

Oral Statement of Commissioner Jon Leibowitz
before the
Subcommittee on Commerce, Trade, and Consumer Protection
of the House Committee on Energy and Commerce
on
“Social Security Numbers in Commerce:
Reconciling Beneficial Uses with Threats to Privacy”
(May 11, 2006)

Chairman Stearns, Ranking Member Schakowsky, and members of the Subcommittee, I am Jon Leibowitz of the Federal Trade Commission. It is always a pleasure to come back to this Committee, whether in the context of helping to prohibit telephone pretexting, stop spam or spyware, or determine the best ways to address the uses of social security numbers. Today I'll be talking about that aspect of privacy – the balance between the benefits of Social Security numbers and the harms that misuse can cause. That's really at the heart of this debate.

With your permission, I ask that my written statement be submitted for the record. My oral remarks, though, are my own and do not necessarily represent the opinions of the Commission or of any other Commissioner.

At the FTC, we take our obligation to protect privacy very very seriously. We've brought more than a dozen cases involving data security, as well as six spyware and adware cases – we have more in the pipeline – almost 20 financial and cell phone pretexting cases, and more than 80 spam cases.

Just yesterday, we announced a complaint (together with a settlement) against a major real estate services firm, Nations Title, that failed to safeguard sensitive information properly and disposed of that information cavalierly. Among other things, we alleged that the company threw out detailed customer files – which contained personal information, including Social Security numbers – into a dumpster just outside its headquarters.

As you know, the Social Security number serves many important functions. For example, the credit reporting system hinges on the availability of Social Security numbers to match consumers accurately with their financial information. Other uses of Social Security numbers include locating lost beneficiaries and collecting child support. Indeed, the numbers are used to *prevent* fraud.

But Social Security numbers are a substantial contributor to the worst form of identity theft - having new accounts opened in your name.

Not surprisingly, Americans today are very concerned about protecting their identities. And rightly so – about 10 million people each year are victims of identity theft, and more than 3 million each year have new accounts opened fraudulently in their names. If your identity is stolen, you may struggle for months or years to clear your name, and the economic and emotional

impact can be severe. American businesses pay a heavy price as well – as much as \$50 billion per year in costs.

The key is to find the right balance between permitting the beneficial uses of Social Security numbers while keeping them out of the hands of criminals. There's no panacea, of course, but it helps to approach the problem in a multi-faceted way. Users of Social Security numbers should use less sensitive identifiers whenever possible – for example, some schools still use Social Security numbers on ID cards though they're unnecessary.

And companies, overall, should do a better job of securing consumer data. They have a fundamental legal responsibility to do so.

The Commission, of course, can sue firms that misrepresent their security procedures or fail to take reasonable steps to secure or dispose of sensitive information. We have acted aggressively to enforce these laws. Two of our most recent cases – *Choicepoint* and *CardSystems* – involved massive data breaches that led to numerous instances of identity theft. In both, the Commission alleged that the company failed to take reasonable measures to protect consumer information including, in *Choicepoint*, Social Security numbers. These actions, along with *Nations Title*, are just the most recent in a long line of cases that send a strong message to businesses: you need to protect consumers' personal information.

You can further strengthen our hand – and help ensure that Social Security numbers are better protected from fraud – if you enact data security legislation that requires all businesses to safeguard sensitive personal information, gives notice to consumers if there is a breach – under an appropriate standard – and allows us to fine companies that don't live up to their legal obligations.

Consumer and business education are also critical. We receive between 15 and 20 thousand contacts per week from people seeking advice on avoiding identity theft or coping with its consequences. We provide information and assistance to simplify the recovery process. The Commission also works with the business community to try to promote a “culture of security.”

By the way, yesterday I was in our call center when a man called to say his SSN had just been discovered on a suspect arrested by police – and he was worried that his identity had been stolen. Our staff gave him the appropriate advice, including putting a fraud alert on his credit report.

Also yesterday, we launched a major new campaign designed to give advice to anyone who wants to learn about identity theft – entitled “Deter – Detect – Defend.” This toolkit provides specific suggestions so consumers can prevent ID theft before it happens and reduce the damage after it occurs. It is available in both English and Spanish. And it is terrific.

We have a handful of packets here for members and staff – and we’d be happy to deliver toolkits to anyone on the Committee. [I know the topic today is Social Security numbers, but I did want to mention the campaign because of the integral relationship between identity thefts and SSNs.]

Finally, the Commission assists criminal law enforcement through our operation of the ID Theft Data Clearinghouse, a nationwide database that includes more than a million identity theft complaints. Law enforcers ranging from the FBI to local sheriffs use the Clearinghouse to aid in their investigations.

Mr. Chairman, determining how best to keep Social Security numbers out of the hands of wrongdoers – without giving up the benefits that their use provides – is a daunting challenge. There are many interests in tension, but no simple solution. Still, by working together, there is much that we can do. This Committee’s work will be crucial to striking the appropriate balance.

Thank you, and I am happy to answer any questions.