

## Privacy Rights Clearinghouse

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December 14, 2004

Donald S. Clark, Secretary  
Federal Trade Commission  
Room H-159 (Annex Y)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Submitted by e-mail: [AccuracyPilotStudy@ftc.gov](mailto:AccuracyPilotStudy@ftc.gov)

### **RE: Accuracy Pilot Study: Paperwork Comment**

Dear Secretary Clark:

The Privacy Rights Clearinghouse (PRC)<sup>1</sup> is pleased to submit the following comments about the Commission's accuracy pilot study.

#### **Introduction**

The PRC's years of experience dealing with identity theft victims has made us acutely aware of the importance of accuracy in consumer reports. Indeed, the fundamental integrity of the consumer reporting industry rests on the premise that information reported about individuals is accurate. The number of reported instances of identity theft along with studies that examine error rates in consumer reporting<sup>2</sup>, raise serious concerns about accuracy. We believe Congress was correct in directing an in-depth study of accuracy through §319 of the Fair and Accurate Credit Transaction Act of 2003, Pub.L. 108-1569 (2003).

#### **Pilot Study**

As we understand the Commission's proposal, the pilot study is not intended to draw any statistical conclusions about accuracy itself. Rather the Commission seeks to assess the

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<sup>1</sup> The Privacy Rights Clearinghouse is a nonprofit consumer education and advocacy organization based in San Diego, CA, and established in 1992. The PRC advises consumers on a variety of informational privacy issues, including financial privacy, medical privacy and identity theft, through a series of fact sheets as well as individual counseling available via telephone and e-mail. It represents consumers' interests in legislative and regulatory proceedings on the state and federal levels. [www.privacyrights.org](http://www.privacyrights.org)

<sup>2</sup> U.S. PIRG Report, *Mistakes Do Happen: A Look at Errors in Consumer Credit Reports*, June 2004, <http://uspirg.org/uspirg.asp?id2=13649&id3=USPIRG&>

degree of difficulty individuals have in obtaining, understanding, and correcting erroneous information in their credit reports. Our understanding further is that the commission will make this assessment using the following methodology:

- The pilot study will be conducted by an outside contractor hired by the Commission.
- 35 consumer participants will be selected after screening as many as 225 consumers.
- Selection of participants for screening will be through list-assisted random digit telephone numbers with associated addresses.
- The contractor will help the 35 participants obtain their credit report, help them understand their credit report, and help them to resolve inaccuracies with both the credit bureaus and information furnishers.

### **Comments Invited**

The Commission's notice of this pilot project invites comment on four specific questions. These, in brief, are:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the agency.
- The validity of the methodology and assumptions used.
- Ways to enhance the quality, utility, and clarity of information collected.
- Ways to minimize the burden of the collection of information.

While the pilot study represents the first step in the Commission's mandate to study accuracy, we believe the proposal itself lacks sufficient detail to allow informed comment to the questions posed. This deficiency raises several concerns about information collection as well as the validity of assumptions based on consumer experiences drawn from the help of a third party expert contractor.

### **Specific Concerns**

A. **Screening of participants:** The Commission estimates that up to 225 consumers, selected randomly through telephone numbers, may be screened to reach the ultimate goal of 35 participants. The Commission should identify the selection criteria used for the selection process. In addition, if the selection process involves a series of predetermined questions, those questions should be part of the public comment process.

- B. **Collection of information.** Each of the 35 participants will obtain his or her credit report. It is not clear from the published notice whether this information will be available to the agency and thus subject to the Privacy Act, 5 USC 552a, and, if so, that participants will be given the required Privacy Act notice and information about routine uses. In addition, it is not clear from the published notice that the outside contractor will be prohibited, through written agreement, from any secondary use of collected data.
  
- C. **Assistance by contractor.** Under the methodology described, the third-party will assist the 35 participants in obtaining, understanding, and resolving disputes with their credit reports. From this process, the Commission will draw conclusions about difficulties faced by consumers with each of these tasks. We have serious doubts about the usefulness of any conclusions about difficulty drawn from this process. As the Commission is certainly aware, in reality, ordinary consumers have no assistance with these tasks.
  
- D. **Identity of Consumers and Contractor.** The Commission's proposal does not explain whether credit bureaus contacted will be aware that the consumer is a study participant. Nor does the Commission's notice explain whether the contractor will have direct contact with either the credit bureau or the furnisher of information when helping participants resolve disputes. Knowledge of either the participants or the contractor would fatally flaw any assessment the Commission could possibly make about the difficulty consumers have in dealing with credit report problems.

### **Conclusion**

We suggest, if at all possible, the Commission, in a supplemental notice, provide further details about: (1) information collection and use; (2) the process of selecting participants; (3) the degree of the contractor's involvement; and (4) whether appropriate measures are in place to mask the identity of participants from both the credit bureaus and furnishers.

Again, we appreciate the opportunity to present the above comments on behalf of consumer interests.

Sincerely,

Beth Givens, Director  
Tena Friery, Research Director  
Privacy Rights Clearinghouse