company will have a reasonable opportunity to address points that it deems inappropriate or incorrect. If necessary it can set the record straight in a timely manner and appropriate location.

c) To the extent possible, a company's public response should be detailed:

The Bureau has asked for feedback on whether a company's public response should be separate from its response to an aggrieved consumer.

In order to create the most robust and meaningful database possible, it is our recommendation that a company's detailed response be included in the database with as much specificity as the situation warrants. Given the need to protect individuals' personally identifiable information (PII), we recommend that the Bureau use the same scrubbing techniques on a company's response as it would to the original complaint, with allowances for Bureau discretion to limit certain complaint details for consumers' privacy protection.

In exceptional circumstances where a company is not be able to release certain complaint details to the public, the Bureau should decide on a case by case basis if its own redaction techniques would not be sufficient to protect a consumer's identity. If in rare cases, the Bureau allows a company to supply a separate, more detailed response to the CFPB than for public disclosure, both the detailed private response and the separate public response should be shared with the Bureau and the consumer.

The proposal to publish narratives in the database lives up to the Bureau's commitment to transparency while incorporating strict precautions to protect consumers' personal information.

d) The need to protect personal information

We appreciate the level of caution the Bureau is proposing to protect consumers' personal information and prevent re-identification. While releasing complaint details is not without risk, we believe the precautions that the Bureau has proposed will reasonably protect people's personal information. We support the CFPB's plan to require informed consumer consent to disclose individual complaint narratives in the public database. We are pleased that the CFPB plans to use search algorithms to comb complaint data for personally identifiable information (PII) to diminish the possibility of accidental disclosure. Another layer of manual inspection of the data will follow this effort to further scrub each complaint of details that might inadvertently identify individuals. We support the Bureau's plans to exercise discretion to minimize risk of personal identification. During complaint the intake process, we recommend that frequent reminders be posted to prompt consumers not to include PII.

e) Other steps can be taken to protect privacy and prevent “re-identification”

The consumer complaint database should include narrative information to allow analysis by company, complaint type, geographic region/zip code, and other fields of interest to the public, researchers and regulators.

The Bureau plans to start with the HIPAA Safe harbor method to de-identify data which removes 18 specific identifiers.⁶ We endorse that proposal with one key modification.

In response to the Bureau’s request as to whether to continue publishing five-digit zip code information in the database, we recommend reporting five-digit zip codes for most communities, while modifying zip code disclosures where populations are small.

To prevent possible re-identification of people who live in zip codes with very few residents, we suggest the CFPB omit zip code reporting for zip codes with fewer than 10,000 residents. (Seventeen percent of Americans live in zip codes with less than 10,000 residents.)⁷ A geographic identifier for both city or town and county should be used for complaint records from consumers in zip codes with fewer than 10,000 residents. In sparsely populated cities and towns, reporting at the county level only would be appropriate. In counties or cities that have only one zip code with fewer than 10,000 residents, residents’ privacy can be protected by also omitting zip code reporting for the zip code with the second smallest number of residents. This way, a complaint filer’s zip code cannot be reverse engineered from the data.

Nearly 83% of U. S. residents live in zip codes with at least 10,000 people. Requiring zip code identification at the 10,000-person level would provide a sufficient amount of information to identify patterns of service or abuse for most citizens. If the Bureau were to omit zip code identification for all zip codes with fewer than 20,000 residents it would exclude almost 35% of the population, and obscure critical information about the distribution of complaints needed to identify potential abuse patterns.

Moreover, in certain “down-sized” cities around the nation, setting a zip code cut-off

⁶ <http://cphs.berkeley.edu/hipaa/hipaa18.html>

⁷ Tabulations run from U.S. Census Bureau, 2008-2012 American Community Survey, 5-year data, Table DP05, Demographic and Housing Estimates.

as high as 20,000 residents would have a significantly disproportionate effect on neighborhoods with large numbers of persons of color. For example, in Rochester, New York that higher cut-off would leave out several zip codes in the heart of the city that account for 46% of the city's total African American population (zip codes 14605, 14607, 14608, 14611 and 14619), thus preventing Rochester advocates and New York State agencies from identifying complaint patterns possibly relevant to the racial and ethnic composition of local neighborhoods.⁸

While using a population cut-off that is too large is undesirable because it is likely to *exclude* persons of color, the consequences of using a "three-digit" zip code protocol would be even worse. In areas where persons of color are concentrated in particular neighborhoods, a three-digit protocol would err in the other direction by being *too inclusive*. That is, using an area that is geographically too large, would deny analysts and policy makers the ability to identify significant local anomalies within the broader area. For example, Rochester's "146" three-digit zip code prefix encompasses a total area more than twice the size of the city itself. Such a large geography impedes the ability to ascertain patterns associated with neighborhoods having larger concentrations of persons of color or high poverty.

In contrast, reporting zip codes for complaint filers who live in areas with 10,000 or more residents would both ensure comprehensive reporting in many small and medium-sized American cities and facilitate the identification of harmful patterns of unfair or discriminatory behavior.

f) Detecting discrimination via protected class data

In addition to making public the narrative data, we urge the CFPB to encourage complainants to voluntarily provide protected class data to assist regulators, researchers and the public in detecting and rooting out discriminatory practices. At intake, the CFPB should request complaint filers' information on ethnicity, race, marital status, age, source of income and gender. (These data are already requested in every mortgage loan application). While providing these data should remain optional for consumers, we suggest that the CFPB encourage reporting by including a compelling explanation as to why this information is so valuable.

Since individuals are often not in a position to determine discrimination, we recommend that collected protected class information be included in the consumer complaints database so that regulators, researchers and consumers have the opportunity to evaluate whether there are patterns of discrimination and abuse.

⁸ Ibid.

We share your deep commitment to safeguarding personal consumer information, and as you consider the challenges of data disclosure we ask that you remember that so much of the data that we seek to protect is already available to companies that can afford to purchase it. Consumers are already identifiable to those businesses that can pay to access an enormous amount of detailed individualized personal information, from people's personal web browsing habits and shopping history, to information about their credit scores, mortgages, and more.

Given the CFPB's pledge to educate and protect consumers using transparency and useful information, the release of complaint narratives aligns with the agency's mission to provide the most meaningful information possible for individuals to make financially sound decisions.

g) Improving the process

In addition to making complaint narratives public, we offer a few additional suggestions for improvements to the overall complaint process.

Built into the process should be a periodic review of the complaint system to ensure it is working as expected. This would include interviewing or surveying consumers who've used the system to better understand why people did or did not achieve complaint resolution.

The CFPB should provide more direct communication with consumers when complaints are not resolved or not responded to by a company. The Bureau should explain what options the consumer currently has, what if anything the Bureau will do on the consumer's behalf (including having CFPB Supervision and Enforcement divisions review the complaint) and alert consumers to the choice to dispute a company's response via the CFPB's complaint dispute process. Where possible, consumers who've complained should be notified if their problem is being investigated for possible legal violations and informed of any Bureau findings or actions related to the complaint. Additionally, if the Bureau does investigate and close a complaint the consumer should be notified and an explanation for the closing should be provided.

h) Building on others' success

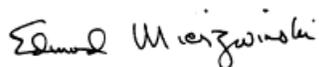
Consumers are accustomed these days to seeking input from others' experiences, informally, on websites and through various databases prior to making financial decisions.

Government databases such as the National Highway Traffic Safety Administration's safercars.gov and Consumer Product Safety Commission's saferproducts.gov already serve to help consumers make more informed buying decisions with the use of complaint narratives. Increased access to complaint and ratings information has led to better products and programs. For example, NHTSA has reported that its New Car Assessment Program has encouraged manufacturers to voluntarily achieve high ratings and thereby increase vehicle safety⁹ The Bureau's proposal to include complaint details in its database would also prepare consumers to make wiser financial evaluations based on others' real-life experiences. The CFPB clearly states that it verifies a consumer's account relationship with a company prior to posting, not the disputes. No public database verifies disputes; that is not its purpose. The mere existence of a government complaint database that includes narratives encourages companies to operate with a set of best practices that can be advantageous to all customers.

We are confident that the Bureau's proposal to allow the public to learn from others' problems (with informed consumer consent) will benefit us all by providing a tool to better identify and avoid unfair, deceptive or dangerous financial products and practices, incent clear information, quick resolution of problems, and excellent customer service.

Thank you for the opportunity to comment on this important proposal.

On behalf of U.S. PIRG and the state PIRGs (California PIRG, Connecticut PIRG, Illinois PIRG, Iowa PIRG, Maryland PIRG, Massachusetts PIRG, New Jersey PIRG, Oregon PIRG, Texas PIRG, Wisconsin PIRG)



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⁹ National Highway Traffic Safety Administration, The New Car Assessment Program Suggested Approaches for Future Program Enhancements
Jan. 2007, <http://www.safercar.gov/staticfiles/safercar/pdf/810698.pdf>