

**No. 23-2590**

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

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Ashok Arora,  
*Plaintiff-Appellant,*

v.

Trans Union, LLC et al.,  
*Defendants-Appellees.*

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On Appeal from the United States District Court  
for the Northern District of Illinois, Eastern Division

Case No. 1:22-cv-367

Hon. John Robert Blakey

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**Brief of *Amicus Curiae*  
Consumer Financial Protection Bureau  
in Support of Plaintiff-Appellant and Reversal**

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## INTEREST OF AMICUS

The Consumer Financial Protection Bureau (CFPB) files this brief pursuant to Fed. R. App. P. 29(a)(2).

To ensure fair and accurate credit reporting, the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 *et seq.*, imposes various requirements on consumer reporting agencies (CRAs), such as Trans Union, LLC, and the companies that provide those agencies information about consumers. The CFPB has exclusive rule-writing authority for most provisions of the FCRA. *Id.* § 1681s(e). The CFPB also interprets and, along with other federal and state regulators, enforces the law's requirements. *Id.* § 1681s(a)-(c).

This case concerns two of the FCRA's requirements for CRAs. First, upon a consumer's request, a CRA "shall . . . disclose to the consumer [a]ll information in the consumer's file," including the "sources of [such] information." *Id.* § 1681g(a)(1)-(2). Second, when preparing a consumer report, a CRA "shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates." *Id.* § 1681e(b). The questions presented on appeal include whether these provisions apply to header, i.e., personal identifying, information included in a consumer report—specifically,

a consumer's telephone number. They do, and the district court erred when it held that such information is by definition exempt from these FCRA requirements.<sup>1</sup>

Given its role in administering and enforcing the FCRA, the CFPB has a substantial interest in the correct interpretation and application of the Act's disclosure and accuracy requirements to header information.

## STATEMENT

### A. The Fair Credit Reporting Act

1. CRAs collect and assemble credit, public record, and other consumer information into consumer reports.<sup>2</sup> Creditors, insurers, landlords, employers, and others use the information in these reports to make decisions that can have a significant impact on consumers. For example, creditors use information in consumer reports to determine whether, and on what terms, to extend credit to a particular consumer, while landlords and employers use background screening reports in deciding whether to rent to prospective tenants and hire employees, respectively. Inaccurate, derogatory information in consumer reports therefore can have significant adverse impacts on consumers, such as lost rental, housing, and

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<sup>1</sup> The CFPB does not take a position on whether Plaintiff-Appellant Ashok Arora has Article III standing to pursue his FCRA claims.

<sup>2</sup> The FCRA generally uses the term "consumer report," *see, e.g.*, 15 U.S.C. § 1681a(d) (defining "consumer report"), rather than the more common term "credit report." This brief uses the two terms interchangeably.

employment opportunities; higher interest rates or otherwise less favorable credit terms; or the outright denial of credit.

The concern about inaccurate information in consumer reports extends to header information, i.e., a consumer's personal information typically found in the beginning of a consumer report, which includes names, date of birth, addresses, Social Security number, and telephone numbers. *See Protecting Americans from Harmful Data Broker Practices (Regulation V)*, 89 Fed. Reg. 101402, 101415 (Dec. 13, 2024). Accurate header information promotes a fair and accurate credit reporting market by ensuring that the information furnished to a CRA and the consumer reports provided by a CRA are attributed to the right person. *See id.* at 101417 & n.134 (noting that accurate header information is necessary "for users [of consumer reports] to be sure that the information used from the consumer report relates to the correct consumer").

2. Congress passed the FCRA in 1970 to "prevent consumers from being unjustly damaged because of inaccurate or arbitrary information in a credit report." S. Rep. No. 91-517, at 1 (1969). To accomplish this, the Act established a framework with four principal pillars: (1) a consumer right to see the information that a CRA possesses about the consumer; (2) a consumer right to dispute inaccurate or incomplete information and have it corrected; (3) a requirement that CRAs follow reasonable procedures to assure the maximum possible accuracy of

consumer reports; and (4) a bright-line prohibition on using or disseminating consumer reports unless for one of the limited permissible purposes identified by Congress. 89 Fed. Reg. at 101404. Relevant here are the first three pillars.

First, the FCRA provides that upon a consumer’s request, a CRA “shall . . . disclose to the consumer [a]ll information in the consumer’s file,” including the “sources of [such] information.” 15 U.S.C. § 1681g(a)(1)-(2). This “allow[s] consumers to identify inaccurate information in their credit files and correct this information via the grievance procedure established under § 1681i.” *Gillespie v. Equifax Info. Servs., L.L.C.*, 484 F.3d 938, 941 (7th Cir. 2007).

That grievance or dispute procedure—the second pillar—provides that if a consumer disputes “the completeness or accuracy of any item of information contained in [the] consumer’s file at a [CRA] . . . the agency shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate and record the current status of the disputed information, or delete the item from the file.” 15 U.S.C. § 1681i(a)(1)(A).

But more than just establishing a framework for consumers to dispute information with the CRA, the FCRA also empowers consumers to dispute information directly with the source of the allegedly inaccurate or incomplete information. That is, by specifically requiring CRAs to provide the source of the furnished information to consumers, consumers are then able to utilize the FCRA’s

procedures for disputing inaccurate information directly with the furnisher. *See id.* § 1681s-2(a)(8)(E) (detailing duties of furnishers after receiving a consumer dispute); *id.* § 1681s-2(a)(8)(A) (requiring the CFPB, in consultation with other regulators, to prescribe regulations governing direct disputes with furnishers); 12 C.F.R. § 1022.43 (regulation governing direct disputes with furnishers).

The third and final pillar relevant here is the accuracy requirement in Section 1681e(b). “One of the FCRA’s cornerstones,” *Chaitoff v. Experian Info. Sols., Inc.*, 79 F.4th 800, 809 (7th Cir. 2023), that provision provides that “[w]henever a [CRA] prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates,” 15 U.S.C. § 1681e(b).

Finally, the FCRA creates a private right of action against CRAs for the negligent or willful violation of any duty imposed under the statute, including the Act’s disclosure and accuracy requirements. *See id.* §§ 1681o, 1681n.

## **B. Facts and Procedural History**

Plaintiff-Appellant Ashok Arora noticed two errors in his Trans Union credit report: (1) it included a telephone number that did not belong to him and (2) it listed a date for when his current address was reported to Trans Union that could not be right because that date was before he moved there. First Am. Compl. (FAC)

¶¶ 10, 42.<sup>3</sup> Concerned about possible identify theft—that “an account was opened with [Arora’s] credentials and the bad phone number”—Arora wrote Trans Union requesting the source of the bad phone number. *Id.* ¶¶ 11, 32(a). (Arora did not request the source of the alleged inaccurate address information because he assumed the source was Trans Union itself. *Id.* ¶ 44). Trans Union, however, did not process Arora’s request because it was “unable to determine the nature of [the] request.” *Id.* ¶ 12. Arora then called Trans Union to inquire about the source of the bad phone number. *Id.* ¶ 13. The Trans Union representative on the phone said he was unable to view the source information but that he would request a copy of Arora’s credit report be mailed to him which would show the source. *Id.* The report, however, did not identify the source. *Id.* ¶ 14.

Separately, Arora also claims that Trans Union either mistakenly or intentionally listed his actual phone number in the credit report of a debtor. *Id.* ¶ 16. As a result, Arora claims he has received roughly a thousand debt collection calls looking for that debtor, and that the calls continue to this day. *Id.* ¶ 18, 23. “Most of the . . . callers have claimed they received” Arora’s number “as the contact number of” the debtor from Trans Union. *Id.* ¶ 19.

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<sup>3</sup> The facts are drawn from Plaintiff’s amended complaint, as this is an appeal from the grant of a motion to dismiss. *See Cole v. U.S. Cap.*, 389 F.3d 719, 724 (7th Cir. 2004).

Arora, proceeding *pro se*, brought suit under the FCRA, alleging that Trans Union violated Section 1681g(a)(2) by failing to provide him with the source of the bad phone number and Section 1681e(b) by failing to maintain reasonable procedures to prevent (1) an inaccurate phone number and inaccurate address information from appearing on his credit report and (2) his correct phone number from appearing on a debtor's credit report. FAC ¶¶ 25-47. The district court granted Trans Union's motion to dismiss. Dist. Ct. Order, ECF No. 24. The court held that Sections 1681g(a) and 1681e(b) both require the disputed information to be "information in a 'consumer report,'" which does not include, according to the court, "'header information' such as contact information." *Id.* at 2-3.

Arora appealed, again proceeding *pro se*. After a round of briefing on the merits, this Court ordered supplemental briefing on whether Arora had Article III standing. Appeal ECF No. 13. Once that was completed, the Court determined that it would benefit from "additional, counseled briefing," appointed the Appellate Clinic at the Washington University School of Law to represent Arora, and struck the briefs that had been filed to date. Appeal ECF No. 19, 20. The Court then instructed the parties to brief: (1) whether Arora had Article III standing to raise both his claims; (2) whether a telephone number is included in the definition of a consumer report; and (3) any other issues that counsel deems appropriate to raise on appeal. Appeal ECF No. 19.

## SUMMARY OF ARGUMENT

The Fair Credit Reporting Act (FCRA) established a comprehensive framework governing the credit reporting market to promote fair and accurate reporting about consumers. That framework includes (1) giving consumers the right to access the information in their file at consumer reporting agencies (CRAs), which allows consumers to identify inaccurate information that they can then dispute and correct, and (2) imposing certain accuracy requirements on CRAs when preparing consumer reports. The district court’s decision categorically exempting header information—a consumer’s personal information included at the beginning of a credit report, such as names, addresses, Social Security number, and telephone numbers—from these protections is contrary to the FCRA’s text and purpose as well as this Court’s precedent and should be reversed.

First, the district court erred in holding that the FCRA’s requirement in 15 U.S.C. § 1681g that a consumer reporting agency “disclose to the consumer [a]ll information in the consumer’s file,” including the “sources of [such] information,” did not apply to header information on the ground that such information did not meet the definition of a consumer report. But whether a CRA communication consisting solely of header information meets the definition of a consumer report is beside the point because the FCRA’s disclosure requirements apply to “[a]ll information in the consumer’s *file*.” *Id.* § 1681g(a)(1) (emphasis added). As this

Court previously held, this includes any information that is “included *in a consumer report.*” *Gillespie v. Trans Union Corp.*, 482 F.3d 907, 910 (7th Cir. 2007) (emphasis added). That is plainly met here—in fact, no one disputes that the header information at issue here was included in Plaintiff-Appellant Ashok Arora’s consumer report.

Moreover, the FCRA is full of examples demonstrating that Congress intended for the disclosure requirements to apply to header information. For example, Section 1681g(a)(1)(A) shows that the Act’s disclosure requirements apply to Social Security numbers, while Section 1681c(h) shows that the disclosure requirements apply to address information—two examples of header information.

The district thus erred in holding that the FCRA’s requirement that a CRA disclose the source of information found in a consumer’s file did not apply to Arora’s claim regarding inaccurate header information.

Second, the district court similarly erred in holding that the FCRA’s requirement in 15 U.S.C. § 1681e(b) that a CRA “follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the [credit] report relates” did not apply to claims asserting inaccurate header information. The district court reached this conclusion because it believed that header information does not independently meet the definition of a consumer report. Again, whether that is true is beside the point here. By its own terms,

Section 1681e(b) applies broadly to “information *concerning*” a consumer, i.e., information relating to or regarding a consumer. Header information—a consumer’s personal identifying information that routinely appears in consumer reports—plainly meets that definition, regardless of whether it would constitute a consumer report if communicated on its own.

Indeed, as this Court previously held, “in order to state a claim under 15 U.S.C. § 1681e(b), a consumer must sufficiently allege that a CRA prepared a report containing inaccurate information.” *Henson v. CSC Credit Servs.*, 29 F.3d 280, 284 (7th Cir. 1994) (cleaned up). That is what Arora did here. The district court thus erred in holding that Arora could not state a claim under Section 1681e(b) based on inaccurate header information included in his consumer report.

## **ARGUMENT**

The FCRA is designed to promote “fair and accurate credit reporting,” 15 U.S.C. § 1681(a)(1), and it does that by, as relevant here, establishing a framework in which consumers can access the “information” in their “file” at a CRA, including the “sources of [such] information,” *id.* § 1681g(a)(1)-(2), that they can then use to correct inaccurate or incomplete information. The Act also requires that whenever a CRA prepares consumer reports, the CRA must “follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.” *Id.* § 1681e(b).

The district court erred when it held that these requirements did not apply to header information, i.e., personal identifying information, such as names, addresses, Social Security number, and telephone numbers, found in a consumer report. Such an interpretation is flatly inconsistent with this Court’s precedent as well as the FCRA’s text and purpose. This Court should therefore hold that header information is subject to the Act’s disclosure and accuracy requirements, regardless of whether a CRA communication containing only such information independently meets the definition of consumer report.<sup>4</sup>

## I. The FCRA’s disclosure requirements apply to header information.

The FCRA’s disclosure requirements provide that upon a consumer’s request, a CRA “shall . . . disclose to the consumer [a]ll information in the consumer’s file,” including the “sources of [such] information.” 15 U.S.C. § 1681g(a)(1)-(2). This Court previously held that this provision applies to not only information that independently meets the definition of “consumer report” but also to “information included *in* a consumer report.” *Gillespie*, 482 F.3d at 910

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<sup>4</sup> While the CFPB does not take a position here on whether a CRA communication containing only header information meets the FCRA’s definition of “consumer report,” the CFPB notes for the Court’s awareness that it recently issued a notice of proposed rulemaking that addresses this topic. *See* 89 Fed. Reg. at 101416 (stating that the “CFPB preliminarily concludes that a consumer reporting agency’s communication of a personal identifier for a consumer that the consumer reporting agency collected for the purpose of preparing a consumer report about the consumer . . . is a consumer report.”).

(emphasis added).<sup>5</sup> And that is plainly the case here. Header information, including a consumer’s telephone number, is included in a consumer report—something that Trans Union itself advertises. *See* Trans Union, Exploring Your Credit Report, <https://rb.gy/w74evm>.<sup>6</sup>

Despite citing this exact language from *Gillespie*, the district court nevertheless held that header information “fall[s] outside the consumer’s file.” Dist. Ct. Order at 3. In doing so, the court relied on an unpublished Second Circuit decision holding that inaccurate header information cannot give rise to liability under the FCRA on the ground that such information does not meet the definition

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<sup>5</sup> Recognizing that *Gillespie* is binding precedent, the CFPB nevertheless notes that it views “information in the consumer’s *file*” as broader than “information in the consumer’s *consumer report*.” This is because the FCRA’s text evinces Congress’s intent to distinguish between “file” and “consumer report,” with the latter being a communication of information that often is a subset of the information contained in the former. *See* 15 U.S.C. § 1681a(d)(1) and (g) (providing distinct definitions for “file” and “consumer report”); *id.* § 1681i(a)(6)(B) (providing that, in a CRA’s post-investigation communication with a consumer following a consumer dispute, the CRA must include “a consumer report that is based upon the consumer’s file as that file is revised”); *id.* § 1681v(a) (providing that a CRA “shall furnish a consumer report of a consumer *and all other information in a consumer’s file* to a government agency authorized to conduct investigations of . . . international terrorism” (emphasis added)). However, the distinction makes no difference here as header information, including a telephone number, is information included in a consumer report.

<sup>6</sup> The other national CRAs similarly include header information, including telephone numbers, in their consumer reports. *See* Experian, Understanding Your Experian Credit Report (March 4, 2021), <https://www.experian.com/blogs/ask-experian/credit-education/report-basics/understanding-your-experian-credit-report/>; Equifax, Sample Consumer Report, *available at* [https://assets.equifax.com/marketing/US/assets/oneview\\_sample\\_graphic\\_report\\_twn\\_datalog\\_nctue\\_nov21.pdf](https://assets.equifax.com/marketing/US/assets/oneview_sample_graphic_report_twn_datalog_nctue_nov21.pdf).

of a consumer report in that it does not “bear[ ] on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.” *See Cohen v. Equifax Info. Servs., LLC*, 827 F. App’x 14, 17 (2d Cir. 2020) (citing 15 U.S.C. § 1681a(d)(1)). But, regardless of whether the Second Circuit’s analysis of the FCRA’s definition of consumer report is correct, a CRA’s obligation to disclose “information in the consumer’s file” is not limited only to information that meets that definition. *See* 15 U.S.C. § 1681g(a)(1). Such an interpretation conflicts with Congress’s deliberate choice not to limit the FCRA’s disclosure requirements in that way. *Cf. Collins v. Experian Info. Sols., Inc.*, 775 F.3d 1330, 1335 (11th Cir. 2015) (“Congress chose to give different statutory definitions to the terms ‘consumer report’ and ‘file,’ and used the different terms in different subsections.”). Indeed, if Congress had wanted to limit the FCRA’s disclosure requirements to just information that independently met the definition of consumer report, it certainly knew how to do so. *See Muldrow v. City of St. Louis, Missouri*, 601 U.S. 346, 355, 358 (2024) (rejecting interpretation that “add[ed] words . . . to the statute” and “impose[d] a new requirement” that Congress “could have” added but did not).

Moreover, the district court’s interpretation conflicts with this Court’s decision in *Gillespie* (by narrowing the scope of the disclosure obligation from information *in* a consumer report to information that independently meets the

definition of a consumer report) and ignores that the FCRA is replete with examples showing that Congress intended for the FCRA’s disclosure requirements to apply to header information.

Start with the FCRA’s disclosure provision itself. In requiring CRAs to disclose information to consumers, the FCRA provides that “if the consumer to whom the file relates requests that the first 5 digits of the social security number . . . not be included in the disclosure . . . the [CRA] shall so truncate such number in such disclosure.” *Id.* § 1681g(a)(1)(A). In other words, when requesting information in the consumer’s “file,” the consumer can ask the CRA to redact the first five digits of his or her Social Security number before the CRA discloses the Social Security number—header information—is “information in the consumer’s file.” *Id.* § 1681g(a)(1).

Then there’s 15 U.S.C. § 1681c(h), which places a consumer’s address inside a consumer’s file. Under that provision, “[i]f a person has requested a consumer report relating to a consumer from a [nationwide CRA], the request includes an address for the consumer that substantially differs from the *addresses in the file* of the consumer, and the [CRA] provides a consumer report in response to the request, the [CRA] shall notify the requester of the existence of the discrepancy.” *Id.* (emphasis added). Again, this provision necessarily means that

address information—more header information—is “information in the consumer’s file.” *Id.* § 1681g(a)(1).

Other provisions point the same way. Sections 1681f and 1681u, for example, provide that a CRA may “furnish identifying information respecting any consumer”—specifically including “name,” “address,” and “former addresses”—to a governmental agency. Meanwhile, Section 1681b(c) authorizes CRAs to “furnish a consumer report” in connection with certain transactions not initiated by a consumer but limits the specific information that can be furnished to, among other things, “the name and address of a consumer.” These provisions demonstrate that header information, and in particular name and address information, is information that CRAs routinely “record[] and retain[]” and thus “information in the consumer’s file.” *See id.* § 1681a(g) (defining “file” as “information on [a] consumer recorded and retained by a [CRA] regardless of how the information is stored”).

The district court’s contrary interpretation is not only atextual but also inconsistent with the FCRA’s stated purpose of promoting fair and accurate reporting about consumers. *See id.* § 1681(a)–(b). One way the FCRA accomplishes this is by helping to ensure that the information furnished to CRAs and the consumer reports provided by CRAs are attributed to the right person. For instance, if a consumer’s personal identifying information is inaccurate, then that

can lead to CRAs attributing furnished information to the wrong person. *See Fair Credit Reporting; Name-Only Matching Procedures*, 86 Fed. Reg. 62468, 62469 (Nov. 10, 2021) (advisory opinion). And it's not hard to see how this can happen. *See Chaitoff*, 79 F.4th at 808 (noting that with “billions of pieces of credit information . . . generated each year[, m]istakes in compiling and reporting that information are inevitable”). For example, according to the United States 2010 census, there were more than 2.4 million respondents with the last name Smith, 1.9 million respondents with the last name Johnson, 1.6 million respondents with the last name Williams, and more than 1 million respondents each with the last names Brown, Jones, Garcia, Miller, Davis, Rodriguez, Martinez, or Hernandez. *See* 86 Fed. Reg. at 62470. Given the commonality of many first and last names, it is not unlikely that thousands, or even tens of thousands, of consumers, might share a particular first and last name combination. *Id.*

It is thus imperative that a consumer’s header information is accurate to avoid as best as possible information being attributed to the wrong consumer. And this is important because such errors can have serious consequences for a consumer, such as lost rental, housing, and employment opportunities; higher interest rates or otherwise less favorable credit terms; or just the outright denial of credit—all because negative information about someone else was wrongly found on their credit report.

Congress designed the FCRA to guard against these risks by giving consumers the right to access information in their file at a CRA that they can then dispute with not only the CRA but also with the sources of such information. *See Gillespie*, 484 F.3d at 941 (“A primary purpose[] of the statutory scheme provided by the disclosure in § 1681g(a)(1) is to allow consumers to identify inaccurate information in their credit files and correct this information via the grievance procedure established under § 1681i.”). But that safeguard is substantially weakened in at least two ways if the district court’s interpretation is adopted. First, because consumers would not be entitled to obtain header information in their file or the sources of such information, it would be harder for consumers to identify the existence or source of mistaken information in their file. This would also have the effect of removing one avenue consumers have to root out identity theft. Trans Union itself recommends that consumers review the header information in their credit reports because inaccurate header information may be a sign that the consumer was a “victim of identity theft.” *See* Trans Union, Exploring Your Credit Report, *available at* <https://rb.gy/w74evm>.

Second, and perhaps more concerning, even if a consumer discovered that their header information was inaccurate, CRAs may not be required to investigate disputes over such information under the FCRA’s dispute procedure in Section 1681i. Recall that the dispute procedure applies to “any item of information

contained in a consumer’s file.” But if information in the consumer’s file does not include header information, then CRAs may claim that they are not required to investigate and correct inaccurate header information. *See Servotronics, Inc. v. Rolls-Royce PLC*, 975 F.3d 689, 694–95 (7th Cir. 2020) (“Identical words or phrases used in different parts of the same statute . . . are presumed to have the same meaning.”).

In other words, under the district court’s interpretation, CRAs arguably would not be required to investigate and correct a category of information actually included and disseminated in consumer reports. Such an interpretation runs counter to the very heart of the FCRA, which is to ensure fair and accurate credit reporting about consumers. *See S. Rep. No. 103-209*, at 17 (1993) (noting the dispute process is the “heart of the Committee’s efforts to ensure the ultimate accuracy of consumer reports by placing important requirements upon consumer reporting agencies after inaccuracies have been detected”).

For these reasons, this Court should hold that the FCRA’s disclosure requirements apply to header information, including a telephone number, regardless of whether a CRA communication containing only such information by itself meets the definition of a consumer report. Accordingly, the district court erred in holding that Arora did not state a claim under 15 U.S.C. § 1681g(a)(2) for

Trans Union's failure to provide the source of the inaccurate telephone number found in his file.

## **II. Inaccurate header information is actionable under the FCRA's accuracy requirement.**

The FCRA's accuracy requirement provides that “[w]henever a [CRA] prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.” 15 U.S.C. § 1681e(b). As this Court has previously held, “in order to state a claim under [this provision], a consumer must sufficiently allege that a CRA prepared a report containing inaccurate information.” *Henson v. CSC Credit Servs.*, 29 F.3d 280, 284 (7th Cir. 1994) (cleaned up). That is the case here. Indeed, there does not appear to be any dispute that Arora’s consumer report contained an inaccurate telephone number (and inaccurate address information).

For its part, the district court correctly recognized that a consumer may bring suit under this provision for “inaccuracies tied to information in a ‘consumer report.’” Dist. Ct. Order at 2. Yet, the court nevertheless held that information in a consumer report “does not encompass ‘header information’ such as contact information,” *id.*, despite the fact that such information is typically included in a consumer report and was here. To reach this conclusion, the district court again relied on the Second Circuit’s unpublished decision in *Cohen*, which summarily

held that Section 1681e(b) applies only to inaccurate information that independently meets the definition of a consumer report. *See* 827 Fed. App'x at 17.

But, as above, Section 1681e(b) is not limited only to information that would meet the definition of consumer report if communicated by itself. Rather, Section 1681e(b) on its face applies to “information concerning” a consumer, that is, information “relating to” or “regarding” a consumer. *See Concerning*, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/concerning> (last visited January 15, 2025); *cf. Shlahtichman v. 1-800 Contacts, Inc.*, 615 F.3d 794, 799 (7th Cir. 2010) (“Dictionaries are a helpful resource in ascertaining the common meaning of terms that a statute leaves undefined.”). Thus, Section 1681e(b) simply applies to information relating to a consumer and requires CRAs to follow reasonable procedures to ensure the maximum possible accuracy of such information whenever CRAs prepare consumer reports. This includes header information—a consumer’s personal identifying information—ultimately included in that consumer’s report.<sup>7</sup>

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<sup>7</sup> Nor is there anything inherent in the word “information” to suggest that Section 1681e(b) applies only to information that would meet the definition of consumer report if it were communicated on its own. “Information” simply means “data” or “facts,” which plainly includes what’s at issue here. *See Information*, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/information> (last visited January 15, 2025).

The district court's interpretation eschews this straightforward reading and in effect rewrites Section 1681e(b) as a requirement that CRAs follow reasonable procedures to assure maximum possible accuracy only of information that would constitute a consumer report if communicated by itself. But Congress did not say that. Indeed, “[i]f Congress wanted to” impose such a requirement, “it could have done so”; “[i]nstead, it chose different language, implying that” information concerning the individual about whom the report relates “is not the same as” a communication that meets the definition of consumer report. *United States v. Melvin*, 948 F.3d 848, 852-53 (7th Cir. 2020).

Finally, it is more consistent with the FCRA's purposes to interpret Section 1681e(b) to apply to inaccurate header information. As discussed above, such information is essential in promoting fair and accurate reporting about consumers because accurate identifying information helps ensure that information furnished to a CRA as well as the consumer reports provided by a CRA are attributed to the correct person. However, under the district court's interpretation, CRAs would not be required to follow any procedures, let alone procedures to ensure maximum possible accuracy, relating to a category of information that is actually furnished in consumer reports.

## CONCLUSION

For these reasons, the Court should hold that the FCRA's disclosure requirements in Section 1681g(a) and accuracy requirement in Section 1681e(b) apply to header information, including a consumer's telephone number, regardless of whether a CRA communication containing only such information itself meets the definition of consumer report.

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**CERTIFICATE OF COMPLIANCE**

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) and Cir. Rule 29 because, excluding the parts of the brief exempted by Fed. R. App. P. Rule 32(f), this brief contains 4908 words.

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 and 14-point Times New Roman font.

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 16, 2025, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the appellate CM/ECF system. The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

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