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**Congress of the United States**  
**House of Representatives**

November 16, 2004

Washington, DC 20515-3220

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

Dear Chairman Majoras:

In a letter dated October 12, 2004, my colleagues from the House Financial Services Committee wrote you to express their concerns regarding the proposed rule issued by the Federal Trade Commission about the notices consumers receive regarding their right to opt out from receiving prescreened offers for credit or insurance. A copy of the letter from Representatives Bachus and Kanjorski is attached.

I write to inform you that I share the concerns they raised. I join in their request that the perspectives reflected in their colloquy on the day the House approved the Fair and Accurate Credit Transactions Act be incorporated in the final rule from the FTC. A copy of that colloquy is also attached.

Of concern is that consumers should have before them all relevant information upon which they can make an informed decision regarding whether opting out of prescreened credit offers is a good or bad option for them. While the statute itself describes the consumer "notice" on opting-out, I note that your proposed rule actually contains bifurcated notices. This will lead to undue confusion about the opt-out and will not illuminate consumer thinking – the sort of outcome our authorizing colleagues warned against.

I prefer that you make the appropriate corrections to reflect congressional intent on this point, and provide me with confirmation you will be able to do so by December 3rd. Otherwise, I may be forced to pursue a remedy in the appropriations process.

Thank you for your consideration. If you have any questions about this matter, please contact Meredith Curcio in my office at (202) 225-5614.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Sweeney".

John Sweeney  
Member of Congress

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

October 12, 2004

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

Dear Chairman Majoras:

We write to express our concerns with the proposed rule recently issued by the Federal Trade Commission (FTC) about the notices consumers receive regarding their right to opt out of receiving prescreened solicitations for credit or insurance. Published in the Federal Register on October 1, 2004, we believe that this regulatory proposal ignores an important element of the Fair and Accurate Credit Transactions Act (FACT Act) legislative record. Consistent with all applicable law and regulation, we request that you give consideration to our views as you work to develop the final rule for these notices.

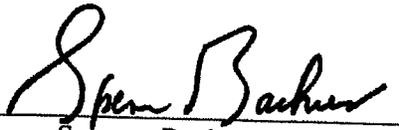
In the FACT Act, Congress charged the FTC to increase public awareness, not only of the right to opt out from receiving prescreened credit offers, but also of the benefits and consequences of making that decision. In order to have any practical value, consumers must have all relevant information at the time they exercise their preference.

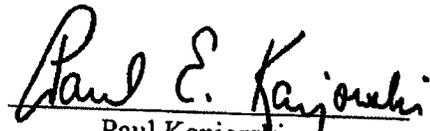
During legislative deliberations last year, many in Congress realized that the consequences of opting out from receiving prescreened offers of credit involve more than simply deciding to limit the number of direct mail pieces delivered to the mailbox.

As a general rule, the longer American consumers are part of the credit reporting system, the better their credit profiles become. In turn, that improved standing qualifies them to receive credit offers more attractive than their existing terms and rates. For many consumers, the only way they become aware of their eligibility for better credit terms is by reviewing the prescreened credit offers that come to them.

Consumers must be informed not only about the mechanics for opting out of prescreened offers of credit, but also about the underlying considerations that must be taken into account before a decision is made. Those with high quality credit profiles may already have available all the credit they need on the best possible terms. For them, the decision to opt out from receiving additional prescreened credit offers could be quite straightforward. However, those who are new to the credit system, and who responsibly pay their bills, may never learn when they qualify for better credit terms if they decide to opt out. Without balanced information about the prescreening option at the time it is presented, consumers could deprive themselves of opportunities for better credit offers.

Sincerely,

  
Spencer Bachus  
Member of Congress

  
Paul Kanjorski  
Member of Congress

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**CONFERENCE REPORT ON H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS  
ACT OF 2003 -- (House of Representatives - November 21, 2003)**

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At the heart of the legislation is the permanent reauthorization of the Fair Credit Reporting Act. It has provided a national uniform credit reporting system that has effectively lowered the cost of credit. And it has increased the choice and convenience for millions of Americans across the country.

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The FCRA has helped to address other vital security issues such as combating identity theft and blocking terrorist financing under the U.S.A. Patriot Act, both issues that I have held hearings on in my subcommittee.

Combating identity theft and drying up terrorist financing requires a collaborative effort of law enforcement and regulatory agencies, consumers, and financial institutions, all with access to appropriate information.

We have also made some other important improvements to the FCRA in order to protect the sanctity of privacy for the American people throughout the credit granting process. I believe that one of the most important pieces of that is medical information. The medical information of consumers should be kept private. It does not need to be shared or be distributed by creditors or listed on credit reports.

Individuals should know that their personal medical information belongs to them and it is not released for any other purposes, whether it is for the credit-granting process or employee background checks. And we have done that with our legislation by coding the information.

I would like to thank the gentleman from Arkansas (Mr. *Ross*) and the gentleman from North Carolina (Mr. *Watt*) for working with me on this amendment that will protect medical information of individuals without disrupting the access to low-cost credit and the security of information.

By allowing consumers to benefit from reporting the financial aspects of their transactions to credit bureaus while maintaining the sanctity of their medical privacy, this legislation is a real win for all Americans.

Finally, I am pleased we were able to include a new title in the legislation, which creates a Commission on Financial Literacy and Education, or the SAFE Act. As a result of that strategy, we will have a clear vision of the future financial literacy that will be the benefit of all Americans.

Mr. Speaker, I strongly support this legislation.

- [Begin Insert]

Mr. Speaker, I rise in strong support of the Conference Report before us.

I would like to commend Chairman **OXLEY** and Ranking Member **FRANK**--and their counterparts in the Senate--for moving this legislation with great thoroughness and deliberation and in the spirit of bipartisanship.

The legislation, "The FACT Act", is the result of a dozen hearings, one hundred witnesses, and months of deliberations by my colleagues on both sides of the aisle, and both sides of the Capitol.

At the heart of the legislation is the permanent reauthorization of the Fair Credit Reporting Act, or FCRA. FCRA has provided a national uniform credit reporting system that has effectively lowered the cost of credit, and increased choice and convenience for millions of Americans across the country.

As a conferee on this report, I can tell you that we worked with many diverse interests before we reached a unified, solid product. And in this product, we have built on the framework of FCRA to ensure that the legislation continues to lower the cost of credit and help fuel our economy--while also creating new opportunities for populations who have never had access. That's why this legislation has overwhelmingly bipartisan support.

FCRA has also helped address other vital security issues, such as combating identity theft and blocking of terrorist financing under the USA PATRIOT Act--both issues which I have held numerous hearings on in my Oversight Subcommittee. Combating identity theft and drying up terrorist financing requires the collaborative effort of law enforcement and regulatory agencies, consumers and financial institutions--all with access to appropriate information.

I am extremely pleased that this conference report addresses these important issues, and improves our ability to combat identity theft and help law enforcement officials track down illicit money. The information-sharing under this legislation is essential to protecting the American people by detecting suspicious activity and weeding out wrongdoers.

The national uniform standards under FCRA have also facilitated a financial institution's ability to utilize additional authentications and identity verifications to protect consumer security. And the increased protections incorporated in this legislation are critically important in enabling victims to correct the damage to their credit histories created by identity thieves.

This legislation will further help law enforcement combat financial fraud and track down criminals and terrorists. And it adds new protections that are important to achieving these goals.

We have also made other important improvements to FCRA in order to protect the sanctity of privacy for the American people throughout the credit-granting process.

I believe the medical information of consumers should be kept private, and it does not need to be shared or distributed by creditors or listed on credit reports. Individuals should know that their personal medical information belongs to them and is not released for other purposes, whether it is for the credit granting process or employee background checks. And we have done this in our legislation by coding this information.

I would like to thank Reps. **ROSS** and **WATT** for working with me on an amendment that will protect the medical information of individuals without disrupting access to low cost credit and the security of information.

By allowing consumers to benefit from reporting the financial aspects of their transactions to credit bureaus while maintaining the sanctity of their medical privacy, this legislation is a real win for all Americans.

Finally, I am pleased that we were able to include a new title in the legislation, which creates a Commission on Financial Literacy and Education to improve the financial literacy of millions of Americans of all ages.

At the crux of this language is the creation of the first ever national strategy for financial literacy-- which will facilitate new public, private and nonprofit partnerships to help educate all Americans in financial literacy. The national strategy, and its subsequent report to Congress, will be known as "The Strategy for Assuring Financial Empowerment" or "SAFE strategy", based on legislation that I introduced--H.R. 3520, "The SAFE Act".

As a result, the "SAFE strategy" will provide a clear vision for the future of financial literacy. The vision will provide a systematic approach to identify effective ways to increase the general education level of current, and future, consumers of financial services and products. The Commission and the "SAFE strategy" will be goal-oriented and subject to reviews by Congress through annual testimony.

Mr. Speaker, I strongly support this legislation that is crucial to the economy and the security of the American people.

I thank you for addressing these important issues and urge my colleagues to support this conference report.

- [End Insert]

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 1/2 minutes to the gentleman from Pennsylvania (Mr. *Kanjorski*), who is the second ranking member of the full committee and the ranking member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises and who has a major input to this bill.

(Mr. KANJORSKI asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. KANJORSKI. Mr. Speaker, just as an aside, if I may, I urge all my colleagues on this side of the aisle and on the other side of the aisle to support one of the most bipartisan pieces of legislation. I want to congratulate the chairman of the committee, the gentleman from Ohio (Mr. *Oxley*), the ranking member of the committee, the gentleman from Massachusetts (Mr. *Frank*), and the chairman of the subcommittee, the gentleman from Alabama (Mr. *Bachus*), and the ranking member of the subcommittee on our side of the aisle for a job well done.

And the fact that we set a new course of activity here in the House as to how this function of legislation should be done from not only the subcommittee, the full committee, the House and Senate, and the conference committee, but now as they work back today, I urge all my colleagues to support the legislation.

Mr. Speaker, I would like to enter into a colloquy with the gentleman from Alabama (Mr. *Bachus*) on the Federal FTC advertising campaign.

Section 213 of the bill directs the Federal Trade Commission to increase public awareness regarding the availability of consumer rights to opt out of receiving prescreened credit offer solicitations. Is that his understanding as well?

I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Speaker, it is, yes.

Mr. KANJORSKI. Mr. Speaker, does the gentleman share with me the understanding that the FTC's public awareness campaign is to be designed to increase public awareness, not only of the right to opt out of receiving prescreened solicitations, but also of the benefits and consequences of opting out?

Mr. BACHUS. Mr. Speaker, yes, I share that understanding. Not only

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should consumers know they can opt out of getting these offers, they should also know that opting out or not affects their chances of getting additional credit offers with competitive terms.

Mr. KANJORSKI. Mr. Speaker, and if the FTC's public awareness campaign increases their understanding of the opt-out, consumers will make more informed better decisions. Does the gentleman agree?

Mr. BACHUS. Mr. Speaker, yes, I agree.

Mr. KANJORSKI. Mr. Speaker, I thank the gentleman from Alabama (Mr. *Bachus*).

- [Begin Insert]

Mr. Speaker, I rise in very strong support of the conference report for H.R. 2622, the Fair and Accurate Credit Transactions Act.

The bill before us is an excellent piece of legislation. It advances consumer protection. It combats identity theft. And it allows businesses to operate efficiently when offering credit.

Moreover, the bill before us is a model of how the legislative process should work on a bipartisan basis. We held numerous hearings on the legislation. We deliberated on these matters thoroughly. We worked with one another on a bipartisan basis. The results of our efforts produced a bill that originally passed the House overwhelmingly.

If we fail to extend the expiring provisions of the Fair Credit Reporting Act before the end of this year, conflicting state laws could place financial institutions in a difficult compliance position, and the current efficiencies in obtaining credit could significantly decrease. We would, moreover, create more difficulties for our already struggling economy.

The Fair Credit Reporting Act and its 1996 amendments, in my view, have created a nationwide consumer credit system that works increasingly well. This law has expanded access to credit, lowered the price of credit, and accelerated decisions to grant credit. One reason that the law works so well is the establishment of a uniform system of national standards for credit reporting. As my colleagues may recall, Mr. Speaker, I strongly supported creating these state preemptions in the early 1990s. I also

believe that we should extend them now.

In addition to extending the expiring preemptions of state law, H.R. 2622 will make a number of important improvements to current law with respect to consumer protection. These provisions, among other things, will improve the accuracy of and correction process for credit reports, and establish strong privacy protections for consumers' sensitive medical information.

Furthermore, identity theft is a growing problem in our country. A recent report by the Federal Trade Commission found that 27.3 million Americans have been victims of identity theft in the last five years. I am therefore particularly pleased that H.R. 2622 includes several provisions designed to combat these crimes and aid consumers.

Before I close, Mr. Speaker, I want to again commend the Ranking Member of the Committee [Mr. **FRANK**] for his work leading to a very strong bill, as well as the gentlelady from Oregon [Ms. **HOOLEY**] for her important work on identity theft. As I have already noted, we also worked on a bipartisan basis and in a pragmatic way with the Chairman of the Committee [Mr. **OXLEY**] and the Chairman of the Subcommittee [Mr. **BACHUS**] to produce a very worthwhile legislative product in the House and in the conference with the Senate on which I served.

Mr. Speaker, H.R. 2622 contains many important consumer protection provisions in a framework of uniform national standards. It is a good bill. I encourage my colleagues to support its passage.

- [End Insert]

Mr. **OXLEY**. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. *Biggert*).

Mrs. **BIGGERT**. Mr. Speaker, I would like to commend the hard work that the gentleman from Ohio (Chairman *Oxley*) and the gentleman from Alabama (Mr. *Bachus*), subcommittee chairman, the gentleman from Massachusetts (Ranking Member **FRANK**), and the committee staff have done on this extremely important piece of legislation.

Mr. Speaker, to its sponsors and its cosponsors, every bill is an important bill. But there are few bills that we will take up this session or this Congress that are as critically important to our economy as reauthorizing and making permanent the expiring protections contained in the Fair Credit Reporting Act.

The FCRA may not be a household word, but it nonetheless touches virtually every aspect of our lives and our economy.

Without this reauthorization, there can be no national credit system, without a national credit system there will be less credit, slower credit, inaccurate credit, inefficient credit, and in some cases, no credit at all. Less, slower, inefficient and no credit will lead inevitably to less spending, slower growth, lower incomes, and fewer jobs.

That would be noticed by the American consumer and it would be a disaster for the American economy. That is why FCRA is a must-pass bill for this session.

This conference report addresses the challenges and problems created by new technologies as well. Chief among these are the provisions addressing identity theft. I am particularly pleased that this conference report contains language addressing the challenges of financial literacy.

As a member of the Committee on Financial Services and the Committee on Education and the Workforce, I have come to recognize the positive impact that a marriage of financial literacy and basic economics can have on millions of future investors.

I especially want to thank Senators Enzi and Sarbanes for working with me to perfect this language included in this conference report. H.R. 2622 is a good bill that provides important new protections for consumers and stops identity theft before it happens. I urge my colleagues to support this legislation and yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 1/2 minutes to the gentleman from Illinois (Mr. Emanuel), who was very active particularly with regard to the medical privacy provision of this bill.

Mr. EMANUEL. Mr. Speaker, I would like to commend the Members on both sides of the aisle who worked in a bipartisan way to draft a good, strong bill with new identity theft protections and consumer protection. A special thanks to the gentleman from Ohio (Chairman Oxley), to the gentleman from Massachusetts (Mr. Frank), and to my colleague, the gentleman from California (Mr. Ose) for cosponsoring the amendment ensuring that this conference report has landmark provisions preventing banks and insurance companies from accessing and using the most sensitive private information of a consumer, medical information.

This medical privacy bill gives consumers a safe harbor they deserve by blacking out the use of medical information and making it off limits to banks and insurance companies. They cannot access it, period. This agreement makes that the law.

These new protections should go a long way to addressing America's concerns that their medical, mental health, or DNA information could be shared or used against them by banks and credit bureaus, when they apply for a mortgage, rent an apartment, or join a club. No one applying for a home should have to worry about a bank using their past cancer treatments against them. When this becomes law, they will not have to. This is a win for consumers and for the financial services industry.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. Harris).

Ms. HARRIS. Mr. Speaker, I want to discuss some of the exciting opportunities in the FCRA, specifically the aspects that Florida has engaged in. And I would like to enter a colloquy with the gentleman from Alabama (Mr. Bachus) to discuss those.

Mr. Speaker, I would yield to the gentleman from Alabama (Mr. Bachus).

Mr. BACHUS. Mr. Speaker, if the gentlewoman would yield, I would be glad to engage in a colloquy. I think what the gentlewoman from Florida (Ms. Harris) was inquiring into was that the Florida Banking Association has created a system that permits banks to combat identity theft, check fraud, and other criminal activity. And as I understand it, this system it produces reports that banks use exclusively to fight fraud not for the purpose, either in whole or part, of determining an individual's eligibility for credit insurance and employment.

And she has asked me to confirm that information that is provided for the exclusive purpose of detecting, preventing, or deterring a financial crime identity theft, or the funding of a criminal activity does not constitute a consumer report under the Fair Credit Reporting Act, even as amended by

this bill. And my response to that is that is correct. Such information was not a consumer report under the Fair Credit Reporting Act as it existed before this legislation, nor will it constitute a consumer report as amended by this bill.

Ms. HARRIS. Mr. Speaker, reclaiming my time, I think that many people were confused by that, so I really appreciate the clarification that this information is not a consumer report under the Fair Credit Act neither before it was passed nor after it has been amended. So I really appreciate that clarification.

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