



Maxed Out Movie Night Discussion Guide

Thanks for signing up to host a movie night to discuss the film *Maxed Out* and the report “*The Arbitration Trap: How Credit Card Companies Ensnare Consumers.*” Use this guide to start a dialogue on these important issues with your guests.

Maxed Out Discussion Questions

1. The director, James Scurlock, originally set out to make a movie about the crazy spending habits of Americans. It was only after he started researching the issue and interviewing borrowers that he changed his focus to the lending industry and the effects of deregulation.
 - Did the movie make you look at the consumer debt crisis in America differently?
 - Do you think lenders are partially responsible for America’s debt crisis? How so?
2. Before seeing the movie, did you think there were government regulations to protect consumers – such as maximum charges for interest rates, fees and penalties?
3. Do you think our government is partially responsible for America’s debt crisis?
4. While Scurlock acknowledges consumer responsibility, he also concludes that aggressive marketing and other tactics are employed by the lending industry to get us into debt and keep us there. He believes that consumers should be protected against these practices.
 - Do you think consumers should be better protected?
 - Or, do you think it is solely the responsibility of individuals to protect themselves against lending traps?
5. Do you think average Americans have the information they need to sufficiently protect themselves against abusive loan products?
6. Do you think it is right that lenders aggressively market credit lines to certain types of consumers? (e.g. college students on their campuses, retirees on fixed incomes, people who have recently filed bankruptcy, people who might

not understand the credit terms due to limitations of language, education and/or health?)

7. Foreclosures, bankruptcies, defaults *and* banking profits are all increasing. What does this mean for consumers?
8. How have changes in expectations, attitudes and practices on the part of lenders and consumers changed over the last two generations?
9. At the end of *Maxed Out*, the director shows the national debt clock, already well past eight trillion dollars. Do you think the national debt and individual consumer debt are related? Why or why not? If they are related, how so?
10. The credit card industry took in \$43 billion fees and penalties in 2004 and \$11 billion in late fee income alone in 2005.
 - How have bank fees changed in the last 20 years?
 - What is the purpose of fees and penalties: to cover administrative costs, to encourage timely payments, to increase profits, and/or to increase a significant additional revenue stream?
11. Harvard Law Professor Elizabeth Warren tells us that she wrote to Alan Greenspan, former Chair of the Federal Reserve, and asked him what the “end plan” was, given the rising debt levels of individuals and the American government. He didn’t reply, but . . . what *might* he have replied?

“The Arbitration Trap: How Credit Card Companies Ensnare Consumers”
Discussion Questions

To begin the discussion, you might first remind your guests about the “Sneak Peek” of the “The Arbitration Trap” they received prior to the movie night. You may want to give a brief introduction of the report and binding mandatory arbitration for any guests who may not have had a chance to read the overview. It also would be useful to hand out the report for the discussion, as some of the findings are referenced by page number in the questions below.

1. Were you shocked to learn that you are very likely bound by a mandatory arbitration clause in the fine print of your credit card contract – or in your cell phone, insurance, mortgage or other consumer and employment contracts?
2. Why do you think binding mandatory arbitration (BMA) clauses are so prevalent in consumer contracts?
3. Binding mandatory arbitration clauses are often a condition of receiving a good or service, and then lock consumers into an alternative, for-profit system before any dispute arises. How do you think pre-dispute arbitration might differ from non-binding arbitration, mediation or other forms of alternative dispute resolution that are chosen by the parties *after* a grievance occurs?

4. Although some credit card contracts contain an “opt-out” clause that permits consumers to refuse BMA, opting out usually requires notice in writing within a short period of time from initiation of the contract, typically 30 days.
 - Have any of you ever noticed an opt-out clause for BMA and used it?
 - Do you think this kind of opt-out clause creates a real choice?
5. In binding mandatory arbitration, consumers give up many of the rights and safeguards found in the civil justice system like rights to information (discovery), an impartial decision maker and due process rules (see the chart on page 10 of the report). How do you think signing these rights away might change a consumer’s experience in BMA?
6. The story of how Anastasiya Komarova (found in the “Sneak Peek” and on pages 26-27 of the report) illustrates how anyone is vulnerable to being caught in the arbitration trap – even someone who never signed a contract in the first place. Hers was a case of mistaken identity ignored by the arbitration company. How do you think her case would have been different if brought before a judge or jury?
7. Shrouded in secrecy, most of the time only the credit companies know the record of how arbitrators and arbitration companies have decided cases. California is the only state that requires any kind of public disclosure on arbitration proceedings.
 - Why do you think BMA is so secret?
 - Do you think such a secretive process can be fair for consumers?
8. Public Citizen’s study found a very strong incentive for arbitrators to rule in favor of the businesses. Do you think arbitrators who receive repeat business from a credit card company can be impartial?
9. The Public Citizen study exposes a troubling amount of bias in binding mandatory arbitration cases in California. The study found that arbitrators found in favor of the companies 94 percent of the time. Are you surprised by this amount of bias?
10. Though touted as a cost-saving method of settling disputes for corporate clients, BMA often costs consumers more than court. On page 36 of “The Arbitration Trap,” there is a table showing the filing fees for arbitrating compared to various court systems, and NAF’s forum fees. How do these costs tip the balance in favor of the credit card companies?
11. A poor credit rating is often a very damaging side effect for those caught in BMA, as in the case of Troy Cornock (whose story is found on pages 11-12).
 - How do you think a poor credit rating might impact your life?
 - What do you think are the remedies for a poor credit due to a BMA judgment?

12. What type of consumer do you think is harmed most when pursued by a credit company through binding mandatory arbitration?
13. In California it appears as though credit companies are using binding mandatory arbitration primarily as an alternative means to debt collection. Why do you think credit companies like to use BMA for debt collection?
14. One way to increase consumer choice is to legislate to limit the use of mandatory arbitration. The Arbitration Fairness Act of 2007, introduced in the Senate by Sen. Russ Feingold (D-Wis.) and in the House by Rep. Hank Johnson (D-Ga.), doesn't prohibit arbitration. But it requires that arbitration be freely chosen by consumers after the dispute arises – rather than forcing people to agree to arbitration in advance through a contractual provision.
 - Do you think this is a reasonable solution?
 - What other steps could be taken to protect consumers from BMA?
15. If you turn to Chapter IV on page 56 of the report you'll find some ways you and other consumers can fight BMA and protect themselves.
 - What steps do you think you will take to protect yourself?
 - How can you spread the message to others?

We hope this Discussion Guide inspires both thoughtful conversation and activism. We'd like to share the comments, questions and suggestions generated at your movie night with others. Please send a description of your movie night along with any pictures or video to us at action@citizen.org.