



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
STATE CONSUMER PROTECTION BOARD

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September 5, 2007

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex K)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: SSNs In The Private Sector - Comment, Project No. P075414

Dear Commissioners:

As New York State's top consumer watchdog, the New York State Consumer Protection Board (CPB) is involved in a wide array of consumer issues. The CPB conducts consumer investigations, research and analysis; develops legislation, consumer education programs and materials; responds to individual complaints by working to settle disputes through voluntary agreements and represents the interests of consumers before the Public Service Commission (PSC) and other State and federal agencies.

In 1936, when Social Security numbers (SSNs) were first issued, Congress intended its use to remain limited to Social Security benefits. However, its use has become synonymous with account and individual identification. It has become the ubiquitous number that identifies an individual, often varying depending on state laws, loans, bank accounts, insurance, Department of Motor Vehicle records, court filings and other public documents. It is for this reason, that the incidence of identity theft has increased.

Federal authorities have made it clear that they understand the sensitive nature of revealing SSNs. For example, the Intelligence Reform and Terrorism Prevention Act of 2004 prohibits states from displaying the SSN on driver's licenses or motor-vehicle registration. Additionally, the Social Security Number Confidentiality Act of 2000 ensures that SSNs are not visible on or through unopened mailings of government checks or other drafts. In addition, some states, like New York, prohibit public universities and colleges from using the SSN as student identification numbers. Notwithstanding these prohibitions, the federal government has not instituted restrictions on the private use of SSNs. Businesses may request a SSN. While consumers can refuse to provide it, businesses can deny services if the SSN is not given. Because of the lack of federal legislation, New Mexico¹ for example, has prohibited businesses from denying services, so long as state or federal law does not require the submission of the SSN. Other states have pursued similar restrictions.

The CPB is concerned that the use of SSNs by the private sector increases the chances

1 New Mexico § 57-12B-3(A).

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of the data finding its way into the public domain. The Internet is replete with data-mining websites that will allegedly sell a person's personally identifying information, including SSNs, for a fee (e.g., www.search-detective.net). This easy availability of sensitive, personal information increases the likelihood of identity theft victimization.

The CPB requests that the Federal Trade Commission or the Social Security Administration work to enact legislation regulating the private use of SSNs. We understand that there are situations which require obtaining a SSN, such as when the Internal Revenue Service may be involved. However, the unwarranted requests for, and utilization of SSNs as an identifier, must be curtailed.

Federal legislation should not preempt states from having the ability to implement innovative and appropriate legislation. The CPB recommends that the federal government implement:

- Truncation of SSNs on all documents. Such a requirement would impede identity theft because the thief would not have the complete number from which to open accounts or fraudulently portray him/herself as another individual. Truncation needs to have a universal standard thereby eliminating a person from obtaining different truncated versions of a SSN and ultimately compiling the entire SSN.
- Limiting the collection of SSNs. Limiting the collection of SSNs would address the issue of misuse at the data point. Consideration could be given to limiting the collection to those situations explicitly authorized by law. For example, legislation could permit an employer to collect a SSN for tax reporting but disallow the grocery store to collect a SSN to issue a shopping card.
- Prohibiting data-miners from selling SSNs. Legitimate entities can solicit and obtain a person's information directly from that subject and should not need to resort to data-miners for such information.

Technology is advancing at a pace never before seen. While there are many benefits, the development of huge databases, coupled with the availability of private information now in the public domain through search engine sites open to the public, pose major threats to consumer's fundamental privacy if left unregulated.

The SSN continues to be employed as the main identifier for individuals in both the public and private sector. This pervasive use subjects people to the risk of their SSN being appropriated in nefarious ways. Federal regulators are uniquely positioned to set the floor for standards for uniform usage of the SSN in the private sector and curbing the increase of identity theft. The CPB looks forward to working with federal agencies towards this goal.

Thank you for your consideration of these comments.

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