National Retail Federation
The Voice of Retail Worldwide

Testimony of Dean E. Sheaffer

Senior Vice President of Credit and CRM

Boscov's Department Stores, Inc.

on behalf of the

National Retail Federation

before the

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Subcommittee on Financial Institutions

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PREPARED STATEMENT OF DEAN E. SHEAFFER,

SENIOR VICE PRESIDENT OF CREDIT AND CRM,
BOSCOV'S DEPARTMENT STORES, INC.,
READING, PA
REPRESENTING THE NATIONAL RETAIL FEDERATION

Good Morning. My name is Dean Sheaffer. I am Senior Vice President of Credit and Customer Relationship Management for Boscov's Department Stores and Chairman of the Pennsylvania Retailers' Association. I am testifying today on behalf of the National Retail Federation. I would like to thank Chairman Bachus and Ranking Member Sanders for providing me with the opportunity to testify before the Subcommittee on Financial Institutions. I would also like to thank all the members from the Pennsylvania delegation who sit on this subcommittee for welcoming me here today.

Boscov's is primarily a Mid-Atlantic department store chain. In addition to stores in Maryland and New Jersey, we have 3 stores in Delaware, 3 stores in New York, and more than two dozen stores in our home state of Pennsylvania. Boscov's employs over 10,000 people. As the third largest industry in my home state of Pennsylvania, retailers employ over 1.25 million people earning more than $25 billion in wages.

The National Retail Federation (NRF) is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalogue, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 2002 sales of $3.6 trillion.

In 1911, Solomon Boscov arrived in Reading, Pennsylvania, purchased $8 worth of merchandise, rolled his wares into a pack and set off into the surrounding countryside. He sold wares, exchanged merchandise for meals, did chores in exchange for lodging and made hundreds of friends. Within the year he saved enough money to buy a horse and wagon and increase his inventory. Solomon established the first Boscov's store at 9th and Pike Streets in Reading, Pennsylvania and went about building his family of stores.

In those days, retailers granted store credit by word of mouth and the customer’s good reputation. In fact, Solomon’s son and our Chairman, Albert Boscov, has reminded me that when times were bad Solomon would allow parents to buy their children’s school shoes on the “I know you will pay when you can” credit plan. This sense of common trust and the idea of making friends with our customers is still the core of building our business and improving the communities that we serve.

As towns and cities grew, retailers began using their local merchant’s associations as a trusted repository for information about the customers with whom they dealt. In order to access the files, the merchant had to be willing to place his own information into the system. There was a strong incentive to be accurate and careful with what you put in because you expected the same care from the other merchants with whom you were sharing. Trust and integrity were important. Eventually the merchant’s associations were merged, or sold, and became part of the credit reporting system we have today.

Today, Boscov’s has 1.1 million active credit card accounts. During the peak holiday season, about 600,000 of these customers use their Boscov’s card and receive credit card statements from us. Activity on all accounts, not just past due accounts, is reported monthly to the three major credit bureaus. As many of you know, consumers often use retail credit as their gateway into the larger credit market. It very common for a Boscov’s card to be the first credit card in a customer’s wallet. By building a good credit relationship with us, they help build a good credit file with the credit bureaus. This, in turn, makes them eligible for other credit products such as a car loan or even a first mortgage.

I am here today to express strong support, on behalf of both Boscov’s and the retail industry as a whole, for the permanent reauthorization of the seven areas of state law preemption contained in Section 624 of the Fair Credit Reporting Act or FCRA. These preemptions govern: ***Reinvestigation Timeframes*** (the time by which a credit bureau must take any action in any procedure related to the disputed accuracy of information in a consumer's file); ***Adverse Action Responsibilities*** (the duties entities have when taking "adverse action" against a consumer on the basis of information contained in a credit report or on information obtained from third parties other than credit bureaus); ***Prescreening*** (the process of selecting consumers for "preapproved" offers, and the duties imposed on those entities engaging in prescreening); ***Information Contained in Credit Reports*** (including obsolete information and information regarding delinquencies); ***Furnisher Responsibilities*** (the obligations and potential legal liability imposed on those entities that report raw data to credit bureaus); ***Consumer Disclosures*** (the form and content of certain disclosures which must be provided by a credit bureau to a consumer); and ***Affiliate Sharing*** (the exchange of information among affiliated entities, regardless of whether such information is a credit report or credit related).

As I noted before, the history and success of retail is inextricably intertwined with credit granting in this country. Today, over eighty percent (80%) of purchases made at Boscov's stores are on some type of credit card; be it Visa, MasterCard, Discover or the Boscov's card. In 2002, consumer spending represented two-thirds of the Gross Domestic Product. If you do some simple calculations, you realize that most of the transactions in our economy don't happen in cash – they happen on credit. Mr. Chairman, as you know, it is consumer spending that has served as the ballast in an otherwise unstable economic environment. Consumers are taking advantage of quick, low-cost credit at record rates, from first-time home mortgages and mortgage refinancings, to car loans and other consumer credit transactions. The system that makes all these transactions efficient and even possible is our current national credit reporting system.

In fact, the uniform standards adopted in 1996 have coalesced nicely with emerging computer technology to create the most fair and efficient credit reporting and credit granting system in the history of our country. Sophisticated models have allowed creditors to more accurately assess risk and have allowed for the introduction of innovative products and lower APRs. Additionally, uniform computer applications such as E-oscar and ADVS allow furnishers such as Boscov's to correct reported information and clear up disputes quickly and much more efficiently.

I would like to highlight some of the areas of the law that are most important for retailers, but, again, please bear in mind that retailers strongly support all seven of the current preemptions.

Furnisher Responsibility

Uniform standards on furnisher obligations are critical to the integrity and overall success of the current voluntary reporting system. In an age where trial lawyers loom at every turn, the limits on furnisher liability help keep credit granters in the reporting system. Inconsistent or heightened liability standards and the creation of new private rights of action would ultimately discourage lenders from supplying information – particularly negative information – out of fear of being sued. Like the system established by the merchant's associations of old, credit reports are only as good as the information going in. If a potential creditor does not have a complete view of the consumer's information because other creditors are withholding information the risk-assessment may not be adequate. This perceived increased risk would have to be factored into the loan, driving up the cost of credit and diminishing credit availability in those communities.

Reinvestigation Time Frames

Some of the largest retailers report on over seventy-five million customers per month to the three national credit bureaus. Remarkably, the reported error rate is well under one half of one percent (.05). Oftentimes, these errors are simply mismatches of information to credit bureau files and never impact a consumer's report. Examples of these types of mismatches are minor variances in a customer' name, address or date of birth. Further, significant errors that inadvertently make it on to reports are corrected quickly at the consumer's request, often in much less time than the thirty days required under the FCRA. The usual time to handle a dispute at Boscov's is about fourteen days; however the full thirty days may be needed to resolve more complex disputes.

Again, the national uniformity established in 1996 helps make this efficient system possible. If states were allowed to act independently to shorten these periods to twenty, fifteen or even ten days, consumers would necessarily be treated differently by furnishers based simply on their state of residence. Disputes in a thirty-day state would always be bumped back the minute a complaint came in from a consumer in a ten-day state. Imagine the frustration for customers as well as the complication for merchants who operate in multiple states. As I previously noted, Boscov's operates in five Mid-Atlantic States. For us, this could mean having five separate dispute resolution procedures in place. For the largest retailers it could mean having fifty different procedures in place.

Prescreening

Another important preemption under the FCRA is that for prescreening. Retailers like Boscov's use prescreening to grow our customer base. This isn't just important to our credit card business. We use this same customer base as the best predictor of where to open a new store. With a typical store size of 200,000 square feet, we operate almost exclusively as an anchor store in regional Malls. For us, it takes as many as ten to twenty thousand known customers to venture into a new location. Boscov's is still growing. We open an average of two to three stores per year. Last month, we opened our newest store in Westminster, Maryland and in the fall we will open another in Frederick. Over the past few years we have opened one or more stores in every state in which we do business. If any Mid-Atlantic state were to act to prohibit prescreening, it would undoubtedly slow down Boscov's stores entry in to new markets in that state.

Affiliate Sharing

As a department store retailer, I think it would help committee members understand our business much better if I take a moment to explain the structure of our stores. A Boscov's department store is considered to be a reliable place for one-stop shopping by our customers, but, in fact, it is really a web of affiliated companies and third-party licensees providing exceptional services under the Boscov's company name. For example, the Clinique and Lancome counters are operated by Clinique and Lancome under a third-party contractual agreement with our stores. This is also true for the Ritz Camera store. Additionally, a licensee company runs many of our fine jewelry counters, offering knowledge that brings quality merchandise at the best prices to our customers.

Boscov's also runs several retail affiliates including Boscov's Tavelcenter, our hearing aid center, and the warranty department that services the electronics and appliances we sell in our stores. Additionally, Boscov's Receivable Finance Corporation and Boscov's Credit Card Master Trust, both Boscov's affiliates, serve as the basis for our credit card business. The contract for servicing those accounts is, in turn, held by Boscov's Department stores.

This complex business structure is necessary for many legal and accounting reasons, however the structure is completely transparent to our customers. What they get is the great customer service that has kept them shopping with us for years. In fact, our credit card center is also a call center where customers can work out issues such as merchandise delivery problems, place phone orders, seek assistance with Internet orders, and ask a whole host of questions about our products, services and promotions. They can even opt-out of our mailing lists for catalogs, promotions and store coupons if they so choose. This is all made possible by information sharing in the retail environment. Through information sharing we can not only market more specifically to our customers and meet their needs, but we can also do other things such as underwrite more credit and combat identity theft in our stores.

Mr. Chairman, a lot of people ask what affiliate sharing has to do with the granting of credit. The answer is: a lot. Retailers use the data and transaction histories that they collect from their stores and affiliates to create internal credit scores and models that help determine a consumer's eligibility for credit. This information supplements credit reports and FICO scores to paint the most accurate picture possible of a customer. In fact, retailers most often use this type of information to grant credit to people on the margins and those who are just entering the credit market.

For instance, if someone comes in to a retail store needing a new refrigerator or washer/dryer, they often apply for "instant" credit to complete the purchase. When the retailer pulls their credit report they may see a lower-than average FICO score or information indicating a bankruptcy five years ago. These are often reasons to deny credit, but, by using their own internal models that predict the credit habits of similarly-situated customers, the retailer may be able to draw the conclusion that the current customer is not, in fact, a credit risk. Again, this type of information sharing helps retailers determine risk and underwrite credit, allowing people at the margins in lower to middle income households with mediocre FICO scores obtain credit when they most need it.

Retailers also use information to fight identity theft. As you know, identity theft is one of the fastest growing and most troublesome crimes in the United States. At Boscov's we have implemented a number of safeguards to help protect our business and our customers. As you will see, many of these procedures rely directly on the sharing of information.

When a customer applies for the Boscov's charge card in one of our stores, they must present a current, valid, state or federally issued picture I.D. (such as a driver's license or passport). When we pull the customer's credit bureau report, we determine if the name, address, social security number and various other characteristics given by the customer match both the information on the I.D. presented and the information contained in the credit bureau report. In addition, our system is built to recognize various "fraud flags" in credit reports and also to request human review for any credit bureau report that contains a written "consumer statement." Questionable applications are referred for further processing to ensure that the applicant is in fact who they purport to be.

ID theft prevention does not stop when the credit application is approved. Many retailers like Boscov's have models or "neural networks" that identify unusual purchasing behavior. For example, if we see an account that is normally only used for small purchases suddenly being used to make large, high risk purchases on-line using a different shipping address, our systems will flag the transaction as "highly suspicious" and it will be referred to a special unit for investigation. We also have a number of customers who either have in the past been victims of identity theft or who believe they are likely to be victims. For these customers, we program our register system to immediately refer the sale to our credit center. Here we will verify the customer's identity via a valid ID or password.

Sadly, ID theft continues to grow and affect both of its victims: the merchant and the customer. Our losses related to ID theft continue to grow year after year despite our best efforts. We are constantly challenged to find new patterns in our many data sources that will help us identify fraudulent transactions without inconveniencing our legitimate customers. Without the ability to search all data sources available to us, ID theft would grow at an even greater rate. The ability to share, aggregate and search affiliate and third party data sources is paramount in the effort to protect Boscov's and our valued Boscov's customers.

Information Contained in Credit Reports

Today, creditors rely on the fact that when they pull a copy an individual's credit report, no matter what that individual's state of residency may be, they are always getting the same reliable information. If the FCRA preemptions are not extended each state will be able to establish its own content requirements for credit reports. For example, a state may chose to lengthen the time in which consumers can pay overdue bills without those delinquencies appearing on their credit reports. A state could further shorten the time during which negative information can remain in a credit report.

As I mentioned before, Boscov's operates in five states. A state-mandated ninety-day delay for reporting a delinquency in Maryland, for example, would keep Boscov's from being alerted to a recent credit problem. Just think of it: we would have no way of knowing if an individual has paid any of their bills for three months.   Our Maryland customers would then have to be treated differently when applying for credit than customers in New York or Pennsylvania. In addition, such a change in state law could encourage some individuals to "work the system" by routinely paying overdue bills just in time to avoid the ninety-day "delinquency reporting" deadline. The result would be a significantly less reliable credit granting system.

A state-mandated two- or three-year information history limit on applicants' credit reports would also be problematic. Today, all positive and negative information stays on a consumer's credit report for seven years and bankruptcies appear for ten years. With less information to work from, it would be more difficult for credit grantors to identify both high-risk applicants and increasing risk among existing accountholders. Mr. Chairman, an information vacuum can be highly detrimental to a credit decision – sometimes even more so than relatively old negative information.

In closing, I would again like to emphasize the retail industry's strong support for the permanent reauthorization of the seven areas of preemption contained in section 624 of the Fair Credit Reporting Act. Without the extension of the uniform national standards, retailers and the customers we serve may be subject to a confusing patchwork of new state laws, rules and regulations. The current uniform national standards allow retailers and lending institutions to get a complete and accurate picture of a person's credit history. Without uniform national standards, it will be harder to judge with any confidence the credit worthiness of each individual customer, slowing the credit approval process and leading to higher lending costs.

Mr. Chairman, members of the Committee, consumers have come to expect instant access to credit when purchasing everything from an automobile to consumer goods such as furniture, appliances and apparel. In the final analysis, we in the retail industry have a real concern that a more fragmented approval processes for credit would negatively impact consumers and, as a consequence, retail sales, ultimately costing jobs and hurting the economy as a whole.

Thank you again for the opportunity to testify here today. I look forward to working with all the members of this Committee to permanently reauthorize the FCRA preemptions before they expire on December 31of this year.