



February 10, 2021

The Honorable Jerrold Nadler, Chair
U.S. House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jim Jordan, Ranking Member
U.S. House Committee on the Judiciary
2142 Rayburn House Office Building
Washington, D.C. 20515

The Honorable David Cicilline, Chair
U.S. House Subcommittee on Antitrust,
Commercial and Administrative Law
6240 O'Neill House Office Building
Washington, D.C. 20515

The Honorable Ken Buck, Ranking Member
U.S. House Subcommittee on Antitrust,
Commercial and Administrative Law
6240 O'Neill House Office Building
Washington, D.C. 20515

Dear Chairman Nadler, Chairman Cicilline, Ranking Member Jordan, and Ranking Member Buck:

I write on behalf of the Consumer Bankers Association (CBA) regarding the hearing scheduled for Thursday, February 11, 2021: "Justice Restored: Ending Forced Arbitration and Protecting Fundamental Rights." CBA is the voice of the retail banking industry whose products and services provide access to credit for consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans, and collectively hold two-thirds of the country's total depository assets.

CBA remains opposed to legislative proposals to eliminate Americans' right to negotiate enforceable pre-dispute arbitration agreements, which has been guaranteed for nearly a century under the Federal Arbitration Act of 1925.¹ Abolishing the ability to willingly enter into pre-dispute arbitration agreements is contrary to the public interest and 95+ years of experience and evidence demonstrating that arbitration is a convenient, simple, and efficient dispute resolution alternative. The Consumer Financial Protection Bureau (CFPB) found as much in a comprehensive empirical study of arbitration outcomes in 2015, concluding that arbitration is consistently faster and less expensive than litigation, and results in significantly higher returns for consumers.² In 2017, Congress used the Congressional Review Act (H.J. Res. 111) to reaffirm its longstanding support and reject the elimination of arbitration agreements that would deprive consumers of a well-established alternative dispute resolution process, increase legal costs, and reduce opportunities for recovery.

Supreme Court Justice Stephen Breyer stated in a 1995 opinion that without arbitration, "the typical consumer who has only a small damage claim (who seeks, say, the value of only a defective refrigerator or television set) [would be left] without any remedy but a court remedy, the costs and delays of which could eat up the value of an eventual small recovery."³ We urge Congress to not limit options for consumers and preserve the ability to choose alternative dispute resolution methods instead of forcing all future parties into expensive and time-consuming court battles.

¹ Federal Arbitration Act, Pub. L. No. 68-401, 43 Stat. 883 (1925).

² CFPB, Arbitration Study: Report to Congress, pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act § 1028(a) (Mar. 2015), available at <https://www.consumerfinance.gov/data-research/research-reports/arbitration-study-report-to-congress-2015/>.

³ Allied-Bruce Terminix Cos. v. Dobson, 513 U.S. 265 (1995).

Thank you for your consideration and we remain eager to work with you on these important issues.

Sincerely,

A handwritten signature in black ink that reads "Richard Hunt". The signature is written in a cursive, flowing style with a large initial "R" and a long, sweeping underline.

Richard Hunt
President and CEO