

Written Testimony

of

Ira Rheingold

Executive Director

National Association of Consumer Advocates

also on behalf of

National Consumer Law Center (On behalf of its low income clients)

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”Credit Reports: What Accuracy and Errors Mean for Consumers.”

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Chairwoman McCaskill, Subcommittee Ranking Member Heller and members of the Subcommittee on Consumer Protection, Product Safety, and Insurance, thank you for inviting me to testify today about the consumer credit reporting industry, its failure to ensure accurate and reliable reports and the impact that inaccurate information has on a consumer's ability to obtain much needed credit, gain employment or even find a place to live.

In my testimony, on behalf of the National Association of Consumer Advocates (NACA)¹ and the National Consumer Law Center's low-income clients,² I will share with you what I have learned in more than a decade of working with consumer advocates from across the country. I will describe a credit reporting system that is riddled with preventable inaccuracies including consumer files that all too frequently mix the identities of consumers and include innumerable errors and unverifiable information provided by debt collectors and other furnishers of information. I will explain how our nationwide consumer reporting agencies (CRAs), Equifax, Experian, and TransUnion, are in gross violation of the FCRA's requirements to conduct "reasonable" investigations when consumers dispute errors in their credit reports. These agencies, instead of hiring trained personnel to conduct actual investigations, have developed a perfunctory automated system that consists of nothing more than translating a consumer's dispute into a two- or three-digit code, forwarding that code and a one-page electronic form to the furnisher, and parroting whatever the furnisher states in response. I will look at the growth of

¹ The National Association of Consumer Advocates (NACA) is a non-profit corporation whose members are private and public sector attorneys, legal services attorneys, law professors, and law students, whose primary focus involves the protection and representation of consumers. NACA's mission is to promote justice for all consumers.

² The National Consumer Law Center is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all states who represent low-income and elderly individuals on consumer issues. As a result of our daily contact with these advocates, we have seen many examples of the damage wrought by inaccurate credit reporting from every part of the nation. It is from this vantage point – many years of observing the problems created by incorrect credit reporting in our communities – that we supply these comments. *Fair Credit Reporting* (7th ed. 2010) is one of the eighteen practice treatises that NCLC publishes and annually supplements. This testimony was written with Chi Chi Wu of NCLC.

specialty consumer reporting agencies, including background check and tenant screening CRAs, which are plagued with errors that often create even greater problems for consumers. Finally, I will offer some ideas for Congressional legislative action that can provide better accountability for the credit reporting industry and ensure that consumer information is accurate and dependable.

I. EASILY PREVENTABLE INACCURACIES PLAGUE THE CREDIT REPORTING SYSTEM.

Our nation's recovery from the economic meltdown created by the reckless and fraudulent behavior of many actors in the financial services industry has been slowed by many consumers' inability to access fair and reasonable credit. While there are many reasons for this tightening of credit, consumers, families, businesses and our general marketplace are harmed when credit is denied to consumers based on credit reports filled with inaccurate information. A good credit history (and its corollary, a good credit score) enables consumers to obtain credit, and to have that credit be fairly priced. Credit reports are also used by other important decision makers, including insurers, landlords, utility providers, and employers. Consequently, a bad credit report or score can prevent a consumer from buying a car, securing a mortgage, or even getting a job.

Despite the importance of accurate credit reports and the purpose of the FCRA to promote accuracy, systematic errors remain common in our nation's credit reporting system. Below, I will focus on a few of the most repeated and egregious errors, which are easily preventable with common-sense regulation and oversight.

A. Avoidable Inaccuracies

1. *Mixed Files*

One of the most intractable and damaging types of credit reporting errors are mixed or mismerged files. Mixed files occur when credit information relating to one consumer is placed in the file of another. Mismerging occurs most often when two or more consumers have similar names, Social Security numbers (SSNs), or other identifiers.

Mixed and mismerged files occur largely because the nationwide CRAs do not use sufficiently rigorous criteria to match consumer data precisely, even when such unique identifiers as Social Security Numbers (SSNs) are present. Mostly importantly, they do not match information based on all nine (9) digits of the consumer's SSN. Instead, they will only match information based on seven of nine (7 of 9) digits of an SSN if the consumers' names are also similar.³

The nationwide CRAs have chosen to be excessively and unreasonably over-inclusive because, as the FTC once noted: "lenders may prefer to see all potentially derogatory information about a potential borrower, even if it cannot all be matched to the borrower with certainty. This preference could give the credit bureaus an incentive to design algorithms that are tolerant of mixed files."⁴

The nationwide CRAs have been aware of mixed file errors for decades.⁵ In the early to mid-1990s, the FTC reached consent orders with the nationwide CRAs requiring them to

³ See, e.g., *Reeves v. Equifax Info. Serv.*, 2010 WL 2036661 (S.D. Miss. May 20, 2010) (mixed file case involving similar names, different addresses but same state, and match of seven of nine SSN digits); *Apodaca v. Discover Fin. Servs.*, 417 F. Supp. 2d 1220 (D.N.M. 2006)(describing how Equifax uses partial matching logic, including only seven of nine SNN digits, to build files).

⁴ Federal Trade Commission, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003*, at 47 (Dec. 2004).

⁵ For an example of a mixed file case dating from the late 1970s, see *Thompson v. San Antonio Retail Merchants Ass'n*, 682 F.2d 509 (5th Cir. 1982).

improve their procedures to prevent mixed files.⁶ However, nearly two decades later, mixed files remain a significant problem.

2. *Identity Theft*

Identity theft is often called the “fastest growing crime” in this country, with an estimated eleven million consumers victimized by some form of the crime every year.⁷ In 2011, the FTC reported 279,156 complaints alleging identity theft, which was the largest single complaint category of consumers to the FTC.⁸

Identity thieves can harm a consumer’s credit history by setting up new credit or health care accounts in the consumer’s name and then letting them go unpaid. As these accounts go delinquent, the consumer victim’s credit rating can plummet.

The nationwide CRAs and furnishers bear a share of the blame for this ever-growing problem. The nationwide CRAs’ loose matching procedures, discussed above, contribute to identity theft problems. Once the fraudulent debt is reported, often after default and non-payment, and especially when collectors begin attempting skip trace searches, the account ends up merged into the victim’s file even though many of the identifiers do not match. Accordingly, the “identity theft” can be characterized as a special type of mixed file problem.

3. *Furnisher errors*

Furnishers can often be the source of errors in credit reports. A furnisher might report the consumer’s account with an incorrect payment history, current payment status, or balance. A particularly difficult type of error involves furnishers who have attributed a credit account to a

⁶ *FTC v. TRW, Inc.*, 784 F. Supp. 361 (N.D. Tex. 1991), *amended by* (N.D. Tex. Jan. 14, 1993); *In the Matter of Equifax Credit Information Services, Inc.*, 61 Fed. Reg. 15484 (Apr. 8, 1996) (consent order).

⁷ Javelin Strategy & Research, 2010 Identity Fraud Survey Report: Consumer Version 5 (2010) .

⁸ *Consumer Sentinel Network Data Book for January – December 2011*, at 6 (February 2012). See <http://ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2011.pdf>.

consumer who does not owe the debt, often called an “ownership dispute.” This type of dispute often involves a spouse or other authorized user who is not contractually liable for a debt. Another type of common error occurs when a CRA fails to mark accounts as disputed when the consumer has a legitimate bona fide dispute with the furnisher.

Debt collectors and debt buyers as furnishers of information present their own special types of credit reporting errors. Typically, the debt buyer or debt collector does not get any of the critical supporting documentation to establish that the consumer actually owes the debt, whether the amount is correct, whether there are any disputes, or even if the collector is dunning the correct consumer. Another problem all too often created by debt buyers and collectors is the “re-aging” of old accounts so that they stay on the credit report past the FCRA’s seven year limit.⁹

Not surprisingly, a recent CFPB report indicated that a disproportionate number of credit reporting errors involve debt collectors. The CFPB report found that debt collectors generate 40% of disputes to the nationwide CRAs, despite providing only 13% of the account tradeline information in credit reports.¹⁰ A recent study by the Federal Trade Commission on errors in credit reports similarly found that 32.2% of disputed items were collection accounts.¹¹

4. Definitive FTC indicates unacceptable error levels in credit reports

Just a few months ago, the FTC released the definitive study on the level of inaccuracies in credit reports.¹² The study, found that about 21% of consumers had verified errors in their

⁹ Chi Chi Wu, National Consumer Law Center, *Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in Their Credit Reports* (Jan. 2009), at 11-12, available at www.nclc.org/issues/credit_reporting/content/automated_injustice.pdf.

¹⁰ Consumer Financial Protection Bureau, *Key Dimensions and Processes in the U.S. Credit Reporting System: A review of how the nation’s largest credit bureaus manage consumer data*, December 2012, at 14, 29, available at <http://www.consumerfinance.gov/reports/key-dimensions-and-processes-in-the-u-s-credit-reporting-system>.

¹¹ Federal Trade Commission, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, December 2012, at 51, available at.

¹² *Id.*

credit reports, 13% had errors that affected their credit scores, and 5% had errors serious enough to be denied or pay more for credit.¹³ The FTC's study involved two pilot studies, 1,000 study participants, and was nearly a decade in the making.

The rate of inaccuracy found by the FTC study is unacceptable, especially given that many of these errors are preventable. It translates into 40 million American who have errors in their credit reports, 26 million of whom have lower scores as a result, and 10 million of whom have errors seriously damaging enough to cause them to be denied or charged more for credit or insurance or even be denied a job.

We also note that the FTC study found that the percentage of serious errors was many greater than the percentage reported by a May 2011 industry-funded study, which had claimed that only 0.51% of credit reports had errors serious enough to cause the consumer to be denied or pay more for credit.¹⁴

B. Fixing the System: The Roles and Responsibilities of the Nationwide CRAs, Empowered Consumers, the FTC and the CFPB

1. The culpability of the nationwide CRAs

Obviously, the nationwide CRAs have the critical role in fixing errors caused by their own procedures, such as mixed files. However, they also bear a very real responsibility for furnisher errors, which are aided and abetted by the failures of the nationwide CRAs to exercise adequate oversight. The nationwide CRAs unquestioningly rely on furnishers and provide little oversight of the quality of the information being reported. Any error sent by the furnisher in its computer file automatically appears in the consumer's credit report, sometimes even when the information patently contradicts information appearing in other parts of the credit report. The

¹³ *Id.* at i.

¹⁴ Michael Turner et al., Policy and Economic Research Council, *U.S. Consumer Credit Reports: Measuring Accuracy and Dispute Impacts*, May 2011.

classic example is reporting a consumer as “deceased” when active trade-lines are being reported by other furnishers, clearly indicating that the consumer is still alive.¹⁵

The FCRA imposes “grave responsibilities” on consumer reporting agencies to promote accuracy, and to act with “fairness, impartiality, and a respect for the consumer’s right to privacy.”¹⁶ The FCRA requires them to have and follow “reasonable procedures to ensure maximum possible accuracy.”¹⁷

Unfortunately, there are very logical reasons, and tremendous incentives for the nationwide CRAs NOT to exclude bad actors or require stricter measures to reduce furnisher errors. The credit reporting industry is unlike most other American industries in a fundamental respect: the paying clients of the credit reporting industry are not consumers, but the very creditors and debt collectors that the CRAs should be – but are not – screening the data of, auditing, and overseeing.

Moreover, consumers have no say in whether their information is included in the nationwide CRAs’ databases. Most Americans cannot avoid having a credit history. Unless they are very wealthy, consumers will need to borrow money if they want to buy a house or attend college. Thus, unlike almost all other business relationships, consumers who are unhappy with the actions of a CRA cannot vote with their feet – they cannot remove the information or take their business elsewhere.

On the other hand, debt collectors and creditors do have the ability to switch between CRAs if they wish. Therefore vigorous oversight by the nationwide CRAs, or tougher requirements for accuracy are likely to drive furnishers away. The biggest impact of excluding a

¹⁵ See, e.g., *Perez v. Trans Union, L.L.C.*, 526 F. Supp. 2d 504, 509, 510 (E.D. Pa. 2007) (question of fact for jury as to whether CRA should have detected inaccuracy in reporting consumer as deceased even though payments were reported as being made to his current accounts).

¹⁶ See 15 U.S.C. § 1681.

¹⁷ See 15 U.S.C. § 1681e(b).

furnisher is to cost the nationwide CRAs a paying customer; the nationwide CRAs don't profit and indeed lose money from making sure consumers are treated fairly. Furthermore, furnishers want all negative information that might possibly relate to the consumer, even if the information is of uncertain accuracy, It costs creditors more if negative information is unreported than if it is falsely reported. Thus, the nationwide CRAs have incentives to develop systems that are overly inclusive of negative information.

In short, traditional competitive market forces provide little incentive for CRAs to incur the costs to institute new procedures that ensure information is accurate or to undertake investigations to correct errors, since these activities primarily benefit consumers. Up until the creation of the CFPB, the major force of change to correct errors was consumers themselves who were willing to go to court to enforce their rights under the FCRA.

2. The vital importance of private rights and empowered consumers; the need for consumer remedies

In 1970, Congress recognized that no one has a bigger stake in the accuracy of a credit report than the consumer whose name is on it. And for over 40 years, private litigants have provided the most significant enforcement of the FCRA. A Westlaw search for reported Fair Credit Reporting Act case citations yields over 1,500 cases. In contrast, there has been much less enforcement by federal regulators. The FTC has only been able to bring several dozen FCRA cases, and most of them did not involve the accuracy of the nationwide CRAs.

New rights were added to the FCRA in 1996 and 2003 to protect consumers, but in compromises with the credit industry, consumers were prohibited from seeking relief in court to enforce some of these rights. Most notably, many of the responsibilities placed on furnishers are only enforceable by government agencies. This includes a prohibition on reporting information

that the furnisher knows or has reason to believe is inaccurate, and the requirement that furnishers handle credit reporting disputes sent directly to them.¹⁸

I would urge Congress to provide consumers with the right, currently lacking under the FCRA, to ask a judge to tell a furnisher or a CRA: “fix that report.” With one minor exception, the FCRA does not provide for declaratory or injunctive relief in actions by private parties. The vast majority of courts have held that courts do not have the power to issue an injunction under the FCRA. The FCRA is an anomaly in this respect, as the Supreme Court decision in *Califano v. Yamasaki*¹⁹ provides the basis for injunctive relief for most other laws.

Providing courts with explicit authority to issue injunctive relief would further the purpose of the FCRA to “assure maximum possible accuracy.”

3. The role of the FTC

During the past four years, the FTC has significantly increased its examination, investigation and enforcement actions against credit report agencies, and in particular, the debt collection and debt buying industry that have littered consumer reports with inaccurate and unverifiable information.

For example, in an important case last January, the FTC took enforcement action against Asset Acceptance in part over its failure to properly investigate consumer disputes and reporting of information it had reason to suspect was inaccurate.²⁰ I would hope that the FTC continues to aggressively pursue these types of actions and seek remedies that prevent the flow of inaccurate and/ or unverifiable information to consumer reports. Further, despite FTC enforcement actions, the CRAs continue to willingly accept information from companies, like Asset Acceptance, that have a proven history of providing inaccurate data.

¹⁸ See 15 U.S.C. § 1681s-2(d).

¹⁹ 442 U.S. 682, 99 S. Ct. 2545, 61 L. Ed. 2d 176 (1979).

²⁰ Complaint, *United States v. Asset Acceptance, LLC*, Case No. 8:12-cv-182-T-27 (M.D. Fla. Jan 30, 2012).

The FTC must also continue to enforce the FCRA's provisions requiring culpable CRAs to follow reasonable procedures to ensure maximum possible accuracy of information included in reports. For example, last year the FTC took action against HireRight Solutions, alleging that the CRA, HireRight Solutions, failed to follow reasonable procedures to prevent patently inaccurate consumer report information from being provided to employers and these failures led to consumers being denied employment or other employment-related benefits. The FTC's consent order imposed a \$2.6 million civil penalty against HireRight Solutions and prohibited future violations of the FCRA. Vigorous enforcement of the FCRA, in conjunction with the CFPB, in order to maintain accuracy and fairness in the consumer reporting system must remain a top priority for the FTC.

4. The role of the CFPB

When the Dodd-Frank Act created the CFPB, Congress recognized that credit bureaus required greater oversight and there needed to be reform of the industry as a whole. Dodd-Frank gave the CFPB rule-writing, supervisory and enforcement authority over credit bureaus that were never provided to the FTC. The CFPB can write regulations to implement almost all of the provisions of the FCRA, including the provisions regarding accuracy and the dispute process. In addition, the CFPB has new supervisory authority over the "larger participants" of the credit reporting industry that have more than \$7 million in annual receipts, which includes the nationwide CRAs. The CFPB must use its supervisory authority to fully investigate whether consumer reporting agencies are complying with the FCRA and other consumer financial laws and work with the FTC to better enforce these violations.

II. THE FCRA-MANDATED CREDIT REPORTING DISPUTE SYSTEM, AS DESIGNED AND IMPLEMENTED BY THE NATIONWIDE CRAS PROVIDES LITTLE RELIEF FOR CONSUMERS.

A. A Long-Documented History of Blatant Violation

The FCRA requires both CRAs and furnishers to conduct “reasonable” investigations when a consumer disputes an item in his or her credit report as inaccurate or incomplete. Instead, it is a perfunctory, automated process that consists of nothing more than translating consumer disputes into a two- or three-digit code, forwarding that code and a one-page electronic form to the furnisher, and parroting whatever the furnisher states in response.²¹ In this highly automated, computer-driven process, a consumer’s dispute is communicated using a Consumer Dispute Verification form (CDV). An automated version of the form, communicated entirely electronically, is known as Automated Consumer Dispute Verification (ACDV). Furthermore, all three nationwide CRAs collaborated through the Consumer Data Industry Association to create an automated on-line reinvestigation processing system called “e-OSCAR.”

Approximately 44% of consumer disputes are written.²² These written disputes often consist of a detailed letter with supporting documentation, painstakingly written by concerned and even desperate consumers. The code, assigned to the consumer dispute and generated by dispute handlers, is sent to the furnisher and is often communicated alone, without supporting documentation provided by the consumer.

In 2009, the National Consumer Law Center issued an in-depth report about the details, nature, and abuses of the credit reporting dispute system in a report called *Automated Injustice*:

²¹ Chi Chi Wu, National Consumer Law Center, *Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in Their Credit Reports* (Jan. 2009), available at www.nclc.org/issues/credit_reporting/content/automated_injustice.pdf.

²² Consumer Financial Protection Bureau, *Key Dimensions and Processes in the U.S. Credit Reporting System: A review of how the nation’s largest credit bureaus manage consumer data*, December 2012, at 27, available at <http://www.consumerfinance.gov/reports/key-dimensions-and-processes-in-the-u-s-credit-reporting-system>.

How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in Their Credit Report. The CFPB’s report confirmed the automated nature and hands-off approach of the nationwide CRAs, and documented that in 85 percent of cases, the CRA does no more than pass along the dispute to the furnisher. Most notably, CFPB Director Cordray noted that, as consumer advocates have long alleged, “the documentation consumers mail in to support their cases may not be getting passed on to the data furnishers for them to properly investigate and report back to the credit reporting company.”²³

I believe this failure to pass along documentation submitted by the consumer deliberately violates the FCRA’s requirement that a CRA include “all relevant information” about the dispute that the CRA received from the consumer.²⁴ And if all relevant communication is not forwarded, the furnisher cannot comply with the FCRA’s requirement to “review all relevant information” provided by the CRA.²⁵

B. The Nationwide CRAs’ Bias against Consumers Violates the FCRA

The nationwide CRAs’ bias in favor of furnishers – their unquestioning acceptance of the furnisher’s response despite being presented with evidence and documentation by the consumer – violates the FCRA’s protection for consumers. The FCRA places the burden of proof in a dispute investigation on the furnisher, not the consumer. The Act provides that if disputed information is inaccurate or cannot be verified, it should be deleted. See 15 U.S.C. § 1681i(a)(5)(A). Thus, if a consumer provides evidence and documentation that she is correct, and the furnisher responds without such evidence, the disputed information is “unverifiable” by nature, and should be deleted. Yet the nationwide CRAs not only illegally place the burden of

²³ Prepared Remarks by Richard Cordray, Director of the Consumer Financial Protection Bureau, Credit Reporting White Paper Press Call, December 13, 2012 .

²⁴ See U.S.C. § 1681i(2).

²⁵ See 15 U.S.C. § 1681s-2(b)(1)(B).

proof on the consumer, they go further by always siding with the furnisher and automatically accepting the furnisher's position – even when, in 40% of the cases, the furnisher is a debt collector or debt buyer. This is not only wrong; it is illegal under the FCRA.

C. Furnishers Also Engage in Perfunctory “Investigations,” with Encouragement from the Nationwide CRAs

For their part, furnishers often also conduct non-substantive and perfunctory “investigations.” These procedures consist of nothing more than verifying the challenged data by comparing the notice of dispute with the recorded information that is itself the very subject of the dispute. The nationwide CRAs promote “Automated Batch Interface” which “allows Data Furnishers to receive Consumer Dispute Verification (ACDV) requests in XML batch file format” so that they can handle disputes using a mass production method.²⁶

D. What Needs to be Done

It is well past time for the credit reporting dispute system to be reformed. First, the nationwide CRAs must be required to have sufficiently trained personnel to actually review, and conduct real investigations of, consumer disputes. Nationwide CRAs must also be required to forward to furnishers actual copies of the documents submitted by consumers. Furthermore, in those circumstances where the CRA personnel truly cannot determine whether the consumer or the furnisher is correct, the information should be deleted. After all, the FCRA requires information to be deleted if it “cannot be verified.”²⁷ Thus, the burden should be on the furnisher, not the consumer, when there is a credit reporting dispute.

Debt collectors must be subject to even stricter screening and oversight. There should be a flat-out prohibition against the nationwide CRAs to engage in parroting when a debt collector

²⁶ e-OSCAR, Automated Batch Interface, at <http://www.e-oscar.org/automated-batch-interface.aspx>.

²⁷ See 15 U.S.C. § 1681i(a)(5)(A).

is involved. Finally, as discussed above, consumers should have the right to ask a court to order the nationwide CRAs and furnishers to fix their credit reports when there is an error.

III. SPECIALTY CONSUMER REPORTING AGENCIES

“Specialty consumer reporting agencies” compile and maintain files relating to criminal records, residential or tenant histories, check-writing histories, employment histories, and insurance claims. These agencies are not required to be licensed or even registered, nor is there any one source identifying all of these companies. Therefore, as of today, there is no centralized location to obtain the kind of information required to determine the accuracy of the information these agencies are collecting or being used to determine the “worthiness” of consumers for employment, housing and/or insurance.

Despite the general lack of transparent information about these specialty bureaus, consumer advocates have discovered a number of troubling problems with this growing industry.²⁸ For instance, few users of the reports generated by these bureaus comply with the FCRA’s requirement to provide “adverse action” notices to the consumers (or potential employees or tenants) that a report has been used against them. Therefore, many people are denied employment or housing and never know that the reason for the denial was a background check that might have been filled with inaccurate information.

Additionally, although the FCRA does provide consumers with the right to preemptively review the information in their consumer file, this right is virtually meaningless for specialty consumer reports. There are hundreds, if not thousands, of specialty consumer reporting agencies operating in the United States. Unlike the big three credit bureaus, there is no

²⁸ See Persis S. Yu & Sharon M. Dietrich, Nat’l Consumer Law Cent., Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses, April 2012.

centralized location where a consumer can go to order his or her background, or specialty consumer/credit report.

Fortunately, the CFPB has recently released a list of contacts for some of the largest specialty credit reporting agencies. However, it only scratches the surface of the number of background checking agencies. With thousands of specialty consumer reporting agencies operating, a consumer cannot predict which company his or her future employer, insurance company, or landlord will use.

Further, dispute rights are similarly meaningless with specialty consumer reports. Even if a consumer is successful in disputing information on his or her report (in the rare instance she actually discovers a report was used), the employment or housing opportunity may be gone, and the chances of that report being used again are small. The only way to provide meaningful protections to consumers is to take greater steps to ensure the accuracy of the reports from the outset.

To address some of the problems with the specialty bureaus, consumers need, at the least, the following protections:

1. Require all consumer reporting agencies to be licensed and registered.
2. Require all consumer reporting agencies to undergo independent auditing of their data and records for accuracy.
3. The CFPB must continue to monitor and collect data regarding the larger participant consumer reporting agencies and draft regulations detailing matching criteria and ensuring that information on consumer reports is up to date.
4. The FTC and the CFPB must actively investigate and bring enforcement actions against specialty consumer reporting agencies who fail to comply with the FCRA.

IV. OTHER CREDIT REPORTING ISSUES THAT CONGRESS MUST ADDRESS.

Beyond the issues addressed above, there are other areas where Congressional action is necessary to ensure our nation's credit reporting system works fairly for consumers and the general marketplace. They include:

- Consumers lack critical information regarding credit scores. They do not have the right to obtain a copy of the credit score most commonly used by lenders (FICO), or other types of scores based on their credit or consumer reports, such as insurance credit scores, tenant screening scores, or healthcare scores. They do not have the right to a free annual credit score. We strongly support S. 471, which would provide consumers with access to the real credit score used by businesses passing judgement about their credit "worthiness."
- Millions of Americans have their credit reports damaged by medical debt, even when the debt is the result of insurance disputes or billing errors by providers, or is ultimately settled or paid off. We strongly support S. 160, the Medical Debt Responsibility Act, which would remove paid or settled medical debts from credit reports. This approach will provide tremendous benefits to consumers, and indeed is probably the simplest and easiest "quick fix" available to improve the credit records of a substantial number of consumers.
- The use of traditional credit reports by employers is a growing practice that is harmful and unfair to American workers. Despite many good reasons to avoid engaging in this practice, sixty percent of employers do so today. We urge Congress to restrict the use of

credit reports in employment to only those positions for which it is truly warranted, such as those requiring a national security clearance.

- The Fair and Accurate Credit Transactions Act of 2003 (FACTA) inadvertently deprived consumers of a 30 year-old pre-existing right they had to enforce the FCRA requirement that users of credit reports disclose to consumers when an “adverse action” is taken, i.e., credit or insurance is denied or provided on less favorable terms, on the basis of an unfavorable credit report. Congress can easily fix this scrivener’s error and should do so, as it was never part of the legislative bargain struck by FACTA.

Thank you for the opportunity to testify, and I look forward to your questions.