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January 30, 2001

Donald S. Clark, Secretary
Federal Trade Commission, Room H-159
600 Pennsylvania Avenue
Washington, D.C. 20580

RE: Proposed Interpretations of the Fair Credit Reporting Act – Comments of the Privacy Rights Clearinghouse and the Electronic Frontier Foundation

Dear Secretary Clark:

The Privacy Rights Clearinghouse (PRC) is a nonprofit consumer information and advocacy program based in San Diego, California. The PRC was established in 1992, and since that time, we have counseled thousands of consumers on a variety of privacy-related topics. Privacy topics include identity theft, credit reporting, telemarketing, "junk" mail, Internet privacy, medical records, and workplace issues. The PRC's work at this time is particularly focused on the rights of consumers to protect confidential financial and other personal information. See www.privacyrights.org

The Electronic Frontier Foundation (EFF) is the leading civil liberties organization working to protect rights in the digital world. Founded in 1990, EFF actively encourages and challenges industry and government to support free expression, privacy, and openness in the information society. EFF is a member-supported organization and maintains one of the most linked-to Web sites in the world. See www.eff.org

The PRC and EFF appreciate the opportunity to comment on the Federal Trade Commission's proposed interpretation of the affiliate-sharing provisions of the Fair Credit Reporting Act (FCRA). Many consumers will never read the Commission's interpretation. However, because the interpretation sets the standard for compliance with the FCRA for businesses not under the oversight of banking agencies, this will be the most important authority on consumers' opt-out rights under the FCRA.

Most consumers will learn of their right to opt-out of information sharing among affiliates from the notices they received from businesses. Thus, clarity and distinctiveness of the required notices are vital to consumers' understanding of these important rights. This is especially true given that consumers will receive the FCRA opt-out notices in conjunction with or closely in time to the opt-out notices required by the Gramm-Leach-Bliley Act (GLBA).


as serious illnesses, periods of hospitalization for treatment of physical or mental illness, periods of disability and medications taken. Consumers should also be given the additional notice that: "Failure to opt-out of sharing of medical data may result in adverse decisions regarding credit or insurance."

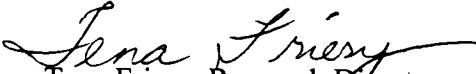
2. *Relationship of FCRA to other laws*

We note that consumers may have additional rights with regard particularly to sharing of medical data under state or other federal laws and regulations. Consumers should be alerted to this fact in the FCRA notice. Moreover, to prevent confusion between the limited opt-out rights under the FCRA and the opt-out provisions of the GLBA, the distinctions should be stated clearly with examples of the kinds of information that may apply to each Act. Otherwise, consumers may be led to believe that an opt-out to the FCRA notice is also an opt-out under GBLA.

The PRC appreciates the opportunity to provide the above comments in support of consumers' rights to privacy of confidential personal information.

Sincerely,


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Privacy Rights Clearinghouse


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Privacy Rights Clearinghouse

Deborah Pierce, Staff Attorney
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