

BUREAU OF CONSUMER FINANCIAL PROTECTION | MARCH 2020

Fair Debt Collection Practices Act

CFPB Annual Report 2020



Message from Kathleen L. Kraninger

Director of the CFPB



The Bureau of Consumer Financial Protection (Bureau or CFPB) and the Federal Trade Commission (Commission or FTC) are pleased to present the 2020 Fair Debt Collection Practices Act (FDCPA) Annual Report. In 1977, Congress passed the FDCPA “to eliminate abusive debt collection practices by debt collectors” while ensuring that “those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged.”¹ The Bureau engages in a wide range of supervision, enforcement, rulemaking, guidance, consumer education, and other activities to implement the FDCPA.

The Bureau is statutorily required per 15 U.S.C. § 1692m(a) to provide this annual report to Congress regarding its administration of its FDCPA and other consumer protection-related debt collection responsibilities. Under 15 U.S.C § 1692m(b), the Bureau is authorized to obtain the views of other agencies with enforcement functions under 15 U.S.C. § 1692(l). The Bureau has obtained such information from the FTC and information about debt collection activities in 2019 is integrated throughout this report. The Bureau and the FTC share authority to enforce the FDCPA, and the two agencies work closely together to coordinate our respective debt collection efforts. The Bureau and the FTC recently entered into a new, permanent memorandum of understanding (MOU) in February 2019. The MOU facilitates consultation in rulemaking, enables coordination in enforcement, sharing of supervisory information and consumer complaints, and collaboration on consumer education.²

In May 2019, the Bureau issued a Notice of Proposed Rulemaking (NPRM) focusing on issues such as consumer disclosures and communication practices by FDCPA-covered entities. The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain

¹ 15 U.S.C. 1692(e).

² See Memorandum of Understanding between the Consumer Financial Protection Bureau and the Federal Trade Commission (Feb. 2019), available at <https://www.consumerfinance.gov/policy-compliance/guidance/supervisory-guidance/memorandum-understanding-federal-trade-commission/>. As part of this coordination, the CFPB and FTC staff regularly meet to discuss ongoing and upcoming law enforcement, rulemaking, and other activities, share debt collection complaints, cooperate on consumer education efforts in the debt collection arena, and consult on debt collection rulemaking and guidance initiatives.

consumer-facing debt collection disclosures. The Bureau received over 14,000 comments from consumer advocates, industry stakeholders, academics, and state and federal regulators to inform the final rule. The Bureau intends to issue a final debt collections rule in 2020.

The Bureau received approximately 75,200 complaints about first-party and third-party debt collection in 2019, making debt collection one of the most prevalent topics of consumer complaints. In 2019, the Bureau engaged in five public enforcement actions, two of which were initiated in years prior to 2019, arising from alleged FDCPA violations. The Bureau resolved two of these cases and obtained partial consent judgments in a third. These judgments ordered nearly \$50 million in consumer redress and \$11.2 million in civil money penalties. Penalties paid to the Bureau are held in its Civil Penalty Relief Fund, which is used to provide relief to eligible consumers who would not otherwise receive full compensation. Three cases remain in active litigation. The Bureau also filed briefs *amicus curiae* in four cases arising under the FDCPA: one in the Supreme Court and three in federal courts of appeals.

The Bureau works to provide consumers with the knowledge, tools, and capabilities they need in order to make better informed financial decisions. The Bureau's "Ask CFPB," a popular interactive online education tool, helps consumers find clear answers to a wide variety of financial questions. In 2019, "Ask CFPB" debt collection questions received over 1.6 million pageviews and/or downloads in English and 124,000 in Spanish.

The Bureau continued research projects, market monitoring efforts, and outreach activities to improve its understanding of the debt collection market and its impact on consumers and credit markets. In 2019 the Bureau published *The Consumer Credit Card Market* with insight into major credit card issuers' collection practices and *Market Snapshot: Third-Party Debt Collections Tradeline Reporting*. The Bureau also conducted online consumer survey testing related to time-barred debt disclosures. These research and market monitoring activities have aided in the ongoing development of Bureau positions and policies relating to debt collection.

The Bureau is committed to vigorously enforcing all consumer financial laws under its statutory authority, including the FDCPA, as well as to educating and empowering consumers to make better-informed financial decisions.

Sincerely,

A handwritten signature in blue ink that reads "Kathleen L. Kraninger". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Kathleen L. Kraninger

Message from Joseph J. Simons

Chairman of the FTC

Pursuant to its mandate to protect consumers from unfair, deceptive, and fraudulent practices in the marketplace, the Federal Trade Commission (FTC) prioritizes its work in the debt collection industry year after year. Our recent enforcement efforts have focused, in particular, on shutting down phantom debt brokers and collectors who sell and collect on debts that do not exist or are not owed.



In 2019 alone, the FTC filed or resolved debt collection cases against 25 defendants and obtained more than \$24.7 million in judgments. It also secured permanent bans against 23 companies and individuals who engaged in serious and repeated violations of law, barring them from ever working in the debt collection arena again.

In addition to law enforcement against scofflaw debt collectors, the FTC maintains a robust consumer outreach and education program as part of its multi-pronged approach to combating unlawful practices in the industry. The FTC disseminates resources about consumers' rights under the Fair Debt Collection Practices Act (FDCPA) to keep consumers informed and prevent them from being victimized by bad actors in the first instance. Moreover, the FTC's outreach extends to businesses to educate them regarding their obligations under the law.

The FTC also engages in other initiatives related to debt collection. This past year, FTC staff submitted a public comment on the CFPB's recent Notice of Proposed Rulemaking to implement the FDCPA and address other consumer protection issues relating to debt collection. In addition, we continue to coordinate with the CFPB to further our collective mission to protect consumers from harmful debt collection practices. Our agencies share debt collection complaints, cooperate on consumer education efforts, and consult on debt collection rulemaking and guidance initiatives.

As this Report makes clear, the FTC continues its commitment to protect consumers from unlawful debt collection practices, support best practices in the market, and work together with our law enforcement partners. We will remain vigilant in monitoring the industry and combating unlawful debt collection practices that harm consumers and businesses.

Sincerely,

A handwritten signature in black ink that reads "Joseph J. Simons". The signature is written in a cursive, flowing style.

Joseph J. Simons

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1. Introduction

The Bureau of Consumer Financial Protection (Bureau or CFPB) is pleased to submit to Congress its annual report summarizing activities to administer the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 *et seq.* The Bureau and the Federal Trade Commission (FTC or Commission) both share government enforcement responsibility for the FDCPA. The Commission's activities during the past year are included in this report. The Bureau and the Commission work closely to coordinate debt collection enforcement actions and other matters related to debt collection.³

The Bureau leverages all the tools granted by Congress to protect consumers in the debt collection context. Specifically, those tools are: (1) education, (2) regulation and guidance, (3) supervision, and (4) enforcement. The Bureau has a number of functions that support the use of the tools, including research, market monitoring, and the consumer complaints database. The FTC's debt collection program is a three-pronged effort: (1) education and public outreach; (2) law enforcement;⁴ and (3) research and policy initiatives. Over the past year, the FTC has employed all three prongs to curb unlawful debt collection practices and protect consumers. This report provides background on the debt collection market and the activities of the CFPB and FTC relating to debt collection.

³ Memorandum of Understanding between the Consumer Financial Protection Bureau and the Federal Trade Commission (Feb. 2019), available at <https://www.consumerfinance.gov/policy-compliance/guidance/supervisory-guidance/memorandum-understanding-federal-trade-commission/>.

⁴ This past year's work built upon the FTC's ongoing crackdown on unlawful debt collection practices. Since January 1, 2010, the FTC has sued more than 322 companies and individuals who engaged in unlawful collection practices, banning 200 from the industry, and securing more than \$563.6 million in judgments.

2. Background

The third-party debt collection market is a \$12.7 billion industry that employs nearly 123,000 people across approximately 7,800 collection agencies in the United States.⁵ The debt collection industry affects millions of Americans. According to the Bureau’s Consumer Credit Panel,⁶ about 28 percent of consumers with a credit file have a third-party collection trade line listed.⁷

Debt collection efforts include phone calls, letters, emails, filing lawsuits, and other methods to collect alleged debts from consumers. In the course of attempting to collect debts, debt collectors must adhere to a number of laws and regulations, which govern topics as diverse as telephone communications (*e.g.*, the Telephone Consumer Protection Act, or TCPA) and furnishing information to credit reporting agencies (*e.g.*, the Fair Credit Reporting Act, or FCRA) as well as various state statutes.

The FDCPA, however, is the primary federal law that governs the conduct of debt collectors.⁸ The FDCPA establishes consumer protections in the debt collection process, including a consumer’s rights to dispute an alleged debt and instruct a collector to stop communication about an alleged debt. The FDCPA prohibits debt collectors from engaging in certain types of conduct in connection with the collection of a debt. The FDCPA prohibits collectors from: (1) harassing, oppressing, or abusing consumers; (2) utilizing false, deceptive, or misleading representations or means when collecting or attempting to collect; and (3) using unfair or unconscionable means to collect a debt.

The FDCPA empowers the Bureau and the FTC to enforce its provisions and establishes a private right of action against any debt collector who fails to comply with the FDCPA. The FDCPA also requires the Bureau to submit this report on “the administration of its functions”

⁵ Anna Amir, Debt Collection Agencies in the US, IBIS World (Dec. 2019).

⁶ The Bureau’s Consumer Credit Panel is a longitudinal, nationally-representative sample of approximately five million de-identified credit records maintained by one of the three nationwide credit reporting companies.

⁷ Additionally, the Bureau’s survey on consumers’ experiences with debt collection found that about one-in-three or over 70 million consumers with a credit file indicated that they had been contacted by at least one creditor or collector trying to collect one or more debts during the year prior to the survey. Bureau of Consumer Fin. Prot., Consumer Experiences with Debt Collections: Findings from the CFPB’s Survey of Consumer Views on Debt (Jan 2017), available at https://www.consumerfinance.gov/documents/2251/201701_cfpb_Debt-Collection-Survey-Report.pdf.

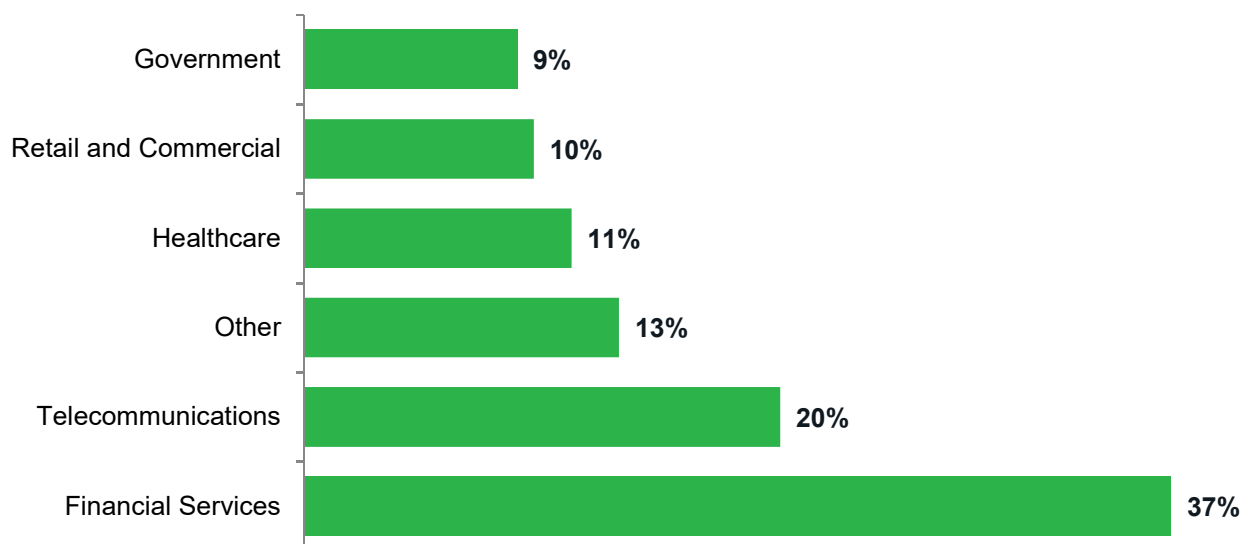
⁸ 15 U.S.C. § 1692 et seq.

under the FDCPA and enables it to “obtain ... the views” of other agencies, such as the FTC, that enforce the FDCPA.⁹

2.1 Industry breakdown

Most consumers with collection tradelines on their credit files have medical, telecommunications, or banking and financial services debt.¹⁰ Financial services debt is the largest source of revenue for the debt collection industry; it was estimated to account for nearly 40 percent of debt collection revenue in 2019.¹¹ However, telecommunications debt also accounts for a large share of industry revenue—approximately one-fifth in 2019. Medical, retail, and government debt (including student loan debt) are also significant drivers of industry revenue.

FIGURE 1: DEBT COLLECTION MARKET SEGMENTS BY SHARE OF REVENUE, 2019 (IBIS WORLD)



A large majority of the industry’s revenue is generated by firms contracting with creditors to collect their debts on a contingency fee basis. In contingency fee collections, the creditor and the collector each receive a share of the amount collected. The Bureau’s survey of mass market

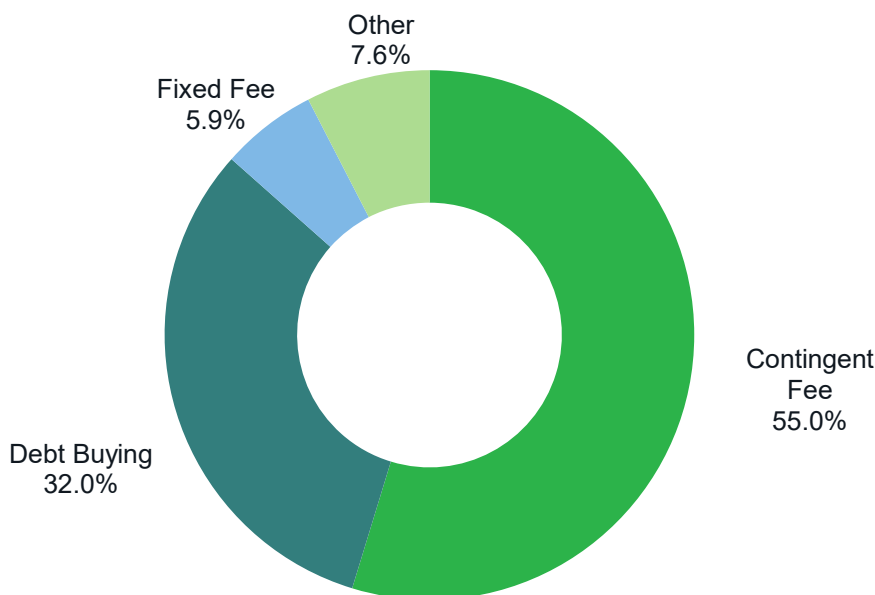
⁹ 15 U.S.C. § 1692m.

¹⁰ This data was retrieved from the Bureau’s Consumer Credit Panel, a longitudinal, nationally-representative sample of approximately five million de-identified credit records maintained by one of the three nationwide credit reporting companies.

¹¹ Anna Amir, Debt Collection Agencies in the US, IBIS World (Dec. 2019).

credit card issuers for the 2019 Credit Card Market Report found that most surveyed issuers placed nearly one-third of post-charge-off inventory from 2017 and 2018 with third-party collectors, with the majority of these third-party debt collectors employing a contingency fee model.¹²

FIGURE 2: DEBT COLLECTION AGENCY TYPES BY SHARE OF REVENUE, 2017 (IBIS WORLD)¹³



Another significant source of industry revenue comes from debt buyers, who purchase accounts (usually contained in portfolios) from the original creditor or other debt buyers and then generally seek to collect on the debt, either themselves or through third-party debt collectors. Generally, debt (including charged-off debt) sells for a fraction of the account balance at a price dependent upon the age of the debt and other factors. While contingency fee collectors receive only a percentage share of recoveries, debt buyer revenue consists of the total amount recovered. If debt buyers use third-party debt collectors to recover for them, the debt buyers typically pay a share of the amount collected to the third-party debt collectors. The Bureau has found that portfolios of charged-off debt may also be available to purchase through online debt marketplaces. A Bureau report on the online debt sales market found that because the majority

¹² Bureau of Consumer Fin. Prot., Consumer Credit Card Market Report (Aug. 2019), available at https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2019.pdf.

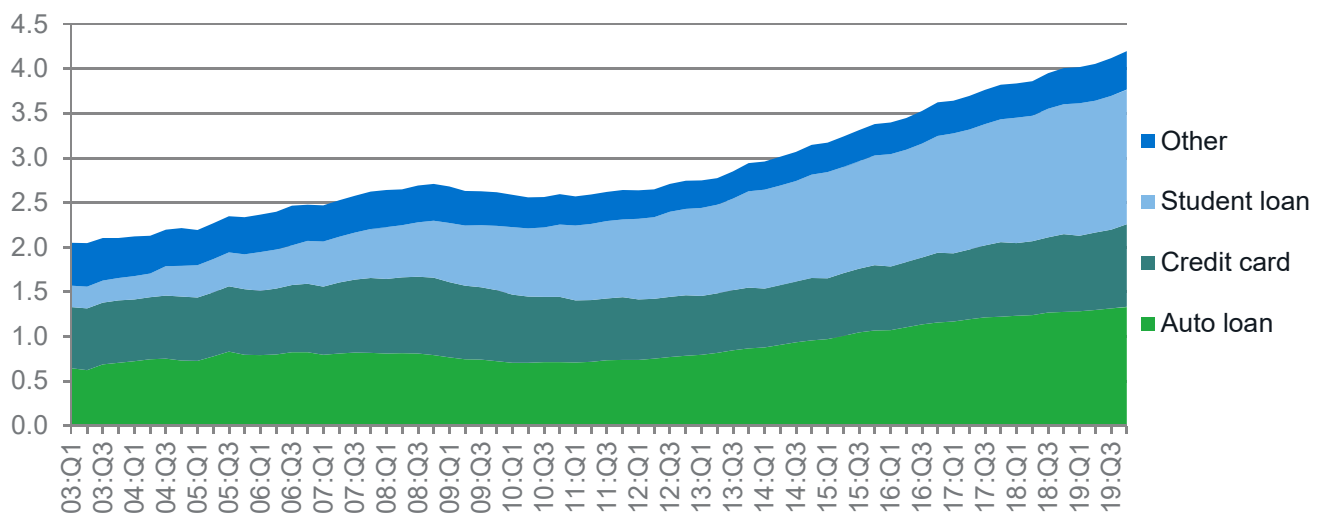
¹³ Anna Amir, Debt Collection Agencies in the US, IBIS World (Feb. 2017).

of debt sold in online marketplaces is quite old (with a median age of 5 years post-charge off), the asking prices for these debt portfolios are often fractions of a cent per dollar of the original debt.¹⁴

The debt collection industry is substantially influenced by the credit cycle, which determines how much debt is available to collect and purchase. Meanwhile, both delinquencies on consumer debt and collection recovery rates (the percentage of the debt that an agency can recover) are generally influenced by macroeconomic conditions, such as household disposable income.

After several years of growth, consumer debt surpassed its 2008 peak in 2017, rising to a new high of \$14.15 trillion in the fourth quarter of 2019. While mortgage balances have largely risen, growth in consumer debt has also been fueled by non-housing debt, including credit cards, student loans, and auto loans. The annual change from Q4 2018 to Q4 2019 resulted in credit card debt rising by \$57 billion, student loan debt growing by \$51 billion, and auto loan debt increasing by \$57 billion.¹⁵ However, these consumer debt figures are in nominal dollars and are unadjusted for inflation and population growth; both inflation and the U.S. population have risen over time.

FIGURE 3: NON-HOUSING CONSUMER DEBT BALANCES (IN TRILLIONS), 2003-2019 (FRNY CONSUMER CREDIT PANEL/EQUIFAX)

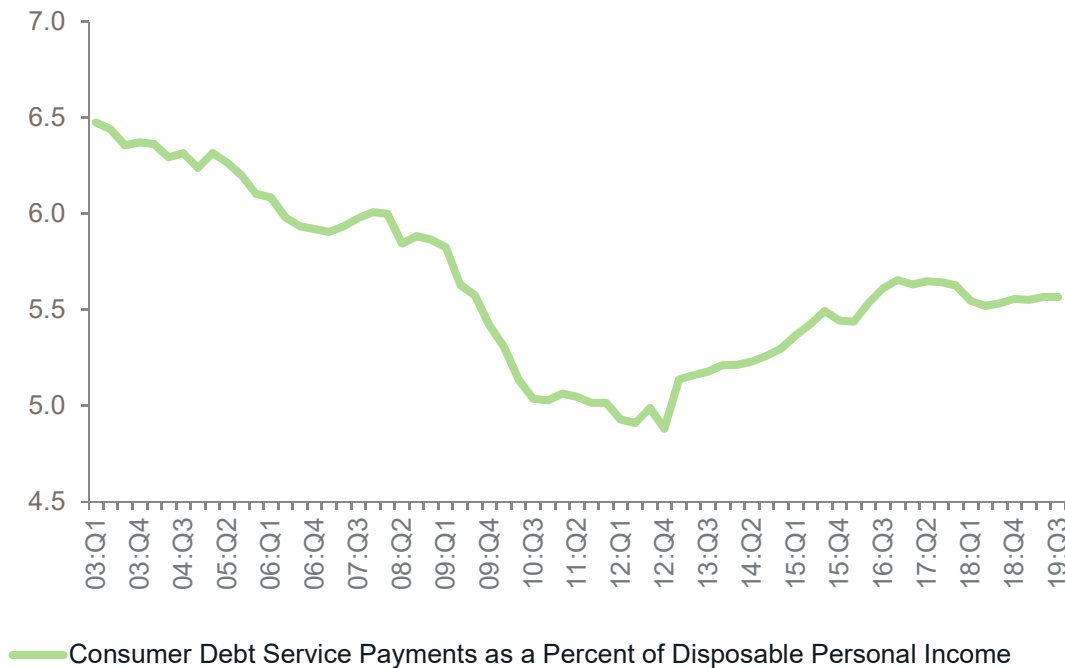


¹⁴ Bureau of Consumer Fin. Prot., Market Snapshot: Online Debt Sales (Jan. 2017), available at https://www.consumerfinance.gov/documents/2249/201701_cfpb_Online-Debt-Sales-Report.pdf/.

¹⁵ Center for Microeconomic Data, Quarterly Report on Household Debt and Credit 2019: Q4, Federal Reserve Bank of New York (Feb. 2020), available at <https://www.newyorkfed.org/microeconomics/hhdc.html>.

The consumer debt service ratio is another measure that helps place the overall amount of consumer debt in the economy into the proper context. The consumer debt service ratio measures the cost consumers pay to service non-housing debt (i.e., payments due on outstanding loans) as a fraction of disposable personal income. It provides another relevant consumer debt metric. While the consumer debt service ratio has increased after falling sharply during the period of decreasing indebtedness between 2008 and 2010, the current value of 5.6% remains below pre-recession highs.¹⁶

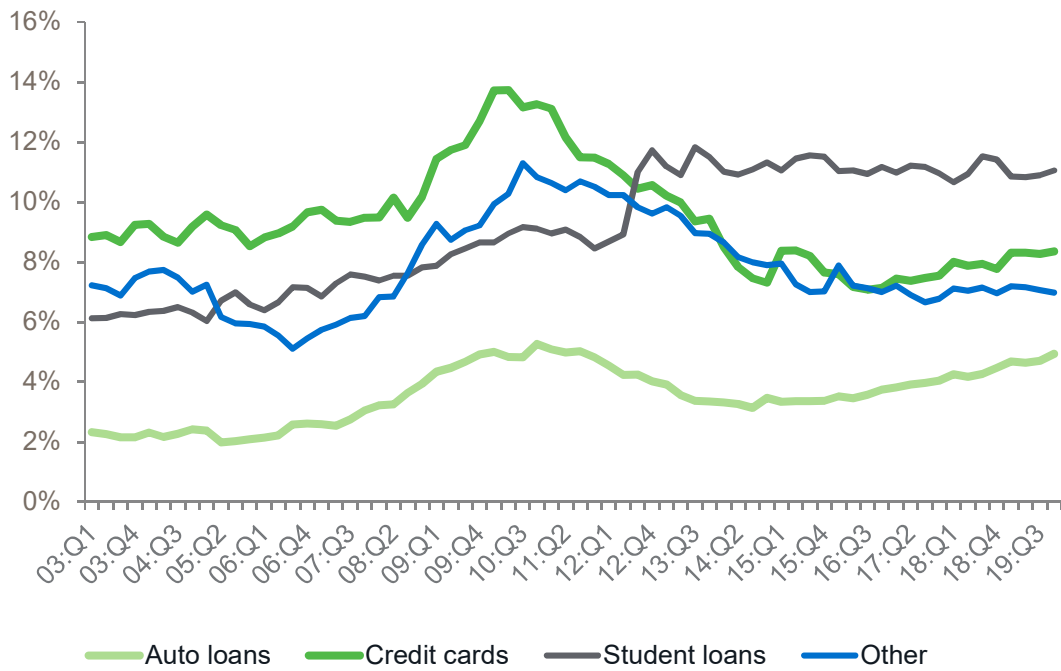
FIGURE 4: NON-HOUSING CONSUMER DEBT SERVICE PAYMENTS AS A PERCENT OF DISPOSABLE INCOME, 2003-2019 (FRSTL)



The percentage of individuals who are now considered to be “seriously delinquent” on auto loans (where a payment has not been made for at least 90 days) increased from 4.47 percent in Q4 2018 to 4.94 percent in Q4 2019. Similarly, outstanding credit card debt continues to increase, rising beyond its 2008 peak of \$870 billion, to reach \$927 billion. From Q4 2018 to Q4 2019, the 90+ day credit card delinquency rate rose from 7.77 percent to 8.36 percent. As with auto loan debt, the flow into 90+ days delinquency for credit card balances has been growing over the past year. Charge-off rates for credit card debts have also been steadily rising over the past year reaching 3.7 percent, potentially increasing the number of new charged-off accounts that issuers may place for collection or sell to debt buyers

¹⁶ Board of Governors of the Federal Reserve System (US), Consumer Debt Service Payments as a Percent of Disposable Personal Income (July 2019), available at <https://fred.stlouisfed.org/series/CDSP>.

FIGURE 5: PERCENT OF NON-HOUSING BALANCES 90+ DAYS DELINQUENT, 2003-2019 (FRNY CONSUMER CREDIT PANEL/EQUIFAX)



3. Consumer complaints

Collecting, investigating, and responding to consumer complaints is one of the six statutory “primary functions” of the Bureau.¹⁷ The Bureau facilitates the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services and maintains procedures to provide timely responses to consumer complaints and inquiries.¹⁸ Complaints help the Bureau in its work to regulate consumer financial products and services under existing federal consumer financial laws, enforce those laws judiciously, and educate and empower consumers to make better-informed financial decisions to reach their own life goals. In July 2013, the Bureau began taking consumer complaints about debt collection.

The FTC also accepts complaints (reports) from consumers about problems they experience in the marketplace. These complaints are stored in the Consumer Sentinel Network (Sentinel), a secure online database available only to law enforcement. The Bureau shares complaint information with the FTC’s Consumer Sentinel system.

3.1 Number and types of complaints handled

From January 1, 2019, through December 31, 2019, the Bureau received approximately 75,200 debt collection complaints—a decrease of approximately 8% compared to 2018. As described below, the composition of the types of issues identified by consumers generally stayed consistent from 2018 to 2019, save for a few categories. Table 1 shows the types of debt collection complaints the Bureau received in 2019. This analysis excludes multiple complaints submitted by a given consumer on the same issue (i.e., duplicates) and whistleblower tips. For each of the six issues listed in Table 1, consumers also selected additional, more-detailed sub-issues when submitting a complaint.

¹⁷ 12 U.S.C. § 5511(c).

¹⁸ 12 U.S.C. § 5493(b)(3).

TABLE 1: TYPES OF DEBT COLLECTION COMPLAINTS REPORTED BY CONSUMERS ¹⁹

Types of debt collection complaints	%
Attempts to collect debt not owed	45%
Written notification about debt	18%
Took or threatened to take negative or legal action	12%
Communication tactics	12%
False statements or representations	11%
Threatened to contact someone or share information improperly	3%
Total debt collection complaints	100%

As indicated in Table 1, the most common debt collection complaint continues to be about attempts to collect a debt that the consumer reports is not owed. Of these complaints about debts consumers think they do not owe, consumers said that the debt is not their debt (48 percent), resulted from identity theft (25 percent), was paid (22 percent), or was discharged in bankruptcy and is no longer owed (4 percent). Complaints about attempts to collect a debt not owed because the debt was the result of identity theft saw the greatest increase year-over-year. The proportion of complaints about debts resulting from identity theft has been increasing for several years (*compare* 25 percent of total yearly complaints in 2019 to 20 percent in 2018 and 11 percent in 2017).²⁰ These complaints often involve consumers reporting to credit bureaus that they have negative tradelines on their credit reports due to identity theft. The credit bureaus will communicate notice of the disputed debts to the initial creditor or collectors. In response to these complaints about negative tradelines due to identity theft submitted by consumers, third-party collectors often initiate an internal investigation into the purported identity theft, request the necessary documentation to process a dispute, return the account to the creditor or owner of the debt, or discontinue collection attempts entirely.

¹⁹ Percentages may not sum to 100% due to rounding.

²⁰ Bureau of Consumer Fin. Prot., Fair Debt Collection Practices Act: CFPB Annual Report 2019 (Aug. 2019), available at <https://www.consumerfinance.gov/data-research/research-reports/fair-debt-collection-practices-act-annual-report-2019/>.

Complaints involving written notifications about debt are the second-most common issue selected by consumers (see line 2 in Table 1). The FDCPA requires collectors, within five days after the initial communication with a consumer, to provide the consumer with a written notice informing them, among other things, of their right to dispute, unless this information is contained in the initial communication or the consumer has paid the debt. If consumers make timely written disputes of debts, debt collectors are required to cease collection until they provide consumers with verification of the debt. Most consumers who complain about written notifications report they have not received enough information to identify and confirm ownership of the debt (65 percent); however, this issue had the greatest decrease in the percentage of total yearly complaints from 2018 to 2019 (*compare* 65 percent of total yearly complaints in 2019 to 72 percent in 2018).²¹ Some consumers complain that they did not receive a notice of their right to dispute (30 percent), while others report that the notification did not disclose that it was an attempt to collect a debt (4 percent).

Consumers submitted complaints describing companies taking or threatening to take a negative or legal action (see line 3 of Table 1). Most of these complaints are about threats or suggestions that consumers' credit histories would be damaged (34 percent), threats to sue on a debt that is old (28 percent), or threats to arrest or jail consumers if they do not pay (14 percent). Among these issues, threats to arrest or jail consumers had the greatest decrease in percentage of total yearly complaints (*compare* 14 percent of total yearly complaints in 2019 to 19 percent in 2018).²² Other complaints relate to being sued without proper notification of the lawsuit (9 percent), seizures or attempts to seize property (8 percent), collection of or attempts to collect exempt funds such as child support or unemployment benefits (5 percent), being sued in a different state from where the consumer lives or where the consumer signed the contract (2 percent), or threats of deportation or turning the consumer into immigration (0.2 percent).

Consumers also submitted complaints about communication tactics used when collecting debts (see line 4 of Table 1). The majority of complaints about communication tactics concern communication held over the phone, such as frequent or repeated calls (55 percent). Complaints of continued contact attempts despite requests to stop contact were also common (29 percent). Other communication tactics complaints relate to reports of companies using obscene, profane, or abusive language (12 percent), or calling outside of the FDCPA's assumed convenient calling hours from 8:00 a.m. to 9:00 p.m. at the consumer's location (5 percent).

²¹ Id.

²² Id.

The majority of complaints about false statements or representations (see line 5 of Table 1) are about attempts to collect the wrong amount from the consumer (74 percent). In addition, consumers report that companies impersonated an attorney or a law enforcement or government official (17 percent), indicated the consumer committed a crime by not paying a debt (6 percent), or indicated that the consumer should not respond to a lawsuit (3 percent).

Like 2018, complaints about threatening to contact a third-party about a debt or sharing information improperly were the least complained about debt collection issue in 2019 (see line 6 of Table 1). In these complaints, consumers most often reported that the collector talked to a third party about the debt (53 percent), contacted an employer (28 percent), contacted the consumer after being asked not to do so (18 percent), or contacted the consumer directly, instead of contacting their attorney (2 percent).

3.2 How companies respond to consumer complaints

From January 1, 2019, through December 31, 2019, the Bureau sent approximately 47,000 (63 percent) of approximately 75,200 debt collection complaints it received to companies for their review and response. Debt collection complaints may relate to first-party (creditors collecting on their own debts) or third-party collections. When the Bureau received debt collection complaints about companies where it was not the primary federal regulator (e.g., a mobile phone or Internet service provider) or about depository institutions with less than \$10 billion in assets, it referred the complaints to other regulatory agencies. In 2019, the Bureau referred approximately 29 percent of debt collection complaints to other regulatory agencies. The complaints the Bureau did not send to collectors for a response or refer to other agencies were either incomplete (7 percent), pending with the consumer (0.6 percent), or pending with the Bureau (0.7 percent).

Companies have already responded to approximately 44,400 complaints or 94 percent of the approximately 47,000 complaints sent to them in 2019 for response. Company responses generally include descriptions of steps taken or that will be taken, communications received from the consumer, any follow-up actions or planned follow-up actions, and categorization of the response. Response category options include “closed with monetary relief,” “closed with non-monetary relief,” “closed with explanation,” and other administrative options.²³ Monetary

²³ Companies provide administrative responses when further review by the Bureau may be needed. This includes complaints submitted by unauthorized third parties, complaints that are the result of fraud, scams or business identity theft, and complaints where a company cannot confirm a commercial relationship with the consumer.

relief is defined as objective, measurable, and verifiable monetary relief to the consumer as a direct result of the steps taken or that will be taken in response to the complaint. Non-monetary relief is defined as other objective and verifiable relief to the consumer as a direct result of the steps taken or that will be taken in response to the consumer’s complaint. “Closed with explanation” indicates that the steps taken by the company in response to the complaint included an explanation that was tailored to the individual consumer’s complaint. For example, this category would be used when no monetary or non-monetary relief was provided to the consumer, but the explanation substantively meets the consumer’s desired resolution or explains why no further action will be taken. The Bureau gives consumers the option to review and provide feedback on all company closure responses, which it then shares with the responding company upon receipt.

The following table shows how companies have responded to consumer complaints.

TABLE 2: HOW COMPANIES HAVE RESPONDED TO CONSUMER COMPLAINTS TO THE CFPB

Company response	#	%
Closed with explanation	38,300	81%
Closed with non-monetary relief	4,600	10%
Company did not provide a timely response	1,700	4%
Company reviewing	1,400	3%
Administrative response	700	1%
Closed with monetary relief	300	1%
Total Complaints Sent to Companies for Response	47,000	100%

4. Bureau supervision of debt collection activities

Under the Consumer Financial Protection Act of 2010 (CFPA) the Bureau has the authority to supervise certain entities that engage in consumer debt collection activities. These include nonbank entities that are larger participants in the consumer debt collection market. Under the Bureau's larger participant rule for the debt collection market, the Bureau has supervisory authority over any firm with more than \$10 million in annual receipts from consumer debt collection activities.

In 2019, the Bureau's examinations identified one or more violations in various editions of the Bureau's Supervisory Highlights publication.

4.1 False representation of the amount and legal status of debt

Section 807 of the FDCPA prohibits the use of any false, deceptive, or misleading representation or means in the collection of any debt. Specifically, Section 807(2)(A) of the FDCPA prohibits the false representation of the character, amount, or legal status of any debt. Examiners found that one or more debt collectors claimed and collected from consumers, interest not authorized by the underlying contracts between the debt collectors and the creditors. In doing so, one or more debt collectors falsely represented to consumers the amount due and authorized in violation of Section 807(2)(A) of the FDCPA. In response to these examination findings, one or more debt collectors conducted or are conducting a full accounting of these charges and providing remediation for affected consumer accounts, including accounts in which consumers paid in full, settled in full, or made partial payments.²⁴

4.2 Failure to disclose in subsequent communications that communication is from a debt collector

Section 807 of the FDCPA prohibits the use of any false, deceptive, or misleading representation or means in the collection of any debt. Specifically, Section 807(11) of the FDCPA prohibits a collector from failing to disclose in communications subsequent to the initial written communication that the communication is from a debt collector. Examiners found that one or

²⁴ Bureau of Consumer Fin. Prot., Supervisory Highlight Issue 19 (Sept. 2019), *available at* <https://www.consumerfinance.gov/data-research/research-reports/supervisory-highlights-summer-2019/>.

more debt collectors failed to disclose in their subsequent communications that those communications were from a debt collector. In response to these findings, the collectors revised their Section 807(11) policies and procedures, monitoring and/or audit programs, and training.²⁵

4.3 Failure to send notice of debt

Section 809(a) of the FDCPA requires that within five days after the initial communication with the consumer in connection with the collection of any debt, a debt collector must send a written validation notice unless the information is contained in the initial communication or the consumer has paid the debt. Examiners found that one or more debt collectors failed to send the prescribed validation notice within five days of the initial communication with the consumer regarding collection of the debt, where required. In response to these findings, the collectors revised their Section 807(11) policies and procedures, monitoring and/or audit programs, and training.²⁶

²⁵ Bureau of Consumer Fin. Prot., Supervisory Highlight Issue 21 (Feb. 2020), *available at* https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-21_2020-02.pdf.

²⁶ *Id.*

5. Debt collection *amicus* briefs

In 2019, the Bureau filed *amicus curiae* (friend of the court) briefs in four cases involving the FDCPA, one in the Supreme Court and three in federal courts of appeals. In addition, two cases in which the Bureau filed an *amicus* brief in 2018 were decided in 2019.

Notification of Consumer Dispute Rights: the *Wiley* *amicus* brief

On August 19, 2019, the Bureau filed an *amicus* brief in the Eleventh Circuit case of *Wiley v. Notte & Kreyling, P.C.*, arguing that a debt collector violates the FDCPA when it tells consumers that they must notify the creditor, rather than the debt collector, that a debt is disputed.²⁷ The FDCPA provides a means for consumers to challenge an alleged debt by properly notifying the debt collector that the debt is disputed. *See* 15 U.S.C. § 1692g. The FDCPA sets out certain information about this dispute right that debt collectors generally must disclose to consumers. In its *amicus* brief in this case, the Bureau argued that a debt collector violates these provisions, and engages in a deceptive collection practice, when it tells consumers that they must notify the creditor, rather than the debt collector, that a debt is disputed. The case was resolved without decision after the appellant voluntarily dismissed its appeal.

Prohibition on Extraneous Language or Symbols on Debt Collection Envelopes: the *Preston* *amicus* brief

On September 5, 2019, at the invitation of the U.S. Court of Appeals for the Seventh Circuit, the Bureau filed an *amicus* brief in *Preston v. Midland Credit Management, Inc.*, to address whether there is a “benign language” exception to the provision of the FDCPA that prohibits debt collectors from “using any language or symbol, other than the debt collector’s address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.”²⁸ 15 U.S.C. § 1692f(8). The district court determined that there was a “benign” language exception to this prohibition, and the consumer appealed. The Bureau’s brief on appeal argued that there is no “benign language” exception to this prohibition, but clarified that the provision does permit language or symbols that facilitate making “use of the mails,” such as a USPS barcode. The brief further argued that, if the Court were to adopt a “benign

²⁷ Bureau of Consumer Fin. Prot., Brief of Amicus Curiae Consumer Financial Protection Bureau in Support of Plaintiff-Appellant and Reversal, *Wiley v. Notte & Kreyling, P.C.*, No. 19-12228 (Aug. 2019), available at https://files.consumerfinance.gov/f/documents/cfpb_amicus-brief_wiley-v-notte-kreyling-pc.pdf.

²⁸ Bureau of Consumer Fin. Prot., Brief for the Consumer Financial Protection Bureau as *Amicus Curiae*, *Preston v. Midland Credit Mgmt., Inc.*, No. 18-3119 (Sept. 2019), available at https://files.consumerfinance.gov/f/documents/cfpb_amicus-brief_preston-v-midland.pdf.

language” exception, whether “Time Sensitive Document” would fall within that exception would be a question of fact. On January 21, 2020, the Seventh Circuit held that “the language of [section] 1692f(8) is clear, and its application does not lead to absurd results,” and therefore there is no “benign language” exception.²⁹ The Court stated further that section 1692f(8) “does not prohibit markings required by the United States Postal Services such as stamping or affixing language or symbols to ensure the successful delivery of [a] communication.”³⁰

When FDCPA Statute of Limitations Begins to Run: the *Rotkiske* and *Bender* amicus briefs

On July 18, 2019, the Solicitor General of the United States, along with the Bureau, filed an amicus brief in the Supreme Court in *Rotkiske v. Klemm*, to address whether the FDCPA’s statute of limitations, which requires private plaintiffs to file suit “within one year from the date on which the violation occurs,” 15 U.S.C. § 1692k(d), incorporates a “discovery rule” such that the one-year period for bringing suit begins to run only once the consumer discovers or should discover the alleged violation.³¹ The government’s amicus brief argued that the “discovery rule” does not apply and that the one-year limitations period begins to run when the violation occurs, although the statute of limitations could be equitably tolled in some circumstances. In December 2019, the Supreme Court unanimously held that the FDCPA’s statute of limitations begins to run when the violation occurs, not when the consumer discovers the violation.³² The Court further clarified that under equitable doctrines, the limitations period might not begin to run until the plaintiff discovers the violation in cases of fraud, but concluded that the plaintiff in this case had not preserved any argument based on those equitable doctrines.

On May 28, 2019, the Bureau filed an amicus brief in the Fourth Circuit case of *Bender v. Elmore & Throop, P.C.*³³ This case presents the question whether the FDCPA’s one-year statute of limitations bars a consumer from suing to challenge violations that occurred in the prior year when the defendant previously engaged in similar unlawful attempts to collect the same debt that occurred outside the limitations period. The Bureau’s brief argued that consumers are not time-barred from challenging FDCPA violations that occurred in the prior year and that the

²⁹ *Preston v. Midland Credit Mgmt., Inc.*, 948 F.3d 772 (7th Cir. 2020).

³⁰ *Id.*

³¹ Bureau of Consumer Fin. Prot., Brief for the United States as *Amicus Curiae* Supporting Respondents, *Rotkiske v. Klemm*, No. 18-328 (July 2019), available at https://files.consumerfinance.gov/f/documents/cfpb_amicus-brief_rotkiske-klemm.pdf.

³² *Rotkiske v. Klemm*, 140 S. Ct. 355 (2019).

³³ Bureau of Consumer Fin. Prot., Brief of Amicus Curiae Consumer Financial Protection Bureau in Support of Plaintiffs-Appellants and Reversal, *Bender v. Elmore & Throop, P.C.*, No. 19-1325 (May 2019), available at https://files.consumerfinance.gov/f/documents/cfpb_amicus_bender-v-Elmore--throop-PC_2019-05.pdf.

contrary reading of the statute is inconsistent with its plain language, the weight of case law, and the express purposes of the FDCPA. The appeal remains pending.

Application of the FDCPA to Non-judicial Foreclosure: the *Obduskey* amicus brief

On November 14, 2018, the Solicitor General of the United States, along with the Bureau, filed an amicus brief in the Supreme Court in *Obduskey v. McCarthy & Holthus, LLP*, to address whether the institution of nonjudicial foreclosure proceedings constitutes debt collection that is subject to regulation under the FDCPA.³⁴ The government’s amicus brief argued that actions that are legally required to carry out a nonjudicial foreclosure are the enforcement of a security interest and thus are not treated as debt collection under the FDCPA except for purposes of 15 U.S.C. 1692f(6).³⁵ In March 2019, the Supreme Court issued a unanimous opinion holding that a business engaged in no more than nonjudicial foreclosure proceedings is not a “debt collector” under the FDCPA, except for purposes of section 1692f(6).³⁶

Application of the E-SIGN Act to Validation Notices: the *Lavallee* amicus brief

On April 25, 2018, the Bureau filed an amicus brief in the Seventh Circuit case of *Lavallee v. Med-1 Solutions, LLC*, to address whether a debt collector complied with the FDCPA requirement that it, under certain conditions, “send the consumer a written notice” (often called a validation notice) that sets forth certain consumer’s rights under the FDCPA.³⁷ In this case, the debt collector sought to comply with that requirement by sending the consumer emails containing a link to an Internet-connected server from which the consumer could purportedly obtain the validation notice. The Bureau’s brief argued that the Electronic Signatures in Global and National Commerce Act (E-SIGN Act) applies to electronic versions of validation notices. The brief also argued that, absent a regulatory exemption, electronic versions of validation notices cannot be used to satisfy the “written notice” requirement in the FDCPA unless the consumer consents and other E-SIGN Act requirements are met. On August 8, 2019, the court

³⁴ Bureau of Consumer Fin. Prot., Brief for the United States as Amicus Curiae Supporting Respondents, *Obduskey v. McCarthy & Holthus, LLP*, No. 17-1307 (S. Ct. Nov. 2018), available at <https://www.consumerfinance.gov/policycompliance/amicus/briefs/obduskey-v-mccarthy-holthus-llp/>.

³⁵ In *Ho v. ReconTrust Co.*, 858 F.3d 568 (9th Cir.), cert. denied, 138 S. Ct. 504 (2017), the Bureau filed an amicus brief arguing that notices required by state law to be sent to consumers to effectuate a nonjudicial foreclosure constitutes debt collection under the FDCPA. The Bureau reconsidered that position and endorsed the position set forth in the government’s brief in the Supreme Court.

³⁶ *Obduskey v. McCarthy & Holthus LLP*, 139 S. Ct. 1029 (2019).

³⁷ Bureau of Consumer Fin. Prot., Brief of Amicus Curiae Bureau of Consumer Financial Protection in Support of Plaintiff Appellee, *Lavallee v. Med-1 Solutions, LLC*, No. 17-3244 (7th Cir. Apr. 2018), available at <https://www.consumerfinance.gov/policycompliance/amicus/briefs/lavallee-v-med-1-solutions-llc/>.

issued its decision and held that Med-1's emails did not comply with the validation notice requirement because they merely provided a link to that information. The court did not address the Bureau's arguments regarding the E-SIGN Act.³⁸

³⁸ *Lavallee v. Med-1 Sols., LLC*, 932 F.3d 1049 (7th Cir. 2019).

6. Enforcement

In 2019, both the CFPB and the FTC brought and continued enforcement actions addressing harmful debt collection activity in violation of the FDCPA and other applicable laws. The Bureau's contributions to this section provide a synopsis of FDCPA matters only, some of which are still pending. Unlike the Bureau, the FTC has opted to include FDCPA matters and matters brought under other applicable law in this section.

The Bureau announced three new public enforcement actions in 2019 related to unlawful collection conduct in violation of the FDCPA. The Bureau resolved two FDCPA matters and obtained settlements with three defendants in pending litigation. These actions resulted in judgments for nearly \$50 million in consumer redress and \$11.2 million in civil money penalties to the Bureau. Penalties paid to the Bureau are held in its Civil Penalty Relief Fund, which is used to provide relief to eligible consumers who would not otherwise receive full compensation. The Bureau also banned eight individuals who engaged in serious and repeated violations of law from ever working in debt collection again. Three enforcement actions are pending. In addition to the Bureau's public enforcement actions involving FDCPA-covered debt collectors, the Bureau is conducting a number of non-public investigations of companies to determine whether they engaged in collection practices that violate the FDCPA or the CFPA.

The Commission is primarily a law enforcement agency, and law enforcement investigations and litigation are at the heart of the FTC's recent debt collection work. Both the FDCPA and the FTC Act³⁹ authorize the Commission to investigate and take law enforcement action against debt collectors that violate those statutes.⁴⁰ The Commission may file a federal court action seeking injunctive and equitable monetary relief under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), or refer the matter to the Department of Justice for civil penalties and injunctive relief under Section 5(m) of the FTC Act, 15 U.S.C. § 45(m). Where a collector's violations are so egregious that a court order is necessary to halt the conduct immediately, or where consumer redress and disgorgement are more appropriate forms of monetary relief than civil penalties, the FTC generally files the action itself under Section 13(b) of the FTC Act. In other circumstances, the FTC may refer the case to the Department of Justice.

³⁹ 15 U.S.C. § 1692-1692p; FTC Act, 15 U.S.C. § 41-58.

⁴⁰ The FDCPA authorizes the Commission to investigate and take law enforcement action against debt collectors that engage in unfair, deceptive, abusive, or other practices that violate the statute. FDCPA § 814, 15 U.S.C. § 1692l. Under the FTC Act, the FTC may investigate and take law enforcement action against entities that, in connection with collecting on debts, engage in unfair or deceptive acts and practices. FTC Act § 5, 15 U.S.C. § 45.

In 2019, the Commission continued to combat unfair, deceptive, and otherwise unlawful debt collection practices. Among other things, the FTC filed or resolved law enforcement actions against 25 defendants and obtained more than \$24.7 million in judgments.⁴¹ The FTC also banned 23 companies and individuals who engaged in serious and repeated violations of law from ever working in debt collection again.⁴²

6.1 Bureau law enforcement actions

6.1.1 Phantom Debt Collection Actions

The Bureau has continued its efforts to fight “phantom debt collection” this year. Phantom debt collectors engage in unfair, deceptive, or otherwise unlawful conduct by attempting to collect on debts that either do not exist or for which the phantom debt collector has no legal right to collect.

Consumer Financial Protection Bureau v. Universal Debt & Payment Solutions, LLC, et al⁴³

(N.D.G.A No. 1:15-CV-0859) (complaint filed March 26, 2015)

In March 2015, the Bureau filed a complaint in the federal district court for the Northern District of Georgia against a group of seven debt collection companies and six individual debt collectors (one individual was later dismissed from the action). The complaint alleged that defendants violated the FDCPA and CFPA by using threats and harassment to collect “phantom” debt from consumers. In March 2019, the court granted the Bureau’s motion for summary judgment, holding that the defendants, except for corporate defendant S Payment Processing & Solutions, LLC (SPPS), violated both the FDCPA and CFPA. In August 2019, the Bureau resolved its claims against SPPS and its sole owner, defendant Sumant Khan, in a consent judgment that banned the defendants from the industry and ordered \$663,710 in redress. In November 2019, the Bureau settled its claims against defendant Mohan Bagga in a consent judgment that banned him from the industry and imposed \$5.2 million for redress. Amounts

⁴¹ These figures include cases filed in 2019, as well as cases filed in previous years but resolved in 2019.

⁴² In 2015, the FTC began publishing a list of every individual and company that the agency has sued that has been banned from the debt collection industry. This list, located at <https://www.ftc.gov/enforcement/cases-proceedings/banned-debt-collectors>, is a valuable resource to help law-abiding collection industry professionals avoid doing business with these defendants, as well as to help state debt collection licensing officials and law enforcers better protect consumers. Currently, the list includes 207 banned individuals and companies.

⁴³ Bureau of Consumer Fin. Prot., CFPB Sues Participants in Robo-Call Phantom Debt Collection Operation (April 2015), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-participants-in-robo-call-phantom-debt-collection-operation/>.

due under these judgments were suspended upon defendants' partial payment due to their inability to pay. The case remains pending and outstanding issues include what remedies should be imposed on the remaining defendants.

6.1.2 Other Actions to Halt FDCPA Violations

Consumer Financial Protection Bureau v. Forster & Garbus, LLP⁴⁴

(E.D.N.Y. 2:19-cv-02928) (complaint filed May 17, 2019)

In May 2019, the Bureau filed a lawsuit in the federal district court for the Eastern District of New York against Forster & Garbus, LLP, a New York debt-collection law firm. The Bureau's complaint alleges that Forster & Garbus violated the FDCPA by representing to consumers that attorneys were meaningfully involved in its lawsuits when, in fact, attorneys were not meaningfully involved in preparing or filing them. The Bureau's complaint also alleges that Forster & Garbus violated the CFPA's prohibition against deceptive acts and practices by making such representations to consumers through its lawsuits. Litigation is pending.

Consumer Financial Protection Bureau & State of New York v. Douglas MacKinnon, Mark Gray, Northern Resolution Group, LLC, Enhanced Acquisitions, LLC and Delray Capital, LLC⁴⁵

(W.D.N.Y. Case 1:16-cv-00880) (complaint filed November 2, 2016)

In August 2019, the Bureau and the New York Attorney General resolved their lawsuit against Douglas MacKinnon, Northern Resolution Group, LLC, Enhanced Acquisitions, LLC, Delray Capital, LLC, and Mark Gray. The complaint against these Buffalo, New York based debt-collectors alleged that the defendants inflated consumer debts and relied on illegal tactics to extract as much money as possible from consumers. Under the settlement with MacKinnon, Northern Resolution Group, and Enhanced Acquisitions, the defendants were barred from the industry and must pay a total of \$60 million in consumer redress and penalties to the Bureau and New York. Under the settlement with Delray Capital and Gray, defendants were banned from the industry. The court entered a consent judgment against these defendants for \$4 million in consumer redress and \$2 million in civil penalties to the Bureau and New York. These amounts were conditionally suspended upon defendants' partial payment.

⁴⁴ Bureau of Consumer Fin. Prot., CFPB Files Suit Against Forster & Garbus, LLP (May 2019), *available at* <https://www.consumerfinance.gov/about-us/newsroom/bureau-files-suit-against-forster-garbus-llp/>

⁴⁵ Bureau of Consumer Fin. Prot., Consumer Financial Protection Bureau, CFPB and New York Attorney General File Lawsuit Against Illegal Nationwide Debt Collection Scheme (Nov. 2016), *available at* <https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-new-york-attorney-general-file-lawsuit-against-illegal-nationwide-debt-collection-scheme/>.

Financial Credit Service, Inc., d/b/a Asset Recovery Associates

(2019-BCFP-0009) (consent order filed August 28, 2019)

In August 2019, the Bureau resolved its investigation of Financial Credit Service, Inc. d/b/a Asset Recovery Associates (ARA). The Bureau found that ARA violated the FDCPA and CFPB by regularly and falsely: threatening to sue or arrest consumers, even though it did not intend to take such action; falsely representing that company employees were attorneys, who threatened to garnish consumers' wages or place liens on their homes even though the firm did not intend to do so; and representing that consumers' credit reports would be negatively affected if they did not pay, even though ARA does not report consumer debts to credit-reporting agencies. The consent order prohibits ARA from engaging in the law violations described above and requires ARA to record calls with consumers to help ensure that collectors do not make false statements in the future. The consent order also requires ARA to pay at least \$36,800 in restitution to affected consumers and a \$200,000 civil money penalty to the Bureau.

Consumer Financial Protection Bureau v. FCO Holding, Inc., Fair Collections & Outsourcing, Inc., Fair Collections & Outsourcing of New England, Inc., FCO Worldwide, Inc. and Michael E. Sobota⁴⁶

(S.D.M.D. 8:19-cv-02817-GJH) (complaint filed September 25, 2019)

In September 2019, the Bureau filed a lawsuit in the federal district court for the District of Maryland against Fair Collections & Outsourcing (FCO) and its owner/CEO Michael E. Sobota. The Bureau's complaint alleges that FCO violated the Fair Credit Reporting Act, Regulation V, and the CFPB in connection with its handling of indirect and direct disputes. Broadly, the complaint alleges that FCO failed to establish, implement, or review reasonable written policies and procedures for handling indirect disputes; it failed to conduct reasonable investigations of indirect disputes; and it furnished information about consumers' accounts without conducting a reasonable investigation after consumers provided FCO with identity theft reports that directly disputed the accounts. The complaint also alleges that FCO and Mr. Sobota violated the FDCPA when defendants represented without a reasonable basis that consumers owed certain debts. Litigation is pending.

⁴⁶ Bureau of Consumer Fin. Prot., CFPB Files Suit Against Fair Collections & Outsourcing and Michael E. Sobota (Sept. 2019), available at <https://www.consumerfinance.gov/about-us/newsroom/bureau-files-suit-against-fair-collections-outsourcing-and-michael-e-sobota/>.

6.2 FTC law enforcement actions

6.2.1 Phantom Debt Collection Actions

The Commission has continued its efforts to fight “phantom debt collection” this year. In 2019, the Commission initiated or resolved three matters involving phantom debt collection: (1) *Global Asset Financial Services Group, LLC*, (2) *Hylan Asset Management, LLC*, and (3) *ACDI Group, LLC*. This past year, the Commission also returned money to thousands of consumers who were targeted by the phantom debt schemes in *Advanced Mediation Group*.

The FTC filed and resolved an action in 2019 against the phantom debt brokering and collection scheme in *Global Asset Financial Services Group, LLC*. According to the February 4, 2019 complaint, the operation, doing business in North Carolina and New York, falsely claimed to be attorneys or affiliated with attorneys to pressure consumers into making payments on fake or unauthorized debts, and threatened to take legal action against consumers if they did not pay.⁴⁷ The Commission’s action charged the defendants with, among other things, placing harassing robocalls to consumers, making unlawful threats to harass consumers’ friends and family members, and failing to provide consumers with required notices of how to dispute debts. One of the companies involved in the scheme, *Midwestern Alliance*, is a debt broker that allegedly bought, sold, and placed fake debt portfolios it obtained from former payday loan generator Joel Tucker, even after consumers said they did not recognize the debt or had already paid it. At the Commission’s request, the court issued a temporary restraining order halting this operation, imposing an asset freeze and appointing a receiver to take over the business. By December 2019, the Commission had secured five separate orders, banning all the defendants from the debt collection business and from misleading consumers about debt. The three orders against defendants (1) Ankh Ali, Aziza Alo, Kenneth Moody, and *Global Asset Financial Services Group, LLC*; (2) *Jeremy Scinta and LLI Business Innovations, LLC*; and (3) *Regional Asset Maintenance, LLC* imposed \$3.1 million judgments. The order against *David Carr, 10D Holdings, Inc., Trans America Consumer Solutions, LLC, Midwestern Alliance, LLC, TACS I, LLC, TACS II, LLC, and TACS III, LLC* imposed a \$7,256,488 judgment. Finally, the order against *Omar Hussain and Cedar Rose Holdings and Development, Inc.* imposed an \$8,877,564 judgment. Most of the judgments are suspended due to defendants’ inability pay, except for the \$3.1 million judgment against *Regional Asset Maintenance*.⁴⁸

⁴⁷ Federal Trade Commission, *FTC v. Glob. Asset Fin. Servs. Grp., LLC*, No. 3:19cv55 (W.D.N.C. Feb. 2019) (Complaint); see also Press Release, FTC Stops Phantom Debt Collection Scheme (Feb. 8, 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/02/ftc-stops-phantom-debt-collection-scheme>.

⁴⁸ Federal Trade Commission, Operators of Phantom Debt Scheme Permanently Banned From Debt Collection under Settlement with FTC (Dec. 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/12/operators-phantom-debt-scheme-permanently-banned-debt-collection>.

Additionally, the FTC and the New York Attorney General’s Office resolved a 2018 suit against another phantom debt operation. In a June 2018 complaint, the Commission charged Hylan Asset Management, LLC (Hylan) and Worldwide Processing Group LLC (Worldwide), as well as their principals and four related companies, with running a scheme to collect money from consumers on fake and unauthorized debts. The complaint alleges that Hylan bought, placed for collection, and sold portfolios of phantom debts, including debts that were fabricated or unauthorized by consumers. Hylan placed these phony debts for collection with several collection agencies, including Worldwide, which used illegal tactics to collect on them. The complaint further alleges that Hylan was aware that many of these debts were fabricated or legally unenforceable, given among other things that many of them originated from Hirsch Mohindra and Joel Tucker—both of whom were defendants in separate FTC actions for distributing counterfeit debt. Worldwide allegedly continued its collection efforts after consumers said they had never heard of the lenders and provided records to prove they owed nothing.⁴⁹ The defendants stipulated to a temporary restraining order on June 29, 2018 and a preliminary injunction on July 9, 2018. On July 1, 2019, the Commission secured two final orders, imposing judgments of (1) \$6.75 million against Hylan and its principals, as well as banning them from the debt collection industry, and (2) \$4.94 million against Worldwide and its principal. The judgments were partially suspended due to defendants’ inability to pay.⁵⁰

In 2017, the FTC filed an action against the *ACDI Group, LLC*^{51/52} through a debt broker. When the defendants reported to the broker that they had been receiving consumer complaints regarding these debts, the broker returned the defendants’ money and told them to stop collecting on these phony debts. However, the defendants continued to collect from consumers

⁴⁹ Federal Trade Commission, *FTC and State of New York v. Hylan Asset Mgmt.*, No. 18-cv-00710 (W.D.N.Y. June 2018) (Complaint); *see also* Federal Trade Commission, *FTC and New York Attorney General Act Against Phantom Debt Brokers and Collectors* (June 2018), available at <https://www.ftc.gov/news-events/press-releases/2018/06/ftc-new-york-attorney-general-act-against-phantom-debt-brokers>.

⁵⁰ Federal Trade Commission, *Phantom Debt Brokers and Collectors Settle FTC and New York AG Charges* (July 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/07/phantom-debt-brokers-collectors-settle-ftc-new-york-ag-charges>.

⁵¹ Federal Trade Commission, *FTC v. ACDI Group, LLC*, No. 3:17-cv-00340 (W.D.N.C. June 22, 2017) (Complaint); *see also* Press Release, *FTC Charges Debt Collection Scheme Took Consumers’ Money for Phantom Debts They Did Not Owe* (June 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/06/ftc-charges-debt-collection-scheme-took-consumers-money-phantom>.

⁵² In 2017, the Commission filed suit against *SQ Capital* for brokering phantom debt and obtained an order banning the defendants from handling sensitive debt information. *See* Federal Trade Commission, *FTC Charges Defendants with Selling Fake Payday Loan Debt Portfolios* (Jan. 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/01/ftc-charges-defendants-selling-fake-payday-loan-debtportfolios>; Federal Trade Commission, *FTC Obtains Court Order Against Scheme that Sold Fake Payday Loan Debt Portfolios* (Oct. 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/10/ftc-obtains-court-order-against-scheme-sold-fake-paydayloan-debt>.

for at least seven more months. In August 2018, the court ruled that the defendants are jointly and severally liable for the conduct and ordered repayment of more than \$30,000.⁵³

In addition to the law enforcement actions above, the Commission also returned funds to the consumers harmed by the Georgia-based debt collection operation *Advanced Mediation Group*. In 2017, the agency charged these defendants with tricking people into paying for debts defendants did not have the authority to collect, and secured a temporary restraining order with an asset freeze and receiver.⁵⁴ The defendants allegedly used abusive tactics, such as falsely telling consumers that they had committed a crime and faced dire consequences—including lawsuits, garnishment, and even imprisonment—if a purported debt was not paid. The operation collected more than \$3.4 million from consumers. The defendants also illegally contacted consumers’ friends, non-spouse relatives, and employers, and failed to provide statutorily-required written notices and disclaimers. In September 2018, the Commission successfully obtained a settlement banning the defendants from the debt collection business and from buying or selling debt.⁵⁵ The FTC announced in September 2019 that it would be sending out refund checks totaling more than \$516,000 to 3,977 consumers.⁵⁶

6.2.2 Other Actions to Halt FDCPA & FTC Violations

In October 2018, the Commission and the New York Attorney General’s Office sued a New York-based debt collection operation in *Campbell Capital*.⁵⁷ A federal court temporarily halted the operation’s illegal activity and froze its assets.⁵⁸ According to the complaint, defendants’ employees often completed forms that showed they demanded more money than consumers allegedly owed, also known as “overbiffing” in the debt collection industry. In many cases, consumers ended up paying more than what they allegedly owed. The complaint also alleges that employees pretended to work for law enforcement agencies and threatened consumers with arrest. Other collectors falsely claimed to work on behalf of attorneys and falsely told consumers

⁵³ *FTC v. ACDI Group, LLC*, No. 3:17-cv-00340 (W.D.N.C. Aug. 2018) (Order).

⁵⁴ Federal Trade Commission, *FTC v. Global Processing Solutions*, 1:17-cv-4192 (N.D. Ga. Oct. 2017) (Complaint); see also Federal Trade Commission, *FTC Charges Debt Collection Business Defrauded Consumers into Paying Debts They Did Not Owe* (Nov. 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/11/ftc-charges-debt-collection-business-defrauded-consumers-paying>.

⁵⁵ Federal Trade Commission, *FTC v. Global Processing Solutions*, 1:17-cv-4192 (N.D. Ga. July 2018 & Sept. 2018) (Orders); see also Federal Trade Commission, *FTC Settlements Ban Fraudulent Debt Collectors from Debt Collection Business and from Buying or Selling Debt* (Sept. 2018), available at <https://www.ftc.gov/news-events/press-releases/2018/09/ftc-settlements-ban-fraudulent-debt-collectors-debt-collection>.

⁵⁶ Federal Trade Commission, *FTC Sends Refunds to Victims of Debt Collection Scheme* (Sept. 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/09/ftc-sends-refunds-victims-debt-collection-scheme>.

⁵⁷ Federal Trade Commission, *FTC and State of New York v. Campbell Capital LLC*, 1:18-cv-01163 (W.D.N.Y. Oct. 2018) (Complaint); see also Federal Trade Commission, *FTC and New York Attorney General Sue Operators of Debt Collection Scheme* (Nov. 2018), available at <https://www.ftc.gov/news-events/press-releases/2018/11/ftc-new-york-attorney-general-sue-operators-debt-collection>.

⁵⁸ *FTC and State of New York v. Campbell Capital LLC*, 1:18-cv-01163 (W.D.N.Y. Oct. 2018) (Orders).

they would face lawsuits if they did not make a payment on an alleged debt. Litigation was ongoing in 2019.

7. Education and outreach initiatives

The Bureau provides consumers with the knowledge, tools, and capabilities they need in order to make better informed financial decisions. To that end, the Bureau offers directly to consumers a variety of information, tools, and programs about major financial choices and other money decisions. Educational offerings are provided in web and print, including the Bureau’s “Ask CFPB” service with hundreds of financial questions and answers, web tools such as Buying a House, and portals on specific money topics. The Bureau also makes it easier for people to access financial education in their local communities and to foster a lasting local financial education infrastructure. The Bureau does this by integrating financial education into established community channels, such as libraries, workplaces, social service organizations, military services, and government agencies, that consumers may trust.

The FTC also educates consumers and businesses about their rights and responsibilities under the FDCPA and the FTC Act.

7.1 Bureau education and outreach

The Bureau provides consumers with information about specific financial topics, including those relating to debt collection. A major Bureau consumer education product is “Ask CFPB,” an interactive online tool that helps consumers find clear answers to a wide variety of financial questions.

In October 2012, the Bureau began publishing “Ask CFPB” content, including questions and answers on the topic of debt collection. From its beginning until December 2019, “Ask CFPB” had been viewed more than 26.9 million times. Debt collection is consistently one of the two most-viewed categories in “Ask CFPB.” “Ask CFPB” includes practical tips to consumers regarding steps they can take when faced with debt collection as well as steps to take to manage debts in a way that may prevent the debts from ending up in collection.⁵⁹

In July 2013, the Bureau added five sample letters to “Ask CFPB” that consumers may use when they interact with debt collectors. The five letters are intended for consumers who: (1) need more information about a debt; (2) want to dispute their debt; (3) want to restrict how and when

⁵⁹ Bureau of Consumer Fin. Prot., “Ask CFPB”, Debt Collection, *available at* <http://www.consumerfinance.gov/consumer-tools/debt-collection/>.

a collector can contact them; (4) want to stop all communication from the debt collector; and (5) want to direct further communications with respect to the debt matter to an attorney.⁶⁰ These letters are available in English and Spanish.

These letters were downloaded more than 661,000 times from June 2014 to the end of December 2019. The two most downloaded letters are “I need more information about this debt” and “I do not owe this debt.”

TABLE 3: DOWNLOADS OF THE BUREAU’S COLLECTION-RELATED LETTERS (JUNE 2014 – DECEMBER 2019)

Letter	% total downloads
“I need more information about this debt”	40%
“I do not owe this debt”	32%
“I want to specify how the debt collector can contact me”	9%
“I want the debt collector to stop contacting me”	16%
“I want the debt collector to only contact me through my lawyer”	4%

In addition to online resources for consumers, the Bureau offers print publications on financial topics including debt collection. Consumers and organizations can download or order these print publications in bulk free of charge. For example, the Bureau’s brochure “Planning to become debt-free?” was updated in 2019 and is available in both English and Spanish. One development in 2019 was the interest by some state and federal correctional facilities in two of the Bureau’s publications. The Bureau provided a total of 23,241 copies of its *Behind on Bills* and *Debt Getting in Your Way* publications to correctional facilities.

Debt collection, including debt management strategies to avoid entering collections, is covered in the Bureau’s *Your Money, Your Goals* financial empowerment toolkit. As of the end of 2019,

⁶⁰ Bureau of Consumer Fin. Prot., What Should I Do When a Debt Collector Contacts Me (Feb. 2017), available at <https://www.consumerfinance.gov/ask-cfpb/what-should-i-do-when-a-debt-collector-contacts-me-en-1695/>.

nearly 30,000 staff and volunteers in social services organizations had been trained on *Your Money, Your Goals*.

A related resource focused on helping consumers address problems surrounding debt is the Bureau's booklet "Debt getting in your way?" This is a colorful, compact booklet that includes a selection of simplified paper tools from the *Your Money, Your Goals* toolkit.⁶¹ The tools in this booklet can help consumers get a full picture of existing debt, order a credit report, prioritize debts and set future repayment goals. Since the booklet's release in 2017, 254,065 copies have been distributed throughout the United States.

The Bureau, through its Office of Consumer Engagement, is now in the third year of operating the *Get a Handle on Debt Boot Camp*⁶² This is a 21-day email course that allows consumers to sign up for periodic messages about steps to manage their debt effectively and meet their financial goals. The program includes tools and resources from *Your Money, Your Goals*. By the end of December 2019, the *Debt Boot Camp* had attracted 30,023 sign-ups.

In November 2019, the Bureau released a video⁶³ with useful tips on spotting debt collection scams and steps that consumers can take to protect themselves from scammers. To help consumers tell the difference between possible scammers and legitimate debt collectors, the Bureau also developed two new "Ask CFPB" questions on making initial contact with a debt collector⁶⁴ and what to consider when sharing personal information with a debt collector.⁶⁵

Debt collection is also a significant issue facing servicemembers, veterans, and their families (military consumers). In October 2017, the Bureau's Office of Servicemember Affairs (OSA)

⁶¹ Bureau of Consumer Fin. Prot., *Your Money, Your Goals*, available at <https://www.consumerfinance.gov/practitioner-resources/your-money-your-goals/>.

⁶² Bureau of Consumer Fin. Prot., Sign-up for our Email Course and Get Your Finances in Shape, CFPB Blog (Feb. 2019), available at <https://www.consumerfinance.gov/about-us/blog/sign-our-email-course-and-get-your-finances-shape/>.

⁶³ Bureau of Consumer Fin. Prot., How to spot a debt collection scam, CFPB Youtube Channel (Nov. 2019), available at https://www.youtube.com/watch?v=wcQ1a_Gg8tI.

⁶⁴ Bureau of Consumer Fin. Prot., Should I talk to a debt collector? "Ask CFPB" (Sept. 2019), available at <https://www.consumerfinance.gov/ask-cfpb/should-i-talk-debt-collector-en-2097/>.

⁶⁵ Bureau of Consumer Fin. Prot., Should I share my personal information, including birth date and Social Security number, with a debt collector?, "Ask CFPB" (Sept. 2019), available at <https://www.consumerfinance.gov/ask-cfpb/should-i-share-my-personal-information-including-birth-date-and-social-security-number-debt-collector-en-2098/>.

issued a spotlight report about state-by-state complaint information about military consumers.⁶⁶ Military consumers indicated that debt collection was the top category of complaints in each of the 50 states. This report was updated in April 2018 and debt collection was again listed as the highest category of complaints, comprising 37% of almost 110,000 complaints.⁶⁷ In March of 2019, the Bureau released another complaint snapshot focused on 2018 complaints from military consumers by state.⁶⁸ This release was an update of the earlier snapshots from 2017 and 2018; debt collection continues to be an important issue for military consumers.⁶⁹

The Bureau's OSA released a report in January 2019 highlighting complaint data from 2017 and 2018.⁷⁰ The most common type of debt collection complaint reported was about continued attempts to collect a debt that the servicemember believes is not owed by them. Servicemembers also complained about the communication tactics companies used when attempting to collect a debt, such as frequent and repeated calls, calls before 8:00 a.m. and after 9:00 p.m., and calls after the servicemember requested no further telephone contact about the debt. The Bureau also received complaints about collector calls to third parties or servicemembers' chain of command. In some of these complaints, servicemembers reported to the Bureau that the debt collector threatened them with prosecution under the Uniform Code of Military Justice (UCMJ) or other actions to jeopardize their military security clearance. In response to these complaints, the Bureau created a factsheet brochure that teaches servicemembers and their families how to respond to debt collectors who are either contacting their chain-of-command or threatening them with UCMJ prosecution or other actions that might jeopardize their military security clearance.⁷¹

⁶⁶ Bureau of Consumer Fin. Prot., 50 State Snapshot of Servicemember Complaints (Oct. 2017), *available at* https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_monthly-complaint-report_50-state-snapshot-servicemembers_102017.pdf.

⁶⁷ Bureau of Consumer Fin. Prot., Complaints Submitted by Servicemembers, Veterans, and their Families (April 2018), *available at* https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcfp_servicemember-complaints-50-states_snapshot_201804.pdf.

⁶⁸ Bureau of Consumer Fin. Prot., Complaint snapshot: Servicemembers, Veterans, and Military Families 50 State Report (Mar. 2019), *available at* consumerfinance.gov/documents/7326/cfpb_complaint-snapshot-servicemembers-50-state_report.pdf.

⁶⁹ For 2018, credit or consumer reporting received the largest number of complaints from military consumers, but on a cumulative basis debt collection remains the product for which military consumers have submitted the most complaints to the Bureau.

⁷⁰ Bureau of Consumer Fin. Prot., Office of Servicemember Affairs Annual report (Jan. 2019), *available at* https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_osa_annual-report_2018.pdf.

⁷¹ Bureau of Consumer Fin. Prot., Servicemembers: Know your rights when a debt collector calls, *available at* files.consumerfinance.gov/f/documents/cfpb_servicemembers_know-your-rights-when-a-debt-collector-calls.pdf.

Older Americans also face issues relating to debt collection. In May 2019, the Office of Financial Protection for Older Americans and the Centers for Medicare & Medicaid Services (CMS) updated the blog “What to do if you’re wrongfully billed for Medicare costs.”⁷² The blog and the accompanying consumer advisory⁷³ will help people in the Qualified Medicare Beneficiary (QMB) Program understand their rights when they are wrongfully billed for Medicare costs by providers or debt collectors. The law prohibits providers from billing people in the Qualified Medicare Beneficiary Program for deductibles, coinsurance, and copayments. Older consumers submitted complaints reporting that debt collectors tried to collect these types of costs or sent the information to credit reporting companies. The blog and accompanying consumer advisory provided information on consumer rights and what to do when wrongfully billed, as well as getting a refund for payments already made.

A partial list of the Bureau’s consumer education materials relating to debt collection and information on the extent of their distribution is set forth in Appendix A.

7.2 FTC education and public outreach

Education and public outreach are also important parts of the Commission’s debt collection program. The FTC uses multiple formats and channels to inform consumers about their rights under the FDCPA, as well as what the statute requires of debt collectors, and to inform debt collectors about what they must do to comply with the law. The FTC also uses 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, and presentations. To maximize its outreach efforts, FTC staff works with an informal network of about 16,000 community-based organizations and national groups that order and distribute FTC information to their members, clients, and constituents. In 2019, the FTC distributed 14 million print publications to libraries, police departments, schools, non-profit organizations, banks, credit unions, other businesses, and government agencies. In 2019, the FTC logged more than 57 million views of its business and consumer education website pages. The FTC’s channel at YouTube.com/FTCvideos houses 289 business and consumer videos in English and Spanish, which were viewed more than 787,000

⁷² Bureau of Consumer Fin. Prot., What to do if you’re wrongfully billed for Medicare costs (May 2019), *available at* <https://www.consumerfinance.gov/about-us/blog/what-do-if-youre-wrongfully-billed-medicare-costs>.

⁷³ Bureau of Consumer Fin. Prot., Know your rights as a Qualified Medicare Beneficiary, *available at* https://files.consumerfinance.gov/f/documents/201905_cfpb_Know-Your-Qualified-Medicare-Beneficiary-Rights_handout_PRINT.pdf.

times in 2019. One video—Debt Collection: Know Your Rights—summarizes consumer rights and encourages viewers to report problem calls to the FTC. The consumer blogs in English⁷⁴ and Spanish⁷⁵ reached 247,516 and 52,589 email subscribers, respectively, and regularly serve as source material for local and national news stories.

As part of its work to raise awareness about scams targeting the Latino community, the FTC has developed a series of fotonovelas (graphic novels) in Spanish. These graphic novels tell stories based on complaints Spanish speakers make to the FTC and offer practical tips to help detect and stop common scams. People ordered more than 27,500 copies of the *Cobradores De Deuda* (Debt Collectors) fotonovela in 2019.

The Commission also educates industry members by developing and distributing business education materials, delivering speeches, blogging, participating in panel discussions at industry conferences, and providing interviews to general media and trade publications. The FTC's business education resources can be found in its online Business Center.⁷⁶ The Business Center logged more than 5.3 million page views in 2019, and there are more than 82,000 email subscribers to the Business Blog.⁷⁷ A complete list of the FTC's consumer and business education materials relating to debt collection, and information on the extent of their distribution is set forth in Appendix B to this letter.

FTC staff also regularly meets with legal service providers, consumer advocates, and people who work in immigrant, Native American, Latino, Asian, and African American communities to discuss consumer protection issues, including the FTC's work in the debt collection arena. For example, the FTC hosted four Ethnic Media Roundtables around the country in 2019, 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.

⁷⁴ Federal Trade Commission, Consumer Information Blog, available at <http://www.consumer.ftc.gov/blog>.

⁷⁵ Federal Trade Commission, Blog con información para consumidores, available at <http://www.consumidor.ftc.gov/blog>.

⁷⁶ Federal Trade Commission, Business Center, available at <http://business.ftc.gov/>.

⁷⁷ Federal Trade Commission, Business Blog, available at <http://business.ftc.gov/blog>.

8. Rulemaking, research, and policy initiatives

8.1 Bureau rulemaking and research

8.1.1 Bureau research projects

The Bureau is engaged in research to better understand debt collection and its impact on consumers and credit markets. One purpose of this research is to help the Bureau better understand the benefits, costs, and impacts of potential rules. The Bureau's debt collection research relies on various data sources, including publicly and commercially available data as well as information obtained through industry outreach and other efforts.

In 2019, the Bureau completed a quantitative online survey of over 8,000 respondents to test several versions of disclosures to support the understanding of time-barred debt and revival.⁷⁸ The testing determined that a consumer who receives a validation notice without a time-barred debt or revival disclosure may have the impression that the debt collector is legally allowed to sue to collect the debt. A time-barred debt disclosure, whether alone or with a revival disclosure, generally appears to correct this impression. A time-barred debt disclosure without a revival disclosure could lead a consumer in a revival state to believe that the debt collector is able to legally sue the consumer in fewer circumstances than the debt collector in fact is able to. A revival disclosure generally appears to clarify the circumstances in which a debt collector's right to sue on a time-barred debt can be revived. These findings informed the Bureau's decision to propose a supplemental NPRM on time-barred debt disclosures in 2020.

8.1.2 FDCPA rulemaking

On May 7, 2019, the Bureau issued a Notice of Proposed Rulemaking, which would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the Fair Debt Collection Practices Act.⁷⁹ The proposed rule generally would limit debt collectors to no more than seven attempts by telephone per week to reach a consumer about a specific debt. Once a telephone conversation between the debt collector and consumer takes place, the debt collector must wait at least a week before calling the consumer again. The proposed rule would also require debt collectors to send consumers a disclosure with certain information about the debt and related consumer protections. This information would include, for example,

⁷⁸ Bureau of Consumer Fin. Prot., Disclosure of Time-Barred Debt and Revival (Feb. 2020), *available at* https://files.consumerfinance.gov/f/documents/cfpb_debt-collection-quantitative-disclosure-testing_report.pdf

⁷⁹ Bureau of Consumer Fin. Prot., Debt Collection Practices (Regulation F), 84 Fed. Reg. 23274 (May 21, 2019), *available at* <https://www.federalregister.gov/documents/2019/05/21/2019-09665/debt-collection-practices-regulation-f>.

an itemization of the debt and plain-language information about how a consumer may respond to a collection attempt, including by disputing the debt. The proposal would require the disclosure to include a “tear-off” that consumers could send back to the debt collector to respond to the collection attempt. The NPRM clarifies how debt collectors may lawfully use newer communication technologies, such as voicemails, emails and text messages, to communicate with consumers. The NPRM includes provisions that would protect consumers who do not wish to receive such communications by, among other things, allowing them to unsubscribe to future communications through these methods. The proposed rule would also clarify how collectors may provide required disclosures electronically. In addition, if consumers want to limit ways debt collectors contact them, for example at a specific telephone number, while they are at work, or during certain hours, the rule clarifies how consumers may easily do so. Further, the proposed rule would prohibit a debt collector from suing or threatening to sue a consumer to collect a debt if the debt collector knows or should know that the statute of limitations has expired. Finally, the proposed rule would prohibit a debt collector from furnishing information about a debt to a consumer reporting agency unless the debt collector has communicated about the debt to the consumer, such as by sending the consumer a letter.⁸⁰

The proposal builds on the Bureau’s research and pre-rulemaking activities regarding the debt collection market, which remains a top source of complaints to the Bureau. In May 2019, the Regulatory Implementation and Guidance team published the Fast Facts document,⁸¹ a high-level table summarizing the NPRM, and the Electronic Disclosures Flowchart,⁸² material to assist in understanding the electronic disclosure provisions in the NPRM.

On August 2, 2019, the Bureau extended the comment period on the NPRM, setting a deadline of September 18, 2019.⁸³ The Bureau received over 14,000 comments in response to the NPRM from consumer advocates, industry stakeholders, academics, and consumers. The Bureau expects to issue a final debt collections rule in 2020.

⁸⁰ Bureau of Consumer Fin. Prot., Consumer Financial Protection Bureau Proposes Regulations to Implement the Fair Debt Collection Practices Act (May 2019), available at <https://www.consumerfinance.gov/about-us/newsroom/bureau-proposes-regulations-implement-fair-debt-collection-practices-act/>

⁸¹ Bureau of Consumer Fin. Prot., Fast Facts: May 2019 Proposed Debt Collection Rule (May 2019), available at https://files.consumerfinance.gov/f/documents/cfpb_debt-collection-fast-facts.pdf.

⁸² Bureau of Consumer Fin. Prot., Debt collection proposed rule electronic disclosure options (May 2019), available at https://files.consumerfinance.gov/f/documents/cfpb_debt-collection-electronic-disclosure-flowchart.pdf.

⁸³ Bureau of Consumer Fin. Prot., Debt Collection Practices (Regulation F); Extension of Comment Period, 84 Fed. Reg. 37806 (Aug. 2, 2019), available at <https://www.federalregister.gov/documents/2019/08/02/2019-16476/debt-collection-practices-regulation-f-extension-of-comment-period>.

On February 21, 2020, the Bureau issued a supplemental NPRM regarding the collection of time-barred debt.⁸⁴ The Supplemental NPRM would require debt collectors to make disclosures to consumers when collecting debts they know or should know are time-barred. The disclosures are designed to provide important information to consumers about the statute of limitations and revival law applicable to their debts. The supplemental NPRM was issued after the Bureau engaged in testing of consumer disclosures related to time-barred debt disclosures, as highlighted in Section 8.1.1.

8.1.3 Market monitoring and outreach

The Bureau continues to monitor the debt collection industry and engage key debt collection stakeholders to improve its understanding of the market and to develop informed policies that will protect consumers without imposing unnecessary costs.

In 2019, Bureau staff spoke at both regional and national debt collection industry events and conducted industry site visits. The Bureau also held meetings with consumer advocates, industry groups, vendors, and government officials to better understand consumers' experiences with debt collection as well as how the market and industry function.

In addition, the Bureau has held a number of meetings with market participants and consumer advocates to inform the Bureau as part of the rulemaking process. The results of this outreach have provided Bureau staff with detailed information related to the costs of operating a debt collection business and potential impacts of the proposals under consideration.

In 2019, the Bureau released the 2019 Credit Card Market Report including a section on collection practices.⁸⁵ This section addresses a variety of relevant topics in credit card collections, including consumer communication methods, use of modern technologies, debt sales, litigation practices, and debt settlement, among others. The report highlighted that most creditors attempted an average of 1.42 to 3.50 calls per account per day in 2018. The study also noted that the volume of new debt placed in the litigation channel increased significantly, with a year-over-year growth ranging from 10 to 55 percent across major credit card issuers. The survey also highlighted emerging trends and concerns in debt settlement including a significant growth in the volume of debt handled by for-profit debt settlement companies.

⁸⁴ Bureau of Consumer Fin. Prot., Debt Collection Practices (Regulation F); Supplemental notice of proposed rulemaking, 85 Fed. Reg. 12672 (Mar. 3, 2020), *available at* <https://www.federalregister.gov/documents/2020/03/03/2020-03838/debt-collection-practices-regulation-f>.

⁸⁵ Bureau of Consumer Fin. Prot., CFPB Releases Report on Consumer Credit Card Market (Aug. 2019), *available at* <https://www.consumerfinance.gov/about-us/newsroom/bureau-releases-report-consumer-credit-card-market/>.

The Bureau also released the *Market Snapshot: Third-Party Debt Collections Tradelines Reporting*.⁸⁶ The report examines trends in credit reporting by third-party collectors from 2004 to 2018. The Bureau reported that more than one-in-four consumers (28 percent) with a credit report in the Consumer Credit Panel in 2018 had at least one third-party collections tradeline on their file. The study also found that more than three-out-of-four third-party collections tradelines are for non-financial debt. More than half (58 percent) of these non-financial tradelines are for medical debt and another 20 percent for telecommunications or utilities debt.

8.2 FTC’s research and policy development activities

The third prong of the Commission’s debt collection program is research and policy initiatives. In the past year, the FTC has continued to monitor and evaluate the debt collection industry and its practices through public events and the FTC’s comment on the CFPB’s proposed rulemaking.

In 2019, the FTC organized and co-sponsored four Common Ground conferences around the country, bringing together law enforcement, consumer advocates, and community members to discuss important consumer protection issues. Two of those conferences included discussions on debt collection:

- In September 2019, the Midwest Common Ground Conference⁸⁷ included a panel titled “Anatomy of a Scam: Lead Generation and Its Abuses,” which explored the behind-the-scenes world of online lead generation and discussed Joel Tucker’s⁸⁸ use of payday loan leads to create and sell millions of fake debts to debt collectors.
- In October 2019, a conference hosted by the FTC and the Office of the Virginia Attorney General included panels on (1) credit and debt issues affecting servicemembers and their families and (2) student loan debt and collections and discharges of student loans.⁸⁹

⁸⁶ Bureau of Consumer Fin. Prot., Consumer Financial Protection Bureau Releases Report on Third-Party Debt Collections (July 2019), available at <https://www.consumerfinance.gov/about-us/newsroom/bureau-releases-report-third-party-debt-collections/>.

⁸⁷ Federal Trade Commission, Working Together to Protect Midwest Consumers: A Common Ground Conference (Sept. 2019), available at <https://www.ftc.gov/news-events/events-calendar/working-together-protect-midwest-consumers-common-ground-conference>.

⁸⁸ Joel Tucker was sued by the FTC and banned from the debt collection industry. See *FTC v. Joel Jerome Tucker*, 2:16-cv-082816 (D. Kan. Sept. 20, 2017) (Order); Federal Trade Commission, FTC Obtains Court Order Against Scheme that Sold Fake Payday Loan Debt Portfolios (Oct. 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/10/ftc-obtains-court-order-against-scheme-sold-fake-paydayloan-debt>.

⁸⁹ Federal Trade Commission, Protecting Virginia’s Consumers: A Common Ground Conference (Oct. 2019), available at <https://www.ftc.gov/news-events/events-calendar/protecting-virginias-consumers-common-ground-conference>.

The FTC also sponsored two additional public events that raised debt collection policy issues:

- In May 2019, the FTC hosted a forum on small business financing to examine trends and consumer protection issues in the marketplace, including the recent proliferation of online loans and alternative financing products.⁹⁰ The panel discussions included topics such as the use of confessions of judgment by some providers of small business financing during collections.
- In December 2019, the FTC and CFPB co-hosted a public workshop to discuss issues affecting the accuracy of both traditional credit reports and employment and tenant background screening reports.⁹¹ The panelists discussed the role of collection agencies as data furnishers, consumer debt disputes, and the impact of paid collections on credit reports.

Additionally, in September 2019, FTC staff submitted a public comment on the CFPB's May 2019 Notice of Proposed Rulemaking to implement the FDCPA and address other consumer protection issues in debt collection. The staff comment notes that the Commission has long advocated for amendments and clarifications to existing laws to account for changes in the debt collection marketplace and consumer technology. It also details much of the Commission's law enforcement, policy, and education efforts to protect consumers from unlawful debt collection practices. The comment provides staff feedback on several components of the proposed rules, including changes to improve validation notices and how, when, and where collectors are allowed to make contact with consumers. Additionally, it addresses the NPRM's proposals regarding debt that has passed the statute of limitations, the sale and transfer of debt, the collection of debts involving people who are deceased, and restrictions on the disclosure of information about debt to third parties.⁹²

⁹⁰ Federal Trade Commission, FTC to Host Strictly Business: A Forum on Small Business Financing (May 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/05/ftc-host-strictly-business-forum-small-business-financing>.

⁹¹ Federal Trade Commission, FTC and CFPB to Co-Host Workshop on Accuracy in Consumer Reporting (May 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/12/ftc-cfpb-co-host-workshop-accuracy-consumer-reporting>.

⁹² Federal Trade Commission, FTC Staff Submits Comment to CFPB on Proposed Debt Collection Rules (Sept. 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/09/ftc-staff-submits-comment-cfpb-proposed-debt-collection-rules>; Federal Trade Commission, Comment of the Staff of the Federal Trade Commission's Bureau of Consumer Protection: In the Matter of Proposed Rule with Request for Public Comment, Debt Collection Practices (Regulation F) (Sept. 18, 2019), available at <https://www.ftc.gov/policy/advocacy/advocacy-filings/2019/09/comment-staff-federal-trade-commissions-bureau-consumer>.

The FTC continues to work closely with the CFPB to coordinate efforts to protect consumers from unfair, deceptive, and abusive debt collection practices.⁹³ As part of this coordination, FTC and CFPB staff regularly meet to discuss ongoing and upcoming law enforcement, rulemaking, and other activities; share debt collection complaints; cooperate on consumer education efforts in the debt collection arena; and consult on debt collection rulemaking and guidance initiatives.

⁹³ The Consumer Financial Protection Act directs the FTC and the CFPB to coordinate their law enforcement activities and promote consistent regulatory treatment of consumer financial products and services, including debt collection. *See* Dodd-Frank Act, Pub. L. 111-203, 124 Stat. 1376 §§ 1015, 1024(c)(3) (July 21, 2010). In January 2012, the FTC and CFPB entered into a memorandum of understanding (MOU) that supplements the requirements of the Consumer Financial Protection Act and creates a strong and comprehensive framework for coordination and cooperation. Memorandum of Understanding Between the Consumer Financial Protection Bureau and the Federal Trade Commission (Jan. 2012), available at <http://www.ftc.gov/sites/default/files/attachments/press-releases/federal-trade-commission-consumer-financial-protection-bureau-pledge-work-together-protect-consumers/120123ftc-cfpb-mou.pdf>. The agencies reauthorized the MOU in February 2019. *See* FTC and CFPB Reauthorize Memorandum of Understanding (Feb. 2019), available at <https://www.ftc.gov/news-events/press-releases/2019/02/ftc-cfpb-reauthorize-memorandum-understanding>; Memorandum of Understanding between the FTC and the CFPB (Feb. 2019), available at https://www.ftc.gov/system/files/documents/cooperation_agreements/ftc-cfpb_mou_225_o.pdf.

9. Appendix A:

9.1 CFPB Debt Collection Information 2019

Consumer information	Page views or downloads in English	Page views or downloads in Spanish	Print distribution in English	Print distribution in Spanish
All Ask CFPB debt collection questions	1,635,344	124,372		
How to negotiate a settlement with a debt collector	703,160	12,342		
What should I do when a debt collector contacts me? Sample letters	291,515	1,467		
What should I do if a creditor or debt collector sues me?	84,325	11,148		
My debt is several years old. Can debt collectors still collect?	82,391	1,834		
Can I be responsible to pay off the debts of my deceased spouse?	108,438	3,010		
Are there laws that limit what debt collectors can say or do?	81,533	3,115		
Know Your Rights When a Debt Collector Calls*	172	8	170,871	600
Behind on bills?*	1849	213	189,277	46,023
Planning to become debt free?	8	2	195,076	3,092
Debt getting in your way? Get a handle on it.*			153,348	
Servicemembers: Know your rights when a debt collector calls*	501		6,925	

Bureau Consumer Content

Consumer blog posts

- [Need help with your credit card debt? Start with your credit card company!](#)

*Available only by download or print.

- [New protections for servicemembers and veterans alert](#)
- [What to do if you're wrongfully billed for Medicare costs](#)
- [Budgeting: How to create a budget and stick with it](#)
- [How to tell the difference between a legitimate debt collector and scammers](#)

10. Appendix B

10.1 FTC Debt Collection Information 2019

Consumer Information	Views in English**	Views in Spanish**	Print Orders in English	Print Orders in Spanish
Debt Collection FAQ	198,210	101,520	163,050	34,100
Debt Collectors (Fotonovela)				27,500
Debts and Deceased Relatives	58,994	72,369		
Fake Debt Collectors	64,039	5,767		
Garnishing Federal Benefits	22,292	2,236		
Settling Credit Card Debt	32,395	16,204		
Managing Debt: What to Do	12,086	15,948	48,000	12,800
Identity Theft Letter to a Debt Collector	3,197	87		
Time-Barred Debts	64,506	85,759		
Video Consumer Information	Views in English**	Views in Spanish**	Print Orders in English	Print Orders in Spanish
Fraud Affects Every Community: Debt Collection	298			
Debt Collection: Know Your Rights	828	158		

Business Information	Views in English**	Views in Spanish**
Article: The Fair Debt Collection Practices Act	15,435	
Video: Debt Collection	674	237

2019 Consumer Blog Posts

- [FTC halts another phantom debt collection scheme](#)
- [The top frauds of 2019](#)

2019 Business Blog Posts

- [FTC consumer protection year in review offers 2020 vision for your business](#)

**“Views” is the number of times a page was viewed on an FTC website. A person who views a page may also download, re-post, or copy and share content from an FTC page, which increases the total number of people who see the article.