

Unfair or Deceptive Acts or Practices (UDAP) Meeting with Members of Public

July 30, 2008

OTS staff met with representatives of Capital One to discuss the May 19, 2008 proposed UDAP rule.

In attendance for OTS: John Reich, Robert Russell, Montrice Yakimov, April Breslaw, and Richard Bennett

In attendance for Capital One: Richard Fairbanks, Ryan Schneider, John Finneran, and Andres Navarrete

Capital One expressed concern about current credit card industry repricing practices. Capital One recommended the following alternatives to the approach in the proposal on APR increases on outstanding balances:

- First choice: Adopt a “notice and choice approach” allowing consumers to either (1) opt-out of a rate increase and preserve their original credit terms to pay off their outstanding balance but not make any new transactions with the card or (2) accept the rate increase on outstanding balances and continue using the card.
- Second choice: (1) Add an exception allowing “true fixed-rate cards” that have no repricing on outstanding or new balances for a minimum of three years from card issuance and (2) change the proposed exception allowing repricing on outstanding balances for the consumer’s failure to make the required minimum payment to allow repricing under a broader range of circumstances than addressed in the proposal. For example, repricing could be permitted when a consumer is three days late twice in a twelve month period or late once by an amount less than 30 days (e.g., 10 days). If repricing is permitted following two instances of late payment, Capital One recognizes that consumers should be notified that they are at risk of repricing after the first instance of late payment.