

Durbin, Franken, Cortez Mastro to Equifax: End use of consumer-harming forced arbitration clauses

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WASHINGTON – U.S. Senate Democratic Whip Dick Durbin (D-IL) joined Senator Al Franken (D-MN) and Senator Catherine Cortez-Masto (D-NV) in pushing Equifax—the massive credit bureau that recently made public a data breach affecting 143 million Americans—to completely end its use of forced arbitration agreements, which limit the ability of consumers to pursue justice in a public court of law or challenge widespread corporate wrongdoing.

Equifax, one of the three biggest credit bureaus in the United States, stores personal information ranging from social security numbers to home addresses and tracks the

consumer financial information—like loans and credit card payment history—that serves as the basis for Americans’ credit scores. Late last week, Equifax broke the news that their databases were breached in a massive cybersecurity attack earlier this summer, compromising the sensitive information of approximately 143 million Americans.

Shortly after the announcement, several news reports revealed that the terms of use for Equifax’s credit monitoring and identity theft product TrustedID, offered to those affected by the breach, included a clause that forces wronged consumers into private arbitration proceedings and limits the ability of Americans to band together in class-action suits against Equifax. Due to public pressure, Equifax scrapped that TrustedID arbitration clause. But disturbingly, Equifax’s overarching terms of service—which covers all of its websites and services—still includes a similar clause.

In a letter, Senators Durbin, Franken, Cortez Masto, and 17 of their colleagues pressured Equifax CEO Richard Smith to drop support for and use of forced arbitration agreements. The Senators also called on Equifax to explain whether or not it supports a new rule from the Consumer Financial Protection Bureau (CFPB) to limit the use of forced arbitration in the financial services sector.

“Forced arbitration provisions in consumer contracts erode Americans’ ability to seek justice in the courts by forcing them into a privatized system that is inherently rigged against consumers and which offers virtually no way to challenge a biased outcome. Forced arbitration clauses, like the one that appeared in the TrustedID Terms of Use, require consumers to sign away their constitutional right to seek accountability in a court of law,” the senators wrote. “Although Equifax has since removed the clause from the TrustedID Terms of Use – a move we applaud – we are concerned that the company may still support the use of forced arbitration more broadly.”

The letter, which you can read below or by clicking [here](#), was also signed by Senators Tom Udall (D-NM), Ed Markey (D-MA), Richard Blumenthal (D-CT), Mazie Hirono (D-HI), Jack Reed (D-RI), Elizabeth Warren (D-MA), Bob Menendez (D-NJ), Tammy Baldwin (D-WI), Mark Warner (D-VA), Sherrod Brown (D-OH), Ron Wyden (D-OR), Heidi Heitkamp (D-ND), Cory Booker (D-NJ), Patty Murray (D-WA), Patrick Leahy (D-VT), Chris Van Hollen (D-MD) and Martin Heinrich (D-NNM).