



Consumer Data Industry Association
1090 Vermont Ave., NW, Suite 200
Washington, D.C. 20005-4905

Writers email: mcarone@cdiaonline.org

Writer's direct dial: +1 (202) 408-7419

CDIAONLINE.ORG

April 29, 2020

Honorable Cynthia Amann
Missouri Department of Commerce and Insurance
Chairwoman, NAIC Privacy Protections (D) Working Group
Harry S Truman State Office Building
301 W. High St.
Jefferson City, MO 65101

Honorable Ron Kreiter
Oklahoma Insurance Department
Vice-Chairman, NAIC Privacy Protections (D) Working Group
Oklahoma Insurance Department
400 NE 50th Street
Oklahoma City, OK 73105

Submitted Electronically to LAlexander@naic.org

Re: NAIC Insurance Information and Privacy Protection Model Act (#670)

Dear Chairwoman Amann and Vice Chair Kreiter:

I write on behalf of the Consumer Data Industry Association (CDIA) to comment on the exposure draft regarding the NAIC's Insurance Information and Privacy Protection Model Act (#670). Thank you for allowing CDIA a chance to offer comments on behalf of our consumer reporting agency ("CRA") members. We offer comments on Sections 2, 8 and 9.

The Consumer Data Industry Association is the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals, and to help businesses, governments and volunteer organizations avoid fraud and manage risk.

Under Section 2, "Definitions", on page 5 there are edits to the definition of "Consumer Report". We recommend using the exact definition of a "Consumer Report" as defined in the [Fair Credit Reporting Act \(FCRA\) Section 1681a](#) or leaving this language as it currently stands in Model Act #670 without any changes or edits. We believe there is a need for consistency with definitions in model acts and where they are already defined under the federal laws that CRAs are regulated by. Comparatively, there were no changes to the definition of "Consumer reporting agency" in the exposure draft for Model #670.

There are comments calling for “any and all third-party vendors, InsurTechs, TPAs, etc., need to be included in this act” in Section 8 (specifically page 17) relating to access to recorded personal information. We cannot speak for other third-party vendors or the newer “Insurtechs” that have entered the marketplace since 1992 when Model Act #670 was implemented. However, CRAs and their products, most notably Credit Based Insurance Scores, are already heavily regulated at the federal level.

CRAs and the personal information they have on consumers are already heavily regulated under the FCRA, Gramm-Leach-Bliley Act (GLBA), Drivers Privacy Protection Act (DPPA) and others. For example, [15 U.S. Code § 1681g](#) of the FCRA specifically already regulates how CRAs disclose information to individual consumers. Additionally, the FCRA defines the permissible purposes of consumer reports under [15 U.S. Code § 1681b](#). This section regulates the who, when and why around parties that can access consumer reports and the information in those reports.

Section 9 (specifically pages 19-20) relating to correction, amendment or deletion of recorded personal information contains a comment concerning a “need to update the rights and processes”. This another area where we would like to highlight examples of CRAs and the right to correct, amend or delete information already being regulated under federal law. Under the [FCRA 15 U.S. Code § 1681c](#), there are requirements relating to information contained in consumer reports. The FCRA also contains other sections relating to correcting, amending and deleting information in consumer reports, which usually stems from a consumer dispute regarding information contained in a report.

Section 9 subsections C and D pertain to how consumers may dispute information with “insurance support organizations”, which a CRA would fall under the current definition of. There is also a comment asking to “review language from FCRA”. The FCRA already dictates how an individual may obtain information a CRA may have on that individual such that the portion of subsection F that states, “except to the extent that section imposes more stringent requirements on a consumer reporting agency than other state or federal law,” should be deleted for the previously mentioned reasons.

We understand that there is significant interest in adapting to the new privacy laws of the world, with GDPR, CCPA and the host of other privacy bills around the country that have been introduced but failed to pass for various reasons. The CCPA contained language with exemptions for the FCRA and GLBA. Which is very important considering these laws are amended at the federal level, as we recently saw the Federal [CARES Act](#) (Sec. 4021) amend the federal [Fair Credit Reporting Act \(FCRA\)](#).

California is not done on the topic of data privacy and in amending CCPA in future legislative sessions. The current CCPA has been termed the “baseline” or the beginning of this process in creating new data privacy laws. There has been new CCPA language drafted already. Groups have even started the process of exploring another potential ballot initiative. The goal of the new ballot initiative would be to either pass this new language or create the type of pressure from the original CCPA that caused legislators and others to scramble for the last two plus years.

This has resulted in calls from across the country for federal privacy legislation. At no other time has there been greater interest in a national privacy law. The interest is so great that there has even been legislation introduced in congress to do so. The calls for a national privacy law are because in today's national economy it will be impossible for business to comply with multiple variations of privacy laws.

In addition to the federal laws, there is also a large regulatory review presence on the industry. It is already over seen at the federal level by the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC), along with several states implementing their own regulations and the Conference of State Banking Commissioners looking into the industry as well. This increased regulation not only hurts the industry, but the consumers it serves. It will significantly hamper speed to market for the products consumers need and does not appear to add much, if any, benefit to the outcome for the industry and its consumer.

In conclusion, we believe the current privacy regulations and protections in place on CRAs at both the federal and state levels are sufficient. Any additional regulations on CRAs as third parties in Model Act #670 jeopardize the existing protections already afforded to consumers and have the potential to cause economic harm both consumers and the companies they do business with.

Thank you for the consideration of our comments and I would be happy to answer any questions you may have.

Sincerely,

Michael Carone

Michael Carone
Manager of Government Relations

cc: Members of the NAIC Privacy Protections (D) Working Group
Lois Alexander, NAIC Staff