

DEBT SETTLEMENT AND FINANCIAL RECOVERY COMPANIES: Too risky an option?

Executive summary
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Many find the high debt burden of Canadians alarming; others seem to consider it a good business opportunity. The complaints of consumers who have had negative experiences with debt settlement or financial recovery companies have sparked reactions from consumer groups, the media and a few Canadian lawmakers.

To assess the situation, our study draws a portrait of the industry and its regulatory framework, and examines Canadian consumer issues raised by debt settlement and financial recovery services. Our research focuses on those two types of services – which have somewhat different purposes and practices – because both address consumers in a precarious financial situation and do share certain approaches.

To that effect, we reviewed the literature, notably to identify the various business models found in that industry and the problematic practices they promote. We gathered our data from the companies' websites and contracts. We also conducted a mystery customer survey and gathered by questionnaire the comments of several governmental and non-governmental organizations. And we conducted a comparative study of legislation applicable to that industry in Canada and elsewhere.

We identified industry-wide practices, representations and promises of great concern:

- Very high charges, often for services that are useless or highly unlikely to meet the expectations raised by the companies;
- Fees charged prior to any work being done;
- High-priced ancillary services included in contracts;
- A multitude of false or misleading representations;
- Totally unrealistic promises;
- Expensive credit extended to help redress certain situations;
- etc.

The predatory practices, many of which are detailed in the report, don't just fleece consumers in a difficult financial situation; some practices are likely to seriously aggravate their situation by antagonizing creditors.

Canadian legislation adopted to date, although intended to eliminate those problems, has only met with limited success. It does not fully clean up the industry, because the regulations generally exclude certain services and entities. This often leads the companies to modify their business model to continue offering their services while profiting from those exclusions, without modifying their practices.

La force d'un réseau

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It goes without saying that the offers made by the debt settlement and financial recovery industry are tempting to consumers suffering from financial difficulties. Those consumers' vulnerability leads them to believe in the mirages presented to them; they will take the word of companies promising unattainable results and will close their eyes to the unrealistic character of certain offers.

Is the only viable solution a pure and simple prohibition of those services for profit, as was imposed in the United States in the early 20th century, and as still prevails in some U.S. states? Since services are already offered by organizations that are dedicated to helping consumers rather than profiting from them, that avoid conflicts of interest, and that meet rigorous standards of practice and ethics, would it not be in everyone's interest to develop those types of services rather than trying to limit the damage caused by a predatory industry?

That is one of the recommendations concluding our report.

Moreover, we recommend that all responsible actors better inform consumers about services offered by non-profit organizations likely to help them face their difficult financial situation, help them retake control of their personal finances, support their undertakings, inform them about ways to correct certain problems, or indicate available resources that can assist them.

We also recommend that to avoid risks of conflicts of interest, governments ensure adequate funding of those crucial consumer services offered by non-profit organizations.

Accordingly, Union des consommateurs draws a long list of recommendations for lawmakers who would decide to pursue their regulatory attempts or undertake to establish such a framework.

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