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July 23, 1996  
VIA HAND DELIVERY

Valerie Yates, Esq.  
Bureau of Consumer Protection  
Division of Credit Practices, Suite 4020  
Federal Trade Commission  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Re: FTC Staff Opinion Request

Dear Valerie:

This letter follows up on our earlier discussion regarding some additional policies presently being considered by the National Foundation for Consumer Credit ("NFCC") with regard to adopting new policies that would apply to NFCC'S members.

The NFCC presently has approximately two hundred (200) members who provide educational programs and counseling to the general public and counseling and debt management assistance to consumers who may have become overwhelmed by consumer debt and may be considering bankruptcy in order to solve their debt problems. Most of NFCC'S members operate under the name "Consumer Credit Counseling Service" ("C CCCS") which is a federally registered trademark of NFCC.

NFCC members provide counseling, educational programs and other assistance to consumers in serious financial difficulty. Another service provided by NFCC'S members is to assist consumers into entering a Debt Management Plan ("DMP") whereby the consumer will make payments to the NFCC Member who will then forward a portion of those payments to each of the consumer's creditors who will often make concessions on late payments, interest charges and other consumer charges in exchange for a monthly DMP payment made on behalf of the consumer.

Valerie Yates, Esq.  
July 23, 1996  
Page 2

Much of the funding for the educational, counseling and other services provided by members of NFCC comes from a "fair share" contribution. These voluntary contributions are made by most national and many regional creditors who credit consumers with the full amount of their DMP payment and then contribute up to fifteen percent (15%) of the DMP payments they receive to the NFCC member processing the consumer's DMP, based upon the amount requested by the member's agency and the creditor's own policy. Thus, NFCC members serve the interests of two constituencies, creditors and consumers with debts to those creditors, and some disclosure regarding the CCC'S funding from fair share contributions of creditors may be appropriate.

**The NFCC would like to institute a policy requiring its members to provide a uniform and pertinent disclosure in all appropriate communications with consumers in order to fully inform consumers about the relationship between NFCC members and their creditors. This policy would assist consumers in making a meaningful choice between various alternatives to CCCS, including self-help, other credit counselors, legal assistance and bankruptcy. We would propose the following disclosure be made in writing to consumers:**

Most of our funding comes from voluntary contributions from creditors who participate in Debt Management Plans ("DMP"). Since creditors have a financial interest in getting paid, most are willing to make a contribution to help fund our agency. These contributions are usually calculated as a percentage of the payments you make through your DMP-up to fifteen percent (15%) of each payment received. However, your accounts with your creditors will always be credited with one hundred percent (100%) of the amount you pay through us and we will work with all your creditors regardless of whether they contribute to our agency.

NFCC proposes that the above disclosure be included in brochures and printed promotional materials that are provided by NFCC'S members to consumers, on any other worksheets, contracts or agreements involving DMPs that are filled out and/or signed by consumers, and in response to any inquiry concerning how NFCC'S members are funded. NFCC proposes to adopt this as a policy requirement for all its members which would mean that an agency's failure to follow the policy could result in termination of the agency's membership. Based upon the above information, we request an FTC staff opinion regarding this proposed policy.

In addition to the above disclosure, it is important that any materials which discuss DMPs also make it clear that NFCC'S members serve a dual role in developing DMPs. While counselors at NFCC'S various members may actually negotiate DMPs with creditors on behalf of consumers, the same counselors may well work within specific guidelines set by creditors that are not typically disclosed to consumers who may have credit problems. It is important that NFCC and its members highlight the dual role they serve in addressing the needs of the consumer through the development of a DMP and the needs

Valerie Yates, Esq.  
July 23, 1996  
Page 3

of the creditors who impose certain requirements and often provide funding to NFCC's members for their efforts in developing DMPs. Therefore, NFCC is also considering a policy which would require any general discussion of DMPs to include the dual role which NFCC's members serve in responding to the needs of consumers and creditors when setting up a DMP.

Next, the NFCC is considering a more uniform policy for its members in regard to the disclosure they provide consumers on the length of time necessary to pay off their debts under a DMP. NFCC members presently vary their policies in regard to information provided to DMP clients regarding the length of time for a DMP and a more uniform policy in this regard would be beneficial to consumers. The NFCC considers the reasonable estimate of the length of time to pay out a DMP, assuming the client makes all payments in a timely manner, as a critical piece of information for consumers who are overwhelmed by debt and desperate for a solution. Therefore, the NFCC is considering a policy that would require its members to provide to consumers a reliable estimate of the duration of a DMP at the time that a consumer enters into the DMP program.

Many of NFCC'S current members are presently using software systems which could provide a print-out that provides an accurate estimate based on a creditor-by-creditor breakdown of continuing interest charges. For example, enclosed please find a typical estimate provided to consumers by the CCCS of the Gulf Coast Area in Houston, Texas ("Houston disclosure"). NFCC proposes that it will adopt a policy which would require offices on the Houston software system to provide the Houston disclosure. NFCC also proposes that offices not presently operating under the system be encouraged to implement a DMP duration disclosure similar to the present Houston disclosure as soon as possible. Meanwhile, for those NFCC members who cannot presently provide a Houston disclosure, NFCC proposes that these offices provide a disclosure to consumers of the DMP length, so that consumers would be advised that the DMP could take as many as forty eight (48) or sixty (60) months (as relevant) to pay out or complete.

The NFCC is considering adopting these proposals on DMP duration as NFCC policies. By adopting these policies, NFCC's members would be required to follow the policy or face sanctions such as termination of NFCC membership. The policy would require NFCC's members to provide a reliable estimate on DMP duration prior to a consumer's first DMP deposit. We request an FTC staff opinion on whether or not these proposed policies on DMP duration would be appropriate and legal under FTC regulations and statutes that apply to NFCC and its members.

We request an FTC staff opinion on the above proposed policies regarding (1) disclosure of creditor fundings through "fair share", (2) the dual role served by NFCC'S members in setting up a DMP, and (3) DMP duration. These policies would serve to disclose important information that could benefit consumers who are considering a DMP. The additional information required by these policies is factual and will assist consumers

Valerie Yates, Esq.  
July 23, 1996  
Page 4

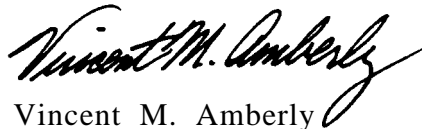
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who are faced with a difficult choice of options to overcome serious financial problems that they face. These proposed policies and further consumer education efforts should benefit consumers attempting to overcome their debt related problems. The NFCC Board of Trustees is scheduled to meet in mid-September and would like to consider the adoption of the above two policies at that time, to become effective for NFCC members on January 1, 1997. We would appreciate an FTC staff opinion on these issues in time for consideration by the NFCC Board of Trustees meeting in September.

Finally, NFCC is also interested in providing additional consumer education to consumers who may need information about how DMPs work and the likelihood of success that a DMP will have given the significant consumer debt, and often insolvency, facing many consumers who consider entering into a DMP. We understand that the FTC may be considering some consumer education efforts in this area and the NFCC would welcome the opportunity to work with the FTC staff to provide consumer education on the various alternatives available to consumers in financial trouble.

If you should have any questions regarding the above request for a staff opinion, please call me. Meanwhile, thank you in advance for your cooperation.

Very truly yours,



Vincent M. Amberly

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cc: Mr. Durant S. Abernethy, III