

CFPB Watch for Auto Dealers April 2017

April 28, 2017 | [Michael A. Benoit](#)

This month's report features activity from the Consumer Financial Protection Bureau, the Federal Trade Commission, the Justice Department, and the National Highway Traffic Safety Administration. While only two of the items we mention this month are expressly auto-related, the rest should be of interest to those in the auto sales, finance, or leasing business.

Complain, Complain, Complain! On February 28, the CFPB released its monthly complaint report, which highlights trends in the complaint data the Bureau receives through its Consumer Complaint Database. The monthly report includes complaint data specific to certain companies, overall complaint volume and complaint volume by state, and other trends in the data. Each month, the report spotlights complaints about a particular issue and complaints from a particular geographic location. This report focuses on complaints about credit reporting and highlights complaints from consumers residing in Louisiana. On March 2, the CFPB released a special edition of its Supervisory Highlights that details recent supervision observations in the credit reporting industry.

And Complain Some More. On March 3, the FTC released its annual summary of consumer complaints received in 2016 by its Consumer Sentinel Network, an online database of consumer complaints available only to law enforcement. The FTC's *CSN Data Book* for 2016 includes complaints made directly by consumers to the FTC, as well as complaints received by state and federal law enforcement agencies, national consumer protection organizations, and non-governmental organizations. The data book includes national statistics, a state-by-state listing of the top complaint categories, and a listing of metropolitan areas with the most complaints per capita.

Is Your Car Wired? The FTC and the NHTSA will hold a workshop on June 28, 2017, in Washington, D.C., to examine the consumer privacy and security issues implicated by automated and connected motor vehicles. The workshop will bring together industry representatives, consumer advocates, academics, and government regulators to discuss issues related to connected and automated vehicles that collect data. Topics include: the types of data vehicles with wireless interfaces collect, store, transmit, and share; potential benefits and challenges posed by such data collection; the privacy and security practices of vehicle manufacturers; the role of the FTC, the NHTSA, and other government agencies regarding privacy and security issues related to connected vehicles; and self-regulatory standards that might apply to privacy and security issues related to connected vehicles. The public comment period on these topics ends April 20, 2017.

FTC Slams Dealerships. On March 14, the FTC announced that nine Los Angeles-based auto dealerships, their holding and management companies, and two individual owners have agreed to pay more than \$3.6 million to consumers to settle charges that they used deceptive and unfair sales and

financing practices, deceptive advertising, and deceptive online reviews.

Debt Collectors Take Note. On March 21, the CFPB released a report summarizing its activities administering and enforcing the Fair Debt Collection Practices Act over the past year. The report provides a background of the debt collection market; summarizes the Bureau's supervisory activities in the debt collection market; describes the CFPB's and the FTC's enforcement actions; describes amicus briefs filed in FDCPA cases; discusses the CFPB's and the FTC's consumer education and outreach initiatives; and discusses the CFPB's rulemaking activities and the FTC's policy and research initiatives.

About Face! Forward March! Last fall, in *PHH Corporation v. CFPB*, a panel of judges for the U.S. Court of Appeals for the D.C. Circuit held that the CFPB's structure is unconstitutional, in that the president may remove the agency head only for cause. The CFPB quickly announced its intent to seek review of the panel decision and in November, just after the election, filed a brief asking the D.C. Circuit for *en banc* rehearing in the case. This brief was supported by the Justice Department in an amicus brief. The D.C. Circuit granted the petition, vacating the panel decision. Just to prove that it would be tough for things to get any stranger in Washington, the Department of Justice reversed course. It is no longer on the CFPB's side, as evidenced by a newly filed amicus brief defending the original panel decision. According to the brief, the CFPB's structure, as drafted by Congress, is unconstitutional, and the president must have the authority to remove the head of the agency, even if solely due to a policy disagreement.

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410.684.3200

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