

November 30, 2009

Office of the Secretary
Federal Trade Commission
Room H0135 (Annex F)
600 Pennsylvania Ave., NW
Washington, DC 20580

Subject: Free Annual Disclosures Amendments to Rule to Prevent Deceptive Marketing of Credit Reports and to Ensure Access to Free Annual File Disclosures

Filed Online at <https://public.commentworks.com/ftc/FreeCreditReportMPRM>

Dear Secretary Clark:

The Council of Better Business Bureaus appreciates this opportunity to provide comments on the FTC's effort to improve access to free annual credit reports to consumers and reduce confusion about access to the reports and marketing of unrelated services on AnnualCreditReport.com. BBB receives thousands of complaints annually from consumers expressing confusion about where to go to obtain a free annual file disclosure (i.e. free annual credit report) and about the process to obtain such disclosures. Accordingly, we support the FTC's decision to help consumers more clearly identify where to go to obtain their free annual file disclosures and gain easier and more direct access to obtain those reports. We support the proposed changes that would eliminate unrelated marketing initiatives until after consumers obtain their report so that any additional programs or services are separately offered from the free annual credit report.

Finally, we support the broader goals of the FTC to eliminate confusion in the marketplace and establish clear guidelines that consumer reporting agencies (CRAs) will be required to apply to ensure that all agencies are competing on equal footing. Such guidelines will reduce confusion in the marketplace and, as needed, assist regulatory agencies in addressing significant violations.

About the BBB

The Council of Better Business Bureaus (CBBB), a non-profit 501(c)(6) membership organization, is the umbrella organization for local Better Business Bureaus (BBB), which are grassroots organizations that foster a fair and honest marketplace and an ethical business environment.

BBB's mission is to be the leader in advancing marketplace trust and to be the resource of choice for consumers and businesses on marketplace issues. BBB is a leading organization in the area of evaluating and addressing advertising and marketplace issues. The CBBB administers a number of self-regulation programs including the *National Advertising Division*, the *Children's Food and Beverage Advertising Initiative*, the *Children's Advertising Review Unit*, the *Electronic Retailing Self-Regulation Program*, the *Wise Giving Alliance*, and *BBB AUTO LINE*.

BBBs accredit businesses that meet BBB accreditation standards set out in the BBB Code of Business Practices. Included in these standards is a commitment to honestly represent products and services, including clear and adequate disclosures that are necessary or are required by regulatory agencies such as the FTC. To date, more than 400,000 businesses have become BBB Accredited Businesses.

As part of the accreditation process and the BBB compliance program, BBBs may evaluate the advertising of accredited businesses. Additionally, BBBs routinely review advertising for both accredited and non-accredited businesses as part of our general focus on promoting trust in the marketplace. When problems are identified, BBB works with the businesses directly to correct problematic advertising.

BBB Experience with Credit Reporting Agencies

Marketplace Confusion: As set out by the FTC, there is considerable confusion in the marketplace about where to go to obtain free annual credit reports. While CRAs, government regulators and a small segment of the population may be able to differentiate from the many similar sounding businesses promoting access for consumers to free annual credit reports, the general population is often unclear where to go to obtain their free annual credit report. The proposals in section 610.4 to require

marketing by CRAs to prominently direct consumers to AnnualCreditReport.com and to include a distinct landing page—not easily bypassed and containing no distracting text—will help consumers reach their intended destination (AnnualCreditReport.com).

Eliminating Unnecessary Barriers: The prohibition of barriers to obtaining one's free credit report as outlined in section 610.2 (h) will greatly help consumers obtain their annual credit report without providing information not necessary for the consumer's intended purpose (i.e. the consumer should be asked to provide only the information necessary to confirm his or her identity to permit access to their annual free report). BBBs receive thousands of complaints annually from consumers under the current system whereby consumers are required to set up an account or provide a credit card, before they are able to access their free annual credit report. Because the reports are free, there is no reason to require a consumer to provide his or her credit card or to set up an "account" with the CRA. Permitting this practice to continue places an unnecessary barrier between consumers and their free annual credit report. A large volume of complaints coming to BBB involving CRAs concern consumers alleging they have been signed up for programs or services without their consent. Eliminating the requirement for consumers to provide the credit card information, irrespective of whether they want "additional" services from the CRA, will reduce the marketplace confusion and distrust that currently exists.

Eliminating Marketing of Other Programs and Services Until After Receipt of the Free Annual Credit Report: The proposed change to amend section 610.2 (g) to delay any advertising or marketing for products or services through the centralized source until after consumers have obtained their free annual file disclosure is another change the CBBB fully supports. Directing consumers to a central website (AnnualCreditReport.com) and presenting consumers with a myriad of services and options blurs the line between obtaining one's free credit report and signing up for programs and services offered by the CRAs. The thousands of complaints coming to BBB annually about unwanted programs and services shows there is a disconnect between the consumer and the business as to whether the consumer "intended" to sign up for the service or merely was confused about how to obtain a free annual credit report.

The FTC's proposal to permit CRAs to market to consumers only after receipt of the annual file disclosure will help clearly separate the steps to obtain the free report from "signing up" for any other programs and services offered by the CRAs. Additionally, since consumers will only be asked to provide a credit card after the receipt of the free annual report, and only in connection with the post-report transaction (i.e. buying a service from the CRA), the intent to buy the service will be clear.

The proposed changes set forth by the FTC should help consumers access the correct location for obtaining their free annual file disclosure, ensure the process is quick, and not does lead to the purchase of services due to confusion or misrepresentation. The CBBB supports the changes the FTC is proposing as they will eliminate confusion in the marketplace and help strengthen trust between consumers and the credit reporting agencies.

Thank you for the opportunity to share our marketplace observations and to provide comments. If you have any questions about these comments, please feel free to contact me.

Sincerely yours,

Rodney L. Davis
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Council of Better Business Bureaus, Inc.