

**Commissioner Julie Brill**  
**Life of a Debt: Data Integrity in Debt Collection**  
**FTC Roundtable**  
**Opening Remarks**  
**June 6, 2013**

Thank you and good morning. I'm delighted to be here today with Steve Antonakes of the CFPB to kick off this very important event. Today's roundtable is intended to bring together all of the stakeholders in debt collection – industry members, consumer advocates, technology providers, and regulators at both the state and federal level – to discuss the debt collection process, and how that process can, and should be, improved. Everyone here today has a deep interest in ensuring that the system is both fair and transparent.

I want to start by acknowledging the hard work of the folks that organized this event. The roundtable is a joint effort of the FTC and the CFPB, and I think it demonstrates our strong partnership and ability to leverage our collective assets and expertise. Tom Kane and Dan Dwyer of the Division of Financial Practices spearheaded this effort for the FTC, and John Tonetti and Corey Stone of the Office of Deposits, Cash, Collections, and Reporting Markets served as leads for the CFPB. Thanks to all of you for bringing together so many key players for this important discussion.

This morning I'd like to talk a bit about the impetus for holding this workshop, and describe some of the important work that the FTC has done in debt collection that I think will inform our discussions today.

It will probably come as no surprise to anyone in this room that debt collection is a booming industry. One of the lingering results of the financial crisis is that U.S. consumers are in debt to the tune of \$11.23 trillion. Eight percent of that debt, or about \$900 billion, is delinquent, with \$678 billion being seriously delinquent (90+ days late).<sup>1</sup>

This may provide opportunity for the debt collection industry, but it signals something quite the opposite for consumers. Consider some of the things that financially distressed consumers face: unemployment or underemployment, lack of health insurance and proper health care, and difficulties in paying for critical needs like food, housing and child care. Add in the efforts by legitimate debt collectors to lawfully collect delinquent debts that consumers owe – telephone calls, late notices, repossessions, garnishment orders – and you have consumers who become even more financially distressed than before.

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<sup>1</sup> RESEARCH & STATISTICS GROUP: MICROECONOMIC STUDIES, FEDERAL RESERVE BANK OF NEW YORK, QUARTERLY REPORT ON HOUSEHOLD DEBT AND CREDIT: MAY 2013 1 (Q1 2013), *available at* [http://www.newyorkfed.org/research/national\\_economy/householdcredit/DistrictReport\\_Q12013.pdf](http://www.newyorkfed.org/research/national_economy/householdcredit/DistrictReport_Q12013.pdf).

Now add to the mix the bad actors – the debt collectors who engage in unscrupulous, if not illegal practices. The ones who call at all hours of the night, the ones who lie and make threats they cannot follow through on, the ones who sue without having any basis for doing so, the ones who use subterfuge to obtain monetary judgments and garnishment orders. These are below the belt punches aimed at consumers who have already been pummeled.

To keep up with the vast number of lawsuits they file, some debt buyers employ “robo-signers” who sign affidavits swearing that they have personally reviewed and verified debtors’ records, when they have not actually reviewed the full file. Recent news reports raise concerns that the same haphazard practices that have plagued the foreclosure process – including “robo-signing” – have crept into debt collection, with collectors signing hundreds and sometimes thousands of affidavits a day.<sup>2</sup>

Please don’t get me wrong: I don’t mean to imply that all debt collectors and debt buyers engage in these unscrupulous practices, because they don’t. Indeed, debt collection plays an important role in our economic system, both reminding consumers of their obligations to pay debt and helping to ensure that credit continues to flow to consumers. But the sloppy and bad practices of some industry players harm both consumers and competitors who play by the rules.

We at the FTC have engaged in appropriately aggressive enforcement to weed out the bad practices. And our extensive and scholarly research has identified vulnerabilities in the debt collection system that give rise to these practices. I believe our enforcement efforts and policy work should play an important role as we consider appropriate reforms in the coming months.

Shortly after I first came to the Commission, we released our report “Repairing a Broken System”, which painted a troubling picture with respect to how debt collection claims are litigated and arbitrated.<sup>3</sup>

Our report showed that debt collectors have filed hundreds of thousands of lawsuits against alleged debtors, with the vast majority of those actions result in default judgments – in some jurisdictions, upwards of 90% of the time.<sup>4</sup>

Our report also addressed some systematic problems with the data debt collectors possess – problems that are at the heart of some of the issues we will discuss at today’s workshop. We concluded that debt collectors often lack documentation about debts to properly support

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<sup>2</sup> See, e.g., Danielle Douglas, *Regulators probing banks’ debt collection practices*, WASHINGTON POST, May 28, 2013, available at [http://www.washingtonpost.com/business/economy/regulators-probing-banks-for-faulty-debt-collection-practices/2013/05/28/9f40bca2-bbd0-11e2-89c9-3be8095fe767\\_story.html](http://www.washingtonpost.com/business/economy/regulators-probing-banks-for-faulty-debt-collection-practices/2013/05/28/9f40bca2-bbd0-11e2-89c9-3be8095fe767_story.html).

<sup>3</sup> See Press Release, FTC Issues Report on Reforming Debt Collection Litigation and Arbitration; Recommends Steps to Protect Consumers and Repair a Broken System (Jul. 12, 2010), available at <http://www.ftc.gov/opa/2010/07/debtcollect.shtm>.

<sup>4</sup> *Id.* at 7.

litigation. We also found that debt collectors often have no ability to obtain relevant data about the debt, and any data the debt collectors have may be inaccurate, due to contractual or other limitations. As a result of poor or no information about the underlying debts, debt collectors very often do not have the information necessary to respond to consumer disputes or requests for debt validation.

The harm to consumers is magnified when debt collectors report erroneous information to credit bureaus. Consumers may be denied employment, insurance, or credit as a result.

In addition to instituting court action, debt collectors sometimes, if permitted by credit contract or other agreement, commence arbitration against alleged debtors. Our report expressed concerns that the arbitration rules and process bind consumers to resolving disputes without meaningful choice or awareness; incorporate procedures that are unfair to consumers; and require consumers to pay substantially more to participate in arbitration proceedings than in comparable court proceedings.

Our 2010 report recommended significant reforms to improve efficiency and fairness to consumers. Since debt collectors file their lawsuits in state court, our recommendations urged states to adopt measures to make it more likely that consumers will know about the litigation and have the means to defend themselves, including by requiring collectors to provide more information about the purported debts when they initiate the litigation. This would enable consumers to understand why they are being sued, and to prevent judgments on empty assertions.

We'll hear much more about the findings and recommendations in our 2010 report later this afternoon, from FTC attorneys Bevin Murphy and Colin Hector.

We'll also hear from some states that have adopted some of our recommended reforms.

While there is some good news about these efforts to make appropriate reforms, unfortunately, since we issued our 2010 report, it appears that, in most respects, very little has changed. As was true in 2010, the FTC continues to receive more complaints about debt collection than any other industry. In 2012, we received more than 125,000 separate consumer complaints, representing almost 25% of all complaints we received.<sup>5</sup>

Because of the continued importance of this issue to consumers, we have continued to study the industry. In January of this year, we announced the results of a first-of-its-kind study of debt buyers – companies that are in the business of buying consumer debt and attempting to collect on it.<sup>6</sup> The debt buyers in our study – nine of the nation's largest – collectively

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5 CONSUMER FINANCIAL PROTECTION BUREAU, FAIR DEBT COLLECTION PRACTICES ACT: CFPB ANNUAL REPORT 2013 14 (Mar. 20, 2013), available at [http://files.consumerfinance.gov/f/201303\\_cfpb\\_March\\_FDCPA\\_Report1.pdf](http://files.consumerfinance.gov/f/201303_cfpb_March_FDCPA_Report1.pdf).

6 See Press Release, The First of Its Kind, FTC Study Shines a Light on the Debt Buying Industry, Finds Consumers Would Benefit from Use of Better Data in Debt Collection (Jan. 30, 2013), available at

purchased (for pennies on the dollar) nearly 90 million consumer accounts with a face value of \$143 billion.

There is no doubt that debt buying plays an important role in consumer credit. Proceeds from sales of delinquent accounts have helped reduce creditor's losses from lending money, allowing them to provide more credit at lower prices.

We found, however, that debt buying raises many of the same significant consumer protection concerns that we described in our 2010 report, most notably that debt buyers may have insufficient or inaccurate information when they collect on debts, which may result in collectors seeking to recover from the wrong consumer or recover the wrong amount.

Consumers each year dispute an estimated one million or more debts that debt buyers attempt to collect. Debt buyers verified only about half of the disputed debts, which means that buyers either could not verify or did not attempt to verify about 500,000 debts each year.<sup>7</sup>

Our report also confirmed that at the time of purchase, creditors provided debt buyers with some, but not all, of the important information concerning debts. For example, buyers did not receive information such as whether consumers previously disputed the debts or whether collectors previously verified the debts. Creditors also imposed contractual limitations on the ability of debt buyers to come back to the creditors to obtain better information about consumers' accounts. And creditors usually did not guaranty that the account information they provided to debt buyers about debts was accurate.

We'll hear later this morning from FTC attorney Heather Allen, who will describe more fully the findings and recommendations in our debt buyer study.

Our enforcement work has likewise identified aspects of industry practice that are ripe for reform. Over the past 3 years, the FTC has brought more than a dozen actions against unscrupulous third party debt collectors. Some of our cases have addressed ground-breaking issues, like attempts to collect on time-barred debt – debt that is so old the courts won't allow the debt collector to sue to collect on it.

In our case last year against the debt buyer Asset Acceptance, we challenged the company's failure to disclose to consumers that debts were too old to be legally collectable, or that a partial payment on a time barred debt could reset the clock on the collector's ability to take legal action could revive the debt. To settle the case, the Commission required Asset Acceptance to disclose to consumers that the company cannot sue to collect on time-barred debt. The company also agreed that once the past-stat disclosure is given, it would not sue on the debt even

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<http://www.ftc.gov/opa/2013/01/debtbuyer.shtm>.

<sup>7</sup> *Id* at iv.

if the consumer made a partial payment that could otherwise revive the debt. The Commission also required Asset Acceptance to pay a civil penalty of \$2.5 million.<sup>8</sup>

We also have brought enforcement actions that involve the same types of data integrity issues identified in our reports, including collecting on portfolios that were missing basic identifying information for consumers, or missing key documents from the original creditors that would substantiate the alleged debts.<sup>9</sup>

Finally, I'd like to mention an issue I am particularly concerned about, and one that I hope you all have an opportunity to discuss today. Debt collectors now use all manners of technology – cell phones, social media, and email – to reach consumers. But the Fair Debt Collection Practices Act that governs their activities was passed in 1977, a time when these technologies were not even be contemplated. We need to ensure – through enforcement, rulemaking or amendments to the FDCPA – that our policies adequately address how debt collectors use new technology.

I'm sure today's discussion will prove fruitful, and will serve to establish some common ground among all of us – consumer advocates, collection industry members, technology providers, and state and federal regulators – as we seek solutions to problems caused by the flow and integrity of information used in collections.

Thanks very much.

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<sup>8</sup> See Press Release, Under FTC Settlement, Debt Buyer Agrees to Pay \$2.5 Million for Alleged Consumer Deception (Jan. 30, 2013), available at <http://www.ftc.gov/opa/2012/01/asset.shtm>.

<sup>9</sup> See Press Releases, e.g., Under FTC Settlement, Debt Buyer Agrees to Pay \$2.5 Million for Alleged Consumer Deception (Jan. 30, 2013), available at <http://www.ftc.gov/opa/2012/01/asset.shtm>; Debt Collector Will Pay \$1.75 Million to Settle FTC Charges (Oct. 21, 2010), available at <http://www.ftc.gov/opa/2010/10/alliedinterstate.shtm>; and Debt Collectors Will Pay More Than \$1 Million to Settle FTC Charges (Mar. 3, 2010), available at <http://www.ftc.gov/opa/2010/03/creditcollect.shtm>.