Consumer Advocates Commemorate the 50th Anniversary of the Fair Credit Reporting Act

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Washington, D.C. – Today marks the fiftieth anniversary of passage of the Fair Credit Reporting Act (FCRA). The following is the statement of National Consumer Law Center attorneys Chi Chi Wu, Ariel Nelson and Sarah Bolling Mancini.

“The FCRA was a landmark law for its time and the first truly significant financial privacy law in this nation. And in many ways, it is still one of the strongest, because it allows consumers to seek relief in court on their own behalf without waiting for under-resourced or politically hobbled regulators to take action.

“The FCRA embodies several basic principles of fair information practices: The right to access information about ourselves, the right to know when that information is used against us, privacy protections to prevent inappropriate dissemination, the right to have information be accurate, and the right to correct errors. In the 50 years since the FCRA’s passage, we’ve seen the rise of the Computer Age, the Internet, the smartphone, Big Data, artificial intelligence and machine learning, and more. But the FCRA, by sticking to fundamental principles and broad standards, continues to provide critical protections to consumers. And its scope is wide, contrary to assertions of tech and data companies who might claim that the law does not apply to them simply because they use advanced technologies.

“But it would be too much to say this is a day of celebration. There are still numerous abuses and flaws in the system. Credit reports contain too many errors and the system is still biased against consumers trying to correct them. Data companies refuse to comply with the law, using tortured arguments that courts unfortunately sometimes accept. Errors by background check and tenant screening companies—like the reporting of expunged criminal records or another person’s criminal records—shut consumers out of jobs and housing. Credit reports and scores are misused for purposes for which they were never intended, such as employment, insurance, and even immigration. And credit scores reflect and perpetuate thorny racial disparities, playing a role in financially entrenching America’s original sin.

“Fundamentally, the credit reporting industry is inherently dysfunctional in its very nature, which accounts for many of its problems. It is an oligopoly of three private companies with the primary mission of generating profit, not of treating consumers fairly or furthering the public good. As the Equifax data breach starkly reminded us, consumers and our data are their commodity. Normal market forces for even oligopolies don’t apply—consumers are not the customers, so we cannot go to a competitor or opt out of the system if we are to survive and thrive financially. That is likely part of the reason that the credit reporting industry is often the number one source of complaints to the Consumer Financial Protection Bureau, including during this pandemic.

“To free our financial lives from this oligopoly, we need an alternative for credit reporting—a public credit registry option. In addition, we need reforms to stop the multitude of abuses and problems at both the “Big Three” credit bureaus (Equifax, TransUnion, and Experian) and other types of
reporting agencies, such as criminal background check, tenant screening, and account screening companies. And we need to protect against watering down of the FCRA, either legislatively or by regulators.

“It’s been said that in the Information Age, “data is the new oil.” But this leaves out an important point – this is our data. These are our reputations. And it is our financial lives that depend on it. We should have better control over our data and better protection. The FCRA was a good start to protect consumers, but 50 years later, it’s time to do more.”