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# United States Senate

WASHINGTON, DC 20510

December 17, 2004

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Honorable Deborah Platt Majoras  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, DC 20680

Dear Chairman Majoras:

The Federal Trade Commission is in the process of finalizing its proposed regulation under the Fair and Accurate Credit Transactions Act of 2003 ("FACTA") on Improving Prescreen Opt-Out Notices.

I understand that Commission staff in shaping the final rule may be relying in part on a colloquy between the Director of the FTC's Bureau of Consumer Protection and me during a legislative hearing on credit reporting issues. I want to clarify my position in the hope that your final regulation will permit consumers to make an informed decision about whether or not to opt out of receiving pre-screened solicitations.

At a May 20, 2003 Senate Banking Committee Hearing, I raised the subject of pre-screening with J. Howard Beales, III of the FTC. My primary purpose was to learn Director Beales's opinion on whether pre-screening has helped or hurt consumers in the credit card market. I was quite satisfied with his answer that pre-screening has facilitated more competitive credit markets and has been very good for consumers.

We also engaged in a lighthearted exchange on mechanisms for opting out, and I was equally well satisfied with his responses. Director Beales clarified that when consumers elected to opt out of receiving pre-screened offers, the opt-outs are effective on a nationwide basis, not just at a statewide level.

In asking a question about pre-screening, months before language addressing the opt-out notice had been drafted, it was not my intention to take a position on the placement of that notice in pre-screened offering letters. Furthermore, there was no suggestion in the hearing record (or elsewhere in the legislative process that led to the enactment of the FACT Act for that matter), that the clear and conspicuous requirement for these notices should be changed or that consumers should receive two opt-out notices instead of just one.

In fact, while we could have changed the disclosure standard for such notices in FACTA to "clear and prominent," or specified the placement of the notice, we instead chose to leave the existing "clear and conspicuous" standard in place, while adding new language addressing the simplicity and understandability of the notice.

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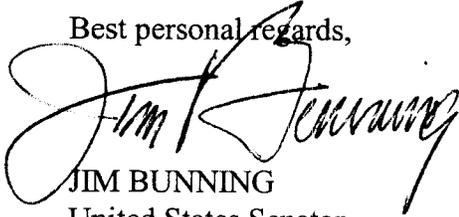
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I appreciate this opportunity to explain my thinking on this issue and look forward to seeing the FTC's final rule.

Best personal regards,

A handwritten signature in black ink, appearing to read "Jim Bunning". The signature is stylized with large, sweeping loops and a prominent "J" and "B".

JIM BUNNING  
United States Senator

cc: Honorable Orson Swindle  
Honorable Thomas B. Leary  
Honorable Pamela Jones Harbour  
Honorable Jon Leibowitz