



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

February 6, 2008

Pam Dixon, Executive Director  
World Privacy Forum  
California

**Re: *In the Matter of Milliman, Inc., FTC File No. 062-3189, Docket No. C-4213*  
*In the Matter of Ingenix, Inc., FTC File No. 062-3190, Docket No. C-4214***

Dear Ms. Dixon:

Thank you for the comments you submitted regarding the above-referenced matters. Your comments were placed on the public record pursuant to Section 2.34 of the Commission's Rules of Practice, 16 C.F.R. § 2.34, and were given serious consideration by the Commission. After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Orders in final form without modification.

In your comments, you object to the fact that the consent agreements do not include a civil penalty and suggest that the appropriate civil penalty would be fifty percent of the gross revenues from the activities that violated the FCRA. Further, you object to the consent agreements to the extent that the failure to provide the Notice to Users adversely affects consumers, and assert that the respondents should be required to provide "actual notice and other remedies to consumers."

You are correct in noting that the FCRA provides for a broad range of relief for violations of its provisions. Among other remedies, the Commission may seek civil penalties in the event of a "knowing violation which constitutes a pattern or practice of violations." To that end, and as specified by the FCRA, the Commission considered whether the alleged violations were knowing and constituted a pattern or practice of violations. The Commission also considered the factors set forth in sections 621(A)(2)(A) and (B) of the FCRA for determining the amount of a civil penalty, including the respondent's degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. After considering all of these factors and the facts of these cases, the Commission determined that the injunctive provisions contained in the orders, without civil penalties, provide the appropriate level of relief under the circumstances. Although no single factor was dispositive in this decision, the Commission noted in particular that respondents provided the consumer reports at issue only to insurance companies that both had a permissible purpose to receive the reports and obtained consent from consumers prior to requesting the reports.

Your letter also asserts that the orders are deficient because they do not require respondents to provide “actual notice or other remedies to consumers.” After examining the evidence obtained during the investigations, the Commission determined that direct notification to consumers is not justified in these cases. The violations alleged in the complaint relate to respondents’ failure to provide required notices to the users of their reports - the insurance companies - and not to consumers. These notices are designed to alert the users of their FCRA obligations, most notably that they send notices to consumers when they take adverse action based in whole or in part on information contained in a consumer report. The Commission has obtained no evidence that the insurance companies using these reports failed to send adverse action notices when required.

Accordingly, the Commission has determined that the public interest would best be served by issuing the Decision and Orders in final form without modification. Thank you again for your comments. The Commission is aided in its analysis by hearing from a variety of sources in its work, and it appreciates your interest in these matters.

By direction of the Commission.

Donald S. Clark  
Secretary