

# Kirkpatrick & Lockhart LLP

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## BY FED EX

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



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Re: In the Matter of the National Research Center for College and University Admissions, Inc.; American Student List, LLC; and Don M. Munce, File No. 022-3005

### To Whom It May Concern:

I am writing on behalf of Student Marketing Group, Inc. ("SMG") regarding proposed consent decree orders in the above-referenced matter. SMG is in the business of, among other things, compiling and renting lists, including lists of students. SMG and American Student List ("ASL") are direct competitors, and SMG has been responding to inquiries from the FTC regarding issues similar to the issues addressed in the consent decree orders proposed in the above matter.

We write only to request that the Commission be cognizant of the competitive impact that may result from any disparate treatment of competitive entities that are similarly situated. For example, we understand that Educational Communications, Inc. ("ECI"), publisher of *Who's Who Among American High School Students*, and Student Research, Inc. ("SRI") both were involved historically, if not presently, in the conduct of the NRCCUA survey that forms the basis for the enforcement action in the above matter. Notwithstanding that fact, ECI, SRI or their principals were not named in the proposed consent decrees. Likewise, we believe that ASL engages in numerous types of activities involving the collection of personally identifiable information that are not specifically addressed in the proposed consent order governing ASL. To the extent that the FTC intends to inquire about and/or specifically address any of these subjects in any future consent decree with SMG or its principal, we believe that the proposed consent decrees in the above matter ought to be amended to ensure identical treatment where the competing entities are similarly situated.

In light of the foregoing concerns, we request that the FTC delay final approval of the consent decrees in the above-referenced matter until these issues are addressed.

Sincerely,  
  
Patrick J. McElhinny

PJM/kat