[1] William Shakespeare, *Hamlet*, Act I, Scene III,

Century phrase put it, "He who goes a-borrowing goes a sorrowing."[3]

Notwithstanding its critics, consumer credit has become a significant tool in our modern economy. In the 20th Century, consumer credit grew rapidly as it became the common means through which consumers of limited resources were able to purchase automobiles. By 1926, two out of every three cars sold in the United States were purchased on credit.[4] Consumer credit again grew rapidly in the 1950s and 1960s with the introduction and expansion of the use of credit cards. Indeed, by the mid-1960s, poet Randall Jarrell found an apt metaphor for the pervasiveness of consumer credit in the Sistine Chapel's ceiling: "If anyone wishes to paint the genesis of things in our society, he will paint a picture of God holding out to Adam a check-book or credit card or Charge-A-Plate."[5]

Paying over time allows consumers to make purchases they could not otherwise have afforded. It permits us to get the benefits of goods and services while we are paying for them, rather than postponing these benefits until after we have saved up the purchase price. Some forms of consumer credit provide consumers with greater convenience, such as using a credit card rather than cash to make a large purchase. The lyrics from the musical *Miss Saigon*, however, may sum up best the view of consumer credit in our contemporary culture: "What's that I smell in the air? The American Dream. All yours for ten percent down. The American Dream."[6] The purchases that consumers make in pursuit of their dreams collectively provide a powerful engine for economic growth and enhanced consumer welfare.

Debt collection plays a vitally important role in our system of consumer credit. Collecting on a debt, of course, benefits individual creditors who are repaid money they are

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[3] Lendol Calder, *Financing the American Dream: A Cultural History of Consumer Credit* 10 (Princeton University Press 1999).

[4] Martha L. Olney, *Buy Now, Pay Later: Advertising, Credit, and Consumer Durables in the 1920's* 96 (University of North Carolina Press 1991).

[5] Randall Jarrell, *A Sad Heart at the Supermarket: Essays and Fables* 66 (Atheneum Press 1962).

[6] *Financing the American Dream*, *supra* n.3 at 5.

owed. Debt collection, however, has broader economic benefits. If consumers do not repay their debts, sellers will seek to increase the prices of their goods and services to cover these lost revenues. If consumers do not repay their debts, creditors will be less willing to lend money to consumers, thereby decreasing future purchases. Debt collection therefore plays a key role in keeping prices low and ensuring that consumer credit remains widely available and affordable.

Notwithstanding the benefits of debt collection, activities in the industry also have been a source of potential harm to consumers. In 1977, Congress took a hard look at debt collection practices and found that debt collection abuse by third-party debt collectors was a "widespread and serious national problem."[7] It concluded that abusive debt collection practices were contributing to personal bankruptcies, marital instability, job loss, and invasions of individual privacy.[8] This abuse took many forms, including

> obscene or profane language, threats of violence, telephone calls at unreasonable hours, misrepresentation of a consumer's legal rights, disclosing a consumer's personal affairs to friends, neighbors, or an employer, obtaining information about a consumer through false pretense, impersonating public officials and attorneys, and simulating legal process.[9]

To curtail these practices, Congress enacted the Fair Debt Collection Practices Act ("FDCPA"), establishing specific standards of conduct for the debt collection industry and directing that the FTC enforce its prohibitions.

Over the next two days, we will consider whether consumer protection laws have kept pace with the changes that have occurred since the FDCPA was enacted thirty years ago. It goes without saying that the world is a very different place now than it was in 1977. Consumer debt levels have risen dramatically over the past thirty years. Tremendous innovation in the financial services marketplace has given consumers far more choices, including an array of options they can use to pay for goods and services. In turn, these innovations may have affected

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[7] S. Rep. No. 95-382 [hereinafter Senate Report], at 2 (1977), *reprinted in* 1977 U.S.C.C.A.N. 1695, 1696.

[8] FDCPA § 802, 15 U.S.C. § 1692.

[9] Senate Report at 2.

[10] Ihatedebt.com, The History of Debt Collection: Getting Automated, http://www.ihatedebt.com (last visited Sept. 21, 2007).

instantaneous processing of payments on debts.

Given the changes in the industry that have occurred since the FDCPA was passed, this is an opportune time to assess whether changes are needed to improve the Commission's consumer protection efforts. Significantly, the FTC continues to receive more complaints about third-party debt collectors than about any other single industry. The number of these complaints has been

[11] *FTC v. Rawlins & Rivera, Inc.*, No. 6:07-CV-146-ORL (M.D. Fla. Jan. 31, 2007)(complaint), *available at* http://www.ftc.gov/os/caselist/0623139/070202cmp0623139.pdf.

defendants promptly. The Commission quickly secured a preliminary injunction that – among

[12] *FTC v. Check Investors, Inc.*, No. 03-2115 (JWB) (D.N.J. May 12, 2003) (complaint), *available at* http://www.ftc.gov/os/caselist/0623139/070202cmp0623139.pdf.

[13] *FTC v. Check Investors, Inc.*, No. 03-2115 (JWB) (D.N.J. July 18, 2005) (final order), *available at* http://www.ftc.gov/os/caselist/checkinvestors/050728ordercheckenforcement.pdf.

[14] *FTC v. Check Investors, Inc.*, 2007 U.S. App. LEXIS 21296 (3d Cir. Sept. 6, 2007).

revising its Code of Ethics to enhance the protections that its members afford to consumers.[15] This is a promising development. And, I would note, this week the Commission issued an advisory opinion supporting one new requirement in ACA's Code of Ethics. The Code would require debt collectors who are ACA members to notify consumers who disputed a debt in writing if they have ceased their collection efforts, and the FTC's advisory opinion concluded that debt collectors providing such a notice would not violate the FDCPA.

The final prong of the Commission's debt collection consumer protection strategy is effective consumer education. The FTC recognizes that for the FDCPA to be fully effective, consumers must be aware of their rights. Through a variety of consumer education initiatives, the FTC provides consumers with materials that summarize the FDCPA's provisions so that consumers can exercise their rights. FTC staff also do personal outreach at community events, schools, and military bases to disseminate information about the rights of debtors. Well-informed individuals can protect themselves better from unscrupulous debt collectors and may contribute valuable information to our consumer complaint database, enabling the FTC and other law enforcers to track trends and target egregious actors for law enforcement.

The agenda for the sessions to be held today and tomorrow is ambitious, and promises to spur vigorous debate and constructive dialogue. We are eager to engage in this dialogue with you, and, in an effort to ensure that the record is as complete as possible, we will be accepting additional comments through November 9th. We look forward to identifying solutions that adequately protect consumers without unduly burdening debt collectors in performing their important role in our economy. I thank you all again for coming, and, without further ado, I am pleased to introduce Tom Pahl, an Assistant Director in our Division of Financial Practices, who will be the moderator of our first session.

Thank you.

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[15] The revised Code of Ethics and Operations is available at http://www.acainternational.org/images/10758/aaodeofethics.pdf