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The Ultimate Guide to Creditor-Driven, Consumer-Centric Debt Collections

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Executive Summary

Learn how the consumer-centric movement, most recently seen in the *Hunstein* case, is creating the need for a paradigm shift from a traditional, decentralized model to a centralized, creditor-driven model where consumer-specific preferences are easily integrated into the collection process.

While the *Hunstein* case was a surprising way to interpret the FDCPA, the direction of cases in favor of consumer protection is not a surprise. It's just one more piece of evidence on top of Dodd-Frank, CFPB, Reg F, and the new Biden administration that is moving the industry to be more consumer-centric.

Oliver created a three-part webinar series to examine this new model from the perspective of creditors, regulators, and servicers. Part One: Creditors Perspective *How 2 of the top 5 Creditors are Poised to Win in this New Paradigm for Today and Tomorrow* with **Heidi Wisner Staloch**, Vice President, Assistant General Counsel, US Bank, **Stefanie Jackman**, Partner, Ballard Spahr, and **Thomas Michael**, Founder, Oliver Technology Corporation is available on-demand. This was a lively discussion on why some creditors have shifted to the new creditor-driven model and how this benefits creditors, regulators, servicers, and consumers. Their collective insights are represented in this paper.

Key Factors Driving the Paradigm Shift

1. The government has been moving the industry to be more consumer-centric for decades and the ship is not turning around. It may slow down a little depending on who is in office, but the trajectory is a steady course towards a consumer-centric approach.

2. Regulatory resources are focused on creditors. The key lesson learned in the 2008 financial crisis is that requiring banks to assume responsibility for the conduct of their vendors is the single best way to stretch limited regulatory resources to address consumer protection issues of concern.

3. The traditional decentralized approach puts everyone across the channel at risk. It not only increases compliance risk, but new cases, rules or laws cause disruption and uncertainty in the collections industry. The current approach is not agile enough to easily adapt to changes that directly impact the bottom line.

What do we mean by a traditional, decentralized model?

Creditors are using third-party vendors (agencies and law firms) to facilitate and manage the collections process. The creditor sends data about their collection files to their vendors and that data then lives in those outsourced locations. In addition, the vendors are using their business processes and compliance frameworks on those collection files. The problem with this method is that both the data and processes are fragmented. It makes it extremely difficult for creditors to provide oversight and manage the relationship with the consumer which increases compliance risk for the creditor and their brand.

On the regulatory side with the advent of CFPB, the first few consent orders were not against the industry. They were against the creditors working with people in the industry. It was an incredibly effective strategy to quickly direct creditor's attention that they could be on the hook for this. According to Stephanie Jackman, "We immediately started seeing creditors wanting to strengthen their relationship with third party agencies and debt buyers. They want to ensure smoother and more accurate data transfers with enhanced reporting to provide more oversight on the process."

Hunstein 'copycat' cases are currently being filed around the country. One defense position is for creditors to provide consumer data directly to vendors on behalf of their debt collection partners to avoid 1692c. "However, this is a band-aid," added Jackman. "What is required is a shift to the new paradigm and buy-in from both sides."

What made US Bank create a new vision for debt collections?

US Bank was re-starting their litigation channel, and they were using some of the traditional methods of distributing work and communicating with firms. It was a very manual process that required multiple systems. One system for data and one for documents—for each of their firms. Then they have their internal operating systems, which like many banks, isn't set up for litigation. Plus, they needed additional employees to provide oversight and control of the process.

The Need for a Creditor-Driven Model

Having come from a third-party law firm, Heidi Staloch couldn't believe there wasn't a better solution available for creditors. With new requirements and consent orders coming down, US Bank needed a new way to work. The solution was to have a more modern creditor-engaged relationship with their outside attorneys, vendors, and the processes to ease communication back and forth. US Bank wanted to centralize the data minimizing the need to send it to various third-party systems.

US Bank looked for a 'one platform' concept but couldn't find one in the marketplace. It needed to be flexible and allow not just US Bank, but other creditors with different risk appetites to be able to foresee trends and mitigate risks. "I wanted a partnership with firms and vendors to work collaboratively to create something that's about our customer experience. It needed to be a win across the board," said Staloch. "Oliver helped us expand our litigation strategy to include a hands-on approach where we are all working together as true partners in the strategy."

What is a Creditor-Driven, Consumer-Centric Model?

The new paradigm is when the collection process is managed inside a creditor-controlled environment where data, documents, compliance requirements, and business processes/rules are centralized in one place and not fragmented or decentralized across all their vendors. “Heidi was ahead of the curve, but we’ve seen that many creditors want to keep their customers closer to them and be more aligned with regulators and a changing regulatory framework,” said Michael. “They want a strategy that is scalable, controlled, and transparent.”

The first tenant in the new model is that the creditor sets the table to manage their strategy. That might differ from one creditor to another because of the products they have, or their own philosophy/risk appetite on collections. Regardless, it all begins with consolidating the data, documents, compliance requirements, business processes into one platform that the creditor controls with transparency and scalability. Next, the creditor invites the servicers they work with into their environment either through a UI or other modern integrations to add capacity to the creditors' strategy. At that point, the creditor can stay in control of who they’re working with and how that data is flowing throughout the process.

The second tenant in the new model is creating an easy way to integrate consumer-specific preferences into the collection process.

For the past decade, CFPB has been pushing the industry in the direction of consumer-centric decision-making. The debt buying industry needs to start embracing the consumer-centric movement because it isn’t going away. Consumers need to be empowered to establish their preferences. That’s the thrust and principal of the CFPB rulemaking with Reg F on how, when, and through what channels the industry can contact them—or be shut down. The consumer is in the driver’s seat. “I honestly believe that at the end of the day, most consumers are not professional plaintiffs that are looking for ways to sidestep their obligations,” remarked Jackman. “Instead, they’ve gotten over-extended. Something unexpected happened and they don’t feel good about not paying for something that they got. The more that we can react to that by driving communication through channels that work for them and make them feel engaged in the process—the more effective our recovery strategies will become.”

The omnichannel approach helps to capture and keep track of how to do the seven and seven calculations to know consumer preferences across all channels. It allows creditors to liaison with consumers and to resolve debts, set up payment plans, go outside guidelines with more flexibility and engagement with the consumer.

“Stefanie is spot on that the consumer-centric approach is the future of collections,” added Michael. “It all comes back to centralizing the data. If you’ve got a consumer that stated a preference to you through a particular vendor, you need to have a way to make that persist throughout the process.” If the account goes from agency one to agency two to agency three, that consumer’s preferences need to transfer with the account no matter which vendor is working on the account. This magnifies the need for centralizing the data. Imagine the nightmare of trying to capture and disseminate preferences that are wildly varied by the consumer without centralization of the data. These two things (a creditor-driven model and consumer-centric content) go hand in hand.

There is skepticism amongst third parties about this new concept because they’re heavily invested in the old concept. In general, there’s always skepticism around change, but as companies learn more about this type of model, its benefits, and its actual ease of use, they want to move forward. "We are looking for firms that want to innovate rather than be stuck in the prior era," says Staloch. "I'm not asking them to change their whole process, but we as an industry need to step forward. We've been on our heels for too long, and it's time that we stand up together with some processes to do all the things that our regulatory agencies want us to do."

When we talk about a paradigm shift—it means change. People change for only one of two reasons: fear or opportunity. Smokers stop smoking for fear of illness or worse. Athletes spend hours practicing to win a championship. This is one change where there's both fear and opportunity. So, on one hand, it's the fear of lawsuits and fines. On the other hand, our clients, US Bank and Wells Fargo see it as an opportunity to accelerate the litigation process, increase revenue and maintain rigorous compliance.

What are the key benefits of this new creditor-driven, consumer-centric approach for US Bank?

According to Staloch, "Confidence is important to me. This is an approach and a model that I have confidence in as a forward model.

- It aligns with regulatory expectations.
- It cares for US Bank customers and gives our customers a choice in how they want to engage with us. There is more flexibility in different ways to interact with our customers because of the modern build of the platform.
- It ensures that our approach is integrated into the strategy. Aligning the strategy to our bank values is good for our brand—even in debt collection.
- From a functional perspective, when everything's centralized, it's extremely easy to audit and standardize our performance.
- It also makes it easier to expand—to capture an economy of scale.

Ultimately it goes back to having confidence in what's happening. US Bank can see what our vendors are doing. We have it right there. We don't need to go into their offices to look to be sure they're doing what they say they are doing. That gives US Bank a very stable experience in a variety of ways that are important.

- This model gives US Bank agility for the changing times and expectations that come down the road.
- It allows us to balance customer needs with our need to provide oversight and control in the strategy that we're embarking on."

How does the new model benefit third parties and consumers?

Consumers in the pandemic were surprisingly paying off certain debts at high rates. The new model is a good way to stay engaged with consumers and keep them happy which drives down litigation, regulatory complaints, better business bureau griping, going into a plaintiff's lawyer's office, figuring out how to state a claim, etc.

While regulators want enhanced deference and respect for consumer preferences, the industry has a real fear about if and how consumers will engage. "I don't want to seem insensitive to that reality," states Jackman. "However, I don't think the ship is going to turn around. We have to start embracing the change and figure out ways to make it work for us to keep our profits up and the doors open. Embracing the change is the future."

The new model allows for consistency and clarity between creditors and their collection agency service providers on how creditors want their accounts handled. "It's easier to comply with SOWs and NSAs," adds Michael. "It simplifies reporting information back to the creditors. You don't have to send a spreadsheet every month." The responsibility of retrieving the information is on the creditor to extract whatever they need when they need it. It can reduce the time it takes for the debt collection agency to keep their client in the loop because the creditor can go into the platform any time to see what is happening.

How does this model reduce risk for law firms?

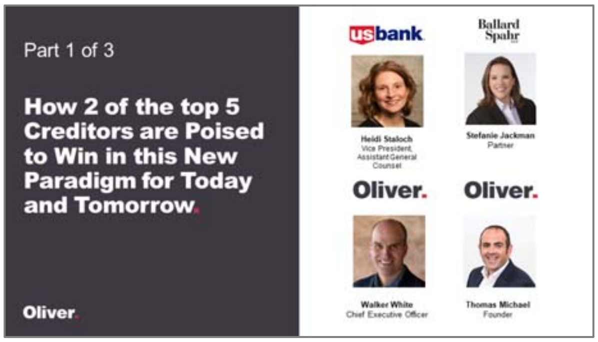
"As a servicer in this industry, there's constantly a target on your back," replied Michael. "The size of that target can vary over time, so one of the benefits is to shrink the target down. There are a couple of ways to do that. Aligning servicers with the creditors that have a consumer-focused approach puts both the servicers and creditors in better alignment with the consumer. The new paradigm gives creditors control of a centralized data environment and sets the stage for additional benefits, including risk reduction."

- Risk is minimized when the data is **standardized and clean and easily shared across servicers**. Servicers need to be confident that the files they receive from other sources are using data from a centralized database that they know is clean, complete, and current.
- Getting closer to **real-time also reduces risk**. For example, if payments that come in from a variety of places are shared and actionable so that the servicer can make decisions and take actions with the most up-to-date information possible that will shrink down the risk.
- **Operational improvements** from a more modern technology environment can lower IT costs. Most firms and agencies spend a lot of money building their own data centers, with server rooms and infrastructure that increases overhead costs. These costs don't add value to the servicer's work, nor do they improve outcomes. It just facilitates the existence of the status quo.
- **Automation of processes reduces operational costs** even further and centralizing the data is a critical component to automation.
- Finally, providing **transparency of a servicers work** to the creditor not only strengthens their relationship with the creditor but also reduces servicer costs. The more transparent their work is to the creditors, the fewer audit and oversight burdens there are from the creditor. When the audit burden is reduced, so are the servicers costs.

Conclusion: Agile Collections Litigation Solution

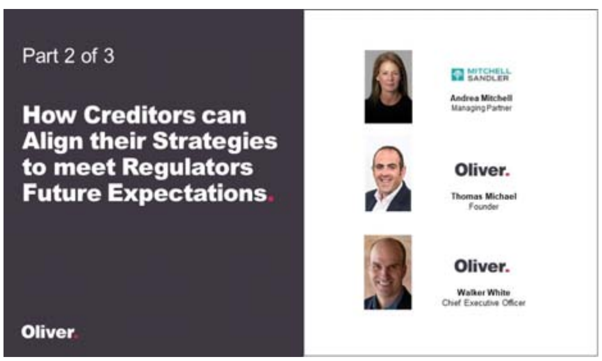
Utilizing an agile litigation solution with built-in compliance and automated auditing best enables creditors to maintain rigorous compliance across the litigation channel while ensuring customers are treated with dignity and respect in the collections process. As creditors navigate the current regulatory environment, collections technology provides banks with essential tools to uphold consumer protection and demonstrate regulatory compliance.

For more information, watch our three-part webinar series where we will explore this centralized, creditor-driven approach from three different perspectives: creditor, regulator, and servicers.



View the **Creditors' Perspective** On-Demand to hear:

- Why creditors are shifting to a centralized, creditor-driven model
- How a free flow of consistent, accurate data is the source of the solution across the creditor's strategy
- What end-to-end oversight and control means for collections and consumers.



View the **Regulators' Perspective** On-Demand to hear:

- Why cases like *Hunstein* are driving the need for a centralized approach
- How creditors can align themselves to regulators future expectations
- Get Andrea Mitchel's perspective on the regulatory environment.

Register for the **Servicers' Perspective** NBCA & Oliver Webinar:

- Key factors to driving the paradigm shift
- 4 Failure Points in the Traditional, Decentralized Model
- The components of a creditor-driven, consumer-centric model

To learn more, contact Oliver Technology at info@olivertechnology.com and request more information or schedule a private demonstration.