Bank-Consumer Communication: Improvements and Strategies

THE FIFTH REPORT OF THE CALIFORNIA MONITOR
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Summary

Effectively delivering consumer law hinges on good communication. Remedies in law do little good if people know neither of their existence nor how to exercise them. The California Monitor's fifth report details current problems and progress in bank-to-consumer communication. We look at some new forms of bank communication and make recommendations on continuing innovative strategies to reform bank-consumer communication.

To get help, homeowners must understand the loan modification process and take the required steps to apply for relief programs like the National Mortgage Settlement and the Making Home Affordable Program.

Three principles guide good communication with consumers. First, the burden is on the more sophisticated party. Mortgage companies are best positioned to know certain kinds of information, like what kind of loan the consumer has and the specific documents that are needed for a modification. These companies should use their expertise to simplify the complicated process for homeowners. They should provide clear instructions, and make simple, targeted requests. They should also design programs that are easy for consumers to access or accept. The National Mortgage Settlement spawned several such innovations in this regard, including Bank of America's opt-out second-lien extinguishment program.

Second, banks and government should focus efforts and provide incentives for the timing of communication to consumers. While early communications from the banks come when the homeowner may be in the best position to receive help, communications later in the process can produce action on the part of the homeowner. Good communication is both timely and strategically uses time pressure to encourage action.

Third, the banks should harness their top talent in marketing, sales and strategy to overhaul communication with consumers during the foreclosure process. Industry has incredible teams that specialize in reaching out to consumers and inspiring action when it sells financial products. Already, there are examples of this talent being put to work in communication during the foreclosure process to benefit homeowners and the banks.

Over the last year and a half, the California Monitor Program has worked to help consumers understand their rights and responsibilities. Our insights on effective communication will help banks and government think creatively and achieve better results for consumers.

Very truly yours,

Katherine Porter

This report reflects the views of the California Monitor Program. It does not necessarily reflect the views of the California Attorney General or the California Department of Justice.

Contents

Consumer law is notoriously difficult to enforce. This is fueled in part by consumers' difficulty navigating complex financial terminology and convoluted law. While typical consumers may accurately perceive that they have been wronged, many cannot pinpoint exactly what rule or law has been broken. Maneuvering the path to a solution to their problems can be even more challenging. Banks are large, complex institutions, and the barriers in understanding the mortgage servicing system also prevent many consumers from getting the help available, such as loan modifications or repayment plans.

The California Monitor Program was designed to oversee National Mortgage Settlement relief to homeowners in California. Our unique role in both receiving and processing complaints from homeowners, and then interfacing with their banks on their behalf has shown us that there are some key gaps between the information banks give to their homeowners and what their customers understand. Our in-depth investigation of these complaints gives us a direct perspective into the struggles of consumers trying to access assistance programs and communicate with their mortgage servicers. Business and government should focus on improving communication with consumers to maximize dollars delivered through assistance programs and to improve efficiency in mortgage servicing.

Homeowner rights come from myriad laws, regulations, and compliance agreements. Many servicing rules and loan modification programs are already available to help struggling homeowners. Better communication alone would allow more consumers to access the already available mortgage assistance programs. In this report, we analyze some of the barriers created by poor communication practices and highlight some benefits provided by good communication initiatives at the banks. We also suggest ways to further the improvements of bank-to-consumer communication.

What is Good Communication?

Principles of good communication apply both to the mechanisms by which servicers deliver relief (for example, a streamlined modification that requires little paperwork) and to how servicers explain the application process to homeowners (in solicitations, missing document letters, and single point of contact telephone calls). This report examines both categories of communication and develops three guiding principles to improving communication.

Principle #1: Good communication places the burden on the more sophisticated party.

In the mortgage-servicing context, this means banks, not homeowners, bear the responsibility of improving communication and of tailoring that communication to the needs of average consumers. The loan modification application process is far too difficult to navigate for a homeowner who may not understand the intricacies of eligibility criteria and income documentation. A common loan modification denial reason, for example, is that the "loan modification is not in the best interest of the investor." Homeowners who do not know that their loans even have investors struggle to understand this explanation. The servicers are best positioned to lower the barriers to relief by tailoring both their delivery methods and explanations to a homeowner who may have limited resources to understand the process or even to ask the right questions to get help.

Principle #2: Good communication is timely *and* strategically-timed to encourage action.

Governments' strategy for improving bank-to-consumer communication in compliance efforts has focused on the earliest instance of a homeowner going into default. The problem is that the homeowner's sense of urgency typically does not move him to take action until the foreclosure process progresses. While early communications from the bank come at a time when the homeowner may be in the best position to receive help, communications later in the process can produce action on the part of the homeowner. It is crucial that banks continue to communicate with homeowners as the foreclosure process progresses and not just at the start.

Principle #3: Reforming communication requires top talent.

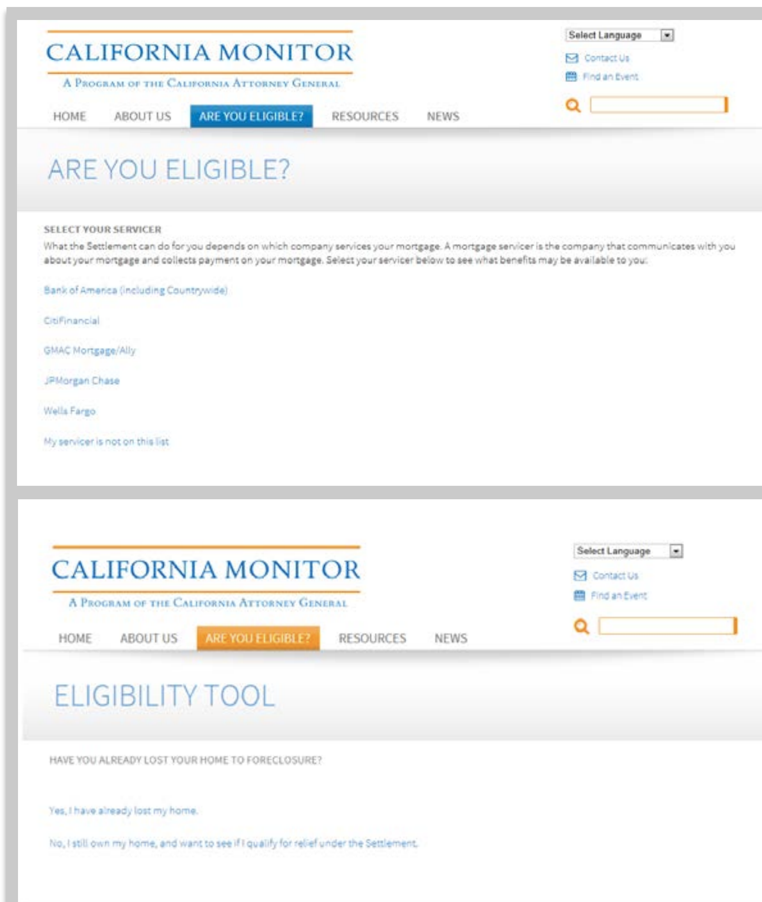
Banks should harness their top talent in marketing, sales, and strategy to overhaul communication with consumers. Industry has incredible teams that specialize in reaching out to consumers and inspiring action when it sells financial products. Sleek credit card offers come in the mail weekly and mortgage lending has its own phone app. The designers of these communication efforts should design foreclosure assistance packages, write letters to consumers, and build easy-to-navigate paths to solutions.

Good communication in the loan modification process helps everyone. For banks, it can reduce costs. The process is faster, and consumer and government complaints decline. Government wants programs that it invests resources in creating, such as HAMP or the Settlement, to work. For these programs to work, there must be strong, effective communication for consumers to know and exercise their rights. It also reduces the need for enforcement by helping banks and consumers work together without government intervention. Good communication helps customers know the next steps they can take and be empowered to take them.

The California Monitor Program Eligibility Tool

One of our first initiatives focused on teaching homeowners about the Settlement. We wanted to help them learn if the Settlement applied to their situations. We also considered how to make such Settlement information widely available.

We created an interactive Eligibility Tool that distilled the 300-page legal document into easy-to-understand units. Instead of having to sort through a long list of criteria, homeowners were led through a series of progressive questions. They were able to make selections on each screen that pertained to their specific situation and read definitions of murky terms such as "mortgage owner." Instead of the burden being on the homeowner to determine their eligibility, the Program took on that communication responsibility. Visitors were also able to determine whether they might be eligible for restitution payments if they were no longer in their homes. As a result, the Eligibility Tool was an opportunity to increase the potential population of those who might be eligible for benefits.



> **HELP FOR BORROWERS UNDER THIS SETTLEMENT**
>
> The National Mortgage Settlement negotiated by the state Attorneys General and the federal government and announced in February 2012 impacts borrowers serviced by the following major lenders:
>
> - Ally/GMAC
> - Bank of America
> - Citi
> - JPMorgan Chase
> - Wells Fargo
>
> You can find out who services your loan by looking at your monthly mortgage statement or you can search for your loan's servicer by going online to MERS® Servicer Identification.
>
> Because of the complexity of the mortgage market and this agreement, which will be executed over a three-year period, **borrowers will not immediately know** if they are eligible for relief. Borrowers from Oklahoma will not be eligible for any of the relief directly to homeowners because Oklahoma elected not to join the settlement.

The Settlement's official site (www.nationalmortgagesettlement.com) provided no eligibility details other than that borrowers might be contacted if their servicer was one of the five banks. In fact, the information conveyed was that "[b]ecause of the complexity of the mortgage market and this agreement, which will be executed over a three-year period, borrowers will not immediately know if they are eligible for relief." This left homeowners in a wait-and-see position over a period of three years.

Many homeowners wrote to the California Monitor Program to report that they had used our Eligibility Tool and were told inconsistent information by their banks. The Eligibility Tool allowed homeowners to immediately determine whether they met the basic criteria. This timely communication helped homeowners move forward. They were able to ascertain for themselves whether they might need to go back to the banks and ask again about their eligibility—this time, armed with key pieces of information that could help them discuss the specifics of their situation.

Our Eligibility Tool was designed by a team of attorneys and program staff, combining the strength of our legal, organizational, and consumer communication skills with an enthusiasm for using technology. Instead of writing a long list or memo with legal jargon, we pursued an innovative new form of communication that received thousands of visitors from California and across the country.

Communication Problems

Many consumers prefer to receive communications from financial institutions and government agencies in writing. One major reason is that written documents build a record of communications with their banks and allow consumers to remember what steps they have taken. Unfortunately, when such mailers, letters, and handouts are poorly drafted they can lead to consumer confusion and frustration. The following three examples are problematic categories of communications. We only found these issues because of our active monitoring of banks' and consumers' engagement with the National Mortgage Settlement.

"Missing Documents" Letters

To submit a homeowner's loan modification application to their underwriters, mortgage servicers need to receive a complete set of application materials. The consumer is required to provide a number of documents, such as paystubs. When these documents are not provided, or the documents that have been provided are incomplete or outdated, mortgage servicers are required to request updated documents. In some cases, mortgage servicers will need additional documents to verify components of a loan modification application.

To request these documents, mortgage servicers often send out a "missing documents" letter.[1] These letters are often extremely vague and difficult to interpret. Many missing documents form letters merely restate all of the required documents rather than explaining to homeowners what exact documents are missing. The letters put the burden on the

[1] We discussed these letters in our report, "The 'Complete' Application Problem: A Solution to Help Homeowners and Banks Work Together." Available at: http://californiamonitor.org/wp-content/uploads/2013/06/FINAL-June-19-Complete-App-Monitor-Report.pdf.

homeowner to figure out what is wrong in the initial document submission. Homeowners often express frustration that they have already submitted the requested documents. Many missing documents letters do not provide any feedback about what was problematic or incomplete. Consumers often resend the same problematic documents and become frustrated when their loan modification applications do not go to underwriting for decisions. The California Monitor Program designed missing document letters that incorporated feedback from consumers and what they told us they found confusing. Many banks are considering adopting these revisions.

Denial Letters

When a loan modification application goes to the underwriter and gets rejected, mortgage servicers are required to send a letter to the consumer stating the reason for denial. There are a number of legitimate reasons a loan modification can be rejected, including restrictions put in place by investors, program guidelines limiting out the consumer, the inability of a mortgage servicer to create an affordable payment, or even a failure on the homeowner's part to submit requested documents on time.

Explanations concerning why homeowners' loan modification applications were declined are often poorly worded and confusing to consumers. Many consumers are unaware that third parties own their mortgages, and they assume language about investor guidelines means their banks arbitrarily turned them down for modifications. Denial letters based on inability to create an affordable payment rarely explain what would constitute an affordable payment or why the servicer was unable to generate one. While consumers are given thirty days to appeal their declinations, they often lack the necessary information to determine if an appeal is worthwhile or in their best interest. This process can go on for many weeks before there is clarification on what documents are incomplete, wasting time and resources. Ultimately, the denial letter, like the missing documents letter, puts the burden on the consumers to decipher complex denial reasons. Banks have the decision-making power and expertise; it should be their duty to explain their actions to consumers.

Door Hangers

Mortgage servicers often inspect homes during the foreclosure process to ensure they aren't abandoned, blighted, or unsecured. Many servicers leave informational hangers on the doors of homes they have inspected. In theory, leaving a notice that inspectors had been on a foreclosed property is a good operational principle. It lets a homeowner know that someone has been on his or her property to inspect it.

In practice, however, these door hangers have been confusing to consumers. Instead of explaining what was done on the property and why, the door hangers merely provided the servicer's name and phone number. The hangers stated that the homeowner should call the servicer and be ready to provide an account number. In complaints we received, consumers reported that they felt confused and alarmed by these door hangers. Instead of being reassured and seeing the hangers as an effort to help, consumers feared a new terrible problem with their mortgage had developed. Communication can backfire, adding stress. Banks should use their marketing and consumer behavior resources to test communication strategies in advance.

Good Communication, Good Outcomes

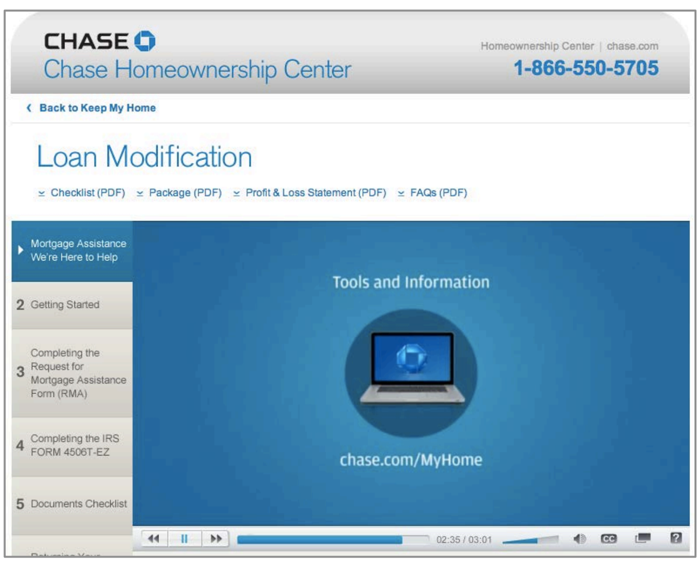
Bank of America's Second Lien Solicitations

Under the National Mortgage Settlement, the servicers had the responsibility of soliciting homeowners for the Settlement's relief programs. One option for relief was principal reduction of homeowners' second mortgages. These reductions or extinguishments were beneficial to homeowners for several reasons. They reduced debt and often paved the way for a modification of a first mortgage. The extinguishments also significantly repaired homeowners' credit scores, allowing borrowers crucial access to future consumer loans. To reach the homeowners who were eligible for these second mortgage solutions, Bank of America created an innovative solicitation model that shaved many months off of the traditional process.

Bank of America sent notices to homeowners that their second mortgage would be fully extinguished without any paperwork or application process, essentially creating an "opt out" rather than an "opt in" model of relief. If a homeowner wanted to opt out of the program, she would have to notify the bank within 30 days. If the homeowner did nothing, the debt would be extinguished and reported as paid in full to credit reporting agencies. The "participation" rate in Bank of America's second lien extinguishment program was huge. More than 30,000 homeowners in California eliminated their debts for a total of $3.3 billion in relief. Reducing the burden of the application process for homeowners produced widespread, rapid relief. It also eliminated work for Bank of America, allowing it to focus its customer service on complex individual situations.

CitiFinancial's Refinance Solicitations

Citi's refinance solicitation is an exceptional example of effective communication with homeowners. This was a mandatory refinance program under the Settlement. A package was sent to qualifying homeowners clearly marked with a message of urgency on the outside of the package in bold red letters: "Don't delay, return your modification agreement today." Even the external packaging informed the homeowner that he or she had already been approved for an interest rate reduction. The contents of the package were equally as helpful. It included a letter with an explanation of the reduction and a series of documents for the homeowner to complete and submit.



JPMorgan Chase's Website

JPMorgan Chase has excelled at providing resources for homeowners about the loan modification application process on its website. It delivers the information clearly and concisely, recommends steps for the homeowner to take, and informs the homeowner of what to expect during the process. The screen at left contains a series of videos, breaking up application instructions into bite-sized pieces, such as "Completing the Request for Mortgage Assistance Form (RMA)." The top of the page has resources such as a document checklist and a sample profit and loss statement. The profit and loss statement is routinely one of the most confusing aspects of the application process because it documents the income of self-employed homeowners who often have complex financial situations.

Co-branding: A Case Study in Government and Industry Collaboration

Under the National Mortgage Settlement, Bank of America was required to solicit a population of homeowners who may have been eligible for first mortgage principal reduction. The bank was required to make six attempts to contact these borrowers, including four telephone calls at different times of day over the period of a month and two mailed letters. Even after these six contact efforts, many homeowners did not respond to the servicer. Clearly something was wrong with the way the program was being communicated. Homeowners might have not trusted mailings from their banks, not sensed the urgency of the foreclosure process, or simply not understood what they needed to do to apply for assistance.

The California Monitor initiated a project to reach out to these homeowners that has facilitated an additional $151.3 million in principal forgiveness for 703 California families. The idea behind the initiative was that people who had not responded to the bank's mailings would perhaps respond to mailings containing the name and symbol of that state's attorney general alongside the servicer's. Homeowners who are distrustful of their mortgage company or simply overwhelmed by the sheer volume of collection letters they receive may ignore the servicer's communications even if the servicer is offering principal reduction and an opportunity to stay in their homes. The co-branded letter offered a way to reach out to those households using the name and logo of a more trusted entity, the California Monitor Program backed by the California Attorney General.

The California Monitor initiated a project to reach out to homeowners who did not respond to banks. The result: an additional $151.3 million in principal forgiveness, and over 700 additional homes saved from foreclosure.

Some believed that homeowners would not respond to this mailing given that these borrowers had not responded to six prior communication efforts. Our co-branding effort proved to be hugely successful. We attribute a large part of this success to two communication changes we worked on with Bank of America. First, Bank of America rewrote the letter that went out to homeowners incorporating our editing suggestions. Second, it sent the letter in both English and Spanish at our prompting.

The Solicitation Letter

When Bank of America sent us the initial letter that was going to go out to homeowners, we were concerned that the letter would not capture their attention and would not make clear the urgency of their response. To address those concerns, we used the knowledge and experience we had gained communicating with homeowners and worked with Bank of America to rewrite the letter. For example, in the letter that we were given as a draft, the phrase "reduce what you owe on your loan" came in the fourth paragraph. We rewrote the letter to have the principal reduction offer come in the first sentence. It was important that the homeowner knew immediately upon opening the letter the option being offered. There was no reason to hide the relief or tell consumers the history of the Settlement. Incorporating our knowledge of how to communicate complex issues clearly to homeowners, we were able to formulate a letter that explained how a family would directly benefit. This kind of personalization encourages a timely response.

Language Access

We asked Bank of America to send the letter in both English and Spanish. From our own review of consumer complaints, we knew that the non-English speaking or limited-English speaking population in California faced difficulty in avoiding foreclosure. Bank of America agreed to our request and bore the entire cost of the translation and co-branded mailings. It is sound policy to require foreclosure prevention efforts to be translated.

The Results

Bank of America began sending the co-branded bilingual mailings in December 2012. Co-branding has been extremely successful in California with a particularly high response rate of 26%. This is remarkable considering that these homeowners had not responded to six previous contact efforts. As of November 2013, the mailings have resulted in 703 additional families receiving principal reductions totaling $151.3 million. Bank of America delivered over $2.24 billion of first mortgage principal reductions to California. The California Monitor co-branding program accounts for 6.7% of the total dollar amount of principal reductions in the state.

THE FIRST SENTENCE MATTERS.

DRAFT CO-BRANDED LETTER:

"On February 9, 2012, the U.S. Department of Justice and 49 State Attorneys General agreed to the terms of a national settlement with the country's five largest mortgage servicers."

CALIFORNIA MONITOR REVISION:

"I am writing to you, along with Bank of America, to let you know that you meet the basic eligibility criteria to apply for a principal reduction modification on your home loan."

Next Steps in Communication Reform

Improving communication with consumers is a responsibility of both business and government. Government should proactively design law to encourage better communication. Industry best understands its own operational challenges and has the data to examine what kinds of communication work best. This report reviewed innovations in communication that have come directly from industry and have benefited consumers. Government should encourage this kind of innovation and provide incentives for quality high-volume communication practices by industry. We make three recommendations for future agreements:

1) **Give incentives to banks to develop clear communications that are designed to produced action**, rather than mandate disclosures written by attorneys that go unread. Disclosures—if badly designed and ill timed—can do harm. They can overwhelm consumers and cause them to give up.

2) **Require testing and accountability** for better results. When government mandates that a bank offer a loan modification program, government should also set expectations on communication results and make those standard for all parties.

3) **Simplify** settlements and relief programs. Complexity is the enemy of communication. The National Mortgage Settlement is long and difficult to understand. It requires a huge amount of effort on the part of banks, government, and non-profits to explain to homeowners. Sometimes simpler, albeit rougher, rules are better because more people can know and exercise their rights.

NEED HELP? SEND YOUR STORY.

Homeowners may submit requests for help through two methods: the California Attorney General's Public Inquiry Unit, online at HTTP://OAG.CA.GOV/CONSUMERS/GENERAL or directly to the California Monitor Program, by email at CAMONITOR@DOJ.CA.GOV.

Propietarios de viviendas pueden presentar una queja a la Oficina del Procurador General de California en HTTP://OAG.CA.GOV/CONSUMERS/GENERAL o por correo electrónico directamenta al Programa del Monitor de California a CAMONITOR@DOJ.CA.GOV.

房主可以通过两种方式提交请求：上网到加州总检察长的谘询 HTTP://OAG.CA.GOV/CONSUMERS/GENERAL 或直接通过电子邮件到加州监控程序 CAMONITOR@DOJ.CA.GOV.

Nếu quý vị cần giúp đỡ với nợ nhà, hãy liên lạc với chúng tôi tại California Attorney General's Public Inquiry Unit, HTTP://OAG.CA.GOV/CONSUMERS/GENERAL, hoặc gửi email đến CAMONITOR@DOJ.CA.GOV.

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