

Privacy Rights Clearinghouse

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Federal Trade Commission
Office of the Secretary, Room H-159 (Annex S)
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Washington, D.C. 20580
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RE: FACTA Notices, Matter No. R411013

To the Commission:

The Privacy Rights Clearinghouse¹ appreciates the opportunity to comment on the Commission's proposed summaries of rights to consumers under the Fair Credit Reporting Act (FCRA) and revised notices for users and furnishers of consumer report reports. Overall, we believe the Commission's proposed notices for consumers strike an appropriate balance between simplicity of language while conveying important rights included in the FCRA as amended by the Fair and Accurate Credit Transactions Act of 2003 (FACTA).

We offer the following brief comments on how the notices might be improved:

Notices to Consumers (Identity Theft and General Notice) – The Commission seeks comment on whether it is appropriate and useful to refer consumers to the Commission's web site. We strongly support the Commission's proposal to require that notices direct consumers to the FTC web site for further information. Notices for identity theft victims should also include the Commission's mailing address contact for consumers without Internet access.

General Notice To Consumers: Page. 1 "*You can find out what is in your file.*" Reference to "specialized consumer reporting agencies" should state this means reports for medical records or payments; residential or tenant history; check writing history; employment history; or insurance claims. This clarification is needed because most consumers equate consumer reports with credit reports. "Specialized consumer reporting agency" is a new term and without further explanation, consumers may gloss over this without fully understanding that they are entitled to receive more than credit reports.

¹ The Privacy Rights Clearinghouse is a nonprofit consumer education and advocacy organization based in San Diego, CA, and established in 1992. The PRC advises consumers on a variety of informational privacy issues, including financial privacy, medical privacy and identity theft, through a series of fact sheets as well as individual counseling available via telephone and e-mail. It represents consumers' interests in legislative and regulatory proceedings on the state and federal levels. www.privacyrights.org

General Notice To Consumers: Page 2 re: identity theft victims and active duty military should state “When you report fraud or identity theft, the consumer reporting agency must send you an additional notice of victims’ rights.” In this way, consumers who later become a victim of identity theft or fraud will be on notice that additional rights apply. Consumers who later become victims will then be able to take affirmative steps to seek further information.

Notices to Furnishers and Users: Notices should also include FTC contact information and links to FTC publications for furnishers and users. The FTC has published several useful business guides, particularly for users, e.g. employers, insurers and landlords. Notices to furnishers and users should also provide a link to the appropriate appendix of 16 CFR. Reference to these FTC publications will reinforce the obligations of users and furnishers and should encourage further inquiry to the FTC about questions not answered by the general notices of duties provided by consumer reporting agencies. This is especially important for small entities without the resources to retain legal or other professional services.

Notices to Users. Adverse Actions (IC1) should state that a different standard applies for adverse actions taken for employment purposes. §III (*Obligations of Users When Consumer Reports Are Obtained for Employment Purposes*) should emphasize that notice is required *before* action is taken. The distinction should be highlighted in case the consumer reporting agency provides a user notice that covers all users. In any case, a specific notice for employment users should stress that a notice is required *before* an adverse action is taken.

- General Adverse Action notice (IC1) should also include notice of consumer’s right to dispute with the furnisher. (FCRA §623(a)(8))
- Section I, add G: “Users of consumer reports that are also financial institutions have additional obligations to safeguard and properly dispose of information under the FTC’s Safeguarding Rule or guidelines established by federal banking agencies.”

Again, we appreciate the opportunity to provide comments.

Sincerely,

Beth Givens, Director
Privacy Rights Clearinghouse