

# Consumer Law: Problem Set 2

Eric M. Fink  
Elon Law School  
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## Problem 6.1

### Coverage as a Video Tape Service Provider

- “prerecorded video cassette tapes or similar audio visual materials”. 18 USC §2710(a)(4)
  - Streaming video probably covered; E-books probably not

### Personally Identifiable Information

- “includes information which identifies a person as having requested or obtained specific video materials or services”. 18 USC §2710(a)(3)

### Disclosure

- Informed Written Consent. 18 USC §2710(b)(2)(B)
  - Timing
    - at time disclosure is sought, or
    - in advance (no more than 2 years)
  - Opportunity to withdraw
- Ordinary Course of Business. 18 USC §2710(b)(2)(E)
  - “only debt collection activities, order fulfillment, request processing, and the transfer of ownership”. 18 USC §2710(a)(2)

## Problem 7.1

### Time Limits

- Bankruptcy
  - 10 years. 15 USC §1681c(a)(1)
- Foreclosure
  - 7 years limit
    - Judicial foreclosure. 15 USC §1681c(a)(2) (civil suit/judgment)
    - Non-Judicial foreclosure. 15 USC §1681c(a)(5) (“other adverse information”)
- Mortgage Account
  - 7 years limit. 15 USC §1681c(a)(5) (“Accounts placed for collection or charged to profit and loss”)
  - Time period begins 180 days after delinquency preceding collection, charge-off, or similar action. 15 USC §1681c(c)(1)
- Revolving Credit Account
  - No time limit (because not adverse information).
  - Report must indicate account was voluntarily closed by the consumer. 15 USC §1681c(e)
- Criminal Conviction
  - No time limit. 15 USC §1681c(a)(5)

## Exemptions

- Use of report in connection with
  - credit transaction of \$150,000 or more
    - this doesn't apply to the past transactions reported, but to the new transaction for which the report is used
  - life insurance of \$150,000 or more
  - employment with salary of \$75,000 or more

## Problem 8.1

### Coverage Under ECOA

- Applies only to “creditor” and “credit transaction”. 15 USC §1691(a)
  - Definitions of “creditor” and “credit”. 15 USC §1692a(d) & (e); 12 CFR §1002.2(l) & (m)
- Payments by check or debit card are not normally “credit transactions”.
  - But problem mentions overdraft protection, which is an extension of credit.

### Violation

- Statute prohibits discrimination based on age. 15 USC §1691(a)(1)
- Use of age in evaluating applicants is prohibited, except as specified. 12 CFR §1002.6(b)(2)
- Age-based fee here doesn't satisfy the permitted uses of age under 12 CFR §1002.6(b)(2).
  - Nothing to suggest “empirically based, demonstrably and statistically sound, credit scoring system”. 12 CFR §1002.6(b)(2)(ii); see definition in §1002.2(p).
    - And may not use age as negative factor for “elderly applicants”.
    - “elderly”: 62 or older. 12 CFR §1002.2(o)
  - Blanket imposition of fee is not “judgmental system”. 12 CFR §1002.6(b)(2)(iii)
  - Additional fee does not favor elderly applicants. 12 CFR §1002.6(b)(2)(iv)
- What about applicants aged 55-61?