

Office of Evan Hendricks

September 18, 2009

[Submitted via: <https://secure.commentworks.com/ftc-FACTA319study>]

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex J)
600 Pennsylvania Avenue, NW
Washington, DC 20580
Re: "National Accuracy Study: Paperwork Comment (FTC file no. P044804)"

Dear Mr. Vander Nat,

There is consensus that the FTC's pilot studies about credit report accuracy failed on several fronts. This is not surprising given the involvement of contractors with little background in Fair Information Practices principles and the dubious methodology they employed.

Thus, it is crucial that the FTC "get it right" this time and fulfill the goals Congress set forth in the FACT Act. Please understand: We do not underestimate the challenges involved.

Our view is that meeting the following standards will greatly increase the FTC's ability to produce a study that will truly contribute to and inform issues regarding credit report accuracy and inaccuracy. We look forward to meeting with you to elaborate on these standards.

- The contractors conducting the study, or a significant portion of the contractor team, must have a background in the related issues of information-privacy, Fair Information Practices principles and preferably, credit reporting. Similarly, the team must recognize that the basis for its approach is that the FCRA is first and foremost a consumer protection statute.
- The study needs to draw from various universes that reflect the diversity of consumers who have good credit, mediocre credit and poor credit. As the FTC itself acknowledged, prior studies have been significantly skewed toward consumers with high credit scores, who are logically less likely to have errors in their credit reports. Furthermore, the last study was also skewed to consumers with higher income households (with 34% having incomes over \$100,000) and college graduates (66%). On the other hand, Hispanics, Asians, and lower-income consumers were

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underrepresented. The next study must include consumers who both represent the proportion of consumers who have good, mediocre and poor credit scores in the general population, and must reflect the ethnic and socioeconomic composition of the population. Potential sources include attorneys, identity theft protection services, ethical credit repair companies and independent credit bureaus (“resellers”).

- Another potential source, provided that sufficient oversight is provided by the contractors, are the consumer reporting agencies (CRAs) themselves. Employing rather basic search functions, CRAs could, for instance, conduct a sampling to determine how many individuals were associated with more than one Social Security number or, conversely, how many Social Security numbers were associated with more than one individual. It is important to note that the three major credit bureaus apparently have never attempted to conduct a serious study to gauge the accuracy of data that they maintain about consumers. The FTC’s study is an opportunity to finally involve them in one.
- The study needs to have at least a “sub-focus” on cases of chronic inaccuracy, i.e., those cases in which inaccuracy persists over a prolonged period of time because of the practices and procedures of consumer reporting agencies (CRAs). Chronic inaccuracy can be caused, for example, by “mixed files” and/or identity theft, and/or bankruptcy. An important source for these types of cases are attorneys who have represented consumers.
- The study needs to focus on at least two factors and their contribution to chronic inaccuracy: (1) the CRAs’ over-reliance on the entirely electronic “ACDV-exchange” as their principle means of investigation and (2) the continued use of “partial matching” even after a consumer reliably disputes inaccurate data, particularly when caused by mixed files or identity theft.

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