



January 5, 2005

Federal Trade Commission
Office of the Secretary, Room H-159 (Annex O)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Attention: FACTA Credit Score Fee, Project No. R411004

Re: Fair and Reasonable Fee for Credit Score Disclosure
69 FR 64698 (November 8, 2004)

Dear Sir or Madam:

America's Community Bankers ("ACB")¹ is pleased to comment on the advanced notice of proposed rulemaking² ("ANPR") issued by the Federal Trade Commission (the "Commission") that would implement the requirement that the Commission establish a "fair and reasonable fee" to be charged by a consumer reporting agency when it provides information required by the Fair and Accurate Credit Transaction Act³ ("FACTA"). The ANPR seeks comment on alternative approaches for determining the fee.

ACB Position

ACB believes that currently the marketplace produces competitive prices for credit scoring products and that the marketplace will remain the best determinant of competitive pricing. Educational tools are available in the market that help consumers understand their credit scores, even as financial service providers are using those same credit scores to manage risk.

Background

Upon the request of a consumer for a credit score, FACTA requires that consumer reporting agencies provide the consumer with his/her credit score along with a mandatory

¹ America's Community Bankers is the member driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² 69 Fed. Reg. 64698 (November 8, 2004).

³ Pub. L. 108-159.

disclosure statement and information relating to the key factors that adversely affect the credit score. When providing a credit score, consumer reporting agencies are permitted to charge a “fair and reasonable fee” to be determined by the Commission. This standard fee does not apply to the fees businesses pay when requesting a credit score in order to make a credit decision.

The Commission has outlined several alternatives for determining what constitutes a “fair and reasonable fee.” The approaches include: (1) establishing a single mandatory price; (2) determining a maximum fee that could be charged; and (3) conducting a periodic market survey to evaluate the competitiveness of the credit score marketplace in determining a range of market-based prices.

Preserving a Competitive Environment for Credit Scores

In the preamble to the ANPR, the Commission reports that prices for credit scores “appear to range between \$4 and \$8” and that there “appears to be an extensive and dynamic market for credit score disclosure products.”⁴ ACB agrees with the Commission’s assessment of the credit score marketplace. Community banks and other users of credit scores have a variety of products available to them, including Equifax’s “Beacon,” Trans Union’s “Empirica,” the Experian/FICO model, and other lesser known scoring systems.

ACB urges the Commission to avoid creating a fixed price for consumer credit scores. We believe that any type of federally mandated price—whether it is a mandatory value, or a maximum ceiling—introduces elements that will negatively impact the pricing of credit scoring to the detriment of both consumers and the financial services industry. A price set too high would unfairly penalize consumers, while a price set too low may adversely effect the quality and variety of services provided.

We urge the Commission to establish a process to conduct regular market surveys to evaluate the credit score marketplace to confirm that the prices are the product of competition. In the future, if it is determined that the credit score marketplace has become less competitive, FACTA will provide the Commission with the flexibility to reevaluate its rulemaking to ensure that credit scores are available to consumers at a “fair and reasonable” price.

Conclusion

ACB appreciates the opportunity to comment on this important matter and we look forward to working with the Commission to help develop a market-based framework for the determination of a “fair and reasonable fee” for consumer credit score disclosures. Should you have any questions or need additional information please contact Rob Drozdowski of my staff at (202) 857-3148 or via email at rdrozdowski@acbankers.org

⁴ 69 Fed. Reg. 64699

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Sincerely,

A handwritten signature in cursive script that reads "Charlotte M. Bahin".

Charlotte M. Bahin
Senior Vice President
Regulatory Affairs