



Via Courier and Electronic Mail: [AccuracyPilotStudy@ftc.gov](mailto:AccuracyPilotStudy@ftc.gov)

December 27, 2004

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

Re: Accuracy Pilot Study: Paperwork Comment

## **I. INTRODUCTION AND OVERVIEW**

Equifax Information Services LLC (“Equifax”) is a consumer reporting agency that furnishes consumer reports to its financial institution customers, other businesses that have a permissible purpose as defined in the Fair Credit Reporting Act (FCRA), and consumers. It is a subsidiary of Equifax Inc., which is not a consumer reporting agency.

We appreciate the opportunity to provide comments on the proposed accuracy pilot study (“Proposed Pilot”).<sup>1</sup> Equifax has a critical interest in the accuracy and integrity of our credit database. Accurate and reliable information is fundamental to our success. We believe that it is a testament to the extent of accuracy and reliability in the U.S. credit reporting system that lenders are willing to risk their capital, in many instances, with only an application and a copy of a consumer’s credit report. Former Commission Chairman Timothy Muris called the timely access to credit “a miracle [that]

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<sup>1</sup> 69 Fed. Reg. 61675 (Oct. 20, 2004).

is only possible because of our [nation's] credit reporting system.”<sup>2</sup> Long gone are the days when a loan required a face-to-face meeting with a lender and days-long decision making processes. In fact, companies are able to so finely tune risk that reliable credit decisions are often made in a matter of minutes.

We believe, as described below, that the Proposed Pilot will be an immense challenge, as will the actual accuracy study. Determining what is or is not accurate is not as easy as it would first appear. While seemingly a simple concept, application of the term “accuracy” in this context is complicated. It will take considerable effort on the part of the Commission and its contractors to produce a statistically valid study, which properly accounts for potential biases and misunderstandings that could improperly affect the result.

The *Federal Register* notice regarding the Proposed Pilot does not detail the methodology of the actual accuracy study, focusing instead on preliminary issues surrounding the use of consumer consultations as a means of identifying inaccuracies during the Proposed Pilot. In our view, however, it is important to consider the methodology of the actual accuracy study prior to conducting the Proposed Pilot because the methodology will impact the role consumers will play in the process and how much of the consumer's time will be required to accomplish that role.<sup>3</sup> Toward that end, it is

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<sup>2</sup> Timothy J. Muris, “Protecting Consumers’ Privacy: 2002 and Beyond,” Remarks at the Privacy 2001 Conference (Cleveland, Ohio: Oct. 4, 2001).

<sup>3</sup> We recognize that the Commission has given attention to methodology issues surrounding the actual accuracy study, including the June 30, 2004 “Roundtable on Methodologies for Assessing Accuracy and Completeness of Credit Reports” hosted by the Commission’s Bureau of Economics. (<http://www.ftc.gov/be/workshops/methodologiesaacc/index.htm>). Given the limited scope of information

important to properly establish the parameters of the study by recognizing what the credit file is and what the credit file is not and by defining what constitutes “accurate” data, which was not done in the *Federal Register* notice regarding the Proposed Pilot.<sup>4</sup> In addition, other parameters of the Proposed Pilot, including the role of the Commission’s contractor and the role consumers will play, must also be carefully considered. Further, the manner in which credit scores will be utilized and other aspects of the proposal require additional consideration and clarification by the Commission.

## II. UNDERSTANDING THE CREDIT FILE

At the outset, we believe that it is important that the Proposed Pilot, as well as the actual accuracy study, be designed to reflect what the credit file does and does not include. We believe that the framework for the Proposed Pilot and the actual accuracy study, as well as the guidance given to consumers by the Commission’s contractor, should reflect and convey the following:

- A consumer’s credit file is not the same thing as a consumer’s personal financial statement. A credit file is not a listing of every asset and liability the consumer has or has ever had. Rather, it reflects the manner in which the consumer utilizes credit, as reported by participating data furnishers of a particular consumer reporting agency

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provided in the *Federal Register* notice regarding the Commission’s methodology, however, we believe it is important to comment on these issues even if it results in the duplication of earlier efforts.

<sup>4</sup> The Commission’s *Federal Register* notice refers to “accuracy”, but not “completeness,” which is also a required element of the study mandated by § 319 of the Fair and Accurate Credit Transactions Act of 2003. We assume that the Commission intends for the study to address both accuracy and completeness issues. For purposes of convenience, in this comment we use “accuracy” to encompass both accuracy and completeness unless otherwise noted.

and select public record information (*e.g.* bankruptcy, liens and judgments) that the consumer reporting agency and creditors believe have value for a credit risk decision.

- The voluntary nature of the credit reporting system affects the contents of the file.

The credit file primarily is a compilation of information reported to a consumer reporting agency on a *voluntary basis* by data furnishers. As a result, the information in a particular consumer reporting agency's file varies depending upon whether the data furnisher chooses to contribute credit information to that agency, as well as what information that furnisher elects to furnish. Congress is well aware of the benefits and drawbacks of the voluntary reporting system governed by the Fair Credit Reporting Act and a consumer's file should not be considered to be inaccurate because it lacks information from some collections agencies, credit grantors, or public record sources.

- Business decisions also affect the contents of the file. The content of a consumer file is also shaped by the reliable availability of certain types of data and business decisions made by the consumer reporting agency. Some consumer reporting agencies may report tenant history data, others may not. For example, the information may be fragmented, unreliable and generally not provide added value to the risk decision process. Similarly, in the case of public record information, a consumer reporting agency might reasonably decide that it will only obtain public record information that it believes its customers will find to be reliable for their use in making credit decisions. Similarly, where not prescribed by law, a consumer

reporting agency may also exercise judgment regarding how long to report information. Consumer reporting agencies may decide, for example, the length of time for reporting positive information about a consumer's credit history, such as on-time payment history.

- Credit files, while regularly updated, do not provide an “up to the minute” snapshot of the consumer’s credit standing. As discussed in detail below, the credit file represents the consumer’s credit history over time. There can be a lag time of up to 30 days or more between when a consumer engages in a transaction (*e.g.*, opening or closing an account, making a payment, or incurring new charges) and the date upon which the furnisher supplies updated information to the consumer reporting agency for inclusion in the consumer’s file.

### **III. DEFINING “ACCURACY” (AND INACCURACY) IS CENTRAL TO THE STUDY**

In the abstract, accuracy is a straightforward concept. Data is either accurate, or it is not accurate. In reality, however, determining the accuracy of information in a credit file is complicated, as the Federal Reserve Board’s Division of Research and Statistics noted in its recent study of credit report accuracy.<sup>5</sup> How the Commission defines

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<sup>5</sup> Federal Reserve Board Division of Research and Statistics, “Credit Report Accuracy and Access to Credit,” Federal Reserve Bulletin (Summer 2004) 297 (available online at [http://www.federalreserve.gov/pubs/bulletin/2004/summer04\\_credit.pdf](http://www.federalreserve.gov/pubs/bulletin/2004/summer04_credit.pdf)). The Federal Reserve report examines the challenges of assessing the “accuracy” of credit files, including issues related to failures by some furnishers to supply complete and up-to-date account information and particular issues surrounding collection agency accounts, public records, and creditor inquiries. *Id.* at pp. 304-307.

accuracy will have a critical impact on the conduct of the Proposed Pilot as well as the findings of the actual accuracy study.

The definition of accuracy is important for the Proposed Pilot because it will frame the expectations of participating consumers and also shape the nature of any disputes the consumer elects to file. The definition of accuracy that is used will also have a significant bearing on the extent to which the contractor will have to educate consumers during the report-review portion of the Proposed Pilot.

Accuracy, for purposes of this study, should focus on information that is incorrect regarding reported accounts or file information reported to a particular consumer reporting agency; excluding differences that arise due to timing issues. Information in a file should be considered inaccurate, for example, if there is an error on the part of the data furnisher or an error or omission on the part of the consumer reporting agency, such as incorrectly reporting the amount of a debt or failing to include available information about a debt reported in the consumer's file.

Factors that we believe the Commission should be mindful of in formulating its definition of accuracy include:

- Only reported accounts should be factored into accuracy determinations. A credit file is not inaccurate because every credit account that the consumer has—or has ever had—is not included in the credit file.

- As noted above, the consumer reporting system is based on voluntary reporting by data furnishers and business decisions by the consumer reporting agencies regarding what types of public record and other information is of use and benefit to their customers. Some of the consumer's creditors may not report to consumer reporting agencies at all. Other creditors may report only to select consumer reporting agencies. Yet others may report to a consumer reporting agency, but may only do so by selectively reporting accounts with a poor performance history or certain classes of account.
- In addition, consumer reporting agencies may elect not to accept or report information from creditors, debt collectors or others because the consumer reporting agency does not believe that the data furnisher is a reliable supplier of accurate data or because the consumer reporting agency does not believe its customers would find the data reliable for decision making. Similarly, as noted above, a consumer reporting agency may only report certain public record information. Such content issues are not inaccuracies.
- Differences between credit files maintained by different consumer reporting agencies do not represent inaccuracies. It is not correct to contend that an error has occurred because credit reports on the same consumer from the three national credit reporting companies do not contain exactly the same data. These are simply differences, not errors or inaccuracies. Many differences are accounted for by the fact that, as noted previously, not all lenders report to all three companies. For this reason, some credit

