



United States Senate  
WASHINGTON, DC 20510-0905

BILL NELSON  
FLORIDA

June 15, 2004

The Federal Trade Commission  
Office of the Secretary  
Room 159-H (Annex H)  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

RE: The FACT Act Disposal Rule, R-411007  
VIA Fax and Electronic Filing

Dear Commission:

The Federal Trade Commission ("Commission") issued proposed rule RIN-3084-AA94 in response to the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), P.L. 108-159. The FACT Act is the final product of Congress' bipartisan efforts to enhance the accuracy of consumer credit reports and protect consumers' private financial information.

As the author of Section 216 of the FACT Act, which requires the Commission, Federal banking agencies, National Credit Union Administration, and the Securities and Exchange Commission to issue regulations regarding the proper disposal of consumer information ("Disposal Rule"), I am submitting these written comments to clarify the Disposal Rule's objective. I commend the Commission's thoughtful and reasoned approach put forth in the proposed Disposal Rule, which closely follows the intent of Section 216 of the FACT Act and thus ensures the proper disposal of consumer information while protecting privacy and preventing identity theft.

The Commission has proposed a definition for the new term "consumer information." Contained in Section 682.1(b) of the Commission's Rule, consumer information is "any record about an individual, whether in paper or electronic form, that is a consumer report or derived from a consumer report." Importantly, this definition appears to be crafted to include lists or compilations of consumer information and is consistent with current law relating to scope of the term "consumer report."

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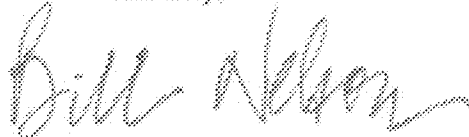
Since the Commission determined that consumer information and coverage under the Disposal Rule is limited only to what may identify a consumer, I ask the Commission to provide clear guidance on what may or may not constitute "identifiable." For example, if not publicly available and if derived from a consumer report, does a consumer's name, address, whole Social Security number, account number, phone number, and place of employment, alone or collectively, prove to be identifiable? I urge the Commission to adopt a precise standard for "identifiable" while carefully considering these types of information. The final Rule must be strong enough to protect consumers while not placing unreasonable burdens on businesses.

The two criteria created for determining compliance with the Disposal Rule are as I intended: the consumer information is used for a business purpose and the record being disposed of contains sensitive consumer information. As the Commission noted, the coverage of the proposed Disposal Rule is different from the Safeguards Rule and is clearly intended to capture entities that maintain or possess consumer reports but are not classified as "financial institutions" under the Gramm-Leach-Bliley Act (P.L. 106-102).

In addition, I would like to note my approval of the Commission's inclusion of consumer information contained in computers as covered by the Disposal Rule. In this digital era, where a great deal of sensitive consumer information is no longer stored on paper, it is imperative consumer protections extend to electronically stored information.

I appreciate the effort and resources the Commission has devoted to the proposed Disposal Rule and further note its compliance with the Congressional directive for consistency with requirements and regulations issued pursuant to P.L. 106-102.

Sincerely,

A handwritten signature in cursive script that reads "Bill Nelson". The signature is written in dark ink and is positioned above a horizontal line.

Bill Nelson,  
U.S. Senator