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Donald S. Clark
Secretary
Federal Trade Commission
Office of the Secretary
Room H-159 (Annex S)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20850

Re: FACTA Notices, Matter No. R411013

Dear Mr. Clark:

This comment letter is submitted on behalf of TransUnion LLC ("TransUnion") in response to the captioned matter. TransUnion is a Delaware limited liability company with businesses that operate as a "consumer reporting agency" as that term is defined under the Fair Credit Reporting Act ("FCRA"). TransUnion has approximately 4,000 employees with operations on five continents and in 34 countries. TransUnion has access to consumer credit information supplied by data furnishers on substantially all of the credit active consumers in the United States.

As required by the amendments to the FCRA resulting from the Fair and Accurate Credit Transactions Act of 2003 ("FACTA"), the Federal Trade Commission ("Commission") has proposed a new summary of rights for identity theft victims. The Commission has also proposed certain amendments to the existing general summary of consumer rights under the FCRA, and to the notices to furnishers of information to consumer reporting agencies and to users of consumer reports.

In general, with certain important exceptions as noted below, TransUnion believes that the Commission's proposed summaries and notices correctly and completely reflect the FACT Act's changes to FCRA. The changes we discuss relate to the comment letter of the proposed summaries and notices filed by our trade association, the Consumer Data Industry Association ("CDIA"). We unequivocally support the CDIA letter and related revisions and believe the modifications noted therein are critical to consumers and must be included to provide an accurate and correct summary of a consumer's rights in this area.

As additional support to the concepts noted in the CDIA letter as well as some areas of concern that we have, we trust the following discussion will be of interest to the Commission:

Appendix E:

Summary of Consumer Rights for Remediating the Effects of Identity Theft

We suggest that in the lead-in to this Summary consumers be made aware of the voluntary nature of the obligations of data furnishers, in particular that not all data furnishers report in an similar manner or to all consumer reporting agencies.

Also, this proposed summary contains various inaccurate statements, simply confusing “consumer reports”, which are provided to users with permissible purpose under FCRA Section 604; with “file disclosures”, which are the disclosures consumers receive under FCRA Section 609. To correct this misleading reference we suggest replacing any reference of “consumer report” in this Summary with “file disclosure”.

Lastly, FACTA creates a right for a consumer to place a fraud alert on his or her file at the nationwide consumer reporting agencies. We believe it is important that consumers understand the nature of this right and what to reasonably expect. For example, the right to block information associated with identity theft extends to any information appearing in the consumer report, not only to account information. Also, it is important to note that the consumer reporting agency may ask for more detailed information about the fraud and may seek confirmation of the fraud with appropriate law enforcement agencies.

For all the suggested modifications noted above we direct the Commission to the CDIA redlined version of Appendix E provided with the CDIA letter.

Appendix F:

Summary of Consumer Rights under the FCRA

Distinction between “consumer report” and “file disclosure”

This draft repeats the confusion of terms found in Appendix E. CDIA’s suggestions in the section “You can find out what is in your file” correct this.

Conditions for free file disclosures

CDIA’s redlined version of Appendix F suggests several clarifications to the description of the conditions in which consumers are entitled to free file disclosures. For example, we think it’s important to note that a consumer receiving a notice of adverse action must make the request for the free file disclosure within 60 days of receipt of the notice.

Credit score disclosures

Section 211(a) of the FACTA acknowledges that there are many scoring models, and requires that score disclosures by consumer reporting agencies include “a statement indicating that the information and the credit scoring model may be different than the credit score that may be used by the lender...” We suggest striking the reference to “your credit score” because that implies

that there is a single score for each individual consumer. CDIA's suggested change reflects the language in the statute.

Correction or deletion of inaccurate information

CDIA's suggested changes in this section reflect the provisions of FCRA—that consumer reporting agencies must delete or correct information disputed by the consumer that cannot be verified or is found to be inaccurate. We believe it is also important for the consumer to understand that the furnisher of that information can have that information reinserted, even after deletion for failure to timely investigate a dispute, by certifying the accuracy of that information to the consumer reporting agency.

Right to sue for damages

The FCRA limits a consumer's private right of action to the federal courts.

For all the suggested modifications noted above we direct the Commission to the CDIA redlined version of Appendix F provided with the CDIA letter.

Appendix G:

Notice to Furnishers of Information—Obligations of Furnishers under the FCRA

Regulations—use of present tense

In general, the banking and credit union regulators and the Commission must issue the regulations referenced in this section by the time these notices are in final form. Therefore, we suggest adjusting the tense accordingly.

Duties after notice of dispute from consumer

The proposed draft deletes reference to the obligation of a furnisher to report corrected information after it has received a direct consumer dispute and knows the information to be, in fact, inaccurate. Reference to this important right should be restored.

Duties of medical information furnishers

We suggest striking “enable” and inserting instead “help”, as noted in CDIA's redlined version of Appendix G. Our compliance with our duty as a consumer reporting agency under FCRA Section 604(g) is aided by, but not dependent on, furnishers of medical information identifying themselves to us. Section 604(g) requires that we restrict medical information independent of furnishers' actions. In fact, our obligations under this section were effective June 4, 2004—nine months earlier than the furnishers' compliance date of March 4, 2005.

For all the suggested modifications noted above we direct the Commission to the CDIA redlined version of Appendix G provided with the CDIA letter.

Appendix H:

Notice of Obligations of Users of Consumer Reports

Fraud Alerts are placed with nationwide consumer reporting agencies

As noted in our remarks for Appendix E, above, fraud alerts are placed with TransUnion and the other nationwide consumer reporting agencies. CDIA's notations in section I.D. reflect this.

Obligations when notified of an address discrepancy

We suggest making "addresses" plural when referring to the addresses in the consumer report, to conform to the language of the statute.

Additional disclosures

Under section II, CDIA offers suggestions that conform to the statutory language concerning the risk-based pricing notice required by FCRA Section 615(h).

Obligations of users of medical information

We support CDIA's suggested changes to section VI; to clarify that the consumer's consent must be delivered to the user of the report (not to the consumer reporting agency). It is also important to notify consumers that the restrictions on the use of medical information are subject to certain exceptions provided in regulations issued by the banking and credit union regulatory agencies.

Obligations of users of prescreened lists

When this notice is in final form, the rulemaking required by FCRA section 615(d) concerning the format and presentation of the opt-out notice will be final. This should be reflected in section VII.

Reinvestigations by resellers

Section VIII.B. Should be corrected to reflect the fact that the FCRA section 611(f) obligations are in connection with consumer disputes, not errors.

Liability for FCRA Violations

As noted above, individual consumer private rights of action under FCRA are taken in the federal courts. Enforcement actions taken in the states are governmental actions.

TransUnion appreciates the opportunity to comment on the Proposed Rule. If you have any questions regarding our comments, or if we may be of further assistance in connection with this matter, please do not hesitate to contact me at the number indicated above.

Respectfully submitted,



John W. Blenke