November 2, 2015

Ms. Wendy Kamenshine
Ombudsman
Office of the Ombudsman
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Ms. Kamenshine,

On behalf of the members of the Consumer Data Industry Association (“CDIA”), an organization consisting of various types of consumer reporting agencies (non-banks), many of which are subject to the supervision and enforcement of the Consumer Financial Protection Bureau (“CFPB”), we submit this letter regarding the CFPB’s decision to produce monthly complaint reports which include a listing of “…the top-ten most complained about companies…”1 The CFPB’s website states that “[w]e analyze complaint data to help with our work to supervise companies, enforce consumer financial laws, and write better rules and regulations.”2 However, unlike other regulated entities supervised by the CFPB, our members are a unique population in the CFPB database because consumer reporting agencies are not consumer-facing, are subject to Congressionally mandated standards with respect to the accuracy of its data and the processing of consumer disputes, and, if not the source of the consumer issue, generally unable to resolve the consumer’s matter.

We note, as confirmed by the CFPB, that the statistics and narratives provided in the CFPB’s monthly complaint reports and on its public website are not verified. However, the use of such data by the CFPB in its statistics and reports clearly implies that all of these consumer complaints are legitimate and properly submitted against the named regulated entities. Therefore, because the data from the consumer complaints submitted through the CFPB Portal are used for the purposes mentioned above, our complaint involves “…an issue arising from the CFPB’s supervision or enforcement activities”3 and the CFPB Ombudsman Office is the proper independent and impartial entity to help resolve process issues arising from the CFPB’s activities.

The CFPB provides the public with statistical and narrative information by issuing reports on its public website with the goal of providing consumers with timely and understandable information to help enable them to make responsible financial decisions and to enhance market efficiency and transparency. However, the CFPB acknowledges that it does not “…verify the accuracy of all facts alleged in complaints.”4 Therefore, the data used in its statistics and reports published on its website originate from

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2 http://www.consumerfinance.gov/complaint/data-use/.
3 http://www.consumerfinance.gov/ombudsman/#Contact.
unverified consumer complaints, and in fact even unverified consumers (which, as discussed in our
letters, ties in with our concern about how credit repair operations misuse the portal).

Below, we have summarized our main concerns and issues. We have also attached our most recent letters
(letters dated August 5, 2015 and August 31, 2015) which provide details of our members’ many
concerns and issues with the CFPB’s monthly reports. The CFPB has not responded to our letters. While
we will continue to seek direct dialogue with the CFPB, we are also submitting the following specific
complaints for your review and appropriate action:

- The CFPB’s failure to first determine if there is a fair approach to reporting complaint data about
individual companies that does not mislead the public and harm the reputations of law-abiding
companies.
- The failure of the CFPB to normalize complaint data before publishing the monthly complaint
reports and its failure to develop and maintain controls to determine the accuracy of the
complaints.
  - A recent report from the Inspector General reiterates many of our concerns regarding the
  accuracy of the complaints in the database,5 and thus far the CFPB has made no changes
to normalize, verify, or control the accuracy of the data.
- The CFPB’s failure to design the complaint intake portal to account for the different parties
(consumer reporting agencies and sources of data reporting to consumer reporting agencies)
which are involved in the credit reporting process. This design failure means that the monthly
complaint data itself is flawed, thus our concern is not merely with the presentation of such data
in the monthly reports. The CFPB’s failure to design the complaint intake portal to ensure that
complaints are not submitted by consumers who have not first attempted to exercise their rights
under federal consumer financial laws such as the Fair Credit Reporting Act. This design failure
means that the monthly complaint data itself is inflated and flawed, and thus our concern is not
merely with the presentation of such data in the monthly reports but also with the accuracy of the
underlying data. Please note that the original design of the portal actually did provide for
identifying (and diverting) consumers with first-time disputes. The CFPB intentionally
removed this design feature in late December 2013 because "consumers complained".
- The CFPB has also been using social media forums, such as Twitter and Facebook, to urge
consumers to submit complaints directly through the CFPB’s portal. These communications lead
to consumer and industry confusion about whether there is a difference between a complaint and
a dispute under the FCRA, in particular since there are legal rights available to a consumer if they
“dispute” with a consumer reporting agency which may not be available as a result of a
“complaint” about a consumer reporting agency through the CFPB.
- The Inspector General recently conducted a security control review that found several substantial
“control deficiencies” that affect the security of personally identifiable information.6 An
independent report also found a 0.5% leakage rate of personally identifiable information, which,
based on the number of complaints in the database, could affect thousands of consumers. Even
though the CFPB has stated that it is working to address these significant problems, it is still
publishing inaccurate and non-normalized data that puts a substantial number of consumers at
risk.
  - We note that section 1022 of the Dodd Frank Act only authorizes the CFPB to publish
consumer complaints when “in the Public Interest,” and “through aggregated reports or
other appropriate formats designed to protect confidential information.” Given the recent
findings by the Inspector General, we would argue that the publication of complaint data
in a manner that affects the security of personally identifiable information is inconsistent
with the CFPB’s authority under Dodd Frank.

• The CFPB’s failure to accept that credit repair firms are using the complaint portal to manipulate the system and its subsequent refusal to design the complaint intake portal to protect against such misuse which ultimately harms consumers with true complaints as well as the ability of banks to properly assess a consumer’s ability to pay (which prevents over indebtedness) and the safety and soundness of lending decisions.

We request your assistance regarding each of the issues we include in this letter of complaint and as outlined in the attached letters. Our desired resolution to this complaint includes but is not limited to your intervention in stopping the CFPB from reporting data in their monthly reports which list our members until it is determined either that such a practice should cease or there is mutual agreement that there is an approach to doing so which not misleading and unfair to law-abiding companies and which takes into account the many detailed concerns regarding this issue discussed in the attached letters. Further the CFPB should commit to a redesign of its complaint intake portal relative to issues we raise in this letter (and those attached) including but not limited to credit repair misuse and to the problem of consumers choosing to submit a complaint before having submitted a dispute to a given consumer reporting agency as contemplated by congress when the Fair Credit Reporting Act was enacted. These problems lead to a fundamental data quality problem with the CFPB database via the misidentification of a dispute under the FCRA as a complaint.

We look forward to hearing from you regarding these complaints and thank you for your recent workshop where CDIA staff were able to first express our concerns regarding the complaint intake portal and the monthly complaint reporting process.

Sincerely,

Stuart K. Pratt
President & CEO

Enclosures