

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580



Office of the Secretary

August 25, 2004

The Honorable John P. Crowley
Commissioner
Department of Banking, Insurance, Securities,
and Health Care Administration
State of Vermont
89 Main Street – Drawer 20
Montpelier, VT 05620-3101

Dear Commissioner Crowley:

This letter responds to the petition submitted by your office to the Federal Trade Commission (“Commission”) for a determination, under 15 U.S.C. § 6807 of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809 (“GLBA”), as to whether Vermont’s financial privacy statute and three implementing regulations applicable to the banking, insurance, and securities industries¹ afford “greater protection” than is provided under Subtitle A of Title V of the GLBA.

In the Commission’s previous responses to petitions for preemption determinations, the Commission found that, absent an inconsistency under § 6807(a) between the state law(s) and the privacy provisions of GLBA,² there was no need to reach the “greater protection” analysis set

¹ Vermont’s financial privacy law is located at 8 V.S.A. § 10201, *et seq.* The implementing regulations, titled “Privacy of Consumer Financial and Health Information (Regulation),” are identified as B-2001-01 for banking; IH-2001-01 for insurance; and S-2001-02 for securities.

²An inconsistency warranting preemption, or “conflict preemption,” may be found where the state law frustrates the purpose of the federal statutory scheme or where compliance with both the state and federal laws is physically impossible. *See, e.g., Crosby v. National Foreign Trade Council*, 530 U.S. 363, 372-73 (2000). For the purpose of these GLBA determinations, the analysis as to whether the federal purpose is frustrated is confined to GLBA’s privacy purpose to require financial institutions to respect the privacy of customers and protect the security and confidentiality of their nonpublic personal information. 15 U.S.C. § 6801(a). However, the GLBA may seek to effect other policies or purposes not considered in these determinations.

forth in § 6807(b).³ Consistent with that analytical framework, the Commission finds that the petition has not revealed an inconsistency under § 6807(a), and that therefore there is no need to perform a “greater protection” analysis here.

By direction of the Commission.

Donald S. Clark
Secretary

³See June 28, 2001 letter to Commissioner Gary D. Prezler (North Dakota Department of Banking and Financial Institutions), <http://www.ftc.gov/os/2001/06/northdakotaletter.htm>; June 7, 2002, letter to Commissioner John P. Burke (Connecticut Department of Banking), <http://www.ftc.gov/privacy/glbact/conn020607.htm>. These determinations were limited to the relationship between Title V, Subtitle A of the GLBA and state law and were not intended to affect or construe the relationship between any other federal law and state law.