



Division of
Financial Practices

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Attorney

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580

June 24, 1999

Dear Mr. Watkins:

This responds to your letter concerning the relationship between Sections 607(b) and 623(a) of the Fair Credit Reporting Act ("FCRA"). You note that Section 623(a)(1)(C) allows a party that furnishes information to a consumer reporting agency ("CRA") to provide an address for consumers to dispute information, and thereby avoid the general accuracy requirements of Section 623(a)(1)(A). You also note that Section 623(c) prohibits consumers from suing furnishers who violate Section 623(a), meaning that the only remedy is enforcement by governmental authorities. You ask whether these limitations increase the obligation of CRAs under Section 607(b), which requires such organizations to "follow reasonable procedures to assure maximum possible accuracy of the information" in their consumer reports.

Section 623 was added to the FCRA by the Consumer Credit Reporting Reform Act of 1996 (Public Law 104-208, Title II, Subtitle D, Chapter 1, the "CCRRA"). That major overhaul of the FCRA was signed into law on September 30, 1996, and most of its provisions became effective one year later. We understand your point that the obligations imposed by Section 623(a) on furnishers of information to CRAs (and the remedies it provides consumers for violation) are limited, and your view that CRAs should be more vigilant as a result. However, *the FCRA imposed no accuracy duties at all on the furnishers of information to CRAs prior to the addition of Section 623 in the CCRRA*. Even though the Section is limited in some respects, it imposes legal obligations where none existed before. Section 623(a)(1)(B) forbids furnishers from continuing to report inaccurate information that is disputed by consumers in writing to the address provided by the furnisher (using the procedure you cited). In addition, Section 623(b) imposes clear investigative duties on furnishers when they receive disputes from CRAs, and allows consumers to sue violators of this subsection to obtain damages (which may be punitive if the consumer shows willful violation) and attorney fees. Prior to the addition of Section 623 in 1996, the FCRA provided for none of those duties or liabilities on furnishers of information to CRAs.

Section 607(b) was not changed by the CRRRA. It remains in the same form as when the FCRA became law on October 26, 1970. Congress left Section 607(b) intact when it rewrote the FCRA in 1996, and on several other occasions when it amended the statute over the years. Despite some deficiencies in Section 623(a) from the consumer perspective, it does impose accuracy duties on furnishers where none existed prior to the effective date of the CRRRA. Nothing suggests that, in prescribing obligations for furnishers for the first time, Congress intended to change CRA duties under Section 607(b). Therefore, it is our view that the duties of CRAs under Section 607(b) were neither expanded nor reduced by the addition of Section 623 by the CRRRA.

The opinions set forth in this informal staff letter are not binding on the Commission.

Sincerely yours,

Clarke W. Brinckerhoff