

## THE FAIR CREDIT REPORTING ACT: ISSUES AND POLICY OPTIONS

### Introduction

The Fair Credit Reporting Act (FCRA) is a federal statute<sup>1</sup> designed to promote accuracy and fairness in credit reporting by regulating the activities of Consumer Reporting Agencies (CRAs),<sup>2</sup> those who furnish information to CRAs, and those who use consumer reports.<sup>3</sup> A consumer report is defined by the FCRA as any written, oral, or other communication by a CRA bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.<sup>4</sup>

These consumer reports, often called credit reports,\* can be issued to any eligible subscriber of a CRA for the purpose of establishing a consumer's eligibility for credit, insurance, rental housing, and employment.<sup>5</sup> However, information contained in credit reports is increasingly being used to determine more than whether a consumer meets certain eligibility qualifications. Credit report information is also being used to determine the pricing of the credit or insurance as well as how much credit will be given and under what terms.

For example, Table 1 lists the pricing structure used by one lender for automobile purchase loans based on the consumer's level of creditworthiness as measured by his or her credit report.

\*A credit report consists of four types of information. First, the report lists identifying information, such as name, last reported address, marital status, Social Security number, date of birth, spouse's name, number of dependents, previous address, and employment information. Second, the report lists the consumer's credit information, including credit account numbers, creditor's name, amount of last payment, credit limit, and credit payment history of each account. Third, any public record information, such as tax liens, court judgments, and bankruptcies, is listed. Last, the report notes inquiries and the names of any creditors that have reviewed a copy of the consumer's credit report.

**Table 1**  
**Creditworthiness and Loan APR**

CREDIT RATING	ANNUAL PERCENTAGE RATE
Excellent	4.50%
Good	5.39%
Average	6.29%
Fair	7.99%
Poor	13.95% to 20.95%

Source: E-Loan ([www.eloan.com](http://www.eloan.com)) new car purchase rates (36-month loan). Retrieved December 6, 2002.

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The FCRA seeks to prevent dissemination of incorrect, deceptive, or obsolete information about a consumer while also protecting the privacy of consumers by preventing disclosure of credit reports to unauthorized persons or entities. In addition, the FCRA allows consumers to access their files held by CRAs and to amend inaccurate information contained in these files.

This Issue Brief provides background on the credit reporting industry and describes the role of the FCRA in regulating the consumer credit reporting industry. It also discusses a variety of issues associated with the FCRA and potential policy options to address these issues.

### Background

#### FCRA Legislative History

The FCRA took effect on April 25, 1971, and was substantially amended on September 30, 1996. The 1996 amendments were primarily the result of continuing concerns about inaccuracies in credit reports and problems reported by consumers seeking to correct such inaccuracies.<sup>6</sup> The major changes to the FCRA included the imposition of a 30-day deadline (with a conditional 15-day extension) for CRAs to reinvestigate information disputed by a consumer,<sup>7</sup> the inclusion of protections against the reinsertion of information that had been

removed,<sup>8</sup> and the establishment of standards of accuracy for furnishers of information to the CRAs.<sup>9</sup>

### The Consumer Credit Reporting Industry

The consumer credit reporting industry is a \$6 billion industry that provides information about consumers to a wide variety of businesses. Information on consumers is purchased by lenders, credit sellers, insurance companies, and landlords, and by employers seeking information on prospective or current employees. Credit information is widely used, and more than one billion credit reports are sold each year in the United States.<sup>10</sup> One industry source notes that, on average, a consumer's credit is checked anywhere from five to 10 times a month.<sup>11</sup>

The largest source of credit reports are the three national CRAs<sup>12</sup> that collectively maintain approximately 570 million files on U.S. consumers.<sup>13</sup> Because the CRAs are competitors, each collects its own data on an individual consumer and maintains its own file on that consumer. As a result, the contents of a consumer's file will likely vary among the three bureaus.<sup>14</sup>

In addition to selling credit reports, CRAs sell prescreened lists to providers of credit and insurance products. Prescreening involves CRAs creating a list of consumers who meet criteria specified by purchasers of the list. For example, credit card companies use prescreened lists to identify and solicit consumers who qualify for "pre-approved" offers of their credit card product. According to industry sources, 3.5 billion prescreened offers were made in 2000 based on prescreening lists created by CRAs.<sup>15</sup> The FCRA allows consumers to opt out of such offers.<sup>16</sup>

The credit reporting industry is the most extensive user of consumer data in the private sector. According to industry sources, the average consumer report contains 11 accounts (seven credit card accounts and four loan accounts),<sup>17</sup> each of which is updated regularly. As a result of the large amounts of data involved, the credit reporting industry relies heavily on computer automation, and information is

transferred, sorted, stored, and retrieved electronically. The use of computer technology enables CRAs to receive information from a number of sources and to capture data on consumers throughout the United States.<sup>18</sup>

To facilitate this automation, many creditors and other furnishers of information to CRAs use a standardized computer program to report data to CRAs.<sup>19</sup> Information provided to CRAs is usually received monthly and downloaded into their databases. New information often supersedes earlier information provided by the same creditor in the last download.<sup>20</sup> CRAs are unlikely to depart from the automated systems since such a move would reduce the speed and efficiency of the database and increase costs.<sup>21</sup>

### **FCRA Issues**

The widespread use of credit reports for an increasing variety of purposes, and the large amount of information processed by CRAs, raises a number of issues regarding the FCRA's effectiveness.

#### Accuracy

One of the major goals of the FCRA is to promote accuracy in credit reporting by requiring CRAs to use reasonable procedures.<sup>22</sup> Despite FCRA protections, available data indicate that assuring the accuracy of the information in credit reports continues to be an issue.

Incorrect information is often included in consumer credit reports. According to a 1993 report based on Federal Trade Commission (FTC) complaint data, the most common type of consumer complaint received was related to credit reports, with the majority of the complaints having to do with accuracy.<sup>23</sup> Despite the 1996 amendments, the FTC noted in 2002 that complaints about credit reports are still one of the most common consumer complaints the agency receives, with the largest number of complaints still relating to accuracy.<sup>24</sup>

A 2000 study examining consumer credit reports found that over half of the credit reports examined contained errors.<sup>25</sup> A 1998 study found

that 70 percent of credit reports investigated contained incorrect information.<sup>26</sup> Of these reports, 29 percent contained errors significant enough to have serious adverse consequences for the consumer's credit, and 41 percent contained personal identifying information that was either incorrect or obsolete. In contrast, an unpublished 1992 study sponsored by industry sources found that less than 1 percent of credit reports contained errors significant enough to result in a consumer being denied credit.<sup>27</sup>

Another accuracy issue is that information creditors provide to CRAs may be incomplete and positive information may be missing.<sup>28</sup> The FCRA does not require creditors to report account payment information to any CRA. Instead, creditors are free to report to none, one, two, or all three of the national CRAs. Variations in information contained in credit reports based on which CRA the credit report was drawn from can result in wide variances in the apparent creditworthiness of a consumer.<sup>29</sup>

Additionally, some companies intentionally withhold positive credit information to prevent the loss of customers to competitors.<sup>30</sup> This practice is particularly common in the subprime lending market, where consumers pay higher fees for access to credit.<sup>31</sup> As a result, the credit reports of these consumers will not reflect positive payment history, and the consumer will be unable to access less costly products and services. The Comptroller of the Currency recently suggested that corrective legislation may be necessary to require reporting of credit information to CRAs to protect consumers from such practices.<sup>32</sup>

Inaccuracies can also occur when a creditor sells a delinquent account to a debt collector. Once the original creditor sells the account to a debt collector, the debt collector becomes the furnisher of information on this account to the CRAs. The main source of inaccuracy in this case results from incorrect reporting of the date of initial delinquency on the account. One concern is that debt collectors may report the date they purchased or received the account as the date of initial delinquency, even though the actual date of initial delinquency was likely much earlier.<sup>33</sup> Because the FCRA stipulates that most

negative information remains on a consumer credit report for seven years from the date of initial delinquency,<sup>34</sup> establishing this date is important to consumers attempting to restore their credit.

A further source of inaccurate information is the mismerging of files that occurs when one consumer's credit information is mixed with another consumer's file. Mismerged file cases occur when CRA computers do not match consumer data to the correct consumer as incoming data are sorted. This typically occurs with consumers who have similar identifying information such as a similar name or Social Security number.

In one recent example, a consumer found that negative information pertaining to another consumer with the same first name and similar Social Security number was repeatedly placed on her credit report.<sup>35</sup> Despite the consumers' having different dates of birth, different last names, and different addresses, the computer matching system routinely mismerged these files.<sup>36</sup>

Another potential source of inaccuracy occurs when CRA subscribers request information on one consumer from a CRA database, and obtain data on another consumer instead. This problem occurs because the accuracy of the information received from a CRA is inversely related to the specificity of the identifying information used to search the database.<sup>37</sup> As a result, subscribers who use less identifying information are more likely to receive credit information unrelated to the consumer about whom they are seeking credit information.

For example, a subscriber who uses only name and address information will likely receive more matches (and consequently less accurate information) than a subscriber who uses additional identifiers (such as Social Security number and date of birth). While the CRAs require very specific identifying information from consumers requesting their own files, this standard does not apply to paying subscribers.<sup>38</sup>

## Consumer Cost

Consumers are typically required to pay a fee to obtain a copy of their credit report.<sup>39</sup> The FCRA allows CRAs to charge consumers a fee of up to \$9 (plus applicable state tax) for a copy of their credit report.<sup>40</sup> Six states entitle consumers to free credit reports annually, while other states cap the cost of credit reports below the federally mandated level (Table 2).

<b>STATE</b>	<b>FEE*</b>
Colorado, Georgia, Maryland, Massachusetts, New Jersey, Vermont	Free Annual Report (2 per year in Georgia)
Maine, Minnesota	\$3.00
Connecticut	\$5.00
California	\$8.00
Montana	\$8.50
All Other States	\$9.00

Source: Equifax ([www.equifax.com](http://www.equifax.com)) Retrieved January 16, 2003.  
\* Fees do not include applicable state taxes  
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Because most consumers have separate files at all three national CRAs, consumers need to purchase their credit report from all of them to ensure that their credit reports are accurate. In addition, if consumers want to see their credit score,\* they may be required to pay an additional fee for this disclosure.<sup>41</sup>

For consumers seeking to monitor their credit regularly, some of the CRAs offer credit-monitoring services that allow frequent access to the consumer's credit report and notification of any significant changes to that credit report (for example, a new account opened or negative

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\* Credit scores are numbers calculated to measure the risk of delinquency or default posed by a consumer seeking credit. They are used by potential lenders to provide an instant summary of information contained in the consumer's credit report and to rank consumers to determine whether a consumer qualifies for a loan, how much the consumer will be lent, and at what rate.

information reported). However, these services require access to a computer and may not be affordable to all consumers.<sup>42</sup>

## Identity Theft

An issue that has received a great deal of discussion recently is the role of the FCRA in preventing identity theft and assisting victims of this crime. Older persons can be an appealing target for such thefts because they typically have significant available credit to draw on and can be victimized by family members or caregivers who have access to their personal information.<sup>43</sup> Often, the identity theft results in an individual's personal information being used to open fraudulent accounts based on the unknowing victim's credit report information.

Some consumer groups argue that CRAs make identity theft easier by furnishing consumer credit reports to subscribers based on identifying information that is less comprehensive than that demanded of consumers seeking their own reports.<sup>44</sup> Also, consumer groups suggest that CRAs could help to reduce identity theft by focusing on the appearance of non-matching address information in a credit report, because this non-matching address is a major indicator of possible identity theft.<sup>45</sup>

Victims often report difficulty in preventing their credit reports from continuing to be used to obtain fraudulent accounts after the identity theft has been discovered.<sup>46</sup> To remedy this situation, CRAs have developed a standardized security alert notification system designed to notify any subscribers requesting a consumer's credit report that fraudulent activity has been reported.<sup>47</sup> Despite this, one study found that almost half of identity theft victims (46%) reported the reoccurrence of financial fraud after they had notified CRAs of the identity theft and placed a security alert notification on their credit report.<sup>48</sup>

## Dispute Resolution

FTC complaint data show that consumers experience difficulties in correcting information they dispute.<sup>49</sup> One concern is that reinvestigation procedures used by CRAs are inadequate due to quotas imposed on CRA staff charged with

investigating consumer complaints. For example, one CRA requires its staff to complete nine consumer complaint investigations per hour.<sup>50</sup>

Another issue is the reappearance of incorrect information previously deleted from a consumer's credit report. This problem is of particular concern for victims of identity theft attempting to clear their credit reports of fraudulent information.<sup>51</sup> Often this is the result of a creditor with uncorrected files sending new computer data files that supercede changes made previously to a consumer's credit report by the CRA.<sup>52</sup>

In addition, victims of identity theft have reported difficulty in removing fraudulent items from their credit reports after the identity theft has been discovered. Identity theft victims report that this process is time-consuming; it can take years to completely remove the incorrect information from the consumer's credit report.<sup>53</sup>

#### FCRA State Preemption

A key FCRA issue involves the preemption of some aspects of existing state credit reporting laws.<sup>54</sup> Most states have laws relating to credit reporting, and generally the FCRA does not preempt state laws that provide greater consumer protections. However, the FCRA does preempt states from enacting more extensive protections with regard to the use of credit reports to prescreen consumers, the duties of persons who take adverse action against a consumer based on information contained in a credit report, and how companies share customer information with their corporate affiliates.<sup>55</sup>

Certain state credit reporting laws are exempted from these preemptions, provided they were in effect before September 30, 1996.<sup>56</sup> This exemption includes laws relating to the time by which a CRA must take action during a consumer dispute, information contained in credit reports, and responsibilities of furnishers of information to CRAs.<sup>57</sup> In addition, Vermont state law regarding information-sharing among affiliates is exempted.<sup>58</sup>

Preemption of state laws was intended to be a temporary measure.<sup>59</sup> Under the FCRA, any state law enacted after January 1, 2004, that supplements the FCRA\* and affords greater protections to consumers will not be preempted.<sup>60</sup>

The financial services industry is particularly concerned about removal of the FCRA federal preemption barring all states except Vermont from placing requirements on businesses that share customer information with their corporate affiliates.<sup>61</sup> At the same time, consumer advocates are seeking to increase consumers' ability to keep their financial information private. Currently, sharing data about a customer's account among affiliates is permitted without the consumer having an opportunity to opt out. Should the state preemptions expire on January 1, 2004, as required under the FCRA, states would be allowed to enact legislation governing the sharing of such information.

#### FCRA Statute of Limitations

An issue that has received much recent attention involves the two-year statute of limitations provided by the FCRA.<sup>62</sup> This is the result of a 2001 Supreme Court decision involving an identity theft victim's suit against a CRA for failing to take reasonable steps to ensure the CRA was issuing a credit report for the right person. The court ruled that the two-year statute of limitations begins at the time the liability occurs rather than from the time of discovery by a consumer.<sup>63</sup>

The court's ruling is a major concern for identity theft victims since, according to one study, it took an average of 14 months for victims to learn of the theft and subsequent damage to their credit reports.<sup>64</sup> As a result, consumers who do not learn of problems in their credit reports quickly may have no legal recourse against a CRA.

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\* While only the preemption provisions are scheduled to expire, some reports have stated incorrectly that the entire FCRA will expire January 1, 2004.

## Policy Options

A number of policy options have been proposed to address the FCRA issues discussed above, including:

- Provide stronger enforcement of rules requiring the date of initial delinquency to be reported correctly by debt collectors. The FCRA requires furnishers to verify the accuracy of the date reported when challenged by a consumer.<sup>65</sup> This proposal is intended to prevent the reporting of negative information beyond the time limits provided by the FCRA.
- Require subscribers who purchase credit reports from CRAs to provide the same standard of identification to retrieve a consumer's credit report as is required of consumers seeking their own credit report. Because CRAs have procedures in place for consumer access, these same procedures can be applied to subscribers requesting credit reports.
- Require CRAs to provide consumers with at least one annual free credit report a year to make it easier and less expensive for consumers to monitor their credit reports. Six states provide for consumers to receive free credit reports (see Table 2), and federal legislation has been proposed to allow consumers in all states to receive at least one free annual credit report.<sup>66</sup>
- Allow consumers to place a security freeze on their credit report. Consumers would be issued a password to prevent their credit report from being accessed without their express authorization. California recently enacted such a provision.<sup>67</sup> This procedure slows down the process for retrieving a consumer's credit report because the consumer must first contact the CRAs and give permission for the release of his or her credit report to the specified individual or business, thereby providing an extra check to prevent fraud.
- Require CRAs to permanently block fraudulent accounts on the credit reports of identity theft victims. Such blocking is required under

California law<sup>68</sup> and has been proposed under federal legislation.<sup>69</sup> This requires CRAs to correctly identify that the account is fraudulent despite the fact that the account may have been sold to a debt collector and been reported as a separate account.

- Require the FTC to monitor how effectively consumer disputes with CRAs are resolved. The FTC has suggested creating a complaint referral system so consumers contacting the FTC with a complaint against a CRA could have the FTC forward the complaint to the CRA for resolution.<sup>70</sup> This referral system would allow the FTC to analyze patterns of complaints and monitor potential problems in the processes and procedures used by CRAs to resolve disputes.<sup>71</sup>
- Allow the state preemptions to expire as originally intended under the FCRA unless federal legislation providing greater consumer protections can be enacted. The sunset of state preemptions would create an incentive to address current gaps in federal privacy protections, particularly with regard to data-sharing among affiliated companies, while providing a uniform standard that would limit the compliance costs of CRAs and other businesses.<sup>72</sup>
- Change the statute of limitations to allow consumers more time to discover potential problems in their credit reports. Federal legislation has been proposed to extend the statute of limitations.<sup>73</sup> Changing it to two years from the time the violation is discovered, or should have been discovered by the exercise of due diligence by the consumer, would give consumers a longer time frame to act.

## Summary

The FCRA provides consumers with important safeguards concerning the accuracy and privacy of information contained in credit reports. However, the widespread and increasingly varied use of credit report data, and the dangers posed to both consumers and businesses from the emergence and spread of identity crimes, argues strongly for updating and strengthening the Act.

Further, recent experience indicates that the effectiveness of the FCRA can be improved by including provisions to increase the accuracy of consumer reports, improve the dispute resolution process, prevent identity theft, and assist the victims of such crimes in restoring their credit reports.

## Endnotes

<sup>1</sup> 15 U.S.C. § 1681 *et seq.*

<sup>2</sup> CRAs are more commonly referred to as credit bureaus.

<sup>3</sup> The FCRA also regulates governmental uses such as child support enforcement and counterintelligence.

<sup>4</sup> 15 U.S.C. § 1681a(d).

<sup>5</sup> 15 U.S.C. § 1681b.

<sup>6</sup> For a detailed discussion, see National Consumer Law Center (NCLC). Fair Credit Reporting Act (4<sup>th</sup> ed., 1998).

<sup>7</sup> 15 U.S.C. § 1681i.

<sup>8</sup> *Id.*

<sup>9</sup> 15 U.S.C. § 1681s-2.

<sup>10</sup> Data provided by the Consumer Data Industry Association (CDIA). <http://www.cdiaonline.org>

<sup>11</sup> H. Fischer. "Free Credit Reports Sought by Senator." *Arizona Business Gazette* 122 (3) (January 2002).

<sup>12</sup> The three national CRAs are Experian, Equifax, and TransUnion.

<sup>13</sup> Data provided by the Consumer Data Industry Association (CDIA). <http://www.cdiaonline.org>

<sup>14</sup> See, for example, Consumer Federation of America and National Credit Reporting Association. "Credit Score Accuracy and Implications for Consumers" December 17, 2002. <http://www.consumerfed.org>

<sup>15</sup> Data provided by the Consumer Data Industry Association (CDIA). <http://www.cdiaonline.org>

<sup>16</sup> 15 U.S.C. § 1681b(e). Until recently, CRAs have been able to sell credit header data to marketers, information brokers, and others without the consumer's permission. Credit header information typically consists of a person's name, address, birth date, and Social Security number. However, the Federal Trade Commission (FTC) issued rules in 2000 pursuant to the Gramm-Leach Bliley Act that prohibited this practice unless consumers had first been given an opportunity to opt out. The rules were recently upheld by a federal appeals court (*TU v. FTC*: CA-D.C.—No. 01-5202; July 16). See E. Sanders. "Curb on Sale of Consumer Data Upheld." *Los Angeles Times* (May 8, 2001).

<sup>17</sup> Data provided by the Consumer Data Industry Association (CDIA). <http://www.cdiaonline.org>

<sup>18</sup> M. Furletti. "An Overview and History of Credit Reporting." Federal Reserve Bank of Philadelphia Discussion Paper, June 2002.

<http://www.phil.frb.org/pcc/discussion/historycr.pdf>

<sup>19</sup> For a more detailed discussion of the automated reporting format, see National Consumer Law Center (NCLC). Fair Credit Reporting Act (4<sup>th</sup> ed., 2001 supplement).

<sup>20</sup> National Consumer Law Center (NCLC). Fair Credit Reporting Act (4<sup>th</sup> ed., 2001 supplement).

<sup>21</sup> G. May. "Stop Thief!" *Journal of Texas Consumer Law* 5 (3) (Spring 2002): 72-80.

<sup>22</sup> 15 U.S.C. § 1681.

<sup>23</sup> U.S. Public Interest Research Group (U.S. PIRG). "Credit Bureaus: Public Enemy # 1 at the FTC" (October 1993). <http://www.uspirg.org>

<sup>24</sup> Remarks of J. Howard Beales (Director, Bureau of Consumer Protection, FTC) before the Consumer Data Industry Association (January 17, 2002).

<http://www.ftc.gov/speeches/other/bealescdia.htm>

<sup>25</sup> Consumer Reports Online. "Credit Reports: How Do Potential Lenders See You?" July 2000. The study evaluated 63 credit reports. [www.consumerreports.org](http://www.consumerreports.org)

<sup>26</sup> U.S. Public Interest Research Group (U.S. PIRG). "Mistakes Do Happen: Credit Report Errors Mean Consumers Lose" (1998). The study evaluated 133 credit reports. <http://www.uspirg.org>

<sup>27</sup> Data provided by the Consumer Data Industry Association (CDIA). <http://www.cdiaonline.org>

<sup>28</sup> U.S. Public Interest Research Group (U.S. PIRG). "Mistakes Do Happen: Credit Report Errors Mean Consumers Lose," 1998. <http://www.uspirg.org>

<sup>29</sup> Consumer Federation of America and National Credit Reporting Association. "Credit Score Accuracy and Implications for Consumers" December 17, 2002. <http://www.consumerfed.org>

<sup>30</sup> L. Fickenscher. "Lenders Hiding Credit Data, and Regulators Object." *American Banker* 164 (128) (July 1999).

<sup>31</sup> *Id.*

<sup>32</sup> Office of the Comptroller of the Currency (Press Release NR 99-51), June 7, 1999.

<sup>33</sup> National Consumer Law Center (NCLC). Fair Credit Reporting Act (4<sup>th</sup> ed., 2001 supplement).

<sup>34</sup> 15 U.S.C. § 1681c. Chapter 7, 11, or 12 bankruptcies can remain on credit reports for 10 years, and unpaid federal tax liens can remain for 15 years.

<sup>35</sup> Hunsberger, B. "Victory Against Credit Agency a 'Wake-Up Call.'" *OregonLive.com* (August 1, 2002). <http://oregonlive.com>

<sup>36</sup> *Id.*

<sup>37</sup> National Consumer Law Center (NCLC). Fair Credit Reporting Act (4<sup>th</sup> ed., 2001 supplement).

<sup>38</sup> *Id.*

<sup>39</sup> Under certain circumstances, including being denied credit, employment, insurance, or rent based on

information contained within their credit report, consumers are entitled to a free copy of the credit report used by the subscriber within 60 days of the consumer having been turned down. In addition, a consumer may receive free disclosure if the consumer certifies that he or she is unemployed and intending to apply for employment, on welfare assistance, or has reason to believe that his or her file may contain inaccurate information due to fraud.

<sup>40</sup> 15 U.S.C. § 1681j. This fee may be updated annually to reflect changes in the Consumer Price Index.

<sup>41</sup> N. Walters and S. Hermanson. "Credit Scores and Mortgage Lending." AARP Public Policy Institute. IB 52, August 2001. <http://www.aarp.org/ppi>

<sup>42</sup> For example, Equifax offers "Credit Watch" for \$69.95 per year, and Experian offers "Credit Manager" for \$79.95 per year.

<sup>43</sup> Testimony of Mary J. Frank, Esq., before the Special Committee on Aging, United States Senate, July 18, 2002. <http://aging.senate.gov/events/>

<sup>44</sup> W. P. Ogburn and R. J. Rubin Letter to the FTC regarding Revision of FCRA Commentary, April 24, 2002.

<sup>45</sup> *Id.*

<sup>46</sup> See, for example, testimony of John T. Stevens, Jr., before the Special Committee on Aging, United States Senate, July 18, 2002. <http://aging.senate.gov/events/>

<sup>47</sup> Testimony of Stuart K. Pratt before the Special Committee on Aging, United States Senate, July 18, 2002. <http://aging.senate.gov/events/>

<sup>48</sup> CALPIRG and Privacy Rights Clearinghouse. "Nowhere to Turn: Victims Speak Out on Identity Theft," May 2000. <http://www.calpirg.org>

<sup>49</sup> Remarks of J. Howard Beales (Director, Bureau of Consumer Protection, FTC) before The Consumer Data Industry Association, January 17, 2002.

<http://www.ftc.gov/speeches/other/bealescdia.htm>

<sup>50</sup> B. Hunsberger. "Victory Against Credit Agency a 'Wake-Up Call.'" OregonLive.com (August 1, 2002). <http://oregonlive.com>

<sup>51</sup> Remarks of J. Howard Beales (Director, Bureau of Consumer Protection, FTC) before The Consumer Data Industry Association, January 17, 2002.

<http://www.ftc.gov/speeches/other/bealescdia.htm>

<sup>52</sup> National Consumer Law Center (NCLC). Fair Credit Reporting Act (4<sup>th</sup> ed., 2001 supplement).

<sup>53</sup> Testimony of John T. Stevens, Jr., before the Special Committee on Aging, United States Senate July 18, 2002. <http://aging.senate.gov/events/>

<sup>54</sup> 15 U.S.C. § 1681t.

<sup>55</sup> 15 U.S.C. § 1681t

<sup>56</sup> 15 U.S.C. § 1681t. These exemptions only apply to the laws as they were in effect on September 30, 1996.

<sup>57</sup> 15 U.S.C. § 1681t(b). For example, Chapter 93 of the Massachusetts Annotated Laws and Section 1785.25(a) of the California Civil Code are specifically exempted from the state preemption.

<sup>58</sup> Subsection (a) and (c)(1) of Section 2480e of Title 9, Vermont Statutes Annotated is exempted.

<sup>59</sup> This limited preemption period was designed to provide adequate time to demonstrate whether the federal standards were sufficient. See the statement of Senator Bryan, 140 *Congressional Record* S4973, May 2, 1994.

<sup>60</sup> 15 U.S.C. § 1681t(d).

<sup>61</sup> M. Heller. "Sunset Provisions May Spur '03 Privacy Fight." *American Banker* (October 23, 2002). <http://www.americanbanker.com>

<sup>62</sup> 15 U.S.C. § 1681p.

<sup>63</sup> *TRW v. Andrews*, 534 U.S. 19 (2001).

<sup>64</sup> CALPIRG and Privacy Rights Clearinghouse. "Nowhere to Turn: Victims Speak Out on Identity Theft," May 2000. <http://www.calpirg.org>

<sup>65</sup> 15 U.S.C. § 1681s-2.

<sup>66</sup> H.R. 2031 and H.R. 3053 were introduced in the 107<sup>TH</sup> Congress

<sup>67</sup> Section 1785.11.2 of the California Civil Code.

<sup>68</sup> Section 1785.16 of the California Civil Code.

<sup>69</sup> S. 1742 and H.R. 5424 were introduced in the 107<sup>th</sup> Congress.

<sup>70</sup> Remarks of J. Howard Beales (Director, Bureau of Consumer Protection, FTC) before The Consumer Data Industry Association, January 17, 2002.

<sup>71</sup> *Id.*

<sup>72</sup> Heller, M. "Sunset Provisions May Spur '03 Privacy Fight." *American Banker* (October 23, 2002). <http://www.americanbanker.com>

<sup>73</sup> S. 1723, S. 1742, H.R. 3368, H.R. 3369, and H.R. 3387 were introduced in the 107<sup>th</sup> Congress.

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