

**OPENING STATEMENT OF  
CONGRESSMAN PAUL E. KANJORSKI  
COMMITTEE ON FINANCIAL SERVICES  
HEARING ON EXAMINING THE NEED FOR H.R. 2885,  
THE CREDIT MONITORING CLARIFICATION ACT  
MAY 20, 2008**

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Thank you, Mr. Chairman. I very much appreciate your decision to convene this hearing on H.R. 2885, the Credit Monitoring Clarification Act. Congressman Royce and I have worked on this issue for several years, and our legislation enjoys the support of many Members of the Financial Services Committee.

If promoted and sold in a truthful manner, credit monitoring services can help consumers maintain an accurate credit file and provide them with valuable information for fighting identity theft. Credit monitoring is also often provided free of charge to the victims of data security breaches. As a result, it has gained wide acceptance in the marketplace.

In 1996, we enacted the Credit Repair Organizations Act. Otherwise known as CROA, this law protects consumers against the problematic and unethical practices of credit repair organizations. In enacting CROA, we put in place a broad definition of what constitutes a credit repair organization.

In the decade following enactment of CROA, products such as credit monitoring services have come into the market. In recent years, however, some parties have begun to interpret CROA's definition of a credit repair organization to include credit monitoring services, exposing the providers of credit monitoring services to legal ambiguity.

These interpretations also result in the provision of confusing credit repair notices to credit monitoring consumers. Additionally, because CROA prohibits advance payments, the providers of legitimate credit monitoring products cannot offer annual subscriptions.

The Federal Trade Commission has for several years indicated support for differentiating the treatment of credit monitoring services from the treatment of credit repair organizations under CROA. In testimony and correspondence, the Commission has regularly noted that it "sees little basis on which to subject the sale of legitimate credit monitoring and similar educational products and services to CROA's specific prohibitions and requirements, which were intended to address deceptive and abusive credit repair business practices."

To address the Commission's concerns, we have worked for a number of years on legislation. In the 109<sup>th</sup> Congress during the markup of the Data Accountability and Trust Act in the Financial Services Committee, we offered an amendment that passed on a voice vote to clarify the treatment of credit monitoring under CROA.

Since then, we have worked to revise and improve our legislative proposal to include new consumer protections and refine the credit monitoring exception. As introduced, H.R. 2885 would provide an activity-based exemption from CROA for credit monitoring services.

The users of these services would get new consumer protections, too. Additionally, our bill updates the credit repair disclosures required under CROA to reflect changes made by the FACT Act in 2003 that provide consumers with access to free credit reports.

Today's hearing will help us to determine how we can further improve H.R. 2885. In an effort to strike the right balance, we have modified this legislation considerably over the years. We will continue to do so going forward, I suspect.

The Commission has advised us that the exemption for legitimate credit monitoring services must be carefully considered and narrowly drawn. Consumer groups also want to ensure that the legislation does not ultimately undermine CROA's existing consumer protections against fraudulent credit repair organizations. I agree with both of them.

To achieve the goal of a workable credit monitoring exemption under CROA that maintains strong consumer protections, the Commission has previously urged the Congress to continue to reach out to stakeholders. Today's hearing acts on that recommendation by bringing together a number of stakeholders to detail concerns and find common ground.

In sum, I am pleased that we have the opportunity to hear more about the benefits of credit monitoring and to learn more about the concerns with our legislation. We need to ensure that as we move forward with the consideration of H.R. 2885, we do not allow bad actors to use the proposed exemption to circumvent CROA's protections. It is therefore my hope that we can work with all interested parties going forward to perfect the language in the bill.

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