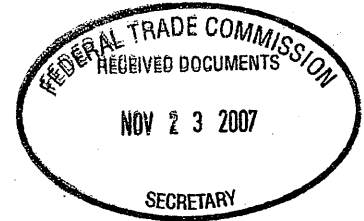


November 6, 2007

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex N)
600 Pennsylvania Ave., NW
Washington, DC 20580



RE: Debt Collection Workshop - Supplemental, P074805
Fair Debt Collection Practices Act

Dear Sir or Madam:

The North American Collection Agency Regulatory Association (NACARA) submits this letter in response to the Federal Trade Commission's (FTC) request for comments concerning the federal Fair Debt Collection Practices Act (FDCPA) under the above file number.

NACARA consists of the various state regulators in the United States, its territories, and in Canada that enforce state laws governing the activities of third party debt collectors and collection agencies. Currently, NACARA consists of almost twenty member state agencies. State collection agency laws typically consist of licensing, consumer protections similar to the FDCPA, and/or financial protections for clients that place accounts for collection. In addition, some states have enacted statutory consumer protection requirements without licensing or registration requirements.

NACARA members support the existing federal-state regulation and enforcement procedure established in § 816 of the FDCPA:

§ 816. Relation to state laws

This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to debt collection practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection provided by this title.

The above section permits the enactment of state-specific laws on debt collection practices and preempts them only if they are inconsistent with the FDCPA. State laws that provide greater consumer protections are not preempted by the FDCPA.

NACARA members oppose any attempts to narrow the above section, whether to prevent states from adopting and enforcing state-specific debt collection laws or to prohibit adoption of state laws that provide greater consumer protections. Specifically, NACARA opposes ACA International's June 6, 2007 comments in this matter. ACA International's Proposed

Amendment No. 14 recommends that the current version of § 816 be repealed and replaced with language to read:

No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under this title.

ACA International states its federal preemption model is based on the Fair Credit Reporting Act (FCRA)'s almost complete preemption of state laws. Without conceding that the FCRA provides an appropriate model we recognize that in the credit reporting area the industry is largely made up of a handful of large consumer reporting agencies that operate on a national basis. The debt collection industry is remarkably different. It consists of a few large national companies along with several thousand local collection agencies that operate within a single state or a group of neighboring states.¹ Debt collection is traditionally an area of state concern. For this reason, Congress has evidenced its intent that state regulation of collection agencies is beneficial and that there is no need for federal law to preempt this field. For thirty years this model has worked well. There is no compelling case for such a drastic change. Although debt collectors and collection agencies must comply with various state laws in which they contact consumers, this is no different than the requirements for non-bank lenders and creditors who must comply with the federal Truth in Lending Act (TILA). Like the FDCPA, TILA does not preempt state consumer credit disclosure laws that provide greater consumer protections,² and is a more appropriate model here than the FCRA.

The FTC's Annual Report 2007: Fair Debt Collection Practices Act indicates that the majority of consumer complaints it received - over 69,000 or almost 20% - concern debt collection. This is not the time to limit available alternatives and resources for consumers. On the contrary, Congress should continue to permit state regulators and other state officials to enforce state debt collection laws in addition to the FTC's enforcement of the FDCPA.

The benefits of state laws regulating debt collection are numerous. First, states can provide an added enforcement tool to compliment the efforts of the FTC in addressing unfair and abusive debt collection practices. Typically the FTC takes action in larger cases where the illegal conduct may involve actions in a number of states. Enforcement of state debt collection laws supplements the FTC's actions. The FTC's Annual Report 2007 notes 3 public enforcement actions.³ A quick survey of NACARA members reveals that in just 8 states, regulators brought over 100 administrative, enforcement, and legal actions against collection agencies resulting in orders or stipulations for \$298,000 in consumer restitution and \$425,500 in fines and penalties.⁴

In addition, state legislatures can typically pass and amend state laws more quickly than Congress in response to trends in debt collection. State regulators can address violations that may be too small or local for FTC action, yet still result in substantial individual consumer harm.

¹ ACA International's June 6, 2007 comment at footnote 6, page 7, states it has approximately 3,500 member companies. This number obviously does not include collection agencies that are not ACA members.

² TILA's comparable provision, Effect on Other Laws, is at 15 U.S.C. 1610.

³ NACARA recognizes that FTC actions typically involve a substantial amount of time and resources and does not minimize this number or their significance.

⁴ The states were Arizona, Colorado, Connecticut, Hawaii, Idaho, Maine, North Dakota, and Washington.

Although consumers have a right to sue a debt collector for violations of the FDCPA, most consumers do not have the financial means to do so and many are intimidated or unfamiliar with the legal system. These consumers benefit from the ability of state regulators to enforce state debt collection laws.

If § 816 is to be amended, NACARA would support an expansion of that section to specifically allow state attorneys general and officials with responsibility to regulate debt collectors to enforce the FDCPA in state courts. Such an amendment would benefit the residents of those states that have not yet adopted consumer protections in the debt collection area and might serve to reduce the number of complaints the FTC receives on debt collection practices.

NACARA appreciates the opportunity to submit these comments to the FTC in this matter and to have participated in its recent debt collection workshop. Please feel free to contact us if we can provide any other information.

Sincerely,

KURT R. JOHNSON
NACARA President
Commerce Senior Investigator
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101