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Mr. Chairman, thank you for the opportunity to testify before the Subcommittee. My name is Evan Hendricks, Editor & Publisher of *Privacy Times*, a Washington newsletter since 1981. For the past 23 years, I have studied, reported on and published on a wide range of privacy issues, including credit, medical, employment, Internet, communications and government records. I have authored books about privacy and the Freedom of Information Act. I have served as an expert witness in Fair Credit Reporting Act and identity theft litigation, and as an expert consultant for government agencies and corporations.

I was closely involved in the six-year process that resulted in the 1996 Amendments to the Fair Credit Reporting Act. An important lesson to be drawn from that exercise is that the best way to improve our national credit reporting system is to strengthen protections for consumers. The more power that consumers have to maintain reasonable control over their credit reports, the better the chances for improving their accuracy and ensuring they will be used fairly and only for permissible purposes.

The 1996 Amendments aimed to address several problems, including chronic inaccuracy, non-responsiveness and inadequate reinvestigations by consumer reporting agencies (CRAs) and furnishers, the reinsertion of previously deleted data and the impermissible use of credit reports. Congress recognized that the evolution of a reporting system that became more national and scope and more automated also necessitated a legal evolution that would further empower consumers to be the guardians of their own data. Congress has always recognized that the States play an important role in advancing consumer protection, both through enforcement and innovative legislation.

The record is clear that credit report inaccuracy, inadequate reinvestigations, CRA and furnisher non-responsiveness, reinsertion and impermissible use persist to this day as serious problems that are damaging to consumers and the credit reporting system itself. Moreover, our laws for protecting the privacy of financial data not covered by the FCRA are woefully inadequate. Thus, it is imperative that Congress further strengthens the FCRA and national financial privacy laws, and gives the States more freedom to act in ways that are consistent with the overall national goal of protecting consumer privacy.

The unfortunate reality under the current system for many consumers who are victims of inaccurate credit reports and/or identity theft is that they can only force CRAs and furnishers to truly reinvestigate and correct errors by filing a lawsuit. I have seen cases in which consumers followed all the normal procedures to get errors corrected, only to find that inaccurate information was "verified" as reported, or previously deleted information was reinserted. In these cases, the procedures of CRAs and furnishers were simply unable to achieve accuracy.

As I will detail in this statement, the market forces (i.e., the high volume of disputes and cost of personnel) has created a regime that is tolerating significant, and probably unacceptable, levels of inaccuracy. For those consumers, this creates a corresponding chain of damages. It also raises serious questions about the accuracy and integrity of the data in the national credit reporting system.

In fact, the CRAs, as a matter of policy, give priority treatment for people that have filed suit or have threatened to sue. In my opinion, CRAs have calculated that it costs less to fend off the occasional lawsuit than to invest the resources necessary to prevent the problems that caused credit report inaccuracies to become the leading cause of complaints to the FTC in 1991-93. The CRAs are probably correct. Filing suit under the FCRA is a daunting and arduous task, due to the enormous discovery challenges and defense litigation tactics. There is only a small community of plaintiffs' attorneys that specialize in the area. I have spoken with consumers that could not on their own find an attorney to represent them.

The 1996 Amendments attempted to preclude the need for litigation by specifying a higher standard of care for CRAs, furnishers and users of credit reports. We need to recognize the reality that the Amendments have not achieved their goal and that in too many instances consumers who want to protect their good name must sue.

Considering that CRAs keep records on some 190 million Americans, we also must recognize that we will never be able to build a bureaucracy big enough to enforce Americans' right to credit report accuracy and privacy. Therefore, it is necessary to "popularize" enforcement by strengthening individuals' authority to protect their own rights.

We discovered in 1970 that the advent of a national credit reporting system posed significant threats to privacy and fairness, and we enacted the FCRA. In the early 1990s, we discovered that the statute was not adequate to protect privacy and encourage accuracy, and enacted the FCRA Amendments in 1996. Today, the evidence is compelling that the current law is still inadequate and must be strengthened, and that the States have played and will continue to play an important role in protecting consumers and improving the system.

CRA Methods Can Cause Inaccuracy

A fundamental problem with inaccuracy is that it can cause the unjust denial of credit.

In several of the cases in which I have served as an expert witness, CRAs have mis-merged data about two different consumers because their algorithms tolerate what's known as "partial matches." If you are an unlucky consumer who gets on the wrong side of a CRA's algorithms, your life can become a nightmare.

First, a brief description of how the database systems of the three major CRAs operate. The credit grantors (furnishers) regularly send the CRAs millions of bits of data on consumers' payment histories. The CRAs store this information in a massive database that includes information on virtually all American adult users of credit. When a consumer applies for credit, the credit grantor (subscriber) relays to the CRA identifying data from the consumer's credit application, at a minimum, name and address, often the SSN, and sometimes date of birth. Applying this identifying or "indicative" data, the CRA's algorithm then decides which information in the database relates to or "matches" that consumer, and then "returns" to the credit grantor (subscriber) a consumer credit report consisting of these data.

The algorithm has a list of factors it considers when deciding which data in the database apply to which consumers. The first factor is geographic region. Another key factor is the SSN. First name and last name are separate factors.

From the CRA's point of view, an important goal is to provide the credit grantor with all data it has about the consumer and to ensure that nothing is missed. Therefore, TU seeks to maximize disclosure of any *possible* information that might relate to consumer about whom a subscriber inquires. To accomplish this, the algorithm is designed to accommodate such errors as transposed digits within SSNs, misspellings, nick names and changed last names (women who marry), by accepting "partial matches" of SSNs and first names, and in some circumstances, assigning less importance to last names.

In my opinion, the manner in which CRA's systems tolerate partial matches has been a primary cause of mixed files and other inaccuracies, and has been readily exploited by identity thieves.

For example, the testimony in the case of Judy Thomas, a resident of Klamath Falls, Oregon, was that Thomas' SSN was only one digit different than that of Judith Upton, of Stevens, Washington. This, probably coupled with partial matches on first name, caused CRA's algorithm to assume that the one-digit difference was a clerical error and that Thomas and Upton were the same person, with one SSN. Many of Upton's derogatory trade lines were improperly merged on to Thomas' credit report, causing delays in obtaining a mortgage and other hassles and distress.

In the case of Myra Coleman, of Mississippi, Maria Gaytan, of California, applied for credit using Ms. Coleman's SSN, creating an exact match of the SSN. This exact match allowed

CRA's algorithm to tolerate major and obvious differences in last name, address, City, State and date-of-birth. Gaytan's derogatory trade lines then polluted Coleman's credit report.

Then there is the case of Carol Fleischer, who was improperly merged with Carolyn Cassidy. In 1991, when she applied for credit, the CRA's algorithm saw there was another "Carolyn" (albeit Cassidy) living in Michigan (albeit Highland, instead of Ann Arbor) and an SSN with only one digit difference. This caused Cassidy's negative trade lines to be merged into Ms. Fleischer's credit report, which was then returned to the credit grantor to which Ms. Fleischer had applied for credit. But in 1997, Ms. Cassidy apparently put Ms. Fleischer's SSN on Cassidy's credit applications. Again, the exact SSN match, coupled with a partial match in the first name and market area, allowed the CRA algorithm to tolerate obvious differences in several other data fields. In sum, instead of using the SSN as a tool for inaccuracy, in these situations, the CRA converts the SSN into a tool for inaccuracy.

In certain circumstances, some CRA algorithms tolerate a partial SSN match of 7 out of 9 digits. In my opinion, this is inconsistent with separate consent agreements between the CRAs and either the State Attorneys General or FTC to use "Full Identifying Information," defined as "full last and first name; middle initial; full street address; zip code; year of birth any generational designation; and social security number."

<u>Inadequate Reinvestigation, Major Volume</u>

It can be very problematic for consumers when a CRA improperly mixes their data with someone else. But it can be extremely maddening when the CRA then fails to "unmix" it after errors are disputed.

Every independent study of the credit reporting system has found significant levels of inaccuracy. This includes the most recent studies from the Consumer Federation of America and the Federal Reserve Board, and a succession of studies by the U.S. Public Interest Research Group and Consumers Union ranging back to 1990.

In my opinion, another indication of inaccuracy is the large volume of disputes received by the CRAs. The estimates are that CRAs receive from anywhere between 5,000 to 25,000 consumer disputes per day, with 7,000-10,000 being the more typical range. CRA dispute handlers are expected to handle between 10-12 consumer disputes per hour. Because each consumer dispute averages three disputed items, this means the CRA employee only has a few minutes to handle each disputed item (36 disputed items, divided by 60 minutes = 1.66 minutes)

(What we do not know at this point is what percentage of disputes are driven by credit repair clinics, which typically attempt to flood the system.)

Credit grantors have seen a jump in dispute volume as well. For instance, in October 2001, Capital One received about 1,000 disputes per day, according to a company official. By May 2002, it had grown to 2,000 disputes per day. The official said the number of disputes has now grown to 4,000 per day.

To deal with this volume, the CRAs and furnishers have set up an automated system for exchanging messages when consumers dispute inaccuracies in their credit reports. For example, a consumer writes to the CRA to dispute inaccurate information in his or her credit report. The consumer's letter provides detail of the errors. Supporting documentation is attached. But rather than forward this information to the furnisher, the CRA typically reduces the consumer's dispute to a two-digit code (usually meaning "Not Mine") and sends it to the furnisher. The furnisher typically will only check to see if the information it previously furnished is the same information it has on file. If it is the same, then the furnisher "verifies" the previously furnished information.

In other words, market forces, i.e., the high volume of disputes and the cost of human resources, have prompted the financial services industry to cut corners when it comes to FCRA reinvestigations.

This process is particularly maddening for consumers who are victims of mixed files and/or identity theft. For instance, when Judy Thomas disputed information generated by Judith Upton, the furnishers "verified" the information because they previously had reported the same information about Judith Upton.

Of course, this is a huge breakdown in how the system is supposed to work. In the 1996 Amendments, Congress specifically required CRAs to "forward all relevant information" concerning a consumer dispute to the furnishers. All parties were required to conduct reinvestigations. This two-dimensional message exchange does not amount to a true reinvestigation. (My *Webster's New Collegiate Dictionary* defines "investigate" as "to observe or study by close examination and systematic inquiry." One of the definitions of "systematic" is "marked by thoroughness and regularity.")

The testimony before this Subcommittee last week by Leonard Bennett, a Virginia consumer attorney, provides great detail as to the defects in this process. The bottom line is that the current "reinvestigation" process engaged in by CRAs and credit grantors is not designed to find the truth. Like Mr. Bennett, I quote from a deposition of the Capital One employee responsible for consumer disputes, who was being questioned by Michigan attorney Ian Lyngklip.

> Q For purposes of how you administer to the FCRA, does the underlying truth of the matter enter into the decision? In other words, if the information in Cap One's system is not, in fact, true, is Cap One going to verify the data as accurate as long as it matches?
>
> A Not -- if we -- if we do not -- I'm not quite sure if you're -- are you -- restate that question.
>
> Q Sure, I can do that. Cap One, as a matter of how it administers to the FCRA --

A Uh-huh.

Q -- and looks at the accuracy requirements, does not equate accuracy with truthfulness, what it does is it measures accuracy in terms of whether or not the data matches between what's in the credit reporting system and what's in Cap One's computer; is that a fair statement? . . .

A So your, your -- the way the question is posed to me makes it sound like I have to choose between whether I'm saying what my associates do is accurate or truthful but not both.

Q Well, no, what I'm asking is this: Is it possible, is it possible that Cap One will verify information that is not, in fact, truthful?

A There's a possibility of that. It certainly would not be done intentionally.

Unfortunately, I have seen several cases in which furnishers “verified” derogatory data about consumers that simply was not true. So far, several of the major credit grantors use a similar, two-dimensional system, and the CRAs appear to encourage them to do so. In the near future, I intend to write a letter to the CRAs advising them that the reinvestigation procedures of several major furnishers do no attend to a sufficiently high standard of care and are not designed to effectuate a true reinvestigation. Similarly, I intend to advise the furnishers that the CRA’s, as a matter of course, often fail to forward to them all relevant information provided by the consumer, again, undermining the reinvestigation process.

Other problematic procedures by either the CRAs, furnishers and users include:

- Raising interest rates on consumers who were never late, but based on review of their credit reports
- Continuing account reviews well after a consumer has terminated a relationship with a creditor
- Using the national credit reporting system as an arm of debt collection in an unfair manner
- Lack of consistency in issuance of adverse action notices

<u>The Damaging Nature Of Inaccuracy, Non-Responsiveness, Faulty Reinvestigations & Identity Theft</u>

I will try to briefly summarize some of the ways in which consumers are damaged by inaccurate credit reports, non-responsiveness and faulty reinvestigations by CRAs and furnishers.

- Inaccurate data can lead to the unjust denial of credit or insurance
- In the age, of risk-based pricing, inaccuracies can result in the granting of credit or insurance on less favorable terms.
- Seeking to facilitate correction of inaccuracies can be time-consuming, causing a lost of time, energy and opportunity.
- Often the most profound damage that consumers suffer is the emotional distress that accompanies: the discovery of inaccuracies in one's credit report; and/or the frustrating process of trying to correct errors that were to not of one's own making; and/or the unjust denial of credit; and/or of being told that false information about you has been "verified," and/or that information that was previously deleted as inaccurate was reinserted without notice.

It also is distressful not knowing everyone who may have associated you with highly derogatory credit data. It can be difficult to maintain constructive personal relationships under stress. It can be difficult to perform adequately at one's job.

With identity theft, all of the above damages apply, compounded by the fact that a criminal is joyriding on your good credit, ruining your name.

In fact, some of the worst damages resulting from identity theft relate to the consumer's frustrating interaction with the national credit reporting system. As Jodie Bernstein, former head of the FTC's Bureau of Consumer Protection testified July 12, 2000 before the Senate Judiciary Subcommittee on Technology, Terrorism and Government Information,

> "The leading complaints by identity theft victims against the consumer reporting agencies are that they provide inadequate assistance over the phone, or that they will not reinvestigate or correct an inaccurate entry in the consumer's credit report. In one fairly typical case, a consumer reported that two years after initially notifying the consumer reporting agencies of the identity theft, following up with them numerous times by phone, and sending several copies of documents that they requested, the suspect's address and other inaccurate information continues to appear on her credit report. In another case, although the consumer has sent documents requested by the consumer reporting agency three separate times, the consumer reporting agency involved still claims that it has not received the information." http://www.ftc.gov/os/2000/07/idtheft.htm

In her March 7, 2000 testimony before the Subcommittee, Bernstein elaborated further:

> A consumer's credit history is frequently scarred, and he or she typically must spend numerous hours sometimes over the course of months or even years contesting bills and straightening out credit reporting errors. In the interim, the consumer victim may be denied loans, mortgages, a driver's license, and employment; a bad credit report may even prevent him or her from something as simple as opening up a new bank account at a time when other accounts are tainted and a new account is essential. Moreover, even after the initial fraudulent bills are resolved, new fraudulent charges may continue to appear, requiring ongoing vigilance and effort by the victimized consumer." . . .
>
> Identity theft victims continue to face numerous obstacles to resolving the credit problems that frequently result from identity theft. For example, many consumers must contact and re-contact creditors, credit bureaus, and debt collectors, often with frustrating results."
> http://www.ftc.gov/os/2000/03/identitytheft.htm

The General Accounting Office wrote in one of if its first reports on identity theft in 1998:

> "Identity theft can cause substantial harm to the lives of individual citizens -- potentially severe emotional or other non-monetary harm, as well as economic harm. Even though financial institutions may not hold victims liable for fraudulent debts, victims nonetheless often feel 'personally violated' and have reported spending significant amounts of time trying to resolve the problems caused by identity theft -- problems such as bounced checks, loan denials, credit card application rejections, and debt collection harassment," it wrote. (GAO-02-424T, *Identity Theft: Available Data Indicate Growth in Prevalence & Cost* (www.gao.gov/new.items/d0242t.pdf)

What's at stake here is nothing less than the good name of every American who participates in the economy. The view that one's good name is of paramount importance is supported by FTC complaint statistics. In 1993, the U.S. Public Interest Research Group (USPIRG) issued a report based upon a Freedom of Information Act request to the FTC, which showed that inaccuracies in credit reports was the leading cause of consumer complaints to the FTC. This category led all others, including categories that include out-of-pocket losses.

1. Credit bureaus (30,901);
2. Misc. Credit (22, 729);
3. Investment Fraud (12,809);
4. Equal Credit Oppt. (11,634);
5. Automobiles (6,901);
6. Truth-In-Lending (6,303);
7. Household Supplies (5,835);

8. Recreational Goods (5,747);
9. Mail Order (4,687)
10. Food/Beverage (2,738).

Ten years later, FTC complaint statistics confirm that consumers care most about protecting their good name, well above other categories involving out of pocket losses. For three years running, identity theft is the leading cause of complaints to the FTC, These are the numbers from the FTC's January 23, 2002 release

1. Identity Theft (42%);
2. Internet Auctions (10%)
3. Internet Services and Computer Complaints (7%)
4. Shop-at-Home and Catalog Offers (6%)
5. Advance Fee Loans and Credit Protection (5%)
6. Prizes/Sweepstakes/Gifts (4%)
7. Business Opportunities and Work at Home Plans (4%)
8. Foreign Money Offers (4%)
9. Magazines and Buyers Clubs (3%)
10. Telephone Pay-Per-Call/Information Services (2%)

http://www.ftc.gov/opa/2002/01/idtheft.htm

This might be surprising to some, but it shouldn't be. Protecting one's good name is so fundamental to mankind that Shakespeare wrote about it some 400 years ago.

> Who Steals My Purse steals trash: 'Tis something, nothing;
> Twas mine 'tis his and has been slave to thousands.
> But he that filches from me my good name
> Robs me of that which not enriches him,
> And makes me poor indeed.

Because credit-reporting problem can be extremely damaging to consumers, I urge this subcommittee to devote one hearing to taking testimony from victims of credit report inaccuracy and identity theft. In my opinion, only that way will the subcommittee get a full appreciation of how profoundly damaging these problems are, and why stronger measures are needed to prevent them.

The Exemption Provisions

There has been a lot of discussion about the need to reauthorize the FCRA preemption provisions in order to maintain uniform national standards. But in at least in three crucial areas, the preemption provisions either do not set any real national standard or set ones that are so weak and ineffective that they need to be significantly strengthened. Moreover, consumer protection would be advanced by freeing up the States to protect their citizens in this area, particularly if Congress is unable to enact a sufficiently strong national standard.

Duties On Furnishers

As a political compromise, Congress in 1996 created a multi-tier system that places only a minimal duty on furnishers to report information accurately to credit bureaus. The first national standard (1681s-2(A)) merely requires that creditors not furnish information that they know or consciously avoid knowing is inaccurate. This standard is extremely weak; the American people deserve better. If there is non-compliance with this provision, even after the consumer notifies the credit grantor of the reporting errors, then the only entities that can take enforcement actions are the federal or state agencies with jurisdiction. To my knowledge, there have been no enforcement actions under this section.

Individuals only have the right to enforce their own rights under the second national standard (1681s-2(B)) after: (1) they dispute the credit grantors' errors with the CRA, (2) the CRA communicates that dispute to the credit grantor, and, (3) the credit grantor reports the disputed inaccurate information again.

In my opinion, these FCRA "national standards" contribute to inaccuracy because they give credit grantors much too much leeway to engage in sloppy reporting practices. In practice, they have proven to be ineffective. They create too many hoops for consumer to jump through in order to facilitate simple correction of errors. For instance, if the consumer is not aware that he must dispute a credit grantor error with the CRA, then he cannot get enforcement unless some Federal agency like the OCC is willing to go to bat for him. (You can bet that won't happen.) If he does report it to the CRA and the problem continues, some consumers have found it difficult to prove that the CRA relayed the dispute to the credit grantor. Even when consumers have satisfied these requirements, leading credit grantors, like Sears and MBNA, have argued that S-2(b) doesn't give consumers the right to sue. As Leonard Bennett told you last week, MBNA argues that there is no national standard. I disagree with MBNA on this point, but it is clear that the standard is not sufficient to protect consumers' privacy and promote healthy accuracy throughout the national credit reporting system. Therefore, if the Committee is unable to bolster protections for consumers in this area, it should leave the States free to do so.

Pre-Screening

Another national standard, relating to pre-screening, requires senders of so-called pre-approved credit or insurance offers to "provide with each written solicitation . . . a clear and conspicuous statement that" the CRA was the source of the information and that the consumer can opt out. As confirmed by the piles of pre-approved credit offers that most of us receive via the mail, most of the notices in reality are neither clear nor conspicuous. In his testimony last week, U.S. PIRG's Ed Mierzwinski included a typical opt-out notice in his testimony. Most of the notices feature the kind of fine print that consumers typically ignore, mimic the language from the statute itself, and would not score high in readability tests. They usually include sub-heads that would not attract the reader's eye, like, "Notice Regarding Pre-Screened Offer," or Terms of Pre-Approved Offer," or Fair Credit Reporting Act Notice."

In other words, these are "notices" that are designed not to be noticed. The first line typically advises that "information in your credit report was used in connection with this offer," and "you received this offer because you satisfied the criteria for creditworthiness used to select you for this offer." The next line finally informs you that you're not really pre-approved in the way you might think: "Grant of this offer, after you respond to it, is conditioned upon your satisfying the creditworthiness criteria used to select you for the offer." By the fourth line, the notices advise, "You have the right to prohibit use of information in your file with any credit reporting agency in connection with any transaction that you do not initiate." If the reader gets through all that, he can finally find the address to write the three CRAs or the number to call (888) 567-8688.

In my opinion, the vast majority of Americans, despite regularly receiving pre-screened offers, are not aware that these offers are generated from their credit report. We may learn soon that there is a heightened urgency in making Americans aware.

Privacy Times is in the early stages of an investigative story on how various criminal gangs across the nation, intent on committing identity theft and credit fraud, are targeting mail boxes for consumers' personal information and financial instruments. Their favorite targets include "convenience checks," pre-approved credit card offers and bank statements. The gangs involved with these have demonstrated different levels of sophistication. Some consist of drug addicts; others are associated with specific foreign nationals. Some of the more active gangs hit 200-300 mailboxes in one day. Some of the gangs try and use convenience checks or pre-approved credit card offers to get credit quickly. Others sell the personal data to other gangs specializing in identity theft, credit fraud and counterfeiting.

In one recent month in one mid-sized western city, there were 20 arrests and 14 prosecutions. In that city, one law enforcement team has four of its six investigators dedicated to identity theft.

Like everything related to identity theft, the raiding of mailboxes by ID theft gangs promises to get worse. Therefore it is imperative that we strengthen the rights of Americans to have reasonable control over their identifying information and sensitive financial data so they can protect themselves against identity thieves. This means not only strengthening consumers' rights to know about and stop the use of their data for pre-screening, but also blocking use of their personal data for other financial offers that might not be made from affiliate-sharing or other process that falls outside of the FCRA-regulated pre-screening. I agree with U.S. PIRG that the solution to this problem is a national "Do Not Send Credit Offers" Registry, similar to the "Do-Not-Call" Registry being developed by the FTC.

Pre-screening clearly played an important role in the past decade's credit boom. But we have to recognize that times are changing, so we are looking forward and "not fighting the last war." The above-described threat from criminal gangs should cause us to examine critically the costs and benefits of pre-screening. Moreover, in today's hyper-competitive credit markets, consumers have an array of choices and ways they can find the best credit offers when they so choose, including radio and print ads, the Internet and the telephone.

Affiliate Sharing

"No requirement or prohibition may be imposed under the laws of any State . . . (2) with respect to the exchange of information among persons affiliated by common ownership or common corporate control." Thus, the FCRA's provision on affiliate-sharing do not set a national standard, it simply bars State action. In effect, the provision says there shall be no standard.

Because the provision was added hastily in 1996 with no hearings or analysis, it is poorly crafted and confusing. The financial services industry has argued that the provision bars California or its localities from enacting provisions that would strengthen consumers' rights to opt-out from affiliate sharing of financial data not covered by the FCRA.

This is a rather bizarre situation, because Gramm-Leach-Bliley also does not set a national standard on affiliate sharing – it only provides notice and opt-out for sharing with third parties. In GLB, Congress recognized that affiliate sharing implicated important privacy issues and specifically added the Sarbanes Amendment, preserving the rights of the States to enact stronger financial privacy laws, including ones that gave consumers rights in relation to affiliate sharing.

The GLB notice-and-opt out standard has proven ineffective. The notices generated under the law are confusing to consumers and costly to industry. Last year, the people of North Dakota voted 72% in favor of restoring an opt-in financial privacy law. If the California legislature fails to pass Sen. Jackie Speier's legislation (SB 1, an opt-in for third parties, opt- out for most affiliates), then Californians will vote an even stronger initiative in March 2004. Opinion polls show that 85-90% of Californians favor an opt-in standard for their sensitive financial data.

This should come as no surprise. I would urge members of this committee, when opportunity arises, to ask constituents two straightforward questions: "Should banks have to get your permission before they sell or share your financial data with outsiders? Should you have any rights to stop companies from sharing your financial data among affiliates?"

Congress has the opportunity to correct the mistakes of GLB, which is not based upon traditional Fair Information Practices standards, and expand the protections of the FCRA to all sensitive financial data. The American people want this. If Congress is unable to accomplish this, the States must be left free to protect their citizens.

In my opinion, problems in the current system are too far-reaching for Congress to come with thoughtful, workable legislative solutions in less than six months. After all, it took six years to enact the 1996 amendments. To advance the legislative debate, I've attached the following list of preliminary concepts for improving the law.

Preliminary Concepts For Improving The FCRA/National Financial Privacy Law

The following are some of the preliminary concepts are vital to updating the FCRA and national financial privacy laws. This list is the work of several groups and experts, including U.S. PIRG, Consumers Union, Consumer Federation of America, National Association of Consumer Advocates, National Consumer Law Center and myself.

BRIEF SUMMARY OF IMPROVEMENTS FOR FCRA, FINANCIAL PRIVACY

1) Strengthen, Promote Consumer Access To Credit Reports
   - A. One Free report per year w/ Credit Score (Explained)
   - B. Cap price of monitoring/alert services
     (Accuracy & ID Theft Benefits)
   - C. Require credit grantor to provide credit report that caused adverse action

2) Improve Accuracy
   - A. Strengthen Duty On Furnishers To Report Accurately & Reinvestigate Disputes –
   - B. Require that furnishers who report, abide by a "completeness" standard
   - C. Notify consumers when negative info reported
   - D. Shorten reinvestigation period

3) Identity Theft
   - A. Match four identifiers before disclosing credit report
   - B. Fraud Flag Alert
   - C. Address Change verification
   - D. Get the SSN out of circulation (Anti-Coercion, Credit Headers)

4) Strengthen Consumer Rights Over Pre-Screening
   - A. Notice prescribe by statute, prominence requirement
   - B. Have a National Opt Out Registry for All Credit Card Offers

5) Affiliate-Sharing Privacy –
   - A. Enact Shelby-Markey opt-in, opt-out for third party & affiliate-sharing
   - B. Extend access/correction rights to all financial data

6) 'Democratize/Popularize' Enforcement
   - A. Minimum statutory damages
   - B. 'Catalyst theory' for attorneys fees
   - C. Express consumer right to File In Small Claims Court (Like TCPA)

7) Add Injunctive Relief

8) Ban Use of Credit Scores in Insurance

9) Eliminate State Preemption