



COALITION TO IMPLEMENT THE FACT ACT

July 16, 2004

Federal Trade Commission
Office of the Secretary, Room II-159 (Annex M)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Re: FACT Act Section 318(a)(2)(C) Study, Matter No. P044804

Dear Sir or Madam:

This comment letter is submitted on behalf of the Coalition to Implement the FACT Act (“Coalition”) in response to the Federal Trade Commission’s (FTC’s) request for public comments on the above-referenced study. The Coalition is composed of a broad cross-section of financial services companies and associations, including many of the nations leading providers of credit and insurance.¹ They are all actively involved in the credit reporting system as furnishers and users of consumer credit information. The Coalition greatly appreciates the opportunity to comment on the Commission’s study of whether credit report information currently available to consumers as a consequence of adverse actions, limits their ability to identify report errors and ID theft.

Executive Summary of Coalition Views: “Changes To Current System Would Be Counterproductive”

The Fair Credit Reporting Act (FCRA) entitles consumers to a free copy of their credit report from a Credit Reporting Agency when information in their reports gives rise to an adverse action. Credit reports furnished to consumers in conjunction with adverse actions are comprehensive, consumer-friendly and easily understood. In the experience of the Coalition’s members, consumers provided such reports under existing law are able to identify - and, if they choose - dispute the specific negative information forming the basis of adverse action decisions.

By contrast, proposals for providing consumers with “a copy of the same credit report that the creditor relied on in taking an adverse action” (which we understand to mean the identical credit report that is received and acted on by the grantor of credit or insurance) would confuse, rather than enlighten, consumers; and, impede, rather than facilitate, their ability to identify erroneous credit report information or discover thefts of their identity.² Additionally, the costs associated with translating electronic, coded and machine-readable credit data used by grantors, into a credit document understandable by consumers, would impose significant additional costs and related burdens on the credit system.

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COALITION TO IMPLEMENT THE FACT ACT

Coalition Comments

For the reasons stated below, any recommendation that the identical credit report utilized by grantors of credit and insurance be furnished to consumers in connection an adverse action, would be ill-advised and would represent a major step backward for consumers, credit and insurance grantors and for the credit system itself:

-- Existing System For Providing Consumers With Their Credit Reports Following An Adverse Action Is Already Highly Effective: Coalition members believe that the existing mechanisms for providing consumers with a copy of their credit reports in response to adverse actions, are sufficient to allow them to identify the precise information giving rise to the action. All the credit data received by the grantor is derived from information disclosed on the consumer credit report that is available, free of charge, to consumers after an adverse action. The Coalition does not believe that providing consumers with the identical reports producing the adverse action -- even if those reports underwent a complete makeover -- would produce for consumers a single meaningful benefit beyond those received under the current system;

-- Credit Data Sent To Grantors of Credit & Insurance By Consumer Reporting Agencies Are Typically Transmitted In Electronic And Coded Formats Useless To Consumers: In the vast majority of requests for credit or insurance, data furnished by credit bureaus to major grantors are transmitted electronically (occasionally on tape) in a coded and machine readable-only format. These electronic documents look nothing like the comprehensive credit reports that consumers receive if they order their own report. Providing this "same" or "identical" information to consumers, without significant and costly re-formatting, would be meaningless to them;

-- Credit Data Received By Large Grantors Would Have To Undergo A Costly and Burdensome Reformatting Process, Without Providing Any Additional Benefits To Consumers: Although the total costs of imposing a "same report" burden on the credit system have not been calculated, consider that an entirely new infrastructure would have to be built to implement the concept (e.g., systems established to respond to and track requests for this data; software developed for reformatting the data used by grantors; protocols established for designing a uniform, consumer-friendly format; the hiring and training of company personnel to respond to questions from consumers about the transmitted data; and, development of a new compliance program).

These additional burdens are totally unjustified for two fundamental reasons: First, because providing consumers with the identical reports used by grantors would not produce any measurable benefits beyond what they now enjoy under the current FCRA adverse ac-

COALITION TO IMPLEMENT THE FACT ACT

tion notice process. Second, because even if a new system did produce measurable additional consumer benefits, those additional benefits would be conferred only on a tiny subset of the already very small number of consumers who receive adverse action notices (i.e., those who contest the credit information which gave rise to the action).

-- Even If The Data Sent To Grantors Were Reformatted, It Often Would Provide Consumers With Only A Partial Picture Of Their Credit Information: Even if the coded/machine readable credit data were re-formatted in a consumer-friendly manner, it often would provide consumers with only a partial picture of his or her credit profile. In many cases, only those portions of a credit report needed for a grantor's underwriting purposes are transmitted to the grantor of credit or insurance. In other cases, data are received from more than one consumer reporting agency; or are merged with a customized and highly proprietary grantor score -- complicating the reformatting process and making more difficult the consumer's ability to understand the information. Even if it were feasible to disclose all such information, the end "product" would look significantly different from a traditional credit report and could have little or no meaning to the consumer. Indeed, a reformatted credit report could distract the consumer from focusing on the core reasons for the adverse action;

-- Reformatted Data Would Confuse Consumers And Result In a Series of Back-And-Forth Questions From Them: If the identical data transmitted to the grantor of credit or insurance were provided to consumers in a raw or even in a re-formatted version, the end result would be a confused consumer; and a back-and-forth process of questions from the consumer about the meaning of the data;

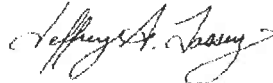
-- Reformatting Would Create Opportunity For Mistakes: Reformatting of the data utilized by grantors of credit and insurance would create the opportunity for significant mistakes. There are thousands of unique hardware and software systems in use by the nation's credit and insurance grantors. It is almost inevitable that in translating the electronic and coded credit data received by grantors into consumer friendly form, mistakes will occur;

-- Under Current FCRA Requirements, Consumers Can Readily Identify The Reasons For The Adverse Action: We acknowledge that the contents of credit reports change on a regular basis; and that most credit decisions are made based on a single snapshot of a consumer's creditworthiness as of a particular date. However, it is the experience of Coalition members that for the vast majority of credit and insurance applicants, the attributes in a credit report that drive the credit decision remain on the report during the brief time period between an adverse action notification and a consumer's receipt, if requested, of a free copy of the report. In these situations, the consumer would have the information giving rise to the adverse action, notwithstanding that the credit report is received by the consumer

COALITION TO IMPLEMENT THE FACT ACT

days or several weeks after the adverse decision. Moreover, in those rare instances in which the contents of a report change sufficiently during this time span to cause a reversal of the adverse action, the FCRA provides effective mechanisms for the consumer to understand the precise reasons for the adverse action; and, to challenge the validity of those reasons.

Sincerely,



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Executive Director

COALITION TO IMPLEMENT THE FACT ACT

¹ Members include Allstate Insurance Company, America's Community Bankers, American Financial Services Association, Consumer Bankers Association, Credit Union National Association, Fair Isaac, Fannie Mae, Farmers Insurance, Ford Motor Credit Company, General Electric Company, HSBC Household, Independent Community Bankers of America, J.P. Morgan Chase & Co., MasterCard International, MBNA, MetLife, National Retail Federation, Nationwide, State Farm Insurance, TransUnion, and USAA.

² These conclusions are not directed at situations involving applications for mortgage credit and the use of credit information for employment purposes. In both situations, consumers are generally provided with print image hard copies of credit reports that look very much like the ones consumers can purchase from the major credit reporting agencies (credit grantors who provide such reports are not regarded as consumer reporting agencies). In applications for mortgage credit, the cost of the consumer report is generally assumed by the applicant.