

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

April 17, 1998

Re: Section 605 of the Fair Credit Reporting Act

Dear Mr. Seham:

This is in response to your letter of November 12, 1997, requesting the staff's views on the situation where a consumer reporting agency (CRA) verifies for a client the accuracy of graduation information and dates of past employment that an applicant has recorded on a recently submitted resume or employment application. You ask whether the time limits on reporting adverse information found in Section 605 of the Fair Credit Reporting Act (FCRA) apply to the verification of graduation and past employment.

Section 605 of the FCRA prohibits CRAs from providing reports that contain certain types of information that antedate the report by seven years (ten years in the case of bankruptcies). Sections 605(a)(1) through (a)(5) specify particular items of information subject to the reporting prohibitions, including bankruptcy matters, suits and judgments, tax liens, accounts placed for collection or charged to profit and loss, and criminal matters. Dates of employment and educational histories are not covered by these subsections.

Section 605(a)(6) is a more general provision that supplements subsections (a)(1) through (a)(5). Section 605(a)(6) prohibits the reporting of any "adverse item of information" that antedates the report by more than seven years. The FCRA does not define the term "adverse item of information." We believe that the common understanding of these words must be used. The dictionary definition of "adverse" includes "unfavorable" or "opposed to one's interests." Accordingly, we believe that to be covered by Section 605(a)(6) information must cast the consumer in a negative or unfavorable light.

The fact that a job applicant attended college or was employed at a particular job during certain years does not reflect adversely upon the consumer. We conclude, therefore, that this information is not "adverse" information as the term is used for Section 605 purposes. Thus, when a job applicant records such information on a resume or an employment application, a CRA may verify and report the information without regard to the seven-year reporting period set forth in Section 605.

It is, of course, possible that information collected by a CRA about an applicant's education and job history may be incorrect, and that any error may adversely affect the applicant. For example, a CRA may incorrectly report that an applicant did not graduate from college. As a result of this error, an employer may decide not to hire the individual. We note that in this circumstance the employer has to make a disclosure to the applicant before denying employment (Section 604(b)). As part of this disclosure, the employer must provide a copy of the report that is the basis for the employer's tentative decision. The consumer will, therefore, be able to see that the report is inaccurate and may then discuss the error with the employer before the employer actually takes the adverse action.

The views set forth above are staff views and do not reflect the views of the Commission or any particular Commissioner.

Sincerely,

William Haynes
Attorney
Division of Credit Practices