



Debt collection:

Outmoded tactics?

Report produced by Option consommateurs
and presented to
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OPTION CONSOMMATEURS

MISSION

Option consommateurs is a not-for-profit association whose mission is to promote and defend the rights and interests of consumers and ensure that they are respected.

HISTORY

Option consommateurs has been in existence since 1983, when it arose from the *Associations coopératives d'économie familiale* movement, more specifically, the Montreal ACEF. In 1999 it joined forces with the *Association des consommateurs du Québec* (ACQ), which had already pursued a similar mission for over 50 years.

PRINCIPAL ACTIVITIES

Options consommateurs has a team of some 30 employees working in five departments: Budgeting, Energy Efficiency, Legal Affairs, Press Room, and Research and Representation. Over the years, *Option consommateurs* has developed special expertise in the areas of financial services, health, agrifood, energy, travel, access to justice, trade practices, indebtedness, and the protection of privacy. Every year, we reach 7,000–10,000 consumers directly, conduct numerous interviews in the media, participate in working groups, sit on boards of directors, carry out large-scale projects with key partners, and produce research reports, policy papers and buyers' guides, including the annual *Toy Guide* in *Protégez-vous* magazine.

MEMBERSHIP

In its quest to bring about change, *Option consommateurs* is active on many fronts: carrying out research, organizing class action suits, and applying pressure on companies and government authorities. You can help us do more for you by becoming a member of *Option consommateurs* at www.option-consommateurs.org

ACKNOWLEDGEMENTS

This research was conducted and the report written by Ms. Maryse Guénette. The analysis of laws and regulations in Ontario, Quebec, New Brunswick and the United States was carried out by Ms. Valerie Couillard, a lawyer in Option consommateurs' Budget department. Ms. Couillard also collaborated in drafting the sections related to these subjects. Ms. Guénette especially wishes to thank Ms. Couillard for her cooperation and her invaluable support.

Mrs. Guénette also makes a point of thanking the 23 consumers subjected to the collection process who agreed to provide their testimony and to put sometimes difficult events into words. Without these people, the drafting of this report would not have been possible. She is also thankful for the collaboration of Ms. Karine Robillard, Ms. Valerie Mercier and Ms. Domenica Gervais, budgetary advisers in Option consommateurs' Budget department, who recruited these consumers.

Finally Ms. Guénette wishes to thank everyone who granted her an interview.

In order to understand the situation that prevails in Quebec with regard to debt collection and what people who face collection agencies, particularly people with low income¹ have to go through, Mrs. Guénette called upon Ms. Marielle Sauvé, an executive assistant in the customer service department at the *Office de la protection des consommateurs* (OPC), Mr. Bertrand Rainville, author of the study "*Le surendettement. Fracture individuelle et sociale*," Ms. Isabelle Thibault, budgetary adviser with *ACEF du Sud-ouest*, Ms. Caroline Arel, head of Budget department at Option consommateurs, Ms. Karine Robillard (mentioned above),² Ms. Nathalie Rancours, bankruptcy trustee, Mr. Roger Landry,³ a lawyer at the *Commission de l'aide juridique* and Mr. Robert Gariépy, Managing Director of the *Association des directeurs de crédit de Montréal*.

In order to be better informed about the laws of Ontario and New Brunswick, and to familiarize ourselves with the Harmonized List of Prohibited Collection Practices, Ms. Guénette contacted Mr. Brian Pitkin, Director of the debt recovery unit of the Consumer Protection Branch of Ontario's Ministry of Consumer and Business Services, Ms. Leanne Smith, Consumer Enforcement Officer, Department of Justice and Consumer Affairs New Brunswick, and Mr. David Clarke, Senior Policy Analyst at Industry Canada's Office of Consumer Affairs.

¹The low income threshold is updated each year by Statistics Canada. To define someone as a low income person, it is not only necessary to consider his income, but also the size of the his household as well as the sector he lives in.

² This study relates to the effects of over-indebtedness on health; it was published by *Centre d'intervention budgétaire et sociale de la Mauricie* in 2006.

³These remarks, like all those of Mr. Roger Landry quoted in this report, were made within the context of an interview that Mr. Landry granted the author in January 2008.

To obtain information on the program established by the collection department at Hydro-Quebec Distribution (HQD), Mrs. Guénette contacted Mr. Étienne Mailhot, Adviser, Media Relations, Strategies and Business Practices, at Hydro-Québec's collection department.

To obtain information on the pilot project carried out by Gaz Métropolitain, Ms. Guénette met with Ms. Marie-Eve Charron and Mr. Daniel-Marc Paré, Head of the Accounts Receivable Management group and Senior Advisor, Customer Services, respectively. She also spoke to Ms. Isabelle Thibault (mentioned above) and to Mr. Sebastien Langlois, Head of the Energy Efficiency Department at Option consommateurs.

The help of all these people invaluable. Thank you!

This study was coordinated by Genevieve Reed, head of Option consommateurs' Representation and Research Centre.

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EXECUTIVE SUMMARY

Telephone calls at inconvenient times, harassment, intimidation, threats... this is what comes to many people's minds when the subject of collection agency practices is raised. Are there still collection agencies that act in this way today? The interviews that we carried out with 23 consumers subject to collection and with those around them in the context of their work show that the answer is yes.

Of the 20 consumers who received calls about the recovery of their debt, about half stated that, during a certain period, they been called more than once a week and five stated that they had been called several times a day. Of all the people interviewed, 14 said that the company or agency that contacted them had an improper attitude (in particular, the agent they spoke to had adopted a rough, aggressive or impolite attitude). Finally, 20 consumers stated that the experience had caused them considerable stress.

The interviews that we carried out, both with consumers and with specialists, also permitted us to observe the impasse in which people faced with a collection agency find themselves. Feeling they are caught in a trap, consumers (often low income) experience negative emotions, stress, or even depression. Furthermore, the arrival of a collection agent in their life is only the latest of their misfortunes. They are at one of the most difficult moments of their lives when someone arrives, demanding, sometimes in a loud, aggressive voice, a sum of money that they can not afford to pay.

How could things be improved? In searching for answers, we went over the laws of three Canadian provinces and the Harmonized List of Prohibited Collection Practices that the provinces have undertaken to respect. We noted that, although certain rules should be modified in order to adapt to today's circumstances, the laws and regulations generally offer consumers good protection. Their application, however, sometimes leaves something to be desired.

We also looked at the American law. We observed that the law in the U.S. is more detailed than the three Quebec laws studied, particularly with regard to the description of harassing behaviour, false and misleading representation and unfair practices. In our view, this law could be used as model to improve provincial laws or help to interpret them.

It would be a good thing if debt collectors could follow the law to the letter. It would be even better if they followed the rules that they themselves developed. In order to find out about the codes of conduct dictated by collection agencies themselves, we carefully went through four codes of ethics from Quebec, Ontario, the United States and Belgium respectively.

It needs to be said that the code of the organization that represents collection agencies in Quebec is extremely ill-adapted to the situation of its members. Moreover, the three other codes could be used as a model for these collection agency umbrella organizations. These rules sometimes go further than a simple code of conduct. The Belgian code, for example, states that it is necessary “to lead to a positive solution by taking into account the possible socio-economic problems of the debtor.” Now that’s inspiring!

Do companies eager to recover the sums owed to them have any choices besides traditional recovery? An experiment undertaken at Hydro-Quebec shows that they do. In fact, a few years ago, this public corporation set up a program for low income customers who have difficulty repaying their debts. Under this program, Hydro-Quebec’s collection department can come to a special agreement with customers. In certain cases, it agrees to reduce the debt, even to erase it. Interestingly, these agreements do not cost the public corporation one penny more than traditional collection methods. And they enable it to increase the satisfaction rate of their customers and enhance its own image.

Could every company act in this way? The Gas Métropolitain experiment, which we also report on, might lead us to believe that they could not. Indeed, with the aim of making its recovery services more human, the company set up a pilot project, the results

of which were disastrous. This at least had the merit of clarifying certain dangers. And we feel it should be mentioned here that in order for such an experiment to succeed, certain specific elements need to be in place.

Fuelled by the experience of these two companies, we drew up a list of the factors that would contribute to the success of such projects. Among these we would include adequately trained employees who are sensitive to the problems faced by low income people, participants who have heard of the new initiative and are interested in taking part in it, and the presence of a consumers' association to act as an intermediary.

The comments of certain of the parties involved has made us realize that it will take more than programs to put a stop to the abuses of which consumers are victim. Certain solutions were put forward, such as direct assistance to low income consumers as well as measures aimed at alleviating the causes of poverty. At the time of writing this report, some organizations had already started to apply pressure in that direction. Let us hope that it will bear fruit.

OUR CONCLUSIONS AND OUR RECOMMENDATIONS

Our research has enabled us to observe that there is still a great deal of abuse in the collection industry and that there is little chance that the situation will improve soon. But this does not mean that there is no hope. By having its collection department adopt innovative practices, Hydro-Quebec has showed that it is possible to collect debts in a human and responsible way, at no additional cost. It would be in the interest of collection companies and agencies to take the achievements of the public corporation as a model. Let us hope that this report will help them to do so.

Following the analysis of the results of this research, Option consommateurs makes the following recommendations:

Recommendation 1

Option consommateurs recommends that, in each province, legislators take the American law as a starting point in order to improve their own laws.

Recommendation 2

Option consommateurs recommends that the courts, commission and qualified agencies do the same in interpreting them.

Recommendation 3

Option consommateurs recommends that the organizations responsible for the application of the law in each province have the budgets and resources to enable them to carry out all the investigation that proves necessary.

Recommendation 4

Option consommateurs recommends that collection companies and agencies be sensitized to the situation in which low income people are living when they are subjected to collection and that they be informed of the consequences that abusive recovery tactics can have upon them.

Recommendation 5

Option consommateurs recommends that measures be set in place in order to inform large companies and collection agencies about the program set up by Hydro-Quebec Distribution and to encourage them to set up similar programs in their own companies.

Recommendation 6

Option consommateurs recommends that umbrella organizations for collection agencies adopt codes of conduct that encourage their members to take into account the reality of low income clients as well their capacity to pay.

Recommendation 7

Option consommateurs recommends that measures be taken aimed at ensuring that consumers, particularly low-income consumers, are informed of their rights with respect to collection agencies.

Recommendation 8

Option consommateurs recommends that mechanisms be set in place aimed at supporting low income people experiencing problems with a collection agency.