



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan

ATTORNEY GENERAL

February 8, 2002

Secretary
Federal Trade Commission
Room 159
600 Pennsylvania Ave. NW
Washington DC 20580

Re: GLB Act Notice Workshop - Comment P014814

Dear Mr. Secretary:

Pursuant to the notice published by the Regulatory Agencies¹ charged with enforcing Title V of the Gramm Leach Bliley Act ("GLB"), 15 U.S.C. § 6801 *et seq*, in connection with their Public Workshop on Financial Privacy Notices ("Workshop"),² the Attorney General of Illinois submits the following comments regarding the questions posed and addressed at the Workshop held December 4, 2001, in Washington, D.C.

The Illinois Attorney General urges the Regulatory Agencies to protect consumer privacy rights regarding GLB notices by requiring all financial institutions to develop short form GLB notices that would accompany the long form notices. The Illinois Attorney General believes that there is a consensus among state enforcers, consumer advocates, and many in the financial services industry³ that some abbreviated form of notice in plain English would help reduce consumer confusion and facilitate informed choice. The Federal Agencies should rely on empirical data

¹Office of the Comptroller of the Currency; Board of Governor of the Federal Reserve System; Federal Deposit Insurance Corporation; Office of Thrift Supervision; National Credit Union Administration; Federal Trade Commission; Commodity Futures Trading Commission; and Securities and Exchange Commission [hereinafter "Regulatory Agencies"].

²66 Fed. Reg. 49742 (2001).

³*See, e.g.*, Comment, Alliance of American Insurers, November 27, 2001. *See also* Comment, Covington & Burling for Financial Services Coordinating Council, December 4, 2001. *See also* Comment, The financial Services Roundtable, December 4, 2001.

available from behavioral scientists and communications experts to assist in developing short GLB notices that will lead to greater consumer understanding of their privacy rights.

The Illinois Attorney General's recommendation to develop a short form notice that is limited in size and complexity, is not incompatible with longer, more complete explanations by the financial institutions of their information handling practices. The Attorney General understands that financial institutions would like to retain the flexibility to craft their own individualized privacy policies, however, the short notice could be sent to consumers, and also supplemented by a longer, individualized notice.⁴

While acknowledging the good faith efforts to comply with GLB as evidenced by the privacy notices,⁵ the Illinois Attorney General believes that the text of many notices resulted in consumer confusion. As reported in the Privacy Rights Clearinghouse study of 34 privacy notices,⁶ the average notice was written at a third-or fourth-year college reading level, while the average consumer reads at a junior high level. Recent surveys demonstrate that consumers either never see and read such complicated opt-out notices, or they don't understand them. A survey conducted by the American Bankers Association⁷ found that 41% of consumers did not recall receiving their opt-out notices, 22% recalled receiving them but did not read them, and only 36% reported reading the notice. Another survey, conducted by Harris Interactive for Privacy Leadership Initiative ("Harris Survey"),⁸ found that only 12% of consumers carefully read GLB privacy notices most of the time, whereas 58% did not read the notices at all or only glanced at them.

⁴The positions taken in these comments are consistent with the comments of thirty-four Attorneys General in March 2000. See Letter from thirty-four Attorney General to Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Office of Thrift Supervision and Federal Deposit Insurance Corporation accompanying Comments to the Joint Agencies, Proposed Rules (March 31, 2000). this letter is available at http://www.naag.org/features/privacy_comments.cfm.

⁵The States recognize that most financial institutions took great time and expense to draft privacy notices in an effort to comply with the requirements of GLB. Most financial institutions did not employ communications experts in this endeavor, however.

⁶See Mark Hochhauser, Ph.D., "Lost in Fine Print II: Readability of Financial Privacy Notices," Privacy Rights Clearinghouse, May 2001, available at <http://www.privacyrights.org/ar/GLB-Reading.htm>.

⁷<http://www.aba.com/Press-Room/bankfee060701.htm>.

⁸<http://www.ftc.gov/bcp/workshops/glb>.

The Harris Survey identified the most important information that consumers need in order to exercise informed choice about the sharing of their financial information: 1) How does this financial institution share my personal information with third parties?; and 2) what do I have to do to remove my personal information from the shared database?⁹ The Harris Survey also found that 8 out of 10 consumers would prefer shorter notices that contain more than this information.¹⁰

A short form notice should provide consumers with the information they need in a format they can understand. Short notices should be simple and easy to understand. Moreover, the short form notice should have a common look to allow consumers to compare different notices and learn what information to expect the notices to contain.

Sincerely,



JIM RYAN
Attorney General of Illinois

⁹Hochhauser, *supra* n. 7. Harris Survey, *supra* n.9.

¹⁰*Id.*