

Murdo, Patricia

From: Keith Brown [KBrown@merlindata.com]
Sent: Friday, September 08, 2006 4:12 PM
To: Murdo, Patricia
Subject: RE: more on identity theft victim assistance

Hi Pat,

I left you a couple of voicemails (sorry they were a bit long). I don't think the way it is currently written would directly effect our business simply because we are not a CRA. However indirectly, it would effect some of our customers who are collection agencies, insurance agencies, banks, etc. Furthermore, if the intent is ultimately to prevent the sale of SSN regardless of permissible purposes allowed under the Gramm-Leach-Bliley act, this would be very harmful to our business and industry. Merlin has limited the display of SSNs to customers that have been site inspected, have permissible purposes under GLB, have passed our stringent compliance procedures, and are licensed in some way by an authorized government agency. These policies have severely limited the number of our customers that have access to SSNs which we feel is a good thing and obviously support. A policy or law that would require consumer consent for permissible purposes would simply not be feasible.

Another aspect to consider: it would hurt our business if somehow the changes were interpreted to not allow Merlin access to SSNs. The use of an SSN to provide matching for multiple records for example is extremely helpful in our processing of data. Even though we are not displaying the data we do use it behind the scenes. Currently our data providers (like Choicepoint) allow us to have access to SSNs (for permissible purposes) for matching logic and internal use but do not allow us to display or sell them to customers. If a company like Choicepoint was no longer able to pass SSNs along to us for this type of use, it would not only harm Merlin but would result in us not being able to provide as accurate of data and services to our customers effecting their business. For example, in identity verification business processes linking prior addresses on an application. Interestingly enough, this could actually make it easier to perpetrate fraud and steal an individuals identity. The data is actually extremely valuable as a tool to help prevent identity theft and protect individual consumers when used properly and responsibly. I hope this helps and makes sense. Please let me know if you have any questions.

Thanks,
Keith

-----Original Message-----

From: Murdo, Patricia [mailto:PMURDO@mt.gov]
Sent: Friday, September 08, 2006 12:26 PM
To: Keith Brown
Subject: RE: more on identity theft victim assistance

Hi Keith - Thank you for this information. I had a legislator reference zabasearch and sale of SSNs, which from their website looks like the company will provide. As for the change to 31-3-111 - do you think this would cause a problem? The way the statute reads might be misinterpreted as to "business transaction involving the customer" might indicate that the customer per se does not have to be involved. Would this impact your business or any other data broker that is not a CRA?
Thanks. - pat

From: Keith Brown [mailto:KBrown@merlindata.com]
Sent: Friday, September 08, 2006 10:49 AM
To: Murdo, Patricia
Subject: RE: more on identity theft victim assistance

Thanks Pat for all your hard work on this. This whole area is really difficult. I wish I could have participated in the last couple of meetings.

One thing from your email below that I think is important to clarify regarding www.zabasearch.com.

Zaba does not actually sell any information. They are not much more than whitepage listings. They do sell advertising to companies like www.intelius.com that do sell public record reports but do NOT sell or include SSNs. Intelius does have the ability to search by SSN if somebody already has it but to the best of my knowledge, you can not purchase an SSN from Zaba or anybody associated with Zaba. I just wanted to make sure you realized that. If you have an example where somebody has purchased an SSN from Zaba or a business associate of Zaba, please let me know and I'll do a little more digging to see if I can find out more detail and use any influence I may have to stop the practice.

Thanks,
Keith

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-----Original Message-----

From: Murdo, Patricia [mailto:pmurdo@mt.gov]
Sent: Friday, September 08, 2006 10:18 AM
To: Keith Brown
Subject: more on identity theft victim assistance

Hi - I sent this yesterday but don't think it worked. So, if you haven't seen it:

It isn't quite the 11th hour, before the Economic Affairs Committee meetings Monday and Tuesday (Sept. 11 and 12), but it's close. Having not quite addressed the various issues that Kelsen Young raised for victim assistance, I have been doing additional research.

One issue is **notification of an ID theft victim if alternative identities are out there**. Current law allows an individual to find out from a consumer reporting agency any details about sources of information used to compile credit reports. (31-3-122) But this still didn't answer Kelsen's concern -- what if someone learns that there are alternate identities using her personal information. Are they required to provide notice to her? The difficulty here is that many financial institutions consider that type of sharing to be prohibited under Gramm-Leach-Bliley. But what about government agencies and law enforcement? Is a provision needed that would specifically allow sharing of the identity theft passport information, classified as confidential criminal justice information, or even use of a "flag" so that law enforcement officers checking a data base can see that there is a potential problem regarding identities? The effort here is to let some sharing occur, but only with entities to whom an ID theft victim might need to show an identity theft passport.

Section 2 would require a creditor to notify a debtor in writing of the assignment of collection. This might let ID theft victims know if a debt collector is coming after them for someone else's debt, but maybe not. Is this already being done?

Section 3 would expand the Fair Debt Collection Practices Act to a creditor to prevent harassing communications. The Fair Debt Collection Act only covers third-party debt collectors but does allow states to impose more stringent requirements. The language is a modification of language used in Washington State for both subsections (1)(a) and (1)(b).

The terms for section (1)(a) are similar to those in the Fair Debt Collection Act.

Section 4 revises existing law relating to consumer reporting agencies by adding a "qualifying" section about who has a

legitimate business need for a credit report "in connection with a business transaction involving the consumer". In part, the new subsection (4) is an effort to address businesses represented by

Section 5 is cleanup. 31-3-152 was missed when the consumer protection act was put under the department of justice. There is a suggestion for a new Section 6 to amend the identity theft passport statute to allow other state or local agencies that acquire social security numbers or personal identifying information to accept an ID theft passport.

http://leg.mt.gov/content/committees/interim/2005_2006/econ_affairs/Committee_legislation/LC9833_more_victim_assistance.p

Comments are welcome. Either before September 11 or on September 11.

And, just in case I somehow forget to send a message later: Thank you to all of you for participating in the work group. Herding cats is never easy and you're all a bunch of wonderful cats. (Not that I felt like I tried to herd you anywhere, just that we were all on the road together.)

Pat Murdo
Legislative Services
406-444-3594

www.zabasearch.com, which provides information on people and takes money from anyone for information about anyone. The question is: is the existing subsection (3)(e) so broad as to allow entities without direct contact with a consumer to sell information about them to others without their knowledge? I checked with Greg Petesch about whether someone could sell social security numbers, and he said that without the consent of the owner of the social security number, that would be a violation of the Constitution's right to privacy. So this section attempts to require those using subsection (3)(e) of 31-3-111 to obtain the consent of the owner of the personal information. <http://www.ftc.gov/os/statutes/fdcpa/fdcpact.htm>
<http://apps.leg.wa.gov/RCW/default.aspx?cite=19.16.250>