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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

To Whom It May Concern:

This comment letter is submitted to the Federal Trade Commission (“FTC”) on behalf of TransUnion LLC (“TransUnion”) in response to the Notice of a Pilot Study published in the *Federal Register* on October 20, 2004 (“Notice”). TransUnion is a “nationwide” consumer reporting agency, as described in Section 603(p) of the Fair Credit Reporting Act (“FCRA”) and has approximately 4,000 employees supporting customers on five continents in 34 countries. TransUnion has access to consumer credit information that is voluntarily supplied by data furnishers on substantially all of the credit active consumers in the United States. TransUnion appreciates the opportunity to comment on the Proposal.

In General

We commend the FTC for requesting comment on its pilot study (“Pilot Study”) of the accuracy and completeness of consumer reports. TransUnion believes that access to accurate and complete consumer credit information is of paramount importance to the effective functioning of the US economy. Over the years, we have devoted significant resources to designing and developing reasonable procedures to ensure maximum possible file accuracy as well as obtaining access to all types of credit related information from data furnishers. We are continually updating and refining our procedures, including data furnisher requirements and obligations, to address new challenges and opportunities. Our focus is to be the preferred provider for consumer credit information to all permitted users of that information. To that end we work with our data furnishers to enhance the quality and efficiency of our systems, with the users of our information to develop products to meet their needs relating to risk management and with consumers so that their personal issues may be resolved expeditiously as they arise. The result is a TransUnion database, and TransUnion organization, that is recognized in the industry

as being dependable, responsive, predictable and extremely valuable to consumers and consumer report users alike.

Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”), the FTC is tasked to develop a biennial study of the accuracy and completeness of consumer report information (“Biennial Study”). We believe that the Biennial Study, like other studies in which we have provided guidance and/or assistance, will confirm that the information collected and maintained by the nationwide consumer reporting agencies in the files of consumers is accurate.

We are concerned, however, that there may be some confusion regarding how to define or measure accuracy and completeness. If this piece of the project is not appropriately defined, the results of this project will not be very helpful. For example, during the FTC’s recent roundtable discussion of the Biennial Study, some participants pointed out that accuracy and completeness might mean different things to different parties. This roundtable discussion, and others like it, highlights the need for the FTC to take the lead in defining these important terms for purposes of the project. Indeed, we believe that unless these terms are clearly defined, the critical threshold step of identifying the objectives and purpose of the Biennial Study, and the Pilot Study itself, cannot even take place. As discussed below, we strongly urge the FTC to define and measure the accuracy and completeness of consumer report information based on (1) the current legal obligations placed on the consumer reporting agencies with respect to file accuracy pursuant to the FCRA; and (2) the degree to which the information serves its intended purpose—predicting risk.

To this end, we urge the FTC to use the Pilot Study as an opportunity to explore several study methodologies, instead of only one, to learn as much as possible before engaging in the Biennial Study. We believe without such a broad approach a true picture cannot be developed with respect to the issues of accuracy and completeness. We offer our more detailed comments on these and other issues below.

Measuring Accuracy and Completeness

The FTC is tasked by Congress with producing the Biennial Study of the “accuracy” and “completeness” of consumer report information. As the recent FTC roundtable discussion made clear, this will be a daunting challenge, unless these two terms are appropriately defined. For example, in order to begin such a study, the following questions must be addressed: What types of information must be accurate? Must every piece of information in the consumer’s file, no matter how trivial or immaterial, be accurate? How is materiality to be measured? Must the information be accurate as of the time it was reported, or as of the time the file was reviewed by the user? Who establishes the truth when, even after a reinvestigation, there is no agreement among the consumer, the consumer reporting agency, and the information furnisher with respect to the accuracy of the information in question?

An evaluation of the “completeness” of consumer report information presents similar challenges. Must every entity with which the consumer has done business furnish information to the consumer reporting agency for the agency’s file on the consumer to be deemed complete?

For example, must every utility provider furnish information, both positive and negative, to a consumer reporting agency in order for the agency's files to be deemed complete? Landlords? Pawnbrokers? Insurance companies who allow consumers to pay in installments? The local grocery clerk who allows a local customer to run a tab? What if the reporting of such information by any of these entities would have a positive or negative impact on the consumer's credit score? What if no credit scoring model took information from those types of furnishers into account? What if some, but not all, did? Assuming it can be determined who "should" furnish to a consumer reporting agency for purposes of evaluating whether a consumer's file is complete, what types of information must be included by these furnishers? Information which all users of the consumer's consumer report would find helpful? A majority of users? Some users? Any potential user? Policymakers?

TransUnion does not intend these questions to be rhetorical. Given the lack of guidance provided by Congress with respect to how to conduct the Biennial Study, we urge the FTC to take the lead in defining how to measure accuracy and completeness. To take that lead though, the FTC must acknowledge and accept the legal obligations imposed on consumer reporting agencies with respect to file accuracy and completeness. These current legal obligations must be considered and incorporated into that definition as that is the standard these organizations have built their systems to meet. The FCRA is the best example of Congressional intent and it must not be overlooked. The FCRA does not require files to be perfect.¹ Any study that does not consider and accept that consumer reporting agencies are only required to have "reasonable procedures" will usurp the substantial protections extended to such entities by Congress.² That cannot, and must not, be the purpose of this study.

Based on the Notice, we can infer that the FTC intends to use a variation on the consumer dispute process provided in the FCRA with respect to determining whether consumer report information is accurate. Furthermore, it appears that the FTC believes it worthwhile to note whether a revision to the information results in a change of the consumer's "credit score."³ TransUnion is particularly concerned that the FTC has not indicated how it will evaluate the completeness of consumer report information, nor can the FTC's intent be inferred from the Notice.

We believe the FTC should consider measuring the accuracy and completeness of information in consumer reports in the context in which such information is actually used. In particular, the primary measure of the accuracy and completeness of consumer report information should be the degree to which it is predictive of risk.⁴ Under this approach, the only

¹ See Congressional Record, U.S. Senate, January 31, 1969. Senator William Proxmire, who introduced the bill that became the FCRA, stated, "...it is unrealistic to expect 100 percent accuracy."

² See 15 U.S.C. § 1681e(b).

³ The FTC does not specify whose credit score will be used, nor whether one credit score is so ubiquitous as to be the obvious and de facto arbiter of materiality with respect to inputs that reflect on a consumer's creditworthiness.

⁴ See *Does the Fair Credit Reporting Act Promote Accurate Credit Reporting?* (February 2004), pp 18-20 and sources cited therein, by Michael E. Staten and Fred H. Cate. Paper produced for

information that would be relevant to an accuracy/completeness determination would be that information that is used in determining risk. One possible way to measure accuracy and completeness under this approach would be to first determine whether individual consumer report elements widely accepted as predictive of creditworthiness are factually correct. For any such element found to be incorrect, the FTC could measure the relative difference in several of the consumer's credit scores as calculated by a variety of models. This is generally the approach the FTC has proposed. But, as discussed below, this approach includes some inherent limitations that could be mitigated by using other methodologies. We strongly urge the FTC to evaluate other methodologies that measures accuracy and completeness in the context in which consumer report information is used, *i.e.*, the information in the consumer report is accurate and complete for purposes of making a reliable prediction of the consumer's creditworthiness. We discuss one such methodology below.

A thorough discussion of measuring accuracy and completeness is critical for purposes of collecting data, but it is also important given the context of the Biennial Study. The FTC's Biennial Study will be reviewed by policymakers, industry, consumers, and the press as an official government study of consumer report information. We believe that no amount of caveats and cautions issued by the FTC in connection with its findings on accuracy and completeness will lessen the Biennial Study's impact. In fact, it should be obvious that the Biennial Study could have a *significant* impact on future legislative and regulatory proposals affecting the consumer reporting industry. The Biennial Study could also create significant positive or negative press, deserved or not. For these and other reasons, it is critically important that, if the FTC is to continue with the Biennial Study *it must be done with as much caution and foresight as possible*. This includes a careful review of how to measure the accuracy and completeness of information. It is especially important that the Biennial Study avoid some of the issues created by other studies that have incorrectly inflated error rates by counting typographical and other administrative errors even though such "inaccuracies" have no impact on the evaluation of a consumer's creditworthiness.

Gathering the Appropriate Information: The Purpose of the Pilot Study

The Pilot Study should be developed only once it is understood what types of information will be useful in evaluating the accuracy and completeness of consumer report information. Assuming the information to be collected has been identified, we believe it would be appropriate for the FTC to conduct a Pilot Study to learn more about methodologies and approaches for the Biennial Study. Such an approach would allow the FTC to evaluate the practical strengths and weaknesses of the various methodologies and to formulate a final methodology for the Biennial Study based on what the FTC learns. A multi-pronged Pilot Study is consistent with the FTC's need to conduct the Biennial Study with as much care as possible. However, we are concerned that the Pilot Study is not going to evaluate various methodologies, but rather evaluate only one methodology. Such an approach is not consistent with the key purpose for the Pilot Study, *i.e.*, to determine how best to proceed with the Biennial Study. In this regard, the FTC has indicated that "[t]he most important information to be obtained from the [S]tudy is an assessment of the

Building Assets, Building Credit: A Symposium on Improving Financial Services in Low-Income Communities, held at Harvard University on November 18-19, 2003.

degree of difficulty with which each of the [tasks included in the proposed methodology] was performed by the participants, including the average amount of time needed for the respective tasks.” TransUnion respectfully suggests that the most important information to be obtained from the Pilot Study is which methodology (ies) would produce useful results for purposes of the Biennial Study. While the degree of difficulty for consumer participants may be one of several factors in developing the ultimate methodology, given all of the other factors the FTC must consider, the degree of difficulty would not appear to be the finding of most importance in the Pilot Study.

Methodology for Determining Accuracy

As Proposed by the FTC

The Pilot Study envisions a small sample of consumers who will review the information in their files at TransUnion, Equifax, and Experian. A contractor will assist the consumers review their credit reports, helping to identify potential errors in the consumer’s file. The contractor will assist the consumer in contacting the appropriate consumer reporting agency and information furnisher to resolve potential inaccuracies informally. To the extent necessary, the contractor will then assist the consumer through the formalized dispute process outlined in the FCRA for those disputes that could not be resolved through the informal process.

In general, TransUnion believes that the process described by the FTC is one of several plausible approaches to reviewing the accuracy and completeness of consumer report information.⁵ For example, to the extent the contractor can find resolution whereby the consumer, the consumer reporting agency, and the furnisher *each* agree on the accuracy of information in the consumer’s file, it would appear that such a resolution is as reliable as can be expected. We note that this still falls short of a determination of whether the information is, in fact, accurate in an absolute sense. For example, if a furnisher reports an account as never being delinquent, but the consumer was in fact delinquent at one point, the consumer may not bring this type of inaccuracy to the attention of the contractor. Alternatively, a furnisher may have reported an account 60 days delinquent several years ago when in fact it was only 30 days delinquent. However, the consumer may not recall the facts with respect to each delinquency that may be up to seven years old, or with enough specificity, to know to challenge the accuracy of the information.

With respect to the FTC’s proposed methodology, we offer several comments. As a primary matter, we do not believe that the FTC’s sample size is sufficient, nor is the selection methodology appropriate. A sample size of 35 consumers, as the FTC envisions, will not give any indication as to the quality of the data collected by the FTC for purposes of the Biennial Study. Furthermore, we agree that the FTC’s sample should include consumers from a range of credit scores. However, such range should be reflective of the range of scores generally found

⁵ We note, however, that such an approach does not resolve many of the issues we raise with respect to the difficulties of evaluating accuracy or completeness. Rather, if one assumes that such an evaluation will suffer from serious but unavoidable flaws, the concept proposed by the FTC is only one of several that are plausible for purposes of the Pilot Study.

among consumers. We are particularly concerned by the FTC's apparent desire to favor consumers with lower credit scores if a more diverse group cannot be achieved. The FTC does not explain its reasoning behind such a determination, nor are we aware of a statistically or methodologically sound reason for the determination.⁶

We are also concerned about the issues that may arise as a result of the dispute process. For example, it is not clear how the FTC will ensure that furnishers participate in the informal or formal dispute process. In fact, our experience is that a number of disputes are resolved by the consumer reporting agency simply deleting or correcting the information. This action may occur when the consumer provides supporting documentation that evidences their position or because the furnishers are unable to respond, or verify the information, in the required time frame. In these circumstances, the consumer's version of events is, in essence, accepted as correct for purposes of our file on that consumer. But such an assumption is not acceptable for purposes of the Biennial Study. The FTC also does not indicate who will resolve discrepancies that remain after the informal and formal dispute processes have been exhausted. This is not necessarily an isolated or extremely rare occurrence, and it is one that the FTC must address in a suitable manner before proceeding to conduct a Pilot study using the consumer interview methodology. We welcome further discussion on these points with the FTC at the appropriate time.

Other Methodologies

As discussed above, we believe the Pilot Study should include several methodological options, which would allow the FTC to design the Biennial Study with as much knowledge and practical experience as possible. We strongly believe that one such methodology should be a review of the use of consumer credit information to make a reliable prediction of the consumer's creditworthiness. As the FTC is well aware, credit grantors and others rely on billions of credit scores each year. A credit score is simply a numerical expression of the score modeler's review of the information in the consumer's file at a consumer reporting agency. A specific score is not as important as compared to where that score falls within the "range of scores". If the information in the consumer's file were materially inaccurate, it is assumed that the credit score would not fall within a range that accurately reflects the consumer's credit risk. We believe that credit scores developed by TransUnion and others are accurate risk evaluations. This clearly suggests that the "raw" information used to create a consumer's credit score is materially accurate. Our belief in the predictive nature of credit scores is supported by statistical evidence demonstrating their accuracy and their widespread use in the marketplace by institutions and governmental authorities as a predictor of risk.

For the same reason it measures accuracy, use of this methodology would also encompass a measurement of a credit report's completeness. In other words, the goal is to ensure that there is sufficient information in the consumer's file to generate a reliable evaluation of the consumer's creditworthiness, such as a credit score. Once the consumer's file has the "critical mass" of information, any additional information that is added is likely to be consistent with the

⁶ The FTC states that it does not intend to draw statistical conclusions from the Pilot Study. However, based on history of publicity surrounding studies of this type we believe others will attempt to draw such conclusions.

information that was used to develop the credit score. While additional information may “fine tune” the consumer’s credit profile and reduce statistical anomalies, we believe that it is more appropriate to evaluate the completeness of the consumer’s file on whether the information is plentiful enough to be predictive.

The FTC’s use of this methodology would improve the Pilot Study in several respects. First, this approach would establish a measurement of accuracy and completeness that would be widely accepted because these qualities would be measured in the proper context. The methodology also would not rely on direct consumer involvement, thereby avoiding the difficulties associated with finding participants, training consultants, and engaging in a time consuming process of having thousands of consumers review their credit files. Furthermore, a review of the predictability of credit scores gives the FTC an opportunity to review objective data using statistical analysis instead of relying on consumers’ or furnishers’ historical memory of facts that may be as much as seven years old. Finally, the methodology is already tested and used, helping the FTC to avoid difficulties in design and validation.

Another option worthy of the FTC’s consideration is an examination of the available means of addressing inaccuracies as identified in the Federal Reserve Board’s 2004 study of credit reporting accuracy.⁷ Specifically, this report examined several specific areas of credit report inaccuracy—e.g., failure to report closed accounts, duplicate collection agency information, and duplicate public records. A methodology which examined any or all of these particular issues would, we believe, be likely to yield information having significantly more practical utility than the methodology in the proposed Pilot Study.

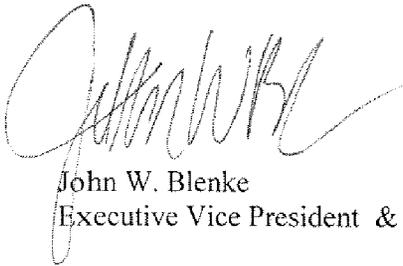
Evaluation of FTC’s Need to Collect Information

The FTC invited comment on whether the proposed collection of information is “necessary” for the proper performance of the FTC’s functions, including the duties imposed under the FACT Act and whether the information will have practical utility. We believe that the proposed collection of information is not, in fact, necessary for the FTC’s functions. We believe that there are alternative methods available to the FTC that do not require the collection of personally identifiable information. Two such methods are discussed above. Other methods were also discussed as part of the roundtable discussion the FTC held on this topic. TransUnion also believes that the information collected will have little practical utility due to the methodology flaws discussed above. Indeed, the FTC attempts to disclaim the practical utility of the information it collects when it notes that it will not draw statistical conclusions from the Pilot Study. Rather, the FTC appears to be more interested in the operational difficulties associated with its conceptual approach to the Biennial Study. We believe the collection of the data envisioned by the FTC would provide significantly less practical utility in connection with the FTC’s objectives than other methodologies available to the FTC.

⁷ Federal Reserve Bulletin—Summer 2004: Credit Report Accuracy and Access to Credit, Robert B. Avery, Paul S. Calem, and Glenn B. Canner

We appreciate the opportunity to comment on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Blenke". The signature is fluid and cursive, with a large initial "J" and "W".

John W. Blenke
Executive Vice President & General Counsel