January 30, 2015

Karen J. Gibson, Contract Specialist
U.S. Department of Education
Union Center Plaza, RM 91F1
830 First Street, NE
Washington, DC 20202

Re: Request for Information – Title IV Student Loan Servicing

Dear Ms. Gibson:

Consumers Union, the policy and advocacy arm of Consumer Reports,[1] appreciates the opportunity to comment in response to the Department's Request for Information (RFI) regarding the Title IV Student Loan Servicing system.

We urge the Department to use this opportunity to improve borrowers' experiences with servicers under contract with the Department by: (1) creating a single portal for borrower queries and complaints; (2) improving outreach to borrowers about alternative repayment options and other important rights; (3) promoting increased fairness and choice for borrowers; (4) collecting, analyzing and centralizing more robust data on repayment outcomes; and (5) stepping up supervision and enforcement of servicing standards. Our recommendations are outlined in more detail below.

Education is a crucial step on a person's path toward self-development and well-being – but it is becoming ever more expensive.[2] Meanwhile, families' dollars aren't going as far as they did even a decade ago, making it even harder to keep up with rising tuition without taking out a loan.[3] As a result, more and more households in the U.S. must borrow to pay for higher education - according to recent data from The Institute for College Access & Success (TICAS), approximately seven in ten college students today graduate with student loan debts averaging $28,400.[4]

Figuring out how to pay for college at the outset is tough enough; but a whole other headache comes when students leave school and have to navigate the student loan repayment process. Despite the fact that borrowers with federal student loans have a legal right to access a range of different repayment options, many borrowers are overwhelmed by the complexity of the system.

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[1] Consumers Union is the public policy and advocacy division of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, and financial services, among others. Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

[2] The National Center for Education Statistics estimates that just in the academic years between 2001–02 and 2011–12, prices for undergraduate tuition, room, and board at public institutions rose 40 percent, and prices at private not-for-profit institutions rose 28 percent, after adjustment for inflation. *See* Nat'l Ctr. for Educ. Statistics, Fast Facts, Tuition Costs of Colleges and Universities, http://nces.ed.gov/fastfacts/display.asp?id=76.

[3] College Board, Trends in Higher Education, Trends in College Pricing, Changes in Family Income Over Time, http://trends.collegeboard.org/content/changes-family-income-over-time (showing net decrease in average incomes from 2003-2013).

[4] THE INST. FOR COLLEGE ACCESS & SUCCESS, STUDENT DEBT AND THE CLASS OF 2013 1 (2014), *available at* http://projectonstudentdebt.org/files/pub/classof2013.pdf.

Many of the income-driven plans appear similar but have different eligibility requirements, adding to further confusion.

Borrowers continue to experience frustration dealing with the private companies contracted with the Department to administer loans once borrowers are repaying them. Borrowers have reported frustration at receiving inconsistent information and having trouble processing paperwork, among other things.[5] They also often find the relationship between the Department and the servicing companies confusing, due in part to receiving different communications under different names while in school and then later on in repayment.

A recent Consumer Financial Protection Bureau (CFPB) report on its supervision program identifies many common problems with student loan servicing. For example, CFPB examiners have found that servicers often apply partial payments pro rata across all of a borrower's loans – thereby unfairly maximizing late fees.[6] Furthermore, the Department of Justice's recent action against Sallie Mae for illegal servicing practices, including overcharging servicemembers[7] with federal loans, has only added to the growing scrutiny.[8]

For these reasons, we urge the Department to bake more borrower protections into its servicing contracts. We also urge the Department to fast-track its ongoing work to simplify and streamline the processing of borrower queries and complaints, improve data collection and analysis, and promote better outcomes for borrowers. The following changes should be made without delay:

- <u>Develop and require the use of a clear, single point of contact for all borrowers to direct their questions, file paperwork and resolve problems.</u> The CFPB's online complaint portal would serve as a useful template.[9] Borrowers should receive responses to their queries within a reasonable amount of time – for example, companies must respond to consumer complaints forwarded from the CFPB within 15 days.[10] This portal should be designed to ensure that borrowers experience timely processing of complaints, repayment plan changes, discharge applications, and other important actions.
- <u>Implement targeted disclosure of alternative repayment options to borrowers who start to fall behind on payments.</u> Borrowers need information about all of their options, including income-driven plans, to make informed decisions during key moments of financial stress. The Department's recent email campaign, which targeted outreach to borrowers regarding income-driven repayment plans under the Department's own branding, was apparently successful in getting more borrowers to enroll in income-

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[5] *See, e.g.*, CONSUMERS UNION, DEGREES OF DEBT: STORIES FROM STUDENT LOAN BORROWERS HIGHLIGHT URGENT NEED FOR REFORM 9-10 (2013), *available at* http://consumersunion.org/wp-content/uploads/2013/11/Degrees-of-Debt_2013.pdf (featuring sample stories expressing typical complaints about federal and private loan servicers).

[6] CONSUMER FIN. PROTECTION BUREAU, SUPERVISORY HIGHLIGHTS 15 (2014), *available at* http://files.consumerfinance.gov/f/201410_cfpb_supervisory-highlights_fall-2014.pdf.

[7] *See* Allie Grasgreen & Nirvi Shah, Sallie *Mae agrees to $97M settlement over servicemembers' student loans interest rates*, POLITICO, May 13, 2014, *available at* http://www.politico.com/story/2014/05/sallie-mae-military-student-loan-interest-rates-106638.html.

[8] *See* Letter from Hon. Claire McCaskill et al. to Hon. Arne Duncan (July 8, 2014), *available at* http://www.huffingtonpost.com/2014/07/09/senators-student-loans-letter_n_5569115.html.

[9] *See* Consumer Fin. Protection Bureau, Submit a Complaint, http://www.consumerfinance.gov/complaint/.

[10] *Id.*

driven plans.[11] This kind of outreach should be considered for use in a broader range of situations, including annual IDR recertification periods, to promote successful repayment in the longer term.

- Require fairer application of payments, to prevent maximization of interest charges and fees. Servicers should be prohibited from applying payments in a manner that maximizes late fees. Borrowers should also have their prepayments applied in a manner that pays down their principal balances faster.
- Allow student loan borrowers to switch servicers at any time. At present, borrowers cannot select their servicers unless they are consolidating their loans (and have not previously undergone a consolidation). Student loan borrowers deserve the right to vote with their feet and seek the servicer that provides the best service.
- Fast-track plans for centralized databasing, to ensure that the Department has robust data on how borrowers are faring with their loans. It is crucial for the Department – and, ultimately, the public – to have access to key information about repayment, delinquency and default rates, as well as IDR enrollment and recertification rates. Furthermore, these trends must be analyzed across demographic types, school types, loan types and servicers. These more robust data points should factor into the Department's evaluation of servicer performance and subsequent portfolio assignments.
- In addition, work with the CFPB – which oversees larger student loan servicers – to ensure that student loan servicers do not subject borrowers to practices that the CFPB identifies as unfair, deceptive or abusive.[12]

Servicing contracts that focus solely on financial incentives will not ensure sound servicing practices. Rather, they must combine with proper supervision and enforcement procedures to create a fair student loan servicing system. We thank the Department for considering these comments, and look forward to working with the Department in the future as it updates the rules of the road for Title IV loan servicing.

Sincerely,

Suzanne Martindale
Staff Attorney

[11] Preliminary findings from the email campaign were presented by Sue O'Flattery during a session on Income-Driven Repayment at the Department's Student Loan Servicing Summit, Dec. 1, 2014, in Atlanta, GA.

[12] The CFPB has authority under the Dodd-Frank Act to declare practices related to financial services illegal if they are unfair, deceptive or abusive. 12 U.S.C. § 5531 (2012 & Supp. II).