

COALITION TO IMPLEMENT THE FACT ACT



June 9, 2005



Federal Trade Commission
Office of the Secretary, Room H-159 (Annex Y)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580



Office of Management and Budget
Attn: Desk Officer for the Federal Trade Commission



Re: "Accuracy Pilot Study: Paperwork Comment [FTC File No. P044804]"



Dear Sir or Madam:



This letter is respectfully submitted by the Coalition to Implement the FACT Act ("Coalition") in response to a Federal Trade Commission request for comment on a proposed Pilot Study "which will evaluate the feasibility and methodology of a nationwide survey on the accuracy and completeness of consumer reports."¹ The Coalition responded last December to the Commission's October 20, 2004, Federal Register Notice which sought comment on whether the proposed collection of information from consumers, furnishers of credit information and consumer reporting agencies, required to conduct a Pilot Study, "is necessary for the proper performance of the functions of the agency...and whether the information will have practical utility." That earlier Notice also sought comment on whether the information collection burdens on Pilot Study participants meet the requirements of the Paperwork Reduction Act of 1980. A 1996 OMB Memorandum to federal departments and agencies posits as a principal assumption of the Act that, "In order to minimize the cost and maximize the usefulness of government information, the expected public and private benefits derived from government information should exceed the public and private costs of the information..."²



Coalition members represent a broad cross-section of financial services companies and associations and are among the nation's leading providers of credit and insurance.³ Each Coalition member, or its affiliates, are active participants in the credit reporting system as furnishers and/or users of consumer credit information; and, each has experience in the consumer information dispute investigation and resolution process. The Coalition greatly appreciates this second opportunity to provide its comments on a proposed Pilot Study.



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Executive Summary

The Coalition does not believe that the Pilot Study and the eleven years of follow-on studies will add consequential information and analysis to the government's current and, we think, in-depth understanding of credit report accuracy and completeness issues. Our view is that the contemplated studies will have little, if any, meaningful utility and that their considerable costs will far outweigh any probable benefits. Essentially, Coalition members believe that the government's current knowledge of the credit reporting system provides a very detailed and more than sufficient roadmap for future decisions about the need for any changes to the system.

At the same time, Coalition members understand that the credit reporting industry, in cooperation with its customers and government agencies, must continually strive for increased accuracy and completeness in the information contained in consumer reports. We note, in this regard, that the provisions of the FACT Act, when fully implemented, together with several voluntary initiatives involving credit reporting that are well underway, will lead to improvement in a credit reporting system that we believe is presently effective, credible and highly beneficial to consumers.

Comments

- **In Determining Feasibility And Usefulness, The Pilot Study Should Not Be Considered In Isolation From Eleven Years Of Contemplated Follow-On Studies:** It continues to be the Coalition's position that comment on the feasibility of a Pilot Study of accuracy and completeness cannot – and should not – be separated from comment on the “practical utility” of the proposed study process in its entirety, in terms of likely costs and probable benefits. One critical factor in any cost-benefit analysis is that the proposal contemplates eleven years of ongoing studies leading to FTC issuance four biennial reports and one final report two years after the last biennial report. Given the Commission's acknowledgement that “several pilot studies may be needed in preparation for a national study,” the overall term of the studies is likely to extend to a dozen or more years.

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- **Eleven Or More Years Of New Studies Will Add Little of Value To What Is Currently Known About “Accuracy & Completeness” Issues:** It is the Coalition’s position that the public and private costs of the Pilot and follow-on studies are justified only if they are likely to add substantial information and understanding to the very considerable body of knowledge which the government already possesses about credit report accuracy/completeness and the impact of inaccuracies/incompleteness on consumer credit scores. We believe that the studies will add little, if anything to that body of knowledge; and that the costs of obtaining additional information over eleven years will far outweigh the probable benefits.

Issues of credit report accuracy and completeness have been the subject of many public and private studies. We believe that the results of additional studies are unlikely to surpass, in quality and depth, the information and analysis on these issues contained in two recent studies performed and published by the Federal Reserve Board.⁴ These studies contain a wealth of information and analysis about overall credit report accuracy and completeness (found to be quite high); how identified instances of inaccuracies and incompleteness are likely to impact credit scores (some positively and some negatively); and where additional work could be done to improve information reporting (e.g., instances of missing credit limits).⁵ All-in-all, the Federal Reserve studies—together with several academic ones – provide a detailed roadmap for future consideration, by public policy decision-makers, of accuracy and completeness issues.

- **Eleven Years Of New Studies Are Unlikely To Alter Basic Facts About The Credit Reporting System And Will Not Resolve Longstanding Disagreements Between The Credit Industry And Consumer Groups:** Years of additional studies will not alter the well-documented fact that credit scores (based on consumer report information) are highly reliable predictors of consumer credit performance and that their use has resulted in a much greater availability of credit at lower costs. Nor, do we believe, are additional studies likely to resolve longstanding disagreements between the credit industry and consumer groups over a host of credit reporting system issues, such as how the terms “inaccuracy”

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and “incompleteness” should be defined; which inaccuracies should be considered “material” and which “immaterial” to a consumer’s creditworthiness; whether it would ever be possible, no matter how much is spent on the credit reporting system, to reach a level of perfection as to accuracy and completeness that the consumer groups would find socially acceptable;⁶ or, even whether the current credit system serves any useful public purpose. What is certain about the proposed multiyear studies is that they will cost the government and the credit industry millions of dollars and impose long-term burdens on many companies whose consumer information is contained in what will ultimately be thousands of credit files selected for review.

- **Even Considered By Itself, The Pilot Study Will Accomplish Very Little:** The Coalition very much appreciates the FTC staff’s efforts, in designing the Pilot Study, to address and assuage the many concerns expressed by the credit industry about the methodologies to be employed. However, the results of those efforts demonstrate the extreme difficulty of finding appropriate methodologies to conduct a study whose results will be credible and useful. By the FTC staff’s admission, the proposed Pilot study will not “replicate normal circumstances under which consumers generally review their credit reports”; will not evaluate the adequacy or complexity of the dispute process”; will not reach any conclusions as to the accuracy or completeness of consumer report information either for consumers in general or for those participating in the study; and, will not even employ a specific definition of the term “accuracy and completeness”. It is little wonder, therefore, that the FTC contemplates the need for several Pilot Studies and why the Coalition doubts that additional studies will add anything of real value to those already performed by the Federal Reserve and others.
- **Unlike Many Government Surveys Which Rely On Data Routinely Collected By The Private Sector And Furnished To Government Agencies, The “Accuracy” Study Involves Unique Data Sets And Detailed Analysis That Will Impose Significant Burdens On Companies Whose Credit Information Becomes Part Of The Study:** Some have suggested that the eleven year series of studies will not be burdensome to the credit industry because they will not be dissimilar to dozens of government surveys that regularly collect and analyze data furnished by the private sector. We strongly disagree. We think that the information sought to be developed in

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the contemplated “accuracy and completeness” studies is unlike survey-type statistical data that are regularly collected and provided by the private sector, with minimal burden, to various agencies of the government for a variety of public policy purposes. The issues and information to be collected and examined by the FTC in the instant case will require detailed analysis and attention, on a case-by-case basis and eventually involving thousands of consumers and ever-changing data sets, by many companies in the credit reporting system.

Sincerely,



Jeffrey A. Tasse
Executive Director

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¹*Federal Register*, May 10, 2005, page 24583.

²OMB Circular No. A-130 (Revised Feb 1996), “(Transmittal Memorandum No. 3)”, February 8, 1996, “Management of Federal Information Resources, Memorandum For Heads Of Executive Departments and Establishments”, Paragraph 7, Basic Considerations and Assumptions.

³Members include Allstate Insurance Company, America’s Community Bankers, American Financial Services Association, Consumer Bankers Association, Credit Union National Association, Fair Isaac, Farmers Insurance, Ford Motor Credit Company, HSBC Household, Independent Community Bankers of American, J.P. Morgan Chase & Company, Mastercard International, MBNA, MetLife, National Retail Federation, Nationwide Insurance, State Farm Insurance, TransUnion, USAA.

⁴“Credit Report Accuracy and Access to Credit,” Federal Reserve Bulletin, Summer 2004; “An Overview of Consumer Data and Credit Reporting,” Federal Reserve Bulletin, February 2003.

⁵Although the Federal Reserve Board did not claim that its studies represented the final word on “accuracy and completeness” issues, the Coalition believes they provide convincing evidence that the multiyear studies envisioned by the FTC are unnecessary. For example, with respect to the general effectiveness of the credit reporting system and their benefits to consumers, one of the Fed studies (“Credit Report Accuracy and Access to Credit,” Summer 2004) concludes that “if not for the [credit] information that the agencies maintain, consumers on the whole would receive less credit at higher prices. Moreover, the credit-reporting system has become more comprehensive over the past decade or so with notable improvements, such as the adoption of common formats for reporting information and the enhanced reporting of information on credit limits and mortgages. Recent Congressional amendments to the FCRA have advanced prospects for future improvements...”. As to accuracy and completeness issues, the Fed study finds that “this analysis of the effects of data problems on credit history scores indicates that the proportion of individuals affected by any single type of data problem appears to be small, with the exception of missing credit limits.... Moreover, in most cases, the effect of each type of problem on the credit history scores of affected individuals was modest.... Therefore, correcting the problems identified here is unlikely to substantially change the risk evaluation and access to credit for the typical individual.... Our research indicates that even when data are incomplete or in error, they often have little or no bearing on an individual’s credit history or access to credit.

⁶The Federal Reserve Board’s Summer 2004 study concludes that “further remedies, such as imposing additional legal liability penalties, may, in a system of voluntary reporting, lead to unintended consequences, including less information reporting and a less efficient and effective system.”