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By Electronic Delivery

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

Re: Accuracy Pilot Study: Paperwork Comment

Ladies and Gentlemen:

This comment letter is submitted on behalf of Visa U.S.A. Inc. in response to the notice of pilot study ("Pilot Study") and request for public comment by the Federal Trade Commission ("FTC"), published in the Federal Register on October 20, 2004. Pursuant to the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act"), the Pilot Study is intended to evaluate the feasibility of studying the accuracy and completeness of information contained in consumer reports through direct consumer review of consumer reports. Visa appreciates the opportunity to comment on this important matter.

The Visa Payment System, of which Visa U.S.A.¹ is a part, is the largest consumer payment system, and the leading consumer e-commerce payment system, in the world, with more volume than all other major payment cards combined. Visa plays a pivotal role in advancing new payment products and technologies, including technology initiatives for protecting personal information and preventing identity theft and other fraud, for the benefit of its member financial institutions and their hundreds of millions of cardholders.

THE PILOT STUDY

Section 319(a) of the FACT Act requires the FTC to "conduct an ongoing study of the accuracy and completeness of information contained in consumer reports" and of the "methods for improving the accuracy and completeness of such information," in conjunction with making several reports to Congress on these issues over the next ten years.² As an initial step in conducting this ongoing study of accuracy and completeness, the FTC intends to conduct the Pilot Study in order to "evaluate the feasibility of a methodology that directly involves consumer review of the information contained in their credit reports."³

¹ Visa U.S.A. is a membership organization comprised of U.S. financial institutions licensed to use the Visa service marks in connection with payment systems.

² Fair and Accurate Credit Transactions Act of 2003, Pub. L. No. 108-159, § 319(a), 117 Stat. 1952, 1999 (2003).

³ 69 Fed. Reg. 61,675, 61,676 (Oct. 20, 2004).

The Pilot Study would be based on a sample of approximately 35 consumers that have poor, fair and good credit scores. A contractor, hired by the FTC, would assist the study participants in obtaining consumer reports from each of the three national consumer reporting agencies (“CRAs”). This contractor then would assist the study participants in reviewing their consumer reports, identifying errors or potential errors in these reports and identifying material differences or discrepancies among each participant’s three reports. For any information that a participant views as inaccurate, the “contractor [would] facilitate [the] participant’s contact with the [CRAs] and with the furnishers of information to help resolve [these] items.”⁴ If necessary, the contractor would assist the participant in employing the Fair Credit Reporting Act (“FCRA”) dispute process to address information that the participant believes is inaccurate. After completion of the informal or formal dispute process, the contractor would assess whether the participant’s consumer report information has changed and whether any such change affected the participant’s credit score.⁵

COMMENTS ON THE PILOT STUDY

Visa believes that the Pilot Study could represent a reasonable, initial step toward conducting the broader, ongoing study of the complex issues surrounding the accuracy and completeness of information contained in consumer reports.

Visa believes, however, that it would not be appropriate to use the contemplated Pilot Study as a basis for any general or statistical conclusions concerning the accuracy or completeness of information contained in consumer reports. As proposed, the Pilot Study would be based on a limited sample size of 35 consumers, rather than a larger, nationally representative sample of consumers. Moreover, the sample of consumers could be selected intentionally to favor consumers with relatively lower credit scores, if the consumers who agree to participate in the study have an unequal distribution of credit scores.⁶ Clearly, such a limited or skewed sample could not and should not be used to form the basis of any general or statistical conclusions concerning the accuracy or completeness of information contained in consumer reports. Visa applauds the FTC’s decision that “statistical conclusions will not be drawn from the pilot study” and believes that this is the appropriate approach given the limited nature of the Pilot Study.⁷ Accordingly, we recommend that the FTC make it clear that the Pilot Study would only be used to evaluate the methodology of studying accuracy and completeness through direct consumer review of consumer reports.

Visa believes that, in addition to obtaining direct input from consumers, the FTC should consider obtaining direct input from the CRAs and furnishers of information in conducting the Pilot Study and in any future, more comprehensive studies. The CRAs and furnishers play a fundamental role in ensuring that consumer report information is both accurate and complete,

⁴ 69 Fed. Reg. at 61,676.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

and any study that is limited solely to the direct input of consumers is unlikely to result in a balanced and robust understanding of this complex issue.

The FTC indicates that the Pilot Study would focus on the ability of consumers to identify inaccuracies in their consumer reports and to address these issues through an informal or formal dispute process, including the degree of difficulty of, and the average amount of time needed to complete, these steps.⁸ While the ease and ability of consumers to dispute information contained in consumer reports undoubtedly relates to the accuracy and completeness of consumer reports, Visa believes that the FTC should focus initially on the scope and type of inaccurate and incomplete information found in consumer reports generally, rather than on the dispute resolution process as seen through the experience of such a limited number of consumers.

Visa appreciates the opportunity to comment on this important matter. If you have any questions concerning these comments, or if we may otherwise be of assistance in connection with this matter, please do not hesitate to contact me, at (415) 932-2178.

Sincerely,

Russell W. Schrader
Senior Vice President and
Assistant General Counsel

⁸ 69 Fed. Reg. at 61,676.