

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

covering the debt collection market and financial practices that impact consumers' debt burden, including implementing the Fair Debt Collection Practices Act (FDCPA) and other statutes. This letter and its appendix describe the efforts the Commission has taken in this area during the 2023 calendar year. We hope the information in this letter will assist the Consumer Financial Protection Bureau (CFPB) in preparing its report to Congress concerning the federal government's efforts to implement the FDCPA.

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I. Law Enforcement Activities and Rulemaking

The Commission is authorized under both the FDCPA and the FTC Act to investigate and take law enforcement action against illegal debt collection activities and other unlawful practices affecting consumers' debt.¹ From January 1 through December 31, 2023, the FTC continued litigation in two enforcement actions addressing unlawful debt collection practices against small business, permanently banning four entities from the debt collection industry. The Commission also worked to stop illegal practices that increase consumers' debt burden, through both enforcement and rulemaking.

A. Debt Collection Issues Affecting Small Businesses

Protecting small businesses is a high priority for the Commission. In addition to the Commission's authority relating to household debt under the FDCPA, the FTC Act empowers the FTC to take action to protect small business consumers. Unfair and deceptive debt collection

¹ The Dodd-Frank Act directed the CFPB to report to Congress on the federal government's implementation and administration of the FDCPA. Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. 111-203, § 1089, 124 Stat. 1376, 2009-93 (2010) (amending the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692p). Before the enactment of the Dodd-Frank Act, Section 815(a) of the FDCPA, 15 U.S.C. § 1692m, required the FTC to report directly to Congress on these topics. The Commission submitted such annual reports from 1977 to 2011.

² FDCPA, 15 U.S.C. § 1692-1692p; FTC Act, 15 U.S.C. § 1692

practices harm both small businesses and individual consumers, and the FTC is committed to combating these practices, as highlighted by its continued enforcement actions.

For example, in *RCG Advances*, the FTC sued an enterprise and five defendants for using illegal tactics when collecting on merchant cash advances. In its 2020 complaint, the FTC alleged that defendants used unfair debt collection practices, including egregious threats of physical violence, to compel consumers to pay. In 2022, the FTC announced two settlements with four of the five defendants, permanently banning them from the debt collection and merchant cash advance industries and requiring them to pay \$675,000 and \$2.7 million, respectively.⁵ The FTC was granted partial summary judgment against the remaining defendant, also resulting in the entry of a permanent injunction in October 2023 banning that defendant from the debt collection and merchant cash advance industries, with the court to determine the amount of monetary relief after a trial.⁷

In another ongoing enforcement action related to small businesses, *American Future Systems (AFS)*, the FTC and the Commonwealth of Pennsylvania sued the operators of a telemarketing scheme and debt collection operation.⁸ The complaint alleges that defendants targeted small businesses, non-profits, and responders to collect on debt for subscriptions they never ordered. The debt collection firm, International Credit Recovery, Inc. (ICR), allegedly contacted consumers that it knew or has reason to know did not agree to order paid subscriptions, used false or unsubstantiated representations to get consumers to pay, and illegally threatened consumers if they did not pay. In April 2023, the FTC announced settlements with ICR and certain individual defendants, permanently banning them from the debt collection industry.⁹ A trial against the remaining defendants concluded in December 2023 and a decision from the court is forthcoming.

⁴ Press Release, FTC Files Amended Complaint Seek

The company further prevented consumers from cancelling their subscription by using manipulative, coercive, or deceptive user-interface designs known as “dark patterns” to create a confusing and misleading cancellation process. These practices created significant financial hardship, and the \$18 million settlement will be used to refund harmed consumers.

In another action involving recurring charges, the FTC filed a complaint in June 2023 against Amazon.com, Inc., charging that the online retailer used dark patterns to trick consumers into enrolling in automatically-renewing subscriptions to its Amazon Prime service.¹² The complaint also alleges that consumers who wished to cancel their Prime subscriptions were routed through a complex and confusing process which Amazon internally called the “Iliad flow,” to deter consumers from successfully unsubscribing. These practices subjected consumers to ongoing and unwanted charges, putting a drain on consumers’ pocketbooks. Litigation in this matter is ongoing.

ii. Auto Debt

Auto purchases are a significant source of consumer debt – for many, a vehicle is the single most expensive item they will ever purchase. The December 2023 announcement of the Combating Auto Retail Scams (CARS) Rule demonstrates the Commission’s commitment to protecting consumers and leveling the playing field for law-abiding automobile dealers.¹³ The CARS Rule will ban bait-and-switch tactics and hidden junk fees that consumers face at car

military and their families—foexample, by prohibiting dealers from lying to servicemembers about whether the dealers are affiliated with the military or whether servicemembers can move their vehicles out of state or out of the country.

The FTC also continues to bring enforcement actions against car dealers engaging in illegal practices. For example, the FTC announced an October 2023 settlement with Wisconsin-based auto dealer Rhinelander Auto Center. The complaint alleged that Rhinelander charged customers junk fees for “add-on products or services without authorization or through deception. These junk fees can significantly ~~clup~~ the amount that customers finance when they purchase their vehicle, which in turn leads to a higher cost over the ~~fe~~ of the loan. The FTC also alleged that Rhinelander discriminated against American Indian customers by adding more “markup” to their interest rates, and that it charged American Indian customers for unwanted add-ons at a higher rate than Latino white customers. According to the complaint, American Indians paid on average approximately \$1,362 more for add-ons on credit transactions than non-Latino White customers since 2016. The settlement requires Rhinelander to stop its unlawful practices, and to pay \$1.1 million, which will be used to fund harmed consumers.

iii. Proposed Rule Banning Junk Fees

In October 2023, the FTC announced a proposed rule to prohibit hidden and misleading fees, or junk fees, that accompany routine transactions such as booking hotels, buying concert tickets online, renting an apartment, and paying utility bills.¹⁶ The Commission estimates that these fees can cost consumers tens of billions of dollars per year in unexpected costs. As the public comments to the Commission’s advance notice of proposed rulemaking made clear, consumers are fed up with sellers that do not disclose the total amount that consumers will have to pay and fail to disclose mandatory fees until consumers are well into completing the transaction. Consumers also complained that sellers misrepresent or do not adequately disclose the nature or purpose of certain fees.

The proposed rule would ban hidden and bogus fees, preventing businesses from engaging in bait-and-switch pricing tactics that hide mandatory fees and deceive customers about the price. It would also prohibit sellers from misrepresenting or failing to disclose the nature and purpose of certain fees. (581-476-1564) (800-368-7611) (728-8541) (298-358) (581-476-1564)

statute requires of debt collectors and to inform debt collectors about what they must do to comply with the law. The FTC also engages education and public outreach to enhance legal services providers' understanding of debt collection issues.

The Commission reaches tens of millions of consumers through English and Spanish print and online materials, blog posts, speeches, presentations. To maximize its outreach efforts, FTC staff work with an informal network of more than 8,500 community-based organizations and national groups that order and distribute FTC information to their members, clients, and constituents. In 2016, FTC distributed 9.2 million pr

Fake and Abusive Debt Collectors (Cobradores de deudas falsos y abusivos in Spanish)²⁴ which was viewed more than 10,000 times in 2022. The infographic was downloaded nearly 1,000 times in 2023.

The Commission also educates members of the debt collection industry by developing and distributing business education materials, delivering speeches, and providing Business Alerts; participating in panel discussions, industry conferences; and providing interviews to general media and trade publications. The FTC's business education resources can be found in its online Business Guidance. The Business Guidance logged more than 8.3 million page views in 2023, and there are more than 132,000 email subscribers to Business Alerts. A complete list of the FTC's consumer and business education materials relating to debt collection, and information on the extent of their distribution in calendar 2023, is set forth in Appendix A to this letter.

FTC staff also regularly meet with legal service providers, consumer advocates, and others who work in immigrant, American Indian/Alaska Native, Latino, Asian American, Native Hawaiian, Pacific Islander, and Black communities to discuss consumer protection issues, including the FTC's work in the debt collection arena. For example, the FTC hosted seven Ethnic Media Roundtables in 2023, bringing together law enforcement, community organizations, consumer advocates and members of the ethnic media to discuss how consumer protection issues—including debt collection—affect their communities.

Sincerely,


Samuel Levine
Director, Bureau of Consumer Protection

