



Ms. Isabel Rodríguez  
Chairman of the Justice Committee  
Congress of Deputies of Spain  
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5 February 2018

**Subject: Draft new Spanish Data Protection Law**

Dear MP Rodríguez,

As the largest representative group of credit bureaus in the world, ACCIS - the Association of Consumer Credit Information Suppliers - would like to succinctly share its views on Article 20 and 8<sup>th</sup> Additional Provision of the draft new Spanish Data Protection Law (Proyecto de Ley Orgánica de Protección de Datos de Carácter Personal - 121/000013, in Spanish).

According to draft Article 20, the collection and processing by credit bureaus of information in connection to an individual's defaults (negative information) on credits should be considered 'legitimate'. No provision is included with regards the legitimacy of collection and processing of information relating to an individual's past repayments and existing contracts (positive information).

If the Spanish legislator were to agree that credit bureaus can legitimately process only negative credit information, Spanish credit bureaus would be unnecessarily limited in their activities and be forced to operate as mere 'blacklists'.

This position would not only penalise Spanish credit bureaus. It would also have knock-on effects on the well-functioning of the Spanish credit market. Reasons:

- In a system where banks and other creditors do not have access through credit bureaus to both positive and negative information about potential consumers, those creditors are limited in their ability to assess the credit risk associated with lending money or providing goods and services on credit. As a result, and in the absence of comprehensive (negative *and* positive) information, creditors would only lend a fraction of the money that consumers can steadily repay. Or they would request additional (and expensive) guarantees for the same amount.
- In a system where credit bureaus only store information on consumers' defaults, creditors lack a useful tool to differentiate consumers with a long history of timeously repaying of multiple debts from consumers who have no credit experience whatsoever. Credit bureaus that only operate on the basis of negative information struggle, therefore, to help creditors fully identify low risk consumers. As a consequence, those consumers may be unnecessarily penalised.
- From consumers' point of view, a system that legitimately collects both positive as well as negative information improves access to credit and is able to generate more competitive offers by creditors that are more favourable to consumers. Such a system can also be an important tool to reduce overindebtedness<sup>1</sup> as creditors have more information to help consumers prevent the accumulation of debts.

We would like to politely recall that, in developed credit markets like the ones where ACCIS members operate, most borrowers, lenders and policy-makers believe that a trusted third-party holding a

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<sup>1</sup> The prevention of overindebtedness has been mentioned to Spanish legislators as an important recommendation that should be implemented to avoid the repeat of a financial crisis in that country – see [Mr Campa Fernández's testimony](#) to the Inquiry Committee on the Financial Crisis in Spain (09.01.2018).



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database of positive and negative financial history provides consumers with better products and at a fairer price.

The adoption of a new Data Protection Law provides Spain with an opportunity to evolve its credit information infrastructure to the standards that are common-place in the European Union and the developed world. In that regard, ACCIS recalls that the [World Bank Principles on Credit Reporting](#) (2011) state (page 23) that “*credit reporting systems should have relevant, accurate, timely and sufficient data - **including positive** - collected on a systematic basis from all reliable, appropriate and available sources, and should retain this information for a sufficient amount of time*”.

We would like, therefore, to encourage the Spanish legislator to agree that both positive and negative data can be legitimately processed by credit bureaus operating in that country and to amend Article 20 and the 8th Additional Provision of the draft new Spanish Data Protection Law accordingly.

We are at your disposal for any questions.

With kind regards,

A handwritten signature in blue ink, appearing to read 'Velázquez', with a vertical line extending downwards from the end of the signature.

Enrique Velázquez  
Director General  
ACCIS