CFPB Overreach - Attempting to Penalize Debt Collection Industry Vendors

April 10, 2015 â€“ Last month the Consumer Financial Protection Bureau filed suit against a group of debt collection companies accused of fabricating debts and then attempting to collect on them from consumers. There is nothing unusual about that. But in the same suit, the CFPB is attempting to penalize companies that supplied certain technologies to the debt collectors. If successful, the CFPBâ€™s action is likely to have significant impact on both debt collectors and the companies that serve them.

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The vendors that the CFPB is pursuing in the suit provided payment processing services and telephone broadcast capability to the debt collectors. The suit alleges that the companies knew or should have known that these debt collectors were engaged in illegal activities. But that may be a stretch.

By providing payment processing, the debt collectors were able to accept credit card payments for their allegedly fabricated debts. The CFPB is alleging that this helped the debt collectors convince consumers that they were collecting for legitimate debts. But the payment processors involved actually cancelled their agreements when they started to receive consumer complaints last year.

With regard to the telephone voice broadcasting company, the CFPB made similar allegation; that the company should have known it was helping to facilitate fraud. But there is no clear indication that the broadcaster had any visibility to the internal workings of the debt collectors in the case. Furthermore, similar technology is available from several internet based companies that would have allowed the debt collectors to record their own messages and have them transmitted. While these companies do have terms of service that would likely have been violated by the debt collectorsâ€™ use of them, it would likely be very difficult for them to have had any visibility into the messages being broadcast.

There is no doubt that some debt collectors use illegal and unethical practices when attempting to collect on debts. But accusing technology providers of being complicit in their crimes is a slippery slope. It is similar to trying to sue a company like Craigâ€™s List because someone posted a fraudulent ad. As long as the company acts to take down that add when it is notified that there is a problem, they donâ€™t have any real liability.
byJim Malmberg
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