

Freedom! and the Right to Complain

July 23, 2018 | [Thomas B. Hudson](#) and [Eric L. Johnson](#)

Unless you live way up at the North Pole, you can tell its summertime. The weather immediately changed from almost no Spring at all to one heck of a hot summer, sticky and hot. Before you know it, we will once again be celebrating America's independence from England and the 4th of July holiday.

Parades, barbecues, American flags waving, the National Anthem sung somewhere in the background, your hand over your heart, American military might flying high overhead, mullets flying and people complaining. You heard me right - people complaining. These are all great symbols of America. We're a nation of explorers - first to the West, then the moon, Mars and to the stars. We're the only country on Earth that can say we put a man on the moon (at least officially anyway). In addition to being explorers, we take pride in being American; part of that of American exceptionalism we talk so much about.

Well, as part of being American and enjoying all the freedoms we have, we also have the freedom to complain. We like the things we like, the way we like them.

Many of us, like your customers, are not afraid to tell you when we have a complaint about something. And, if they're not telling you about it, they're likely complaining to their friends, family, on social media or, God forbid, the federal or state regulators like the Bureau of Consumer Financial Protection, the Federal Trade Commission, the Better Business Bureau, a state regulator or a state attorney general.

Take a recent experience one of us had with a move from one house to another. In preparing to move, we gathered gathered recommendations for moving companies. We interviewed them and selected one company for the move. We met with the mover, went through the exact items in the house to be moved to the new location, all while the mover was taking notes.

The mover showed up the day before closing, moved the items from the house into the moving trucks and the first part of moving was done, right? Well, on the day of closing, just an hour and one half before the actual sale of the house, we discovered that all of the items in the attic had not been moved into the moving truck. We called the mover and explained their mistake, but instead of taking responsibility for the miscue, he attempted to blame us for the items being left behind, stating that "his guys" were never told about the items to be moved. When we reminded him about the pre-move walk through, with him taking notes about the items to be moved and us pointing out the

items in the attic to him, he still attempted to place the blame on us rather than try to work the problem. He quickly dismissed our complaint and even attempted to turn it around on us.

The items were eventually moved from the attic and the closing went off without a hitch, but the mover never accepted responsibility for the mistake nor did he ever simply say "I'm sorry."

So, what was the result of our complaint? Even though they were highly recommended, we'll never use that moving company again. And, we'll tell others about the experience we had with them and recommend no one use them. We probably won't go so far as to post about our experience with them on social media or take some sort of formal complaint action, but we could.

Sound like any of your customers who may have complained? Or, it's possible they may never have complained directly to you and just talked about your business to their friends, their family, their social media contacts or the regulators.

What's a possible solution? Develop a consumer complaint response program to address consumer complaints.

The BCFP has stated that a sound Compliance Management System (CMS) is essential to the efficient and successful operation of an entity. One of the elements of a CMS is a consumer complaint response component. An effective CMS should ensure that an entity is responsive and responsible in handling consumer complaints and inquiries. The BCFP expects that an entity should be making a deliberate, good faith effort toward resolution of each consumer complaint.

The BCFP will consider consumer complaints to determine the responsiveness and effectiveness of the consumer complaint resolution process. For example, they may assess whether:

- processes and procedures for addressing consumer complaints are appropriate;
- consumer complaint investigations and responses are reasonable;
- consumer complaints and inquiries, regardless of channel submitted, are recorded and categorized;
- consumer complaints and inquiries are addressed and resolved promptly;
- consumer complaints that raise legal issues involving potential consumer harm from unfair treatment or discrimination, unauthorized product enrollment, account openings or upgrades (including the addition of ancillary products), improper sales practices, or other regulatory compliance issues, are categorized and escalated;
- company management monitors consumer complaints to identify risks of potential consumer harm and CMS deficiencies, and takes appropriate prospective and retrospective corrective action;

- consumer complaints result in retrospective corrective action to correct the effects of the supervised entity's actions when appropriate; and
- the nature or number of substantive complaints from consumers indicates that potential weaknesses in the CMS exist.

Will having a consumer complaint response program ensure that your customers won't complain? Heck no; we're Americans who enjoy our freedom, including our freedom to complain. But, with a complaint response program in place, you're in a better position to ensure your customers are complaining to you, and hopefully getting their complaints resolved, rather than complaining to the state or federal regulators, or state attorney general.

Hudson Cook, LLP provides articles, webinars and other content on its website from time to time provided both by attorneys with Hudson Cook, LLP, and by other outside authors, for information purposes only. Hudson Cook, LLP does not warrant the accuracy or completeness of the content, and has no duty to correct or update information contained on its website. The views and opinions contained in the content provided on the Hudson Cook, LLP website do not constitute the views and opinion of the firm. Such content does not constitute legal advice from such authors or from Hudson Cook, LLP. For legal advice on a matter, one should seek the advice of counsel.

[**SUBSCRIBE TO INSIGHTS**](#)

HUDSON COOK

Hudson Cook, LLP is a national law firm representing the financial services industry in compliance, privacy, litigation, regulatory and enforcement matters.

7037 Ridge Road, Suite 300, Hanover, Maryland 21076
410.684.3200

[hudsoncook.com](https://www.hudsoncook.com)

© Hudson Cook, LLP. All rights reserved. Privacy Policy | Legal Notice
Attorney Advertising: Prior Results Do Not Guarantee a Similar Outcome

