



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

January 7, 2004

Mr. Chris Hoofnagle  
Electronic Privacy Information Center  
1718 Connecticut Avenue, N.W.  
Suite 200  
Washington, DC 20009

Re: FOIA 2003-03-029

Dear Mr. Hoofnagle:

This letter is in response to your Freedom of Information Act (FOIA) request dated February 7, 2003.

Enclosed are 238 pages found to be responsive to your request but which include some information that has been deleted. Information has been deleted in accordance with subsection (b) (5) of the FOIA, 5 U.S.C. 552. Exemption (b) (5) exempts from disclosure "inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency." In addition, some information also has been deleted in accordance with subsection (b) (6) of the FOIA, 5 U.S.C. 552. Exemption (b) (6) exempts from disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

This office also found 454 pages which are responsive to your request, but cannot be disclosed in accordance with subsection (b) (5) of the FOIA, 5 U.S.C. 552.

This is a partial denial of your request. You may appeal this decision within 35 days from the date of this letter. Your appeal must be in writing, signed by you, and should be addressed to:

Freedom of Information Appeal  
Disclosure Services, DO  
Department of the Treasury  
Washington, DC 20220

The appeal should specify the date of your initial request and the date of this letter. If possible, please provide a copy of your request and this letter. The deciding official on your appeal will be the Assistant Secretary for Financial Institutions.

Fees were minimal and have been waived.

Sincerely,

Susan Hart

Office of Critical Infrastructure Protection  
and Compliance Policy

Enclosures

AbernathyDocs3.txt

From: Abernathy, Wayne  
Sent: Monday, January 27, 2003 5:39 PM  
To: 'Monte Ward'  
Subject: RE: Magazine Article

Monte,

Thanks for the invitation. Let me discuss it with folks here and get back to you. It looks like a very good opportunity to get out our message to friends.

Wayne

-----Original Message-----

From: Monte Ward [mailto:MWARD@namic.org]  
Sent: Monday, January 27, 2003 4:57 PM  
To: Wayne.Abernathy@do.treas.gov  
Subject: Magazine Article

Wayne,

We have a magazine that publishes every other month that goes to our membership and other subscribers. Would you be interested in writing an article for the magazine on the Fair Credit Reporting Act (FCRA). It doesn't have to be long article, around 800-1000 words. If any questions, please let me know. We would love to have you in the magazine.

Monte

Monte N. Ward  
Vice President - Federal Affairs  
mward@namic.org  
National Association of Mutual Insurance Companies (NAMIC)  
Phone: (202) 628-1558/ Fax: (202) 628-1601  
Cell: (202) 368-6306

Visit NAMIC Online at [www.namic.org](http://www.namic.org)  
NAMIC: Turning Issues into Positive Results

From: Abernathy, Wayne  
Sent: Monday, January 27, 2003 5:34 PM  
To: Holahan, Betsy; Tishuk, Brian  
Cc: O'Brien, Michael  
Subject: RE: Magazine Article

Yes, I will ask Brian Tishuk if there is someone in his office that can do that. I would think of using this forum, this brief article, to make the case for how the national standards have tremendous importance, in terms of increasing availability of financial services, to more people at lower costs, in greater variety, and also how national standards are a critical support in the effort to fight identity theft. And therefore, in this year when these national standards expire, we have the opportunity not only to maintain these national standards, but to amend the statute to strengthen their role in the fight against ID theft.

This could give us an opportunity to test our message on a friendly audience.

1000 words, as I recall, is no more than 4 pages, double spaced, 12-point font.

-----Original Message-----

From: Holahan, Betsy  
Sent: Monday, January 27, 2003 5:17 PM  
To: Abernathy, Wayne

**Cox, Laura**

**From:** Treanor, Elizabeth [TreanorE@nrf.com]  
**Sent:** Monday, March 17, 2003 9:52 AM  
**To:** Treanor, Elizabeth; Lugar, Katherine  
**Cc:** Cartee, Andrew  
**Subject:** REMINDER: NRF / Neiman Marcus Invite -- FCRA Education

REMINDER

<<...OLE\_Obj...>> <<...OLE\_Obj...>>

The National Retail Federation  
&  
The Neiman Marcus Group  
Cordially Invite You to

An In-store Tour and Lunch

On  
Friday, March 21, 2003  
10:30 a.m.  
to  
1:30 p.m.

Neiman Marcus at Mazza Gallerie  
5300 Wisconsin Avenue, N.W.  
Washington, D.C. 20015

Discussion Will Include:

Identity Theft  
The Fair Credit Reporting Act  
Retail Structures and Information Sharing

R.S.V.P. to Andrew Cartee at NRF (202) 626-8151  
CarteeA@NRF.com

**Cox, Laura**

**From:** Cox, Laura  
**Sent:** Tuesday, February 25, 2003 7:00 PM  
**To:** 'Thomas J. Rosenkoetter'  
**Subject:** RE: Partnership to Protect Consumer Credit

Thanks for sending this along. It's excellent work! Kudos to all involved!  
Hope to catch up w/ you soon.

Best -  
Laura

Laura L. Cox  
Deputy Assistant Secretary for Banking and Finance  
Office of Legislative Affairs  
U. S. Department of the Treasury  
Direct: 202-622-6773  
Cell: 202-746-4350

-----Original Message-----

**From:** Thomas J. Rosenkoetter [mailto:TJRosenkoetter@wms-jen.com]  
**Sent:** Tuesday, February 25, 2003 4:09 PM  
**To:** Laura.Cox@do.treas.gov; john.duncan@do.treas.gov; wayne.abernathy@do.treas.gov;  
greg.zerzan@do.treas.gov  
**Subject:** Partnership to Protect Consumer Credit

We are sending this e-mail to make you aware of a new coalition, which has been named the 'Partnership to Protect Consumer Credit'. The Partnership is a broad based coalition made up of representatives of the retail community, the mortgage industry, all facets of the financial services industry, the consumer data industry and others. To learn more about the Partnership, please take a few minutes to see our website by clicking on the following link: <http://www.protectconsumercredit.org/>

Generally, the Partnership is devoted to protecting consumers' rights to accessible, affordable and confidential financial services and credit, and to ensuring smooth and efficient credit-based transactions for businesses through our national consumer credit system. Preserving the Fair Credit Reporting Act (FCRA) preemptions are essential to keeping down the cost of credit, aiding consumers in obtaining credit, assisting businesses in credit approval, providing consumers with timely and accurate personal credit information, reducing fraud and abuse, helping to prevent identity theft, minimizing errors in credit reporting, aiding law enforcement in tracking criminals and terrorists, and enforcing child support responsibilities.

Many of us take our national credit system for granted, but if the current system is put in jeopardy, it could result in more difficulties and costly delays for consumers, businesses, government agencies, and others. Given the need to make people aware of this issue and it's importance to consumers and the economy, the Partnership will be conducting an advertising campaign to help expedite this process. A copy of one of our advertisements has been attached for your review. You will likely see this and other ads in Roll Call, The Hill, Congress Daily and other publications. Additionally, the Partnership has created a website (see the link in the first paragraph) dedicated to educating voters, consumers, policy makers, the business community and others about the importance of protecting our current system. We will be constantly updating the Website, so please feel free to visit this site regularly to keep abreast of the latest developments concerning these issues.

If we can be of further assistance as it relates to the Partnership or its work, please do not hesitate to contact either of us.

Jeffrey A. Tassej  
Williams & Jensen, P.C.

Thomas J. Rosenkoetter  
Williams & Jensen, P.C.

1155 21st Street, NW  
Suite 300  
Washington, DC 20036  
Phone: 202-659-8201  
Fax: 202-659-5249

1155 21st Street, NW  
Suite 300  
Washington, DC 20036  
Phone: 202-973-5936  
Cell: 202-285-7161  
Fax: 202-659-5249  
email: tjrosenkoetter@wms-jen.com

CONFIDENTIALITY NOTICE: If you have received this e-mail in error, please immediately notify the sender by e-mail at the address shown. This e-mail transmission may contain confidential information. This information is intended only for the use of the individual (s) or entity to whom it is intended even if addressed incorrectly. Please delete it from your files if you are not the intended recipient. Thank you for your compliance.

Cox, Laura

From: Cox, Laura  
Sent: Monday, February 24, 2003 12:17 PM  
To: 'LugarK@nrf.com'  
Subject: Re: Website Is Live

Thanks

Exemption (b) (6)

I'll check out the website - sounds like great progress.  
See you soon -

Laura L. Cox  
Deputy Assistant Secretary for Banking and Finance  
Office of Legislative Affairs  
U. S. Department of the Treasury  
(202) 622-6773  
cell (202) 746-4350

-----Original Message-----

From: Lugar, Katherine <LugarK@nrf.com>  
To: Laura Cox (E-mail) <Laura.Cox@do.treas.gov>  
Sent: Mon Feb 24 11:32:07 2003  
Subject: FW: Website Is Live

Hey LC --

Exemption (b) (6)

Just wanted to let you know that the large FCRA coalition that we are involved with (comprised of a number of the large financial companies and trade associations) just got a very good website up and running. I wanted to send you the web address as an information resource. It is certainly a work in progress, but there is some pretty good stuff on there.

Hope to see you soon!

The Partnership's website is now live. To view the site, please go to the following link:  
<http://www.protectconsumercredit.org>

The purpose of this site is to be a resource for congressional staff, the administration, the media and others. The content of the website will be changing constantly - as developments occur, when we refine our materials, as we get permission to post additional materials and links, and for other reasons

-----Original Message-----

From: Wayne.Abernathy@do.treas.gov [mailto:Wayne.Abernathy@do.treas.gov]  
Sent: Thursday, February 13, 2003 7:18 PM  
To: Kurth, Tim  
Cc: Laura.Cox@do.treas.gov  
Subject: RE: meeting request on FCRA with House leadership staff

I would be eager to do this. You name the time and place, and I'll be there. I think that we have a golden opportunity to turn a potential vulnerability into a valuable opportunity to do a lot of good.

-----Original Message-----

From: Kurth, Tim [mailto:Tim.Kurth@mail.house.gov]  
Sent: Thursday, February 13, 2003 12:13 PM  
To: 'Wayne Abernathy'  
Subject: meeting request on FCRA with House leadership staff

Wayne, congratulations on your position at Treasury, I hope you're enjoying it. We've been hearing a lot from outside groups on expiration of FCRA, and your name has come up a few times as far as what the Administration might be thinking about. I've talked to Brian Gaston with Majority Whip's office, and our hope is that you, and whomever else you'd like to bring, might come over after the President's day recess and meet with us, other leadership staff, and Financial Services Committee staff about the issue. Our goal would be to make it as informal as possible, we just want to brainstorm a bit on how this issue will unfold this year. Is that possible? Thanks, Tim

Tim Kurth  
Office of Speaker J. Dennis Hastert  
H-419e, The Capitol  
Washington, DC 20515  
Phone: (202)225-0510  
Fax: (202)225-5646

Pedri, Melissa

From: Hart, Susan  
Sent: Thursday, January 31, 2002 1:42 PM  
To: Tishuk, Brian; Smith, Kristin; Robbins, Eric  
Subject: FW: HR 2036 - Shaw/SSN Limitations



01W&MShawlet.txt UseofSSNPartII.doc  
(6 KB) (29 KB)

fyi -- Stuart Pratt sent these in. We'll be meeting with him on Monday. -----Original Message-----

From: Pratt [mailto:SPratt@cdiaonline.org]  
Sent: Friday, January 25, 2002 12:40 PM  
To: susan.hart@do.treas.gov  
Subject: HR 2036 - Shaw/SSN Limitations

Susan

Thanks again for the return call this AM. Relative to the Shaw bill, attached are:

1. The Shaw letter to Ridge.
2. A background piece which helps explain why dealing with SSNs in a one-size-fits all approach isn't practical.

Below are some points about the Shaw bill from our perspective:

Title I - in general this title, under Sections 101 and 102 will threaten the availability of the SSN in public records (Tax Liens, Judgements, Bankruptcies) which are vital for consumer credit reporting and for other purposes. We do not have any confidence that state agencies will be able to appropriate the funding necessary to implement the requirements of these sections. States may simply drop the SSN or stop providing it all together, even where exceptions are allowed. As you can see in the attachment entitled "Use ofSSNPartI", absent an SSN, it is very difficult to accurately manage data, cross-match between data bases for fraud prevention and much more.

Title I, Sec. 101(a) of the bill proposes a blanket prohibition on state or federal agencies, courts, etc., sale of the SSN. There is an exception for FCRA, but the SSN can only be used for purposes under the FCRA. This means we cannot use the SSN for purposes permitted via exceptions enumerated under GLB, Title V, Subtitle (a), Section 502(e). Further, this limitation ensures we will not be able to develop security products which would otherwise be deployed in the private sector where the product isn't authorized under the FCRA.

Title I, Sec. 102(a) prohibits same state and federal courts, agencies, et al., from the "public display" of the SSN. Again the FCRA exception is too narrow in terms of non-FCRA products permitted via GLB or other law.

Title II proposes broad new regulatory powers for the U.S. Attorney General in consultation with SSA, FTC, et al., in regulating uses of the SSN in the private sector. This section does not attempt to address how this new regulatory oversight will or won't interfere with data flows used/permitted under GLB, FCRA, FDCPA, etc. Further, we are not clear on why members of the CDIA need to submit themselves to a dual regulatory regime for the SSN, which is otherwise regulated under statutes already discussed.

Title II, Sec. 202 - eviscerates all forms of fraud prevention. The SSN is the key to prevention of fraud, not the perpetration of the crime. This section would affect the ability of lenders to comply with Section 326, of Title III of the USA Patriot Act. It should be struck from the bill.



Title II, Sec. 203 - This section proposes that CDIA members cannot build any "public safety" or "fraud prevention" products which are not governed under the FCRA, even though the GLB, Title V, Subtitle (a), Section 502(e) says otherwise. Section 203 is a concept which predates the enactment of GLB and is not only necessary, but now should be considered an impediment to security and fraud prevention. It should be struck from the bill.

Susan, there's more I could say, but I'll look forward to our meeting in the near future to discuss this e-mail and also to hear your views.

Stuart

Stuart K. Pratt  
Vice President Government Relations  
Consumer Data Industry Association  
Washington, D.C.  
202.408.7416 - Direct

HuntDOCS

it to offer either or both of those opt-outs. These are the four alternatives:

- \* Version 1: a company that shares information with third parties in a way that requires the GLB opt-out and with affiliates in a way that requires the FCRA opt-out;
- \* Version 2: a company that does not share information with third parties in a way that requires the GLB opt-out, but does share with affiliates in a way that requires the FCRA opt-out;
- \* Version 3: a company that does share with third parties in a way that requires the GLB opt-out, but does not share with affiliates in a way that requires the FCRA opt-out; and
- \* Version 4: a company that does not share with third parties or affiliates in a way that requires either type of opt-out.

Let me emphasize that the draft notices are still very much a work in progress. They have not been approved by each of our member trade associations. Nevertheless, we think they provide a good "ballpark" indication of the type of simplified notice that could work. Needless to say, we would be happy to answer any questions you may have. While these versions are not a final solution, they do show that a simplified notice can be done.

I have requested a meeting for February 19 to discuss the notices with you. John Dugan, Fred Cate (Indiana University) and Mike Staten (Georgetown University) will join me. This also will provide us with the opportunity to further explain our FCRA study.

Philmore B. Anderson  
Tel. (202) 742-4651

From: Abernathy, Wayne  
Sent: Wednesday, February 12, 2003 7:02 PM  
To: Hunt, Betty Ann  
Subject: RE: Meeting Request

That would be good. Next week some time. 30 minutes. Whoever Michael D. wants to send, but just one person.

-----Original Message-----

From: Hunt, Betty Ann  
Sent: Wednesday, February 12, 2003 4:28 PM  
To: Abernathy, Wayne  
Subject: Meeting Request

Marsha Sullivan and Joe Belew (Consumer Bankers Association) called and would like to come in and meet with you to discuss "Privacy, FCRA and Financial Education".

would you like me to schedule?

Staff??

Thank you

Betty Ann Hunt  
Office of the Assistant Secretary  
for Financial Institutions  
(202) 622-2610  
(202) 622-2027 (fax)