

ACA INTERNATIONAL 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.

FEBRUARY 2022




ACA[®]

INTERNATIONAL
The Association of Credit
and Collection Professionals



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ACA International supports policies that create a fair and transparent marketplace, which allows consumers to continue to access credit and creditors the ability to provide goods and services.

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EXECUTIVE SUMMARY

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

As businesses, hospitals, and other providers across the country continue to face unprecedented challenges as a result of COVID-19 and labor shortages, the work of ACA members is more important than ever. As part of the process of attempting to recover outstanding payments, ACA members are an extension of every community's businesses. ACA members work with these businesses, large and small, to obtain payment for the goods and services already received by consumers.

Academic research has confirmed the basic economic reality that losses from uncollected debts result in higher prices and restricted access to credit. The collections process plays a critical role in a healthy credit ecosystem. Lenders rely on the ability to collect to be able to lend to consumers of all means with diverse financial backgrounds. In a world without a collections process, there would likely be limited ability to obtain credit cards or other extensions of unsecured credit, and in many instances, consumers would only have the option to pay in cash. Similarly, medical providers and other providers would face difficult choices about how to provide services, keep employees, and serve communities if we did not operate in a credit-based economy. This would be a disadvantage to many consumers. The work of ACA members allows lenders to continue to lend, providers to continue to provide, and keeps the cost of credit down, particularly for the riskiest borrowers.

ACA members are committed to fair, reasonable, and respectful debt collection practices and take their compliance obligations with consumer protection laws 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. Many ACA members are serving the medical providers who stand on the front lines of the pandemic.





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 (ARM) industry, represents approximately



2,100 members

including

third-party collection agencies, credit grantors, asset buyers, attorneys, and vendor affiliates, who, worldwide, employ more than

124,400 employees.



Working in the ARM industry allows Americans with all levels of education and different backgrounds to learn more about financial services and debt collection while earning competitive salaries for positions that do not require a formal college education.



ACA partners with **33 independent units** representing **48 states** and has international members in **more than 40 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 66% of the total workforce. Racial and ethnic minorities make up 41.8% of debt collection employees, compared to 36.1% of the total U.S. workforce.



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

ECONOMIC IMPACT

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.

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

contribute more than



\$1.2 billion
in taxes

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



\$5 billion

“Fair and reliable collection of consumer debts is essential for a well-functioning consumer economy. If creditors are unable to collect debts at reasonable cost and with reasonable certainty, then they will be less likely to lend in the first place, especially to riskier borrowers.”

– CFPB Taskforce on Federal Consumer Financial Law Report, January 2021



DEBT COLLECTION:

A HIGHLY REGULATED INDUSTRY

- Federal Trade Commission (FTC)
- Consumer Financial Protection Bureau (CFPB)
- 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.**



RESPONSE TO COVID-19 LEGISLATION



As the COVID-19 pandemic continues in some forms, ACA strongly supports helping those still suffering as a result of the pandemic through narrowly tailored efforts to alleviate those burdens.

ACA members remain committed to ensuring consumers can access credit and much-needed medical care and services. This commitment has been further demonstrated since the pandemic started through an industry-wide call to action for increased compassion and empathy for those who are struggling.

Impeding Legal Collections Harms Small Businesses, Hospitals, and Other Providers

- Policymaking not narrowly tailored to those directly impacted by COVID-19 unnecessarily harms other parts of the functioning economy. This includes arbitrarily limiting legal collections.
- Stopping the operations of the credit and collection system for the part of the economy that is still functioning causes difficulties for hospitals, utility providers, governments, and many businesses trying to survive and to serve their community.

Credit Reporting is Necessary in Certain Instances to Protect Consumers

- Unnecessarily impeding credit reporting creates the possibility of further financial turmoil by allowing consumers to borrow when they may not have the means to pay their bills.

- Credit providers will not understand a consumer's financial situation if they have an inaccurate credit report and consumers may take on new obligations that will lead to financial problems down the road.

Working with Consumers to Help Them Understand Their Student Loan Obligations is Important

- Not all student loan borrowers were impacted by COVID-19, and impeding communication with these consumers may hinder their ability to consolidate loans in the future.

ACA Members are Part of the Solution

- ACA members are committed to developing debt recovery solutions that work.
- The ARM industry should not be unfairly impugned for this unprecedented economic crisis when it has consistently provided consumer benefits and solutions to financial problems throughout this time.



3 THINGS TO KNOW:

- 1** Consumers are seeking to communicate with ACA members so they can control their own financial health.
- 2** ACA members can offer hardship programs to help consumers make arrangements that best suit their needs.
- 3** Proposed policy solutions to halt all ARM industry activity threaten consumers' ability to access credit and receive information about financial assistance.

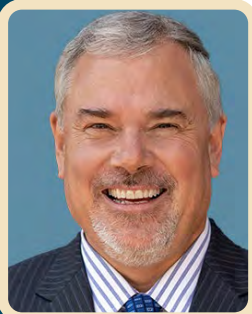




HELPING CONSUMERS AND BUSINESSES SUCCEED

REAL-LIFE CONSUMER COMPLIMENT TO AN ACA MEMBER COMPANY:

“I am a nurse in Nashville. I had some hospital bills from a couple of years ago. I had this wonderful representative who helped me organize my bills and what I was trying to accomplish, including buying a home for my family. I needed a letter to help buy the house and the CEO of the debt collection agency submitted it within 24 hours. This helped me move forward in buying a home while resolving my debts. They stepped up to help me pursue my dreams and I wanted to thank your agency for helping someone like me.”



ACA CEO INSIGHT

“ACA members have always been diligent in serving consumers’ needs and clearly communicating their rights. Having more tools for businesses and consumers to accomplish this goal and guidance from federal regulators is a benefit. Based on data from 2018, the most up-to-date publicly available information, the total net debt returned to creditors amounted to nearly \$90.1 billion, according to a 2020 State of the Industry Report created as part of a partnership between ACA and the Kaulkin Ginsberg Company. The total debt returned represents roughly \$706 in savings per household.”

- ACA CEO Scott Purcell



INTRODUCTION TO THE ARM INDUSTRY

Watch powerful video testimonials from a consumer in collections and the firsthand experience of a debt collector on [ACA's Policymakers website](#).



- New obligations imposed by a regulatory agency must follow required rulemaking procedures, which include public notice, comment, and agency response, all of which afford stakeholders the ability for meaningful participation.
- Regulatory clarity for use of modern forms of communication, including email and text messaging, is important for consumers and the industry. It is indisputable that these are common communication methods used today, and not addressing them would be a disservice to consumers. Adding unnecessary burdens or complicating the use of modern communication methods is a disservice to consumers in the debt collection process who deserve to be on a level playing field with consumers using other financial products or services.
- ACA provides extensive resources and certifications to its members complying with CFPB rules and policies as a major part of its training materials to ensure industry compliance with consumer protection laws. ACA has also collaborated with the CFPB to provide financial literacy resources and materials directly to consumers.

Concerns with the CFPB Complaint Database

The ARM industry supports efforts to identify true complaints and problem actors to eliminate bad practices. However, the CFPB often fails to contextualize the number of complaints as compared to the significant number of contacts the debt collection industry makes with consumers, which the Philadelphia Federal Reserve estimates to be well over 1 billion per year.

3 THINGS TO KNOW:

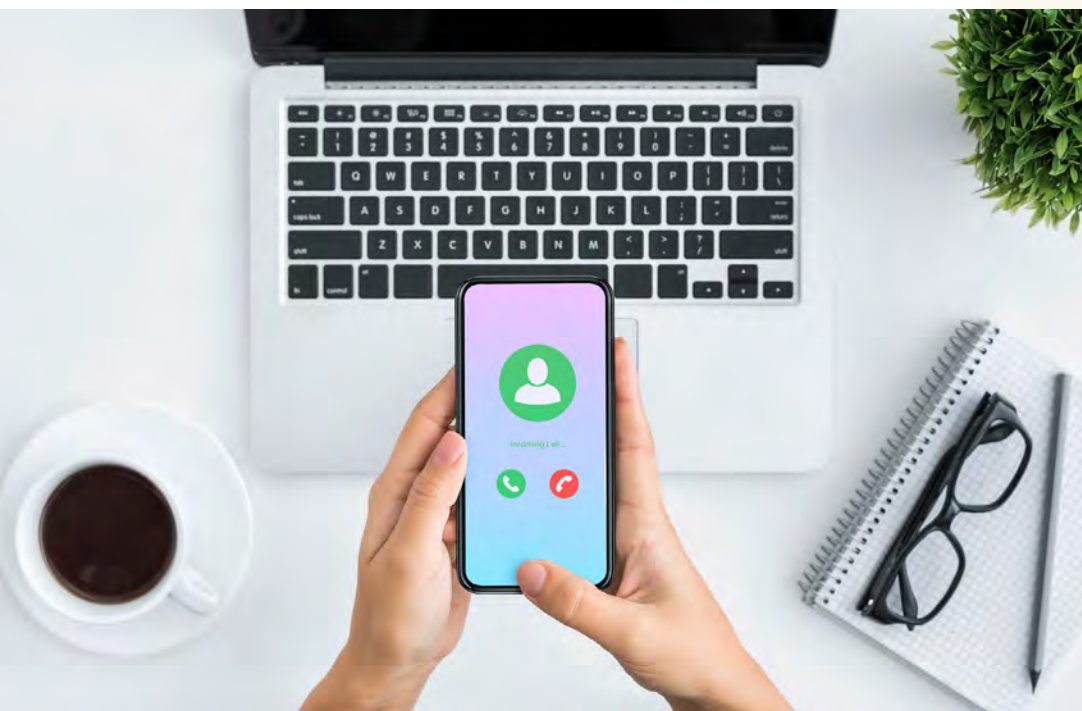
- 1 Regulatory agencies imposing new obligations must follow required rulemaking procedures.
- 2 ACA worked with the CFPB through various administrations and multiple stakeholders in pursuit of well-reasoned rules that provide clarity to the ARM industry and consumers.
- 3 The industry is willing to contact consumers in the ways they prefer and that are most convenient to them, but has been hamstrung by unclear rules.

CALL BLOCKING & LABELING/TEXT BLOCKING

- Call blocking and labeling technologies are unfairly impeding calls from credit and collection professionals and other legal businesses.
- While illegal actors, by their very nature, are not concerned with laws governing communications, those operating legally, such as companies in the ARM industry, are following federal consumer protection laws.
- When outbound calling numbers used by legitimate businesses are mislabeled as “fraud” or “spam,” or calls from those numbers are blocked, 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.
- Carriers are required by the Federal Communications Commission and Congress to provide notice to callers if they are blocking their calls.

3 THINGS TO KNOW:

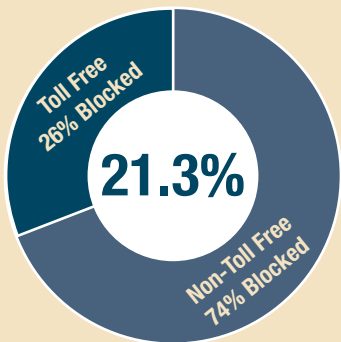
- 1** Overly broad call blocking and labeling efforts can create dangerous circumstances where consumers are not getting the information they want and need.
- 2** There must be greater consequences for calls being blocked or mislabeled based on faulty analytics.
- 3** The FCC recently put out an order requiring “terminating voice service providers, upon a dispute from a calling party about the appropriateness of blocking, to provide a status update to the party that filed the dispute within 24 hours.”





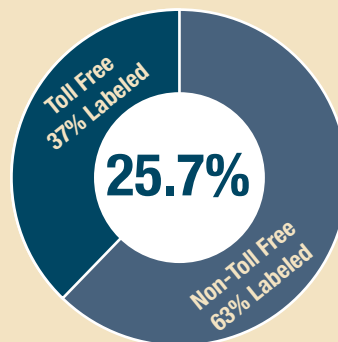
ARM INDUSTRY IMPACT FROM CALL BLOCKING & LABELING

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.



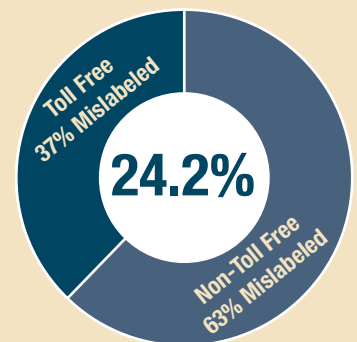
**Over 21% of
ARM Calls
Were Blocked**

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.

TCPA REFORM

- ACA members contact consumers exclusively for non-telemarketing and legitimate business reasons.
- Because of unclear requirements for how the ARM industry can use modern technologies to communicate with consumers, the industry often remains unable to provide critical financial information in a timely and effective manner.

The **U.S. Department of Treasury** acknowledged in its report, *A Financial System That Creates Economic Opportunities: Nonbank Financials, Fintech, and Innovation*, that:

“Current implementation of the TCPA constrains the ability of financial services firms to use digital communication channels to communicate with their customers despite consumers’ increasing reliance on text messaging and email communications through their mobile devices.”



In April 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 ATDS. The Supreme Court justices were clear that Congress drafted the TCPA to address abusive telemarketing, not to punish legitimate business callers.

The U.S. Chamber of Commerce Institute for Legal Reform and Hogan Lovells US LLP studied the landscape of litigation under the Telephone Consumer Protection Act before and after the U.S. Supreme Court’s unanimous ruling in *Facebook v. Duguid*. Read their study, “Turning the TCPA Tide: The Effects of Duguid,” here:

<https://bit.ly/chamber-hogan-lovells-report>

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.
- Banks should be required to make decisions about banking relationships based on individualized risk-based analysis using empirical data evaluated under quantifiable standards, rather than on categorical decisions discriminating against entire industries.
- When denying any person financial services, banks should provide written justification explaining the basis for the denial, including any specific laws or regulations the covered bank believes are being violated by the person or customer.
- While the rate of banking terminations has declined, the highly questionable practices of preventing fair access to banking continue.



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.



ARBITRATION AGREEMENTS

- ACA supports the use of arbitration as an alternative to addressing and resolving consumer complaints through formal legal proceedings. Alternative dispute resolution through arbitration benefits consumers by reducing the time to achieve a resolution of claims brought by or against consumers, decreasing the expenses of all parties to the arbitral proceeding as compared to litigation, and limiting the legal and administrative fees of formal litigation.
- Debt collection companies do not enter into arbitration agreements directly with consumers. Instead, arbitration agreements can flow through to a debt collector from an underlying creditor contract either implicitly or explicitly. Nevertheless, arbitration plays a crucial role in the resolution of debt collection disputes. In the ARM industry, class-action lawsuits frequently get filed despite lacking the necessary criteria to move forward as a class. Often, such class filings are used strategically in hopes of increasing a settlement offer.
- Most businesses in the ARM industry are small businesses. The CFPB even recognized during its SBREFA process for arbitration rules that small businesses are impacted when the arbitration process is eliminated.
- In instances when arbitration agreements contain class-action waivers, they play an important role by offering legitimate debt collectors, especially small businesses, a way to quickly and more easily defeat inappropriate class-action lawsuits.

3 THINGS TO KNOW:

- 1** ACA, in partnership with the U.S. Chamber Institute for Legal Reform and a coalition of national and state organizations, has urged members of Congress to oppose anti-arbitration bills.
- 2** Pre-dispute arbitration clauses in contracts are a benefit to consumers, small businesses, and their employees.
- 3** Federal law has protected arbitration as a means of resolving disputes between businesses, consumers, and employees since 1925.





CONSUMER HARM RESULTING FROM THE *HUNSTEIN* CASE



What Happened in the 11th Circuit's *Hunstein* Case?

- On April 21, 2021, a three-judge panel in the U.S. Court of Appeals for the 11th Circuit released an opinion in *Hunstein v. Preferred Collection and Management Services Inc.*
- The *Hunstein* opinion was in response to the use of a letter vendor by a collection agency, a common practice that even the Consumer Financial Protection Bureau has acknowledged in the debt collection rule it finalized in 2021.
- The court held that the mere transmission of information to a letter vendor to facilitate the automated processing and mailing of a letter to a consumer was a “communication” with the letter vendor under the Fair Debt Collection Practices Act, even though not a single person at the letter vendor ever saw the information that had been processed through automation.
- The *Hunstein* opinion, if it stands, will undermine many important compliance protections built into using vendors and also have an adverse impact when limiting consumer options.
- In October 2021, the panel of judges from the 11th Circuit that issued the original opinion issued a new panel opinion in response to the petition for rehearing. They doubled down on their original stance, holding that:
 1. The violation of Section 1692c(b) alleged in the case gives rise to a concrete injury in fact under Article III; and
 2. The debt collector’s transmittal of the consumer’s personal information to its dunning letter vendor constituted a communication “in connection with the collection of any debt” within the meaning of Section 1692c(b).
- The 11th Circuit granted Preferred Collection’s en banc hearing request on Nov. 17, 2021, followed by the oral argument on Feb. 22, 2022.

Do Other Industries Use Letter Vendors?

- Yes, letter vendors, and all types of vendors, are commonly used throughout the financial services industry and in many other industries. This opinion, if left unchecked, could have far-reaching consequences for the entire financial services industry and the consumers that rely on it for products and services.

Will Consumers Be Harmed By This Decision?

- Yes, letter vendors are an important part of informing consumers about their options and are an important part of ensuring compliance with consumer protection laws and regulations.
- If the ARM industry and creditors are forced to curtail sending letters, they may have to turn to litigation more quickly. This takes the control out of the hands of consumers. Litigation is typically the last resort in the collections process, and sending a letter is often one of the first attempts to open the lines of communication. Similarly, curtailing the use of letters will likely force creditors to turn to credit reporting more quickly, rather than trying to engage in an early dialogue with consumers.





CONSUMER HARM RESULTING FROM THE *HUNSTEIN* CASE



Consumer Harm

- Consumer communication preferences were studied for many years by the CFPB. Those preferences, such as the preference to receive communications by email, are reflected in the CFPB's debt collection rule. The *Hunstein* decision does not account for consumer preferences.
- Other industries are also impacted by this opinion. For example, in the mortgage industry, mortgage servicers will be stymied from communicating with loss mitigation vendors. This will make it more difficult for consumers to avoid foreclosure and may increase the number of bankruptcies.
- This opinion could also result in consumer harm related to consumers not understanding disclosures because debt collectors might be forced to move to an oral disclosure of the debt in accordance with existing statutory and regulatory provisions. They also may have to start making calls sooner in the process, leading to an increase in the total number of calls.
- Sending letters allows many agencies to wait for the consumer to attempt to contact the agency in the consumer's preferred communication channel (letters invite a consumer to go to a portal, email, text, or call).

500+

Number of copycat lawsuits filed in the first month after the *Hunstein* opinion. These suits are depleting resources from U.S. small businesses and creditors.

What Can Congress Do?

- The financial services industry as well as consumers are all being negatively and unnecessarily impacted by this opinion. Less than a month after the *Hunstein* opinion, over 500 copycat lawsuits were filed, even though there is no actual harm to consumers being alleged. Instead, the resources of small businesses and creditors are being depleted fighting needless and pointless copycat lawsuits while notices going to consumers informing them of their rights decline precisely because automated lettering using vendors has been called into question—a true negative for consumers.
- The court invited Congress to provide additional clarity on this issue. We disagree that there is ambiguity about whether transmitting information to a letter vendor is an impermissible act. In fact, we think it is clear that it is not. However, since the 11th Circuit has muddied the waters and thrown consumers and the financial services industry into a state of chaos, **it is important for Congress to act to provide clarity on this issue as the case proceeds in court.**

3 THINGS TO KNOW

- 1** The *Hunstein* opinion, if it stands, will undermine many important ARM industry compliance protections built into using vendors and will limit consumer options.
- 2** Other industries are also impacted by this opinion. For example, mortgage servicers will be stymied from communicating with loss mitigation vendors.
- 3** Since the 11th Circuit has muddied the waters and thrown consumers and the financial services industry into a state of chaos, **Congress must provide clarity on this issue.**

MEDICAL DEBT

- The Fair Credit Reporting Act permits health care providers and their agents to furnish information about medical debts to consumer reporting agencies (CRAs). The Health Insurance Portability and Accountability Act allows medical providers or their debt collector agents to report medical debts to CRAs provided that the information used is limited to the minimum amount necessary. The CRAs themselves also have certain policies that impact the furnishing of medical information.
- ACA has concerns regarding a year-long delay in reporting medical debt and other proposed delays for collecting medical debt that are not tailored to a unique circumstance. Many consumers are unaware of the options they may have to handle their debt obligations and deadlines they face for insurance corrections and charity care options. After exhausting other options, credit reporting can be the best way to alert consumers of their outstanding debts.
- Without this process, credit providers will not understand a consumer's financial situation if they have an inaccurate credit report and consumers may take on new obligations that will lead to financial problems down the road.

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.

Read it here: <http://bit.ly/HFMABestPractices>



3 THINGS TO KNOW:

- 1 **ACA supports several aspects of medical debt legislation, including removing all paid, non-elective medical debt from a consumer's credit report to help those who have been impacted by illnesses.**
- 2 **ACA members often help consumers identify ways to pay medical debt, either through insurance or charity care options. Cutting collectors out of the process will leave consumers in the dark without understanding their options.**
- 3 **ACA members are supporting many medical providers on the front lines of COVID-19, as well as other critical providers such as small dentists' offices, general practitioners, and others that may have been negatively impacted over the past year.**



COMPREHENSIVE DEBT COLLECTION IMPROVEMENT ACT



The Comprehensive Debt Collection Improvement Act: An Overview of Impacts for the ARM Industry

- Debt collection plays a critical role in the credit cycle. ACA members are an extension of local businesses within every U.S. community and help obtain payment for goods and services already consumed by users.
- Economic research confirms that uncollected debts result in both higher prices and restricted access to credit in the broader economy.
- In the absence of the ARM industry, consumers would be unable to obtain credit cards and other unsecured credit would be extremely limited, causing disadvantages for consumers without cash on hand.
- Research has shown that reasonable debt collection regulations combined with an efficient ARM industry can contribute to an expanded supply of consumer credit and lower interest rates. This is essential for higher-risk borrowers who would not otherwise qualify for credit or for whom credit would be prohibitively expensive. It gives borrowers access to affordable credit when lenders can mitigate losses through post-default collection.

H.R. 2547, the [Comprehensive Debt Collection Improvement Act](#) (which passed in the U.S. House of Representatives 215-207), comes on the heels of the CFPB's update to the Fair Debt Collection Practices Act, Regulation F. It would impose nonsensical requirements and overreaching compliance burdens that would lead to an increased cost of credit and services. The House legislation is not reasonable.

The following problematic legislation is included in this package:

Consumer Protection for Medical Debt Collections Act

- The lack of clarity surrounding what constitutes a “medically necessary procedure,” combined with delaying the ability to collect for a two-year period, would have a crippling impact on the U.S. economy, particularly for medical providers. The health care industry, which is already suffering shortages due to the pandemic, will be crushed by this legislation. Furthermore, consumers will take on additional credit they cannot afford since their legally owed debt will not be cancelled, but rather just delayed for an arbitrary time period. Consumers may also miss timeframes to learn about insurance options and other charity care as a result of this delay, and be worse off as a result.

Ending Debt Collection Harassment Act

- The CFPB already issues regular reports regarding its complaint database, so the redundancy in this legislation does little to strengthen consumer protection. The CFPB also finalized FDCPA reforms in 2021, and already has “restrictions” on consumer communications via text message and email embedded in the bureau’s rulemaking.

Debt collectors have always been prohibited from harassment.

3 THINGS TO KNOW

1 The Comprehensive Debt Collection Improvement Act contains several pieces of unreasonable legislation that would hurt businesses and consumers.

2 Aspects of this package conflict with recent FDCPA reforms from the CFPB.

3 The Senate must ensure this legislation, which imposes

credit restrictions that would harm the economic recovery and consumers’ ability to access affordable credit, does not move forward.





COMPREHENSIVE DEBT COLLECTION IMPROVEMENT ACT



- Regarding the provision of H.R. 2547 that would prohibit “allowing a debt collector to send unlimited email and text messages to a consumer” in the CFPB’s debt collection rule, we disagree with this interpretation of the final rule and believe this legislation is misguided and would be confusing to consumers. Alternatively, the CFPB’s Regulation F addresses modern forms of communication and gives unprecedented power to consumers to control those modes of communication. Most notably, consumers can opt-out of receiving messages and also control the contact information that they provide to creditors as an opt-in. This legislation would add another barrier, beyond complex opt-in procedures outlined by the CFPB, to send emails. Consumers have indicated it is their preference to receive communications via email. This provision of the bill would ignore their preferences and the debt collection industry’s ability to create a viable option to communicate by email.

The Stop Debt Collection Abuse Recovery Act

- This proposal to extend the FDCPA to collectors of debt owed to federal agencies would render basic definitions for “debt” and “debt collector” in conflict with CFPB definitions, as delineated under CFPB rules. From a consumer standpoint, the restrictions would limit communications relating to learning about options for student loans and conflict with the Debt Collection Improvement Act of 1996, the Fixing America’s Surface Transportation Act, and the Higher Education Act.

The Debt Collection Practices Harmonization Act

- By seeking to extend the FDCPA to government debt, including natural disasters, this bill would limit local government debt resolution. The bill would also tie FDCPA damages to inflation, which would serve to reward and inflate trial bar baiting tactics, including those used (unethically) in bankruptcy litigation. There is already abusive litigation in this area that rewards the trial bar more than consumers. Tying this type of litigation to inflation will only further reward lawyers, while associated costs continue to be passed on to consumers.

ACA supports the intent of the Fair Debt Collection for Servicemembers Act and the Senior Investment Pandemic and Fraud Protection Act.

The Senate must ensure legislation like H.R. 2547, imposing credit restrictions that would harm the economic recovery, rights of creditors, and ability of consumers to access affordable credit and financial services, does not move forward.



Concerns with the Legislation

- Although there are well-intentioned aspects of the Driving for Opportunity Act, a more tailored approach with fewer unintended consequences is necessary.
- During a time when local governments need more resources, it does not make sense to take a legitimate source of revenue away, particularly one that has a public safety component keeping American families safe.

Projected Economic Impact

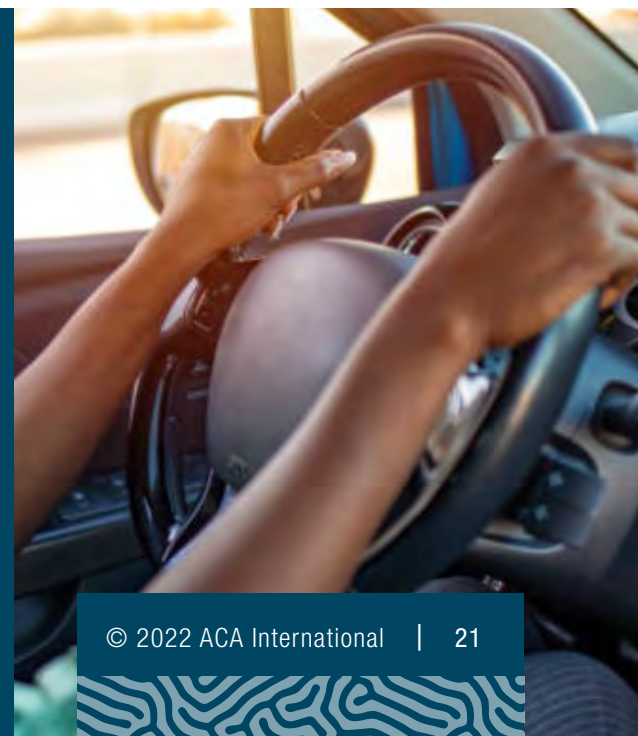
- Oregon recently passed a law similar to the Driving for Opportunity Act. Before it passed, private collection firms were collecting approximately \$8.5 million per biennium through a license reinstatement program in cases where the license was suspended for either failure to pay a fine or failure to appear in court. As a result, a loss of revenue of nearly \$5 million a year will impact local law enforcement officials and court services going forward.
- If the Driving for Opportunity Act were to become law, this number will be multiplied by many states throughout the country. It will result in millions of dollars of lost revenue that will be passed on to consumers following the law in the form of increased fines and taxes.

Alternative Ideas to Help Workers But Not Harm All Consumers

- Tailored amnesty programs that allow people who truly cannot afford to pay fines or fees make sense, but the broad actions in the Driving for Opportunity Act will reward people for not following the law and not paying fines.
- The ARM industry has the tools to work with courts on payment plans that are affordable for consumers while still providing a level of accountability for those that owe a fine. Working together with courts and consumers on managing debts owed to local governments is another tool the ARM industry has to help support the economy through solution-based account resolution.

3 THINGS TO KNOW:

- 1** The Driving for Opportunity Act, while well intentioned, means higher taxes, higher fine amounts and fewer court services.
- 2** During a time when local governments need more resources, it does not make sense to take a legitimate source of revenue away.
- 3** The broad actions in the Driving for Opportunity Act will reward people for not following the law and not paying fines.



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