

# consumer action

Education and advocacy since 1971

## **CFPB sees value in protecting consumers' right to collective redress**

Oct. 7, 2015—Today the Consumer Financial Protection Bureau (CFPB) said publicly that it is considering a prohibition on “class action bans” in consumer contracts. That’s great news for consumers!

Buried in many contracts for consumer financial products like credit cards and bank accounts, most arbitration clauses deny consumers the right to participate in collective redress lawsuits (class actions) when companies violate the law and harm consumers. In the words of former U.S. Supreme Court Justice William O. Douglas, “The class action is one of the few legal remedies the small claimant has against those who command the status quo.”

The CFPB said its proposal would not ban arbitration clauses outright. Instead, it would require companies that force consumers into arbitration via “take it or leave it” contracts to report to the Bureau on claims filed and awards issued so that it can monitor arbitration’s impact on consumer fairness. The Bureau is also considering publishing this information on its website so the public can monitor the outcomes of forced arbitration.

Consumer Action, which has long fought mandatory arbitration, is disappointed that the CFPB hasn’t just said that you cannot force people to give up their right to a trial by judge or jury. If arbitration is so good for consumers, why force-feed it? Make it a voluntary system where both parties would have to agree to seek arbitration to solve disputes that arise between customers and companies.

Forced arbitration is a secret process that strips injured consumers of their basic legal rights. The public never hears the outcome of such disputes and it doesn’t become part of the judicial record nor set precedent for improved corporate practices. Why should we as a society allow companies that perpetuate harmful financial practices to continue to do so without the sunlight of public scrutiny?

Consumer Action applauds the CFPB’s proposal to consider a rule that would prohibit forced agreements that prevent consumers from joining class action lawsuits. We also strongly support its plan to require companies that use forced arbitration to report dispute outcomes and encourage the CFPB to make the results public on its website. We hope such scrutiny someday will result in an outright ban on forced arbitration and a change in contracts of adhesion in which consumers have no choice.

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*Consumer Action has been a champion of underrepresented consumers nationwide since 1971. A non-profit 501(c)(3) organization, Consumer Action focuses on consumer education that empowers low- and moderate-income and limited-English-speaking consumers to financially prosper. It also advocates for consumers in the media and before lawmakers to advance consumer rights and promote industry-wide change.*

*By providing consumer education materials in multiple languages, a free national hotline, a comprehensive website ([www.consumer-action.org](http://www.consumer-action.org)) and annual surveys of financial and consumer services, Consumer Action helps consumers assert their rights in the marketplace*

*and make financially savvy choices. Nearly 7,500 community and grassroots organizations benefit annually from its extensive outreach programs, training materials and support.*