



Consumer Federation of America

**Consumer Action**  
Education and Advocacy Since 1971



May 14, 2008

The Honorable Barney Frank  
Chairman  
House Committee on Financial Services  
Washington, DC 20515

The Honorable Spencer Bachus  
Ranking Member  
House Committee on Financial Services  
Washington, DC 20515

Re: Oppose H.R. 2885, Credit Monitoring Clarification Act

Dear Chairman Frank and Ranking Member Bachus:

The undersigned national consumer organizations would like to express our strong opposition to H.R. 2885 (Kanjorksi), the so-called Credit Monitoring Clarification Act, which broadens the exemptions under the Credit Repair Organizations Act. **CROA is a vital and important consumer protection law. A Federal Trade Commission witness recently testified before the Senate that the approach taken by H.R. 2885 would be exploited and would undermine CROA's consumer protections.**

Currently, CROA broadly applies to any person who, in return for money, provides services to improve a consumer's credit record. Only non-profit organizations and a few other entities are exempted. In addition to requiring key disclosures, and mandating important contract terms, the Act prohibits anyone offering credit repair services from violating standards of truthfulness, fraud or deception.

Advocates for consumers have found CROA to be a useful tool in dealing with a range of bad actors in the credit marketplace. Below are some examples of the consumer protections in the current law that would not be available under H.R. 2885.

- When run-of-the-mill *credit repair businesses* deceptively advertise their ability to improve consumers' credit scores by exaggerating what they can accomplish, CROA offers protections against this deception.
- When *debt collectors* collect debts by deceptively promising improvement of a consumer's credit rating, CROA's prohibition against deception can be brought to bear.

- When *subsidiaries of credit reporting agencies* make the same promises to improve credit reports as do credit repair businesses, CROA provides a level playing field and equal protection against deception.

**The proposed amendment to CROA for credit monitoring activities includes broad and sweeping exemptions.** It would allow anyone who characterizes the services as providing “access to credit reports, credit monitoring notifications, credit scores . . . , any analysis, evaluation or explanation of credit scores . . . .” to be *exempted* from coverage under CROA as long as they provide a new disclosure and cancellation rights for credit monitoring services. In fact, the business would remain exempt *even if it offered to improve credit scores or modify credit reports*, as long as the offer did not promise to remove accurate items that are not obsolete. Yet today’s operators are savvier than that, and often avoid making illegal promises directly. In other words, *any* business could escape the coverage of CROA by slightly changing the description of what it does. CROA’s current strict prohibition against deception and fraud would no longer apply to that business.

On July 31, 2007, before a Senate Commerce Committee oversight hearing on CROA, Lydia Parnes, the Director of the Bureau of Consumer Protection of the Federal Trade Commission, confirmed that the exemption in H.R. 2885 would open up loopholes in CROA that fraudulent credit repair services would exploit: “our experience with credit repair outfits is that they use every exemption to try and evade the law... “[S]o far we have not been able to come up with anything that we could really recommend as carving out an appropriate exemption, and still providing adequate protection to consumers.”

CRA’s offerings of monitoring services are also subject to abuse. The CRA’s websites offer prominent links to “free credit report,” but those links lead to a paid credit monitoring service, not to the free report that the agencies are legally obligated to provide. Ordering information for the legally mandated free report is obscured. The FTC has imposed a fine and consent decree against one company for these practices, but abuses continue.

It is also not clear why any amendments are necessary, as credit monitoring services have been a thriving, profitable product for credit reporting agencies.

This proposal weakens an important law available to consumers to address predatory lending activities. We strongly urge your opposition.

Sincerely,

Lauren Saunders  
National Consumer Law Center (for its low income clients)

Ira Rheingold  
National Association of Consumer Advocates

Ed Mierswinski  
U.S. PIRG

Travis Plunkett  
Consumer Federation of America

Brenda Muniz  
Association of Community Organizations for Reform Now (ACORN)

Linda Sherry  
Consumer Action

Jeannine Kenney  
Consumers Union

cc: Members of the House Financial Services Committee