

Comment #2



December 27, 2004

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

RE: Accuracy Pilot Study: Paperwork Comment

On behalf of the members of the Consumer Data Industry Association¹ (CDIA) we provide the following comments with regard to the proposed accuracy pilot study. We thank the Federal Trade Commission (FTC) for this opportunity to comment. The CDIA supports the FTC's decision to pilot test methodologies to ensure that such a study can be conducted. Further our members believe that the FTC should not launch a full-study of data accuracy until it has

- Defined key terms which influence hypotheses and choice of methodologies.
- Addressed concerns with the design of the pilot study.
- Sought and received the funding necessary to properly conduct a study that is statistically sound and sufficiently thorough rather than designing a study based on possible funding limitations.

Defining Accuracy and Completeness

The FTC has not proposed a definition for either the term "accuracy" or "completeness." The FTC is required by Section 319 of the Fair and Accurate Credit Transactions Act of 2003 to study both the accuracy and completeness of consumer reports. Absent discussion and ultimately agreement on these two pivotal terms, the CDIA does not believe that a study should proceed. CDIA respectfully suggests that the definitional question be addressed before any final decision on the structure of a pilot study.

Accuracy is not an easily defined term. CDIA has suggested in the past that simply identifying a possible inaccuracy is not enough. Even properly identifying an inaccurate item of information is not enough, if the inaccuracy is not material to users which make decisions. A key question is the extent to which the possible inaccuracy is material to the decision being made by a user. Should perceived inaccuracies be "counted" when they are immaterial to the lending decision and may be accurate representations of the data as it was reported? What about accuracy in the eyes of the user as compared to accuracy in the eyes of the consumer? These few examples drive home the point that defining accuracy is pivotal to conducting this study and in developing a pilot study.

The term "completeness" is also very problematic. As we have stated in many fora, the entire system of "credit reporting" is voluntary. Thus no data source² (e.g. a mortgage bank or retailer, etc.) which furnishes information to a consumer reporting agency is obligated to do so. Further, no data source is obligated by law or regulation to report

¹ CDIA is an international trade association representing more than 300 leading companies which provide a range of consumer-information-based products and services including credit and mortgage reporting, employment and tenant screening, check acceptance and fraud prevention, as well as collection services.

² CDIA's credit reporting system members estimate that there are more than thirty thousand data sources providing more than two billion data updates per month to each national system.

a specific set of factual data about a consumer's account³, though the CDIA's national credit reporting agency members have made a firm, long-term commitment to providing all data furnishers with extensive, standardized guidance with regard to data reporting.⁴

A creditor may choose to report on most of its portfolio, but not all, or it may choose to withhold a particular data element, such as a credit limit. Likewise, it may choose to report to just one consumer reporting agency, but not all, and in some cases a lender may simply not report to any consumer reporting agency. Nevertheless, consumer reporting agencies attempt to compensate for the range of decisions which may influence a creditor's decisions about data reporting, which include concerns about competition, costs, and even concerns about liability.⁵

The FTC's recent report to Congress discusses "common unreported transactions" which raises another concern with the term "completeness".⁶ While there has been progress in encouraging sources of data to report to national credit reporting systems, not all possible data sources can report due to state regulatory restrictions such as those imposed on public utilities. Other sources of data may not meet the accuracy and integrity requirements which have been or will be imposed on data furnishers via current law and prospective regulations, as well as those data integrity standards administered by CDIA members. Some data sources are diffuse, such as rental payment data, where the FTC's report indicates that "...the CRA would have to collect data from 12,000 locations in order to provide payment information for only 8% of renters." Further, these data, which come from very small data furnishers, may be less reliable.

Further, the FTC's report acknowledges, in the context of mortgage lending in particular, "...the importance of 'scoreable' credit files in automated underwriting." Thus, completeness isn't merely the presence or absence of data, but the value of the data to the type of decision being made by a user of a consumer report.

The FTC's task is unenviable, but CDIA's members believe that the definitions of these terms are essential, before it proceeds with the final design of even a pilot methodology.

FTC Pilot Study – Discussion and Concerns

Goal of Pilot:

The FTC states in its Federal Register notice that "...the most important information to be obtained from the study is an assessment of the degree of difficulty with which each of the above tasks was performed by the participants, including the average amount of time needed for the respective tasks." CDIA does not fully agree with this statement. The pilot should test the fundamental value of the methodology in allowing the FTC to study the required subject, and not merely measure the degree of difficulty, though this too is a reasonable goal. As discussed below, the CDIA is concerned about the apparent decision by the FTC to pilot test a single methodology.

CDIA has concerns with the stated pilot and while we provide comments on the pilot, our members are concerned that a more detailed outline of the specific elements of the pilot is not provided for public comment. Our members believe that a more detailed explanation of how the FTC will address the range of concerns we have is important before the FTC finalizes the design of a pilot study.

Sample Selection Issues:

³ Note that this situation may change depending on the "accuracy and integrity" rules which must be issued by the federal banking agencies as a result of the enactment of the FACT Act, PL 108 - 159.

⁴ CDIA's members maintain an industry data standard, the most recent of which is entitled Metro 2. More than 99 percent of all data is reported via the industry data reporting standard, although not all lenders choose to use all fields of information which are available to them, or the most recent version of the standard.

⁵ Congress continues to increase the standard of liability for inaccurate data reporting by furnishers of information. This liability is found under FCRA Section 623 (1681s-2).

⁶ See the FTC's December 2004 "Report to Congress, Under Sections 318 and 319 of the Fair and Accurate Transactions Act", pages 77-86.

There are reasons to believe that the study will draw consumer subjects whose participation will *not* be especially informative of whether a larger study can engage consumers for the following reasons:

1. The study insists that it makes no attempt to be representative since it aims to measure (i) the difficulty of engaging consumers in an accuracy study, rather than (ii) the scope and scale of inaccuracies and inconsistencies. However, the changed object of measurement doesn't change the need for a representative sample. If the study aims to test the extent to which consumers can in fact be engaged, it will need to survey and test a representative sample of consumers. Without a representative sample of consumers, any conclusion that consumers can or cannot be engaged threatens to be based on “noise” rather than an assessment of the likelihood that a statistically valid representative sample of consumers can be engaged. To the extent that the assessment of difficulty of engaging consumers is qualitative, the lessons will be largely anecdotal and full conclusions about the difficulty of including consumers comprising a representative sample cannot be fully drawn.
2. These concerns about sample size are doubly true of any attempt to use the pilot exercise to look at score impacts. Models weigh different pieces of information according to their predictive value. File thickness, data type, age of data, and a host of other factors will dictate the degree to which any given inaccuracy or omission remedied by the dispute process produces a change in a consumer's score. With a sample this small, score impacts may largely reflect “noise” and either wildly overstate or understate the score impacts across risk segments. Also, see comments below regarding not drawing substantive conclusions from this pilot study.
3. This method for assessing whether consumers can be engaged in a larger study is limited by the fact that there may be a bias generated by the fact that consumers who will engage in the process may be either credit savvy, contentious, or both. That is, consumers who may be drawn to the process may already be aware of the reporting system and have established biases that will influence results. Their participation can lead to overly sanguine conclusions about the ability to engage a larger consumer population. How will the FTC address this likely bias in the selection sample process?
4. The FTC states in its Federal Register notice that “...if the respective categories of credit scores have an unequal distribution of consumers, then an array will be chosen to favor consumers with relatively lower credit scores.” The lack of any definition of terms alone makes this statement troublesome. What does “relatively lower” mean and is this term defined in the context of users of consumer reports? Fundamentally our members oppose the FTC inserting a bias into the sample and attempting to study a sample of consumers which is not representative.
5. The FTC does not address whether or not samples of the population are being developed for use longitudinally, or whether new samples of the consumer population will be drawn during each year in which the FTC conducts their study.

In sum, this approach is not sufficient to draw conclusions about respondents in a broader national sample.

Limits of testing only one method of “engaging consumers:”

Testing only a single method of engaging consumers runs the risk that subsequent decisions about whether and how to engage consumers will be biased. There are presumably a number of ways to engage consumers, as well as number of ways to examine inconsistencies and inaccuracies in credit reports.⁷ If the pilot study is only an evaluation of methodologies, the FTC cannot make a decision on which methodology for a larger study without testing several. The fact that only one will be tested strongly suggests that it will be adopted—for reasons of path dependence and insufficient information about alternatives. Practically, other methods are not considered and thus this is a deficiency in the pilot study design which should be remedied.

⁷ For example, the summer 2004 FRB study, conducted by Avery and Canner, et al., identified and analyzed a number of specific data quality issues such as data furnishers' failure to report the closing of an account and credit limits.

Further, the FTC does not appear to be committed to exploring a methodology for evaluating the accuracy and completeness of information as it relates to the ongoing success of users of consumer credit reports to assess risk in the context of new applications and also in the context of managing portfolios for purposes of safety and soundness. The consumer credit reporting system is the information infrastructure upon which our financial services industry is built and to not include this viewpoint would be a significant gap.

Compensating for Consumer Bias and other Limitations:

Using consumers in the FTC's study is generally appropriate, though we have discussed a range of sampling concerns above. We also have concerns about how the FTC will compensate for the fact that consumers have an imperfect knowledge of their own credit behavior and accounts. Consider the following:

- Missing accounts – The FTC itself, during its July 2004 roundtable, acknowledged that consumers may be biased against noting to the FTC where a consumer report is missing an item of adverse information such as a collection action, bankruptcy filing, etc. Cross-comparing files of a consumer may help mitigate this effect but it will remain to the extent that consumers have unreported adverse items of information.
- Limited recollection – A number of academics in attendance at the FTC roundtable indicated concerns about consumers' ability to accurately remember everything that might be included in the consumer's file. One provided the example wherein the Panel Study of Income Dynamics studied the question of consumer bankruptcy filings. When consumer responses were aggregated up to reflect the total U.S. population and compared with filing data, it appeared that only half of the respondents had properly recalled the bankruptcy filing. This example is illustrative of a significant concern CDIA has and for which the FTC must control.
- Consumer misunderstandings – Consistent with testimony the CDIA offered before the Senate Banking Committee, we again offer as Appendix A, a series of observations provided by CDIA member consumer relations executives about consumer perceptions and misunderstandings. The FTC is likely attempting to compensate for such misunderstandings through hiring an experienced contractor, but the list provided is a clear example of how difficult this task may be, and how critical the knowledge of those who work with consumers will have to be to guide consumers. The FTC should ensure that it establishes a methodology to measure the effectiveness of the skills and knowledge of the contractor to eliminate misstatements and misunderstandings which could otherwise arise out of a consumer review of file information. This is as important an activity as measuring the overall difficulty of administering the methodology and also measuring the effectiveness of the pilot in terms of actually gathering useful data on a statistically sound basis.
- Resolving the unresolved – There is no doubt that there will be times where a consumer and a data furnisher will disagree about the accuracy of an item of information. The pilot study does not suggest how the FTC will resolve or deal with such situations. The FTC should discuss this issue in the form of a public comment prior to finalizing any test methodologies involving consumers.

Using Scores and Evaluating Score Variances:

- How will the FTC decide on which production score model to use in their study? The FTC should provide input on this prior to engaging in a pilot study.
- How will the FTC account for the fact that many lenders use a more complex matrix of underwriting guidelines to approve a loan? A change in a particular score model does not necessarily demonstrate an impact on a lending decision. For example, Fannie Mae and Freddie Mac both publish underwriting guidelines for themselves that outline a range of factors which are used in approving the purchase of loans.
- Data-related discrepancies on an individual consumer's credit scores cannot necessarily be effectively measured using variance in scores as a proxy. This would require some means of control for model-related differences on credit scores. Changes in data may and will alter scores but the extent to which scores will be altered will not be meaningful unless there is some clear understanding of (i) what the segment mean differences in model related score variances are and (ii) whether these variances are constant in moving across the spectrum of scores, i.e., whether model based score differences are linear. CDIA acknowledges

