

**Statement of Chairman Deborah Platt Majoras, Commissioner William E. Kovacic, and
Commissioner J. Thomas Rosch**

**Study of Insurance Scores Pursuant to Section 215 of the Fair and Accurate Transactions
Act of 2003 (“FACTA”)**

FTC Project No. P044804

In response to a Congressional directive in Section 215 of the Fair and Accurate Transactions Act of 2003 (“FACTA”),¹ the Commission today issued a comprehensive report² describing its study of the effects of credit-based insurance scores on the availability and affordability of automobile insurance. As directed by Congress, the report also contains an extended discussion of the FTC’s empirical analysis of the impact of these scores on racial and ethnic minority groups.

Section 215 of FACTA sets forth a series of specific requirements for studying the effects of credit-based insurance scores in the context of automobile insurance. It directs the FTC to: describe how credit-based insurance scores are created and used; assess the impact of scores on the availability and affordability of automobile insurance products; undertake a statistical analysis of the relationship between credit-based insurance scores and membership in racial, ethnic, and other protected classes; evaluate whether these scores act as a proxy for membership in racial, ethnic, and other protected classes; and analyze whether it is possible to construct alternative scoring models that predict risk effectively and result in narrower differences in scores among racial, ethnic, and other protected classes. In conducting the study, Section 215 directs

¹ 15 U.S.C. § 1681 note.

² Federal Trade Commission, *Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance* (July 2007) (“the Report”), available at http://www.ftc.gov/os/2007/07/P044804FACTA_Report_Credit-Based_Insurance_Scores.pdf

the Commission to seek input from federal and state officials, consumer, civil rights, and housing organizations, and the public concerning methodology and research design.

In directing the Commission to perform this study, Congress entrusted the FTC with a difficult task that raises important and sensitive policy issues. As explained in more detail below, a talented and dedicated team of career Ph.D. economists produced a study in the manner that Congress instructed. The research team consulted with numerous stakeholders, examined voluminous public comments concerning methodology and survey design, developed a database, painstakingly evaluated the underlying data, and conducted multiple, rigorous evaluations of the data, including an analysis of data obtained from an independent source. We stand by the conclusions reached through this process.

Pursuant to the directive of Congress, the FTC published two Federal Register Notices³ soliciting comments from the public concerning methodology and research design. The agency received nearly 200 public comments in response to these notices. Commission staff also met with community, civil rights, consumer, and housing groups, as well as with government agencies and private companies. Based on extensive contributions from all of these stakeholders, the FTC's expert economic researchers made well-informed decisions regarding the data to be collected and the methodology to be used in analyzing that data.

³ Public Comment on Data, Studies, or Other Evidence Related to the Effects of Credit Scores and Credit-Based Insurance Scores on the Availability and Affordability of Financial Products, 70 Fed. Reg. 9652 (Feb. 28, 2005); Public Comment on Methodology and Research Design for Conducting a Study of the Effects of Credit Scores and Credit-Based Insurance Scores on Availability and Affordability of Financial Products, 69 Fed. Reg. 34167 (June 18, 2004).

FTC staff economists developed a database to analyze the specific issues set forth in Section 215 of FACTA. As an initial matter, the agency obtained, through a third party,⁴ automobile insurance policy data for five firms representing 27% of the United States automobile insurance market in 2000. The data, which included ChoicePoint credit-based insurance scores, covered a two-year period (2000-01). Because the automobile insurance companies do not have any data concerning the race and ethnicity of their customers, the FTC staff had to obtain this information from other sources. Commission staff obtained non-public race and ethnicity information about the insurance company's customers from the Social Security Administration and a non-public Hispanic surname match, and obtained similar public information from the Bureau of the Census. The agency staff also obtained and added to its database non-public credit history information from ChoicePoint and credit-based insurance score information from Fair Isaac Corporation. All of this information was combined to create the FTC database, which the agency's economists then used to evaluate the relationship between credit-based insurance scores and risk, as well as the effects of these scores on racial, ethnic, or other protected classes.

Commission staff also obtained data that ChoicePoint had collected from most major insurance companies in the ordinary course of its business concerning past claims that customers had filed.⁵ The staff used this data to conduct tests of the relationship between credit-based insurance scores and risk. The tests using this data from Choicepoint independently assessed the

⁴ The third party that provided the data was EPIC Actuaries, LLC, an actuarial and financial risk management and consulting firm which specializes in property and casualty insurance.

⁵ This ChoicePoint data and its use are discussed more fully in the Report at 28-29.

results of tests using the FTC database, and both sets of tests showed the same relationship between scores and risk.

Our colleague dissents from the issuance of the report. Commissioner Harbour criticizes the data used, disagrees with the methodology employed, and “doubt[s] the reliability of any conclusions the report might draw.” Nearly all studies involving the collection and statistical analysis of large amounts of empirical data require the exercise of judgment in making many decisions about which reasonable minds might differ. While we respect the dissent’s views as to the data and methodology used here, we have confidence in the quality of the process that the Commission staff used and soundness of the results obtained.

In her dissenting statement, Commissioner Harbour raises a number of concerns about the data the agency used. She emphasizes that the Commission did not issue Section 6(b) orders⁶ to compel insurance companies to provide relevant data about their customers. In our view, the critical question is not the particular method the Commission selected to obtain relevant information; instead, it is whether the data obtained is reliable, regardless of the specific method used.

The FTC uses many techniques for gathering the information it uses in its research and policy development projects. Section 6(b) orders constitute one important technique, but there are other useful methods as well. The Commission has issued a number of significant reports

⁶ Section 6(b) empowers the Commission to require the filing of "annual or special * * * reports or answers in writing to specific questions for the purpose of obtaining information about "the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals" of the entities to whom the inquiry is addressed. 15 U.S.C. § 46(b). As with FTC civil investigative demands, the recipient of a 6(b) order may file a petition to quash, and the Commission may seek a court order requiring compliance.

where we obtained industry-specific data without using the 6(b) process.⁷ In addition, as noted above, insurance companies do not acquire or maintain race and ethnicity data about their customers. Obtaining information from insurance companies alone through any method, including 6(b) orders, therefore would not have allowed the FTC to conduct the analysis Congress requested. Moreover, because the information collection, retention, and storage practices and procedures of insurance companies vary, even if the Commission staff had obtained information directly from insurance companies through 6(b) orders, we would have had to reconcile the data so that necessary tests could be conducted.

Commissioner Harbour states that the underlying data used in the study is not reliable because it comes from only “two sources of information: data the insurance industry was willing to turn over voluntarily, and data that were publicly available.” We respectfully disagree for three reasons. First, we do not assume that data is unreliable simply because it can be obtained

⁷ See, e.g., Federal Trade Commission Report, Marketing Violent Entertainment to Children (April 2007), available at <http://www.ftc.gov/opa/2007/04/marketingviolence.shtm> (industry voluntarily provided internal marketing documents to FTC staff as part of study of marketing of violent entertainment to children); Federal Trade Commission Report, Marketing Violent Entertainment to Children (April 2004), available at <http://www.ftc.gov/os/2004/07/040708kidsviolencercpt.pdf> (same); Federal Trade Commission Staff Report, The use of Slotting Allowances in the Retail Grocery Industry (Nov. 2003) (data for study of slotting allowance in grocery stores obtained through voluntary access letters to industry); Federal Trade Commission Report, Marketing Violent Entertainment to Children (Dec. 2001), available at <http://www.ftc.gov/os/2001.12/violencereport1.pdf> (Industry voluntarily provided internal marketing documents to FTC staff as part of study of marketing of violent entertainment to children); Federal Trade Commission Report, Marketing Violent Entertainment to Children (Sept. 2000), available at <http://www.ftc.gov/reports/violence/vioreport.pdf> (same); Robert P. Rogers, The Effect of State Entry on Retail Automobile Markets, Bureau of Economics Staff Report to the Federal Trade Commission 11 (Jan. 1986) (industry voluntarily provided pricing data to FTC staff as part of a study on state laws restricting the establishment of new automobile dealerships in the vicinity of present dealers selling cars of the same make).

from publicly available sources such as the Bureau of the Census.⁸ Second, as described above and in more detail in Appendix C of the report, the Commission used proprietary data from insurance companies and credit score developers (ChoicePoint and Fair Isaac Corporation), non-public data from the Social Security Administration, and publicly available data from Bureau of the Census and a Hispanic surname match. Third, and most significantly, the FTC has a sound basis for believing that the information it received voluntarily from the insurance companies was reliable. The dissent states that the insurance participants “never provided the Commission with written verification of the accuracy, authenticity, or representativeness of the data.” Yet the companies did provide written assurances of the data’s reliability on March 30, 2007.⁹ These assurances could be used to help establish criminal liability under 18 U.S.C. § 1001 if a company submitted false data. We believe that the potential of criminal liability has a deterrent effect.

In addition, nothing suggests that the data submitted were false. Because insurance companies do not acquire or maintain information about the race and ethnicity of their customers, they could not have manipulated the data with regard to race and ethnicity. The FTC staff later matched customer information it received from insurance companies with race and ethnicity data the agency obtained from the Social Security Administration, a Hispanic surname match, and the

⁸ Researchers often use Census Bureau data, presumably because they believe it is reliable.

⁹ Although the Commission staff had not obtained such assurances at the time that the Commission discussed this issue in a letter to now-House Financial Services Committee Chairman Barney Frank on December 8, 2005, these assurances were provided subsequently to Commission staff. *See* Letter from Richard A. Smith, Towers Perrin Tillinghast, to Jesse Leary, Ph.D, Assistant Director, Division of Consumer Protection, Bureau of Economics, Federal Trade Commission (Mar. 30, 2007) (on file with the FTC). Consequently, although there was a time at which these assurances had not been provided to Commission staff, staff ultimately did obtain them.

Bureau of the Census. At the time of submission, insurance companies could not have known what data to manipulate to try to obtain a particular result.

Commissioner Harbour also writes that the FTC’s data was inadequate because “it did not accurately reflect the racial and economic demographics of the country,”¹⁰ and, therefore, the Commission staff had to “use statistical weighting to make the pool more racially and economically diverse.” As we understand the sector, no insurance company is likely to have a base of customers who fully reflect the racial and economic demographics of the entire United States. Like other businesses, automobile insurance companies compete with one another based on price, location, coverage, service, and other factors. These variations make it unlikely that the customers of a single insurance company, or even a group of companies, will have the same racial or economics demographics of the entire country. Consequently, the use of a statistical technique to weight the sample would have been necessary to produce a representative sample of all customers for any subset of automobile insurance customers. In other words, the need for weighting the sample was not the product of the particular data that the Commission staff obtained and used.¹¹

The dissent further observes that the FTC’s data on race was problematic because it was

¹⁰ The Texas studies that our colleague suggests as a template, *see infra* n. 8, also did not assess whether the data it obtained from six insurance companies was representative of the racial and economics demographics of the United States or Texas.

¹¹ The dissent also notes that the FTC’s data did not contain “critical elements” on individual consumers, such as street addresses and actual premiums. The Commission staff had access to street address information, which was used to separate out consumers based on a wide variety of geographic information. The FTC staff also received information on the actual premiums consumers paid, but, as described in the text of the report, *see* Report at 36-37, actual premium information was used only on a very limited basis, *see* Report at 66 n.199, because credit-based insurance scores often had not been used to calculate these premiums.

based on: (a) Social Security Administration data that did not include Hispanic and Asians categories before 1981, and (b) Census Bureau information concerning the block on which consumers live. She also notes that ethnicity was based on a Hispanic surname match.¹² We acknowledge that these methods are imprecise. But we are not aware of any available measures that are more precise.¹³

With regard to the reliability of the FTC's data, the dissent suggests that the agency could have used as a "template" the type of data that the Texas Department of Insurance ("TDI") used in its studies evaluating credit-based insurance scores and automobile insurance risk. Although the TDI used its regulatory authority to obtain data directly from individual companies, both the Texas and FTC studies reached similar conclusions. Both studies found that scores were negatively correlated with total dollars of claims; as the scores of customers increased, the total amount that insurance companies paid out in claims decreased.¹⁴ Both the Texas and FTC studies also found that African Americans and Hispanics have lower credit-based insurance scores on average than non-Hispanic whites and Asians.¹⁵ The results of these two studies

¹² A Hispanic surname match also was used in the Texas Department of Insurance studies that Commissioner Harbour suggests as a template for the FTC study. Texas Department of Insurance, "Use of Credit Information by Insurers in Texas: The Multivariate Analysis" (Jan. 31, 2005) (supplemental report); Texas Department of Insurance, "Use of Credit Information by Insurers in Texas" (Dec. 30, 2004) (collectively "the Texas studies").

¹³ The Texas studies that the dissent suggests as a template for the FTC study matched information from insurance companies with race and ethnicity information from the Texas Department of Public Safety. We are not aware of any reason to believe that the race and ethnicity data that the Commission staff obtained from the Social Security Administration and Bureau of Census is less reliable than the data TDI acquired from the Texas Department of Public Safety.

¹⁴ *See Report at 22-23.*

¹⁵ *See Report at 52.*

therefore are consistent on the key issues studied, regardless of whether the TDI data or the FTC data are used.

Commissioner Harbour also faults the study for concluding that “we don’t really know” whether a credit-based risk-scoring model could be created that would predict risk effectively while narrowing the differences between members of racial and ethnic minority groups. Our colleague “suspect[s] that, given a more robust data set, [the Commission] might have been able to answer this question more definitively.”

We do not know whether her suspicion is correct. What we do know is that the FTC undertook a comprehensive empirical analysis of a reliable data set. We were not able to reach a conclusion about whether a model could be constructed with the desired effects. It is very difficult to prove that something could not exist, and so the conclusion that we do not really know whether such a model could be constructed is not particularly surprising. Indeed, inherent in an objective application of the scientific method to the available facts, especially when researchers are asked to prove a negative, is that sometimes the correct answer will be that “we really don’t know.”

In short, we have confidence in the quality of the process used and the results obtained in the study, and we anticipate that the information in the report will prove useful to policymakers in the on-going debate concerning the use of credit-based insurance scores.

Finally, we agree with Commissioner Harbour that it is important for the Commission to promote financial literacy in all communities, including, particularly, poor and racial and ethnic minority communities. This is part of the Commission’s core mission as evidenced by our

extensive and continuing educational activities.¹⁶

¹⁶ The Commission engages in extensive consumer education and policy research activities to enhance financial literacy. For a more complete description of these activities, please see Prepared Statement of the Federal Trade Commission, “Consumer Protection in Financial Services,” before the House Committee on Financial Services 15-20 (June 13, 2007), available at www.ftc.gov/os/2007/06/070613.pdf.