CFPB Brings Two More Enforcement Actions Targeting Add-On Credit Products

July 09, 2015

Last week, the Consumer Financial Protection Bureau (CFPB) filed two more enforcement actions alleging deceptive and unfair practices in marketing and billing for add-on credit protection products. Add-on products have been one of the most frequent targets of CFPB enforcement actions, but until now, those actions have been directed at the credit card banks and auto finance lenders offering such add-on products either directly or through their third-party contractors. The actions filed last week, however are against the add-on product vendors themselves, Affinion Group Holding, Inc., and affiliates ("Affinion"), and Intersections Inc. ("Intersections"). The first complaints accepted by the CFPB after it opened for business related to credit cards, and its earliest enforcement orders were against credit card issuers. Several of those orders found unfair or deceptive practices in the marketing of and/or billing for add-on payment protection, credit protection, credit monitoring, identity theft, and other similar products, in violation of the prohibition against deceptive or unfair acts or practices in Title X of Dodd Frank, i.e., the Consumer Financial Protection Act (CFPA)[1]. Indeed, the Bureau's very first enforcement order against a credit card issuer involved add-on products marketed by third-party vendors. One of the Bureau's earliest guidance bulletins, issued shortly before that first order, also warned that banks and other supervised entities would be held responsible for the activities of their third-party service providers. Later actions were brought against auto finance lenders alleging deceptive practices in marketing add-on GAP, warranty, and service contract products. Before filing last week's actions, nine previous CFPB administrative enforcement orders based on claims for deceptive or unfair practices in marketing add-on products collectively assessed well over $1 billion in remediation and penalties against credit card and auto finance lenders. The recent complaints filed against Affinion and Intersection allege the companies are covered by the CFPA because they offer “consumer financial products or services” and are "service providers" to the financial institutions with whom they partnered, and that they unfairly billed consumers for credit card and deposit account add-on benefits which were not received. Under the proposed consent orders, the companies would collectively pay more than $10 million, nearly $7 million in monetary relief and over $3 million in civil penalties. More specifically, the Bureau charges that Affinion advertised, sold, and delivered identity theft and credit monitoring products to consumers through marketing and service agreements with banks and enrolled consumers in add-on products that claimed to provide benefits including credit monitoring. Monthly fees for these services were billed directly to the customers’ credit cards or deposit accounts. However, the complaint alleges that Affinion and its partner banks failed to provide customers whose accounts were charged with the full credit monitoring or credit report retrieval services promised. The Bureau also alleges that Affinion misled consumers about product benefits during retention calls through inaccurate or incomplete statements and omissions by individual retention specialists in order to avoid cancellations. The complaint against Intersections alleges it marketed and sold consumers add-on products as providing access to customer credit reports and credit scores, alerts when new credit accounts were opened, and access to personnel to respond to credit report questions, also for monthly fees billed directly to the customers' accounts. However, Intersections allegedly either billed or instructed banks to bill consumers who signed up for products knowing that the customers were not receiving all the benefits for which they paid, thus charging fees for services which were not provided. Under the terms of the proposed consent order against Affinion, it will be required to fully refund approximately $6.8 million to consumers who enrolled in the products, pay a civil penalty of $1.9 million, and end unlawful retention practices including attempting to persuade the customer to retain the product. The proposed order against Intersection requires it to refund $55,000 to customers billed for identity theft or credit monitoring products who did not receive the benefit, stop billing customers for services not received, and pay $1.2 million to the CFPB’s Civil Penalty Fund. The latest enforcement actions and sizable penalties imposed reflect the Bureau's continued focus on remediating and penalizing deceptive or unfair practices in offering or charging for add-on payment and credit protection products, as well as its continued expansion of claims against service providers to the consumer financial product and service industry. **Additional Resources:**

- CFPB’s complaint filed against Affinion
- Proposed consent order filed in the Affinion action
- CFPB’s complaint filed against Intersections

- Proposed consent order filed in the Intersections actions

___ [1] 12 U.S.C. §1036

Related Practices

Consumer Finance