

December 18, 2006

Federal Trade Commission/Office of the Secretary
Room H-135 (Annex J)
600 Pennsylvania Avenue, NW.
Washington, DC 20580

Re: “Accuracy Pilot Study: Paperwork Comment (FTC file no. P044804)”

Submitted Electronically via: <https://secure.commentworks.com/ftc-accuracy>

On behalf of the members of the Consumer Data Industry Association (CDIA)¹ we provide the following comments with regard to the second proposed pilot study of a methodology to study the accuracy and completeness of information in consumers’ credit reports, and we thank the Federal Trade Commission (FTC) for this opportunity to comment. The CDIA supports the FTC's decision to continue to pilot test methodologies to ensure that the results of a nationwide study are useful, unbiased, accurate and comprehensive.

Regarding the current pilot study, CDIA is appreciative of the fact that the FTC did not discuss data in their report to Congress, and in fact went to great lengths to indicate that the data was not statistically valid. We believe that a premature discussion of data has the potential to create consumer confusion and potentially lead to inappropriate public policy decisions. We agree that the FTC should continue to focus its efforts on perfecting their methodological approach to the proposed nationwide study, ensuring a complete, unbiased study, rather than attempting to interpret the data from such a small sample. Any such publication of the data in the 2nd Pilot Study must be careful and accurate, and the FTC and contractor should take steps to ensure that the presentation of data is not misleading.

CDIA also supports the utilization of a second Pilot Study to test the ability to have a larger number of consumers participate in the study, and an additional 120 consumers (which is four times the number of participants in the initial pilot) appears appropriately scaled to provide additional information as to what would be involved in obtaining a nationwide study.

However, as will be discussed in more detail below, the pilot study raised a number of statistical, scoping and methodological issues that have not been addressed in the Federal Register Notice, the FTC Report or the contractor’s report. If these issues are not addressed, the statistical validity of the nationwide study could be seriously

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.

compromised, limiting the usefulness of such an expensive nationwide study, and fostering misperceptions about the quality of data in our members' systems. Addressing shortcomings now is easier and cheaper than waiting until problems emerge as the full study is ongoing.

1) **SAMPLING TECHNIQUE:** Devise a specific statistical sampling plan to address statistical questions.

CDIA strongly urges the FTC and the contractor to release a sampling plan for the nationwide study for public comment. Such a plan should include a full description of how the FTC would address a number of sampling, precision, and bias issues that are unanswered in the Federal Register Notice, the FTC Report or the contractor's report. Such questions include: defining the population, stratifying the population, setting the number of cases to be selected from each stratum, and selecting consumers for participation. The sampling plan also should address issues such as the level of precision that the national survey would seek to achieve for each of the estimates and how the study would test and adjust for nonresponse bias.

Specific issues that the sampling plan should address include:

- a. Sample Selection: CDIA has very serious concerns about attempting to have financial institutions, credit counselors and consumer credit reporting agencies contribute samples of consumers.

Referrals through financial institutions will generate biases that have to be addressed and properly weighted. Specifically, use of financial institutions could result in a sample that is not representative of the population of consumers in CRA databases as a whole (e.g., the sample could exclude or under-sample "passive" consumers that have not recently sought credit). It would also appear to provide a measure of selectivity/subjectivity on the part of the financial institution, either by selecting consumers that received that for which they applied, or were denied that for which they applied. The use of referrals from credit counseling agencies seems particularly vulnerable to sample selection bias, for many of the same reasons.

- The FTC would have to insure that any such collection of data from the CRAs did not impinge on the requirements of the Fair Credit Reporting Act.
- CDIA is also concerned that sampling consumers from CRA data bases based on certain attributes, such as number of negative items and number of public derogatories, as discussed on page 28 of the contractor's report, rather than screening by credit score and letting the underlying factors fall where they may, has the potential to bias the sample. For instance, the contractor suggests screening for number of public derogatories, with the expectation that that may produce consumers with certain credit scores. However, CDIA is concerned that such methodology may over sample for consumers with those attributes, but under sample other consumers who may also happen to have a similar score, but

for other reasons, such as a “thin file.” Per the discussion above, the FTC must discuss how any potential biases that are created by the proposed sampling methodology are addressed.

Regardless of recruitment strategies, the end result must be a statistically representative sample, and the FTC must devise ways to weight their results to be representative of the population of credit files, regardless of what recruitment techniques are employed.

- b. Sample Size: CDIA has questions about the size of the proposed nationwide sample.
- There was no discussion in the FTC’s Report nor in the contractor’s report about what the appropriate size of a nationwide sample might be: the number 1000 consumers appeared on page 31 of the contractor’s report, with no explanation of how that number was derived or how it relates to statistical accuracy, and it was carried forward through the rest of the discussion, including through the contractor’s cost estimates. Sample size selection needs to be carefully considered and justified.
 - Further, given the public policy issues at stake, we strongly urge the FTC to consider using a population that is sizeable enough to ensure acceptable statistical precision using standard confidence levels, e.g. 90 or 95 percent.
- c. Sample Selection bias: Exclusion of consumers who have recently checked their credit reports.
- According to the contractor’s report, of the 254 households contacted to participate in the initial FTC study, approximately 12 (5 percent) declined to participate because they had recently checked their credit reports. Exclusion of these consumers from the survey introduces bias into the study (i.e., tends to show a higher error rate) if consumers that have recently received disclosures of credit information have fewer uncorrected errors than the average consumer. This would almost certainly be the case if consumers that review their credit reports dispute inaccurate information. To be representative, the sample should include consumers who have received disclosures within the prior year, and, like all other results, the results should be weighted to reflect the share of these consumers in the CRA population.
- d. Nonresponse bias: The pilot study was able to achieve less than a 12 percent participation rate among consumers recruited to participate in the study. If there are systematic differences between participators and nonparticipators that are correlated with credit report data problems, there is a risk of serious bias in the study results. The FTC study should give increased attention to techniques for assessing and correcting for nonresponse bias.

- e. Distribution of scores: Sampling from a range of scores that does not accurately reflect the score distribution in CRA data bases may generate bias unless the results are appropriately weighted.
 - As the contractor has not developed a sampling plan providing statistical justification, CDIA specifically disagrees with the contractor’s recommendation to oversample consumers with “poor” credit scores. Instead, CDIA would urge the contractor to sample across scores to accurately reflect the distribution of scores in CRA databases.
- f. Proposals to increase consumer participation: CDIA would like to see more information about the contractor’s proposal to utilize “mailing lists,” as discussed on page 31 of the contractor’s report, and other proposals to reach out to consumers. Additionally, we would like to see more discussion of the “streamlining” (p. 9 of the contractor’s report) and “economies of scale” (p. 31) that may be utilized to reach out to consumers.
- g. Statistical weighting: There is no discussion about how survey results will be weighted to be representative of the population of credit files.

CDIA believes that such a discussion is vital to ensure that the resulting study will be statistically accurate. Further, such a discussion should occur before the sample is drawn.

2) CONDUCT OF STUDY

- a. CDIA agrees that it is appropriate for the contractor to assist consumers in obtaining their credit reports, and if the FTC persists in attempting to cross-compare credit report disclosures, consumers should request them from all three consumer reporting agencies on the same day.
- b. CDIA agrees that having the contractor review credit reports with the consumer, and having them assist consumers in identifying potential errors and discrepancies is beneficial, as long as the contractors are properly trained. (We discuss the determination of material vs. non-materials errors further below.) We emphasize that the detailed review with the consumer of each credit file must be appropriate, complete and unbiased.

3) “ERRORS”

a. Alleged errors

If the FTC continues to require the contractor to make a preliminary determination about whether a particular alleged error is “material” or not, the contractor must be careful to emphasize that these are *alleged* errors that have not been substantiated either by the

FTC, the original lender via direct contact or by the reinvestigation process. Specifically, given concerns about consumer recollection, bias and knowledge of their accounts and credit report, a mere allegation of error should not be a sufficient criterion to rescore or base a decision upon.

Unfortunately, however, the contractor's report does not do a good job of making it clear that interviewer assessments are conjecture until proven out by a completed reinvestigation. The charts in the contractor's report, for example, catalogue alleged errors, but they do not make it clear to the reader that the errors are alleged. Therefore, the contractor needs to be more precise than it has been in this initial study in discussing the difference between an "alleged" error that has not been submitted through the dispute process, and an error that has run through the system. Such disregard for detail may generate confusion and inappropriate responses.

Further, CDIA does not believe that alleged errors should be rescored to determine the impact that they might have on a consumer's credit score if borne out as accurate, particularly if they are not submitted through the reinvestigation process. In other words, CDIA does not believe that it is appropriate to re-score a "frozen" file based merely on the allegation of error by the consumer.

The contractor's report also does not clarify whether an "error" was merely a timing difference between when reports are updated. CDIA suggests that having the contractor publish a "glossary of alleged errors" might help to categorize the types of errors that are alleged.

Separately, the FTC should propose a methodology to resolve questions that may arise when the disposition of an error remains unresolved after the dispute process is complete (i.e., where a data furnisher reports that their information is accurate, but the consumer continues to believe that it is not.²) 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.

b. Definition of "Material" error

Although the term "material" is not explicitly defined, the initial pilot study treated a change in credit score of 50 points or more as a material change, a change of 31-49 points as marginally material, and a change of 30 points or less as immaterial. However, there is no discussion about the source for that decision.

c. Number of errors:

The pilot study has characterized an error in a single credit report as an error in a "consumer's credit report." However, because each of the three credit bureaus maintain separate files about an individual consumer, imputing an error in one to all 3 is not only

² Under the FCRA, consumers are permitted to submit a written statement of no more than 100 words to their file explaining any such disagreements.

inaccurate, but is misleading, as well. Instead, CDIA strongly urges the contractor and the FTC to more properly characterize an error in one or more of a consumer's credit reports as an error in that number of reports. So, for example, if an alleged error appeared on a single report, the FTC and the contractor should refer to "an alleged error on one of the 3 credit reports."

Similarly, the initial pilot study identified 3 alleged material errors in a sample of 30 consumers. Setting aside the fact that the sample is not weighted, is too small to draw valid conclusions, and alleged errors were not validated, these statistics might be interpreted as implying an industry-wide error rate of 10 percent (3 out of 30). However, this overstates the industry average error rate by 50 percent. Of the three alleged errors, one involved a single credit bureau, one involved two credit bureaus, and one involved all three credit bureaus. Thus, the "accuracy" rate of the individual credit bureaus was, respectively, 3-1/3, 6-2/3 and 10 percent. The average "error" rate for the industry is, therefore, 6-2/3 percent, rather than 10 percent. The study methodology should be revised to capture this more accurate definition and characterization, and presentation of data by the contractor should be carefully delineated and monitored to ensure that data cannot be misconstrued.

d. Errors Across Credit Reporting Agencies

CDIA believes that using a cross-file analysis with consumers to identify errors is a flaw in the methodology of the study; where files are accurate, publishing score range differences are irrelevant to the accuracy of a consumer's credit file. Further, CDIA strongly disagrees with imputing an error in one credit report to all three CRAs. Specifically, the FCRA is a law that applies to individual CRAs, not an entire industry, and analyzing the industry in the aggregate via the FCRA is a fundamental problem with this study.

This flaw is not only evident in the "number of errors" discussion above, but also manifests itself as a problem in the FTC's attempt to compare credit scores across bureaus.

Further, CDIA does not share the belief that such a comparison may indicate inaccuracies in and of itself. There are a number of reasons why there may be a range of scores between bureaus, such as timing of updates, differences in algorithms, different furnishers, and the effect of credit repair organizations that may have been successful in removing accurate but derogatory information from one CRAs file but not the other two.

Another problem that this practice creates is that it diminishes the ability of the contractor to ascertain the effect of errors on consumers by credit score band when credit scores for the same individual vary among the three CRAs. For instance, Table 5 of the contractor's report assigns consumers to a single credit score band even though it is clear from Table 3a that some consumers fall within different bands depending on which credit report is used.

e. Root cause of errors: The role of furnishers and of consumer credit reporting agencies

Data furnishers play a vital role in the accuracy of consumer credit reporting agencies files. Given that role, CDIA is concerned about possible consumer confusion and inappropriate public policy that may result from a lack of clarity regarding the source of errors and a clear description of the role that furnishers play in the credit reporting system. For instance, one could easily conclude that many of the alleged errors consumers identified in the Phase I pilot were very likely a result of inaccurate data supplied by data furnishers, and not through some fault of the CRA. In fact, the single error that was actually disputed in the pilot study revealed an error by a data furnisher that was quickly corrected.

In particular, it is vital to distinguish between data quality problems caused by data furnishers (e.g., incomplete, inaccurate, or untimely provision of information), and failure of CRA's to correctly and timely match this information to consumer files, while also noting that consumers play a role in accuracy, as well. For instance, if a consumer omits a suffix such as Jr., or inaccurately enters their Social Security Number, the data furnisher and the CRA may correctly report what was provided to them, but it should not be considered an error attributed to either of them.

Therefore, CDIA proposes that the second pilot study discuss and explore the role of data furnishers in the credit reporting system, and the follow-on pilot study should include a robust protocol for root cause analysis: the study should separate inaccuracies into those caused by the data furnishers (e.g., incorrect balance), and those caused by the CRAs, such as improper matching.

4) SCOPE

There are a number of instances where the contractor and the FTC Report appear to go beyond the scope of the study required under Section 319 of FACTA. Given that exploration of these areas would not contribute to the discussion of accuracy and completeness, and are outside the scope of the Congressional mandate, CDIA would strongly recommend that exploration of these areas be eliminated from the 2nd Pilot study and from the nationwide study. Further, importing such extraneous items only serves to increase the already heavy burden on the government and the taxpayers with no additional benefit.

Example of items beyond the scope of Section 319 includes:

- Comparing scores across bureaus, as discussed above;
- measuring “motivations,” such as why consumers allegedly do not dispute alleged inaccuracies; and
- engaging consumers that don't speak English, which raises political issues that could have been included by Congress if they chosen to do so.

CONCLUSION

CDIA appreciates the time and effort that the FTC and the contractors have expended to create a comprehensive first pilot test. However, as the sample size continues to grow, there are a number of areas where the FTC and the contractor need to seriously consider methodology, statistical weighting and sampling techniques to make the second pilot a much stronger template for the proposed nationwide study.

Thank you for this opportunity to comment.

Sincerely,
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President & CEO