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FTC Issues Report on Reforming Debt Collection Litigation and Arbitration; Recommends Steps to Protect Consumers and Repair a Broken System

A new Federal Trade Commission report concludes that the system for resolving consumer debt collection disputes is broken, and recommends significant litigation and arbitration reforms to improve efficiency and fairness to consumers.

The report, "Repairing A Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration," reflects information gathered at roundtable discussions the FTC held throughout the country in 2009, as well as public comments and the FTC's experience in debt collection matters. The roundtables followed a February 2009 report that identified some concerns with debt collection litigation and arbitration, but concluded that more information was needed about certain debt collection litigation and arbitration practices before further recommendations could be made.

The FTC's 2009 report found that debt collection litigation raised concerns about collectors failing to properly notify consumers of suits they have filed, collectors filing suits based on insufficient evidence of indebtedness, courts frequently granting default judgments against consumers who do not appear or defend themselves, collectors seeking to recover on debts beyond the statute of limitations, and banks freezing funds in bank accounts that are exempt from garnishment by law. In its new report, the Commission's principal recommendations to address these concerns in litigation are:

- States should consider adopting measures to make it more likely that consumers will defend themselves in litigation, decreasing the prevalence of default judgments.
- States should require collectors to include more information about the alleged debt in their complaints.
- States should take steps to make it less likely that collectors will sue on debt on which the statute of limitations has run.
- Federal and state laws should be changed to prevent the freezing of a specified amount in a bank account including funds exempt from garnishment.

The FTC's new report also addresses concerns about requiring consumers to resolve debt collection disputes through binding arbitration without meaningful choice, bias or the

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Federal Trade Commission, Bureau of Consumer Protection Staff Report on Repairing a Broken System: Protecting Consumers in Debt Collection Litigation (July 2010)

- [Text of the Report](#)
- [Concurring Statement of Commissioner Brill](#)

appearance of bias in arbitration proceedings, and procedural unfairness in arbitration proceedings. In its new report, the Commission's principal recommendations regarding debt collection arbitration are:

- Consumers should have a meaningful choice about arbitrating debt collection disputes.
- Arbitration forums and arbitrators should eliminate bias and the appearance of bias.
- Arbitration forums should conduct proceedings in a manner that makes it more likely that consumers will participate.
- Arbitration forums should require that awards contain more information about how the case was decided and how the award amount was calculated.
- Arbitration forums should make their process and results more transparent.

The FTC committed to closely monitor debt collection arbitration and evaluate whether creditors and arbitration forums provide consumers with meaningful choice and a fair process. The Commission also said that, as appropriate, it will report its views on new debt collection arbitration models to policymakers, industry, consumer groups, and the general public.

The FTC believes that reforms such as those discussed in the report should be made to ensure that the debt collection litigation and arbitration systems adequately protect consumers without unduly burdening the debt collection system, which helps to keep credit prices low and helps to ensure that consumer credit remains widely available.

The Commission vote to issue the report was 5-0. Commissioner Julie Brill issued a concurring statement in which she urged Congress to enact a temporary ban on the mandatory arbitration of consumer debt collection disputes. "Such a ban should remain in place until the arbitration process can be shown to be fair, transparent, and as affordable as traditional litigation, and until consumers have a meaningful opportunity to opt out of pre-dispute arbitration without losing access to the credit services they seek," she said. An electronic version of the report text is available at <http://www.ftc.gov/os/2010/07/debtcollectionreport.pdf>.

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