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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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JUL 16 1979

The Honorable Richardson Preyer  
Chairman, Subcommittee on Government  
Information and Individual Rights  
Committee on Government Operations  
House of Representatives

Dear Mr. Chairman:

By letter dated April 30, 1979, you forwarded the comments of the staff of the Subcommittee on Government Information and Individual Rights on our recent report entitled "The Government Can Be More Productive in Collecting Its Debts By Following Commercial Practices." (FGMSD-78-59, February 23, 1979.)

The staff comments take issue with that portion of the recommendation in Chapter 3 of our report that the Secretary of Health, Education, and Welfare and the Administrator of Veterans Affairs

"take action on their student loan and educational assistance overpayments to report to the credit bureau network loans when incurred [and] loans and overpayments being paid in installments \* \* \*."

The staff comments raise two primary objections to the reporting of information on debts which are not yet delinquent to the credit bureau network, both based on the argument that such reporting would fail to qualify as a routine use under the Privacy Act. First, the comments maintain that the report does not demonstrate that disclosure of non-delinquent debt information will be useful or necessary. Second, the comments question the propriety of releasing a large volume of information to the credit bureau network on the basis of an assumption that only a small amount of the information released will actually aid in the collection of debts. Additionally, the comments argue that Chapter 3 inconsistently recommends that in addition to the establishment of routine uses permitting the disclosure of non-delinquent

debt information to the credit bureau network, the agencies involved should seek the consent of applicants for benefits to such reporting.

Although our Office is sensitive to the importance of privacy protection as indicated by the establishment in our Logistics and Communications Division of an information management unit to deal with these among other concerns, the report under discussion here attempted to balance the need for privacy protection against the need for the Government to use all permissible means available to it to collect from its debtors.

Information on debts when incurred is routinely shared within the commercial sector for the express purpose of assuring later debt repayment. This purpose is expected to be achieved by discouraging people to whom credit is granted from becoming overextended. In addition, we were impressed by the experience of the State of New Jersey in its recent campaign to increase collections of student loans. In a letter dated May 3, 1978, from the Director of the New Jersey Higher Education Assistance Authority, which was included as an appendix to our report, a decrease in claims paid to lenders for defaulted loans was attributed to reporting non-delinquent debt information. This decrease took place even though there was no increase in the number of persons employed in the default prevention activity of the agency. A chart accompanying the letter showed a 12.9 percent decrease in claims paid to lenders between 1976 and 1978.

We realize that the New Jersey Authority did not require that all new loans be reported. We also realize that it is not possible to conclusively demonstrate a correlation between a decrease in New Jersey's loan defaults and the reporting of information on loans when incurred. Nevertheless, we considered it significant that the Authority Director attributed his success in part to reporting of new loan information, and we felt that the New Jersey experience tended to support the commercial sector experience that there is a connection between non-delinquent debt reporting and later, timely repayment of debts.

Finally, although this was not detailed in the report, we took note of the fact that the Office of Education has

independently taken steps which indicated to us that non-delinquent debt referral was considered by that Office to be reasonably connected to later debt collection. In this regard, the Privacy Act Notice set out in the application form for Guaranteed Student Loans includes as a routine use the furnishing of information to private parties who may be able to assist in the servicing or collection of the loan. This notice is broad enough to encompass non-delinquent debt referral since aiding the later collection of the debt is the express purpose for such referral. This view is reinforced by the November 1978 BSFA Bulletin, published by the HEW Bureau of Student Financial Assistance, which encourages Guaranteed Student Loan lending institutions to "routinely report all newly disbursed and/or defaulted student loans to a consumer credit reporting agency (credit bureau)."

In considering our recommendation, we recognized that the determination as to whether referral of non-delinquent debt information should be classified as a routine use is one to be made by the agency to which the debt is owed, and that the connection between the referral of non-delinquent debt information and later debt collection is not as clear-cut as in the case of delinquent debts. In this connection, the recently revised Federal Claims Collection Standards merely suggest consideration of reporting non-delinquent debts to credit bureaus. See 4 C.F.R. 102.15.

However, it was our opinion that the considerations detailed above adequately demonstrated the usefulness of sharing this information. On page 15 of our report, following a discussion of our belief that the reporting of delinquent debts could be justified by an agency as a routine use because such use would be compatible with the purpose for which the information was collected, we included the following paragraph:

"In addition, we suggest that agencies take steps to include in their application forms an authorization by individuals applying for benefits. The authorization would state that the agency or its agent would be reporting to the credit industry that the individual incurred a loan or debt. If this were done, the agencies

would have complied with the privacy act since the act allows the disclosure of records with an individual's prior consent. In any event, based on our present understanding of the law, the connection between reporting information when the loan is made and later collecting the debt may be sufficient to justify the release of the information as a routine use without prior consent."

That paragraph, read in context with our recommendation set out on page 20 of Chapter 3, accurately reflects our report's position in this matter. In other words, even though we believe there may be a sufficient connection between reporting information when a debt is incurred and later collecting the debt to support establishment of a routine use, an authorization from the applicant would obviate the need to demonstrate such a connection. It was not our intent, however, that authorizations should be required where they clearly would be inappropriate, as in the situation where a benefit sought is in the form of a statutory entitlement which could not be denied whether or not an authorization were completed. However, even with respect to Veteran's Administration educational assistance, for example, authorization for non-delinquent debt referral would be appropriate in connection with an agreement to accept repayment of an overpayment in installments. We also considered authorizations to be appropriate for programs such as the Guaranteed Student Loan Program, with respect to which participation is voluntary. Finally, we did not intend to indicate that authorizations and routine uses should be used jointly. If an authorization requirement were inappropriate, a routine use determination would have to be made before referring information on a non-delinquent debt.

Concerning the question of the propriety of releasing a large volume of information to the credit bureau network when only a small amount of such information will ever be used to aid in the collection of debts, we did not consider such release necessarily to be an unacceptable invasion of the privacy of the unknown number of individuals who would willingly repay their obligations whether or not they are reported to the credit bureaus. In the first place, the

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information which would be released would be no different than that already willingly supplied by those seeking credit and provided to the credit bureau network by the commercial sector. Second, assuming that individuals seeking credit honestly report debt information to each of their potential creditors, the reporting of that information among the creditors usually would place no greater limitation on the ability of individuals to obtain additional credit. Finally, for those who take care to keep their accounts current, the reflection of this admirable habit in a credit bureau file would inure to their benefit.

We appreciate this opportunity to clarify our report.

Sincerely yours,

SIGNED ELMER E. STAATS

Comptroller General  
of the United States