

TO: FTC
FROM: David Halseth
President Background Investigations, Inc.
1800 Blankenship Rd, Suite 250
West Linn, OR 97068
503 639-6000 Ext 245
davidh@biinc.com

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

My companies resell consumer reports to a variety of business nationwide. We will provide approximately 400,000-consumer reports to our clients in 2004.

II. REQUEST FOR PUBLIC COMMENTS

We would define “the same report that the creditor relied on”, as an actual copy of the national bureau, either Equifax, Trans Union or Experian, report transmitted to us and subsequently transmitted either electronically or via fax to the business end user (Creditor) to be used to determine a credit transaction.

- A. 1. The report received by a consumer directly from the national bureau differs considerably in format and the specific identification of pertinent information that is useful to a consumer. In the public information section, the report from the bureau includes complete identification of the public record listing with address and phone number so a consumer could make direct contact. In addition the trade line references also have address and phone number listing thus allowing a consumer the ability to make direct contact in the event of a discrepancy. Finally the report from the bureau contains specific instructions in the event of a dispute by the consumer.

The reports we receive do not have the above information and the consumer would not be able to interpret much of the data on the bureau without a complete code guide or someone to go over each area of the report with them.

- a. Our clients utilize non-reformatted reports some with a credit score and some without. We do not offer merged reports as we feel that merging software has the potential for a higher degree of error in identification and line reporting. Should our clients require additional consumer reports they simply request additional reports. Credit scores do play a role in the decision making process, however, we educate our clients in the process of understanding and reading a credit report to make the final decision. We feel that a credit score in and of itself should not be used as a final determinate due to the potential of legitimate mitigating circumstances the

could weigh in favor of the consumer. We do not believe the form differs among creditors.

- b. Twenty five percent of our credit request are for multiply in files.
 - c. Multiple “in files” are for the most part the same. They differ in format and some content depending on geographic areas. Other than companies who use the credit score completely in making a decision, the whole file is taken into consideration. There is usually a set of criteria used to weigh the overall consumer report.
 - d. To our knowledge the credit score is based on the information in the file disclosed to the consumer.
 - e. Should a consumer request information from their file we disclose all file information used given to a end user.
 - f. We can see no factors that would differentiate in report used by a creditor versus the report that is sent to the consumer. Many reports are updated monthly from taped information submitted to the national bureau. Therefore from the time that a report is used by a creditor to the time one is requested and sent to the consumer, additional information could be reported both positive and negative might be reported. The differences in reports sent to a consumer and a creditor are outlined above. Matching technology seems to be handled differently by each bureau. Incorrect input, insufficient input or input that does not match data currently on file at the national bureau can affect output.
 - g. Consumers must provide full name and social security number verification in order to obtain copies of their reports from us. Our clients certify that they have identified the consumer with proper ID and also have a signed credit application in order to obtain a consumer report. All of the potential input considerations given in this section contribute on a regular basis to data output supplied to the creditor.
2. We have had no problems related to us from consumers who have received reports from the national bureaus. The format, content and instruction are quite clear and allow the consumer to handle disputes or correct errors.
- a. Again we hear little complaints. Adverse action letters go out within several days of any negative or adverse action. Reports are usually ordered within the timeline that give the consumer the same information used by the creditor in the decision making process. If multiple in files were used that fact is reported in the adverse action letter allowing the consumer to order multiple in files.
 - b. We believe the proposed requirement would be of little benefit and in fact be detrimental as the consumer would not be able to read the report, would not have contact information with which to dispute any incorrect information and the resulting necessity to order an additional “complete” report from the national bureau a duplication of effort, time and expense.
 - c. No

- d. No
- e. No
- f. The current process allowing for a consumer to obtain one free copy of their report yearly and also their ability to purchase at any time copies of their consumer report from a variety of sources is sufficient to handle identity theft, disputed data and confused files.
- g. No

3. As stated above we the consumer would not benefit from the same report used by a creditor.

- a. The information used by a creditor would be the same information the consumer would receive from the national bureau
- b. No
- c. No

4. If a consumer were to obtain a copy of their consumer report prior to applying for credit or a mortgage, this information would be the same as the report relied on by the creditor or Mortgage Company in making a credit decision.

5. Yes. In Oregon, it is permissible for our clients to give a copy of a consumer report to the consumer.

B. 1. Implementation of the proposed requirement would simply come from the FTC mandating it. The consumer reporting agency or the creditor would be designated as the source for this requirement and the reports would be delivered via mail, e-mail or fax to the consumer. The costs could prove to be a tremendous financial burden. Not only would the administrative costs of implementation be large but the “after delivery” need for communication by the consumer to the creditor or consumer reporting agency for clarification of information. As stated above the report we the consumer could not understand use and the creditor uses and they would be forced to call the consumer reporting agency and/or creditor for clarification. The potential impact could be as large as the following scenario. Seventy five (75) percent of the consumer reports we deliver have negative and adverse information associated with the file requiring an adverse action notice. That would place the potential number of reports that would need to be provided to the consumer at 300,000. Our current cost associated meeting the FCRA requirements in dealing with a dispute per consumer is \$7.00. This figure takes into consideration of labor to talk with the consumer, track the matter through to conclusion, coping, and mailing. Multiplying this out for the worst case would amount to \$2,100,000 per year. In effect we are out of business and Oregon would loose 45 jobs in addition to the down line effect on our vendors and their staffs. Either party the consumer reporting agency or the creditor (in our case) could supply the report.

2. We do not give copies of the reports to the consumer due to our agreement with the national bureaus. In addition, as discussed above the reports our clients and we use in making credit decision are not the same format and do not contain the additional identifying public record and trade line identification as do the reports sent from the national bureaus. As discussed above the costs could run as low as \$1.00 to a high of \$7.00 per bureau.
- a. No. Reports are archived in our system for 30 days and then deleted according to our agreements with the national bureaus. Our IT department project costs associated with programming, software and hardware upgrades could approach \$280,000.
 - b. Yes
 - c. No. Gross profits on a consumer report run as low a \$0.25. Currently the lowest cost associated to provide a copy of the actual report is \$1.00.
3. Answered above. Cost would not vary for us as we provide a complete copy of a consumer report to our clients.
4. Cost to the consumer associated would be the same \$0.00 per FCRA. If a consumer has been denied credit the report is free.
- a. Unknown. As stated above the report could have been updated when new information is downloaded into the system from new taped data received. Costs resulting would be from the labor necessary to discuss the report with the consumer, costs from ordering creditor phone numbers and addresses for the consumer, long distance phone calls to creditors, and potential legal action taken from any misunderstanding on the part of the consumer in the role we play as opposed to the national bureau responsibilities.
 - b. Yes. The version we or the creditor would supply has minimal creditor identifying information and the reports are difficult to read without training. Without the training to read the report the consumer could very well miss pertinent information related to their credit history. Costs are incalculable. The potential could be in the billions of dollars as it relates to higher interest rates, affects on the economy and personal harm.
 - c. Unknown. The delivery platforms we currently have have costs our company over \$2,000,000. To reprogram all code lines to accommodate the same data a consumer receives, add hardware and software to allow for the increase in data storage is more than my IT department wanted to consider.
 - d. Yes. Again the report we would supply is limited in identifying public records and trade line data. A consumer would still need to order the full report from the national bureau or have us decode all public record and trade line data for them to contact.
 - e. Yes. Stolen mail, having an increased number of consumer reports at homes, the potential for someone other than the real consumer ordering reports. The identification required on a credit application is considerably higher than that needed to order a consumer report under for the proposed requirement.
 - f. No

C. 1. No. Their Act see below is simplistic and does not reflect the huge cost potential and confusion such a requirement would have on our current system.

The Credit Information Act

Credit-rating agencies collect information regarding the financial position of companies and the financial and personal circumstances of individuals.

Everyone over the age of 15 is on the computer files of Sweden's largest credit-rating agencies.

Anyone planning to conduct credit-rating operations normally requires a permit from the Data Inspection Board. The Data Inspection Board carries out inspections to ensure that the operations are being conducted in a proper manner.

Particulars concerning a private person may only be provided to a third party if there is a legitimate reason, for example an investigation into creditworthiness. The person concerned must always receive a copy of the information that has been supplied.

Negligence on the part of a credit-rating agency can result in a liability to pay damages and those responsible may be fined or imprisoned.

2. Yes and no. The number of companies utilizing a consumer report for employment purpose is minute compared to the number of companies relying on consumer reports for credit decisions.

3. We respectfully submit that the education portion behind a consumer reading a report is considerable is being overlooked. It doesn't matter what a consumer has in front of them if they don't know how to read it and then know what to do in the event they do identify a mistake. Congress wants to identify a single source and make them responsible, but any credit educated person knows that a incorrect consumer report could involve many different companies, and several layers within those companies to mitigate the mistake. Reseller and creditors simply don't have the ability or control to identify and/or rectify mistakes. There is no way to streamline this process due to potential fraud and misinformation.

GENERAL COMMENTS

There are lots of bad guys out there waiting for and looking for additional methods of gaining personal identifying data. I see the following scenario unfolding if the end user or we are required to supply our credit reports to a consumer when adverse action is taken. 1) The criminal will begin making application at businesses or apartment communities using simply a name and address of a person in their community. The applications would be run and denied due to the incompleteness of information or fraudulent information. We would send out the adverse action notice along with a copy of the consumer report and the criminal would have access to additional accounts, social security numbers and address information with which to further their criminal activity.

This must at some point come down to personal responsibility. There are simply not the real numbers being thrown around as to confused files, files with mistakes or real identity theft that affects a consumer report. We receive only two calls per month, on 20,000 reports where there is any problem at all. Our feeling is that the current system is adequate for a reasonably responsible adult with minimal education to work through to a satisfactory resolution.

We currently provide education to all of our clients in order for them to understand the information reported, how to assist a consumer when there is a problem and who to call when they need assistance.

Sincerely,

David Halseth
CEO

