Social Media in Rulemaking – an Example:
The RegulationRoom partnership between CFPB and CeRI

CFPB
Whitney Patross
Counsel,
Office of Regulations

CeRI
Cynthia R. Farina
Faculty Director,
RegulationRoom project
Current Rules

Home Mortgage Consumer Protection

The mortgage crisis showed that some residential mortgage lenders weren't doing a good job of keeping careful records and communicating with borrowers. Some of this affected all borrowers, but the worst effect was that some people who could have worked out their problems with the right help, lost their homes. Congress has told the Consumer Financial Protection Bureau (CFPB) to adopt new federal regulations to address this in the future. On this site, you can read about the new proposals, react to them, and discuss them with others. What you say here will make a difference. CFPB is required to consider public comment before making a final decision, and it will get a detailed summary of what Regulation Room commenters have to say.

The Issues: Click on what interests you most.

- For All Borrowers: Who is Servicing Your Loan? (42 comments)
- For All Borrowers: Periodic Statements (53 comments)
- For All Borrowers: Asking For, and Getting, Information (59 comments)
- For All Borrowers: Getting Errors Fixed (16 comments)
- For All Borrowers: Adjustable Rate Mortgages (18 comments)
- For Borrowers in Trouble: "Early Intervention" Help (20 comments)
- For Borrowers in Trouble: Reliable Contact with People Who Can Help (31 comments)
- For Borrowers in Trouble: Options for Avoiding Foreclosure (42 comments)
- For Borrowers in Trouble: Partial Payments (13 comments)
- For Borrowers in Trouble: "Force-Placed" Insurance (42 comments)

What's Happening Now

Learn More

- How does RULEMAKING work?
- How does EFFECTIVE COMMENTING work?
- How does the SITE work?

What is Regulation Room?

A pilot open government project to improve public participation in rulemaking.

Watch a video about Regulation Room [1:08]
Topic post (on landing)
Topic Post (selecting § 2 text with comments)
To see more

*RegulationRoom.org* – past rules still visible:

- CFPB mortgage rules
- 4 USDOT rules

*PlanningRoom.org* – non-rulemaking discussion:

- Revising the National Health IT Strategic Plan (ONC/HHS)
Social Media and Rulemaking:
Making the tools work for your agency

ACUS Social Media Workshop
September 17, 2013

CeRI
Cynthia R. Farina
McRoberts Professor of Research in Administration of the Law
Faculty Director, RegulationRoom project
NASA has confirmed that the asteroid is headed directly for us.

...Yes, a question?

What role has social media played in this asteroid's orbit?

*Sigh*

Has Twitter changed the way we respond to asteroid threats?

Well, it's made the press conference questions stupider.

Fascinating! What about Facebook?
In the social media toolset

- Facebook, LinkedIn
- Twitter, YouTube
- Ideascale, Quora
- Tumblr, Wordpress, Google Moderator
- MixedInk, Wikispaces
Basic rules on using tools

1. Know what you’re trying to do.
2. Take account of the facts of life.
3. Recognize the role of human effort.
1. What are you trying to accomplish?

Using social media is not an end in itself.

A democratic government should not actively solicit public participation that it does not value.
<table>
<thead>
<tr>
<th>Types of Potential Rulemaking Participants &amp; Their Likely Capabilities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Who they are</strong></td>
</tr>
<tr>
<td>Directly affected by proposed rule (either because their conduct would be regulated or because they would directly benefit); experienced in interacting with the agency in RM and other contexts</td>
</tr>
<tr>
<td>Directly affected by proposed rule (either because their conduct would be regulated or because they would directly benefit); do not participate in RM or other agency policy interactions</td>
</tr>
<tr>
<td>Scientific, technical or other professionals who are not direct stakeholders, and not employed or retained by a stakeholder in this matter</td>
</tr>
<tr>
<td>Individuals who self-identify as interested in the proposal, but are not in the previous groups</td>
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<tr>
<td><strong>Examples</strong></td>
</tr>
<tr>
<td>Trade association of large trucking companies; large mortgage lenders; major airlines</td>
</tr>
<tr>
<td>Small trucking company owners; drivers; travelers with disabilities; consumers who went through foreclosure; community bank officials</td>
</tr>
<tr>
<td>Researchers on driving fatigue or traffic accident prediction models; accessible designers consumer behavior researchers</td>
</tr>
<tr>
<td>Members of the driving public</td>
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<tr>
<td><strong>Awareness of relevant ongoing rulemakings</strong></td>
</tr>
<tr>
<td>High</td>
</tr>
<tr>
<td>Typically, low</td>
</tr>
<tr>
<td>Typically low, but might vary with field and particular rule</td>
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<tr>
<td>Possibly general awareness in highly politically salient RM; otherwise, low to nonexistent</td>
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<tr>
<td><strong>Understanding of RM process and larger regulatory environment</strong></td>
</tr>
<tr>
<td>High; often “repeat players”</td>
</tr>
<tr>
<td>May have patchy knowledge of regulations that immediately affect them; unlikely to understand RM process or larger regulatory environment</td>
</tr>
<tr>
<td>Hard to predict; likely dependent on field and particular rule</td>
</tr>
<tr>
<td>Low to nonexistent</td>
</tr>
<tr>
<td><strong>Ability to comprehend meaning and implications of agency’s proposal without help</strong></td>
</tr>
<tr>
<td>High; often have staff that specialize in regulation; likely to have in-house or hired legal and technical experts</td>
</tr>
<tr>
<td>Low on deciphering NPRM and supporting cost/benefit projections</td>
</tr>
<tr>
<td>High for parts directly relevant to their expertise</td>
</tr>
<tr>
<td>Very low on deciphering NRPM and supporting cost/benefit projections</td>
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<tr>
<td><strong>Ability to produce effective comments without help</strong></td>
</tr>
<tr>
<td>High (already have access to the required help)</td>
</tr>
<tr>
<td>Low; likely to have relevant situated knowledge but communication is impaired by lack of knowledge of RM process or larger regulatory context</td>
</tr>
<tr>
<td>Likely high for parts relevant to their expertise</td>
</tr>
<tr>
<td>Very low</td>
</tr>
</tbody>
</table>
2. Don’t forget what you know about the world and human behavior

Example: The case of responsive commenting
Home Mortgage Consumer Protection

Agency Proposal

For All Borrowers: Periodic Statements

§1. Basic information for ALL borrowers

The mortgage crisis showed that consumers didn't always get clear and current information about the status of their mortgage accounts. Now servicers must send borrowers "periodic statements" containing this information. The proposed new rules would settle what specific information must be included and, based on CFPB's consumer testing, how this information must be organized and presented. Two important proposed exceptions are described in the last section of this post.

What this means for consumers. CFPB wants borrowers to get the information they need to manage their mortgage loan without being overwhelmed. Some information would have to go on all periodic statements. (For information that depends on individual borrowers' circumstances, see the next section.) Take a look at the new form for all statements:

Periodic Statement Sample 1
Home Mortgage Consumer Protection

Issues
- For All Borrowers: Who is Servicing Your Loan? (42 comments)
- For All Borrowers: Periodic Statements (65 comments)
- For All Borrowers: Asking for, and Getting, Information (59 comments)
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- For Borrowers in Trouble: Force-Placed Insurance (42 comments)

Agency Proposal By the Regulation Room team based on the NPRM

For All Borrowers: Asking For, and Getting, Information

§ 1. Making requests; getting answers

§ 2. What kinds of information?

51 Making requests: getting answers

Now, if the borrower wants information about his/her account, the servicer doesn’t have to answer unless the request comes in writing, and in a particular form. But most borrowers try to get information over the phone. So, CFPB is proposing that servicers must respond to oral requests as well as written ones. And, it wants to shorten the response time. Servicers are very worried about the costs of this, so CFPB is also proposing some limits on information requests.

What this means for consumers. The servicer would have to treat oral and written requests for information the same way.

1. Notify the borrower in writing within 5 business days that it got the request, unless it can provide the information within this time.
2. Respond within 10 business days (2 calendar weeks) to requests for information about who currently owns the mortgage. This time period can’t be extended.
3. Respond within 30 business days (6 calendar weeks) to other kinds of requests. This can be extended to 45 business days (9 calendar weeks) if, within the original 30 business days, the servicer isn’t the borrower it needs.
2. Don’t forget what you know about the world and human behavior

Example: The case of responsive commenting

The lesson:
The right social media tools can provide opportunities for desired new behavior (or make undesired behaviors more difficult),
but by themselves they are unlikely to alter incentive structures and transform familiar behavior patterns
3. Technology must usually be partnered with human effort

Example: Reducing information overload
Sample triage & signposting

<table>
<thead>
<tr>
<th>Issue Index</th>
<th>Post Index</th>
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<tbody>
<tr>
<td><strong>Home Mortgage Consumer Protection</strong></td>
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<tr>
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<td>§3. When and how</td>
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<tr>
<td>§4. Coupon-book exception</td>
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**People's Comments (65)**

<table>
<thead>
<tr>
<th>SECTIONS</th>
<th>ALL</th>
<th>RECOMMENDED</th>
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<tbody>
<tr>
<td>§1. Basic information for ALL borrowers</td>
<td>27 comments</td>
<td></td>
</tr>
<tr>
<td>§2. Info depending on circumstances</td>
<td>4 comments</td>
<td></td>
</tr>
<tr>
<td>§3. When and how</td>
<td>2 comments</td>
<td></td>
</tr>
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<td>§4. Coupon-book exception</td>
<td>10 comments</td>
<td></td>
</tr>
<tr>
<td>§5. Small servicer exception</td>
<td>22 comments</td>
<td></td>
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Sample: Information layering

Home Mortgage Consumer Protection

For All Borrowers: Periodic Statements
- §1. Basic information for ALL borrowers
- §2. Info depending on circumstances
- §3. When and how

For All Borrowers: Periodic Statements
- (65 comments)

For All Borrowers: Getting Errors Fixed
- Information (59 comments)

For All Borrowers: Adjustable Rate Mortgages
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Agency Proposal

By the Regulation Room team based on the NPRM

People's Comments (65)

Click here to add a new comment...

CANCEL ADD LINK SUBMIT COMMENT

§1. Basic information for ALL borrowers
- 27 comments

§2. Info depending on circumstances
- 4 comments

§3. When and how
- 2 comments

§4. Coupon-book exception
- 10 comments

§5. Small servicer exception
- 22 comments

What this means for consumers.
- CFPB wants borrowers to get the information they need to manage their mortgage loan, without being overwhelmed. Some information would have to go on all periodic statements. (For information that depends on individual borrowers' circumstances, see the next section). Take a look at the new form for all statements.
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Fascinating! What about Facebook?
Resources

• GSA Social Media Navigator
  http://www.gsa.gov/portal/category/101299

• Social media providers with TOS agreements
  http://www.howto.gov/social-media/terms-of-service-agreements

• Center for Digital Government Excellence – Digital University; weekly Digital Digest, and a lot more
  http://www.gsa.gov/portal/content/142785

• Usability .gov (HHS): Best practices and guidelines for more user-friendly Web design

• The Federal Plain Language Group
  http://www.plainlanguage.gov/index.cfm
Sample: Role of moderation

For All Borrowers: Periodic Statements

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Periodic Statement Sample 1

How will borrowers benefit from having this information? Servicers will probably have to spend money on new software and other systems to produce this information once CFPB wants to require. Those costs might be passed along to consumers. Are borrowers likely, on balance, to come out ahead?

What this means for servicers (and creditors and assigns): The periodic statement rules would cover owners, including the original lender and assigns, as well as servicers (unless they no longer own or service the loan). The servicer and the owner can coordinate to send only one statement to the borrower. Loans covered are closed-end residential mortgages, but reverse mortgages, construction loans, and time shares would be excluded.

Servicers don’t have to use the sample form, but the information must be arranged in the required groupings. Boxes, lines, or white space must set off each group. Other information (e.g., logo, payment methods, details on escrow accounts) can be included so long as the required disclosures remain “clear and conspicuous.” Servicers can use different terminology than CFPB uses (e.g., “impound account” instead of “escrow”) if that would be clearer for borrowers in some regions.