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November 30, 2009

Sent via weblink:

<http://public.commentworks.com/ftc/FreeCreditReportNPRM/>

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: “16 CFR Part 610, Amendments to Rule to Prevent Deceptive Marketing of Credit Reports and to Ensure Access to Free Annual File Disclosures”

Dear Commission:

Thank you for the opportunity to provide comments regarding the Federal Trade Commission’s proposed rulemaking proceeding with respect to ensuring free access to consumer’s credit files. Our comments today focus on low income consumers’ ability to access their credit file through annualcreditreport.com.

Empire Justice Center is a statewide legal services organization with four offices throughout New York. We provide support and training to legal services, undertake policy research and analysis, and engage in legislative and administrative advocacy. We also represent low-income individuals, as well as classes of New Yorkers, in a wide range of poverty law areas including consumer law and mortgage lending. Together with the United Way of Rochester, Empire Justice Center leads the C.A.S.H. coalition -- Creating Assets, Savings, and Hope -- to help low income workers make the most of their money and build stronger financial futures. C.A.S.H. improves the financial well being of working families by:

- Offering free income tax preparation to help eligible families take advantage of the Earned Income Tax Credit
- Offering free one-on-one financial coaching and education
- Maximizing financial assets through matched savings accounts, alternatives to predatory lending practices, credit repair, and asset building strategies.

Ensuring access to credit reports for low-income consumers is vitally important for those working to escape poverty. Each year, the C.A.S.H. coalition provides free services to over 12,000 low income individuals. We see first hand how credit reports

help low income consumers to develop asset building strategies and to get connected with traditional financial services.

In addition to seeing the benefits low income consumers reap from the service provided by annualcreditreport.com, Empire Justice Center is in a unique position to see the challenges and barriers low-income folks face when attempting to check their credit report. The following comment will provide suggestions to address the issues we see at Empire Justice Center.

Consumers Should Have Complete and Full Access to Their Credit Reports Through the Annualcreditreport.com.

Currently, low income consumers have limited access to their credit reports though annualcreditreport.com because of obscure and convoluted security questions, and because of lengthy disclaimers that limit the legal liability of the credit reporting agencies. Although consumers do have the option of completing the paper request, having credit reports available online is the most convenient and effective way to guarantee that people will access their credit report. That option should be available and accessible to all consumers.

Security Questions

The greatest barriers preventing low income people from accessing their credit report through annualcreditreport.com are the security questions. Low income consumers generally move more frequently and have complicated financial histories including a greater number of small short-term accounts. The credit reporting agencies often ask very specific and complicated questions which are difficult for many low income consumers to answer. As a result, many low income consumers are unable to access their credit report though annualcreditreport.com and are left with only the mail in paper option.

The security question section should not be a barrier for low income consumers to access their own credit report. Creditors are not required to provide such detailed information in order to access a consumer's report. Accessing one's own credit report should not be more complicated than accessing someone else's. Although we recognize the importance of security, the current level of questioning by the credit bureaus is unreasonable and unprecedented. As such, we recommend that the FTC require uniform security questions across the credit reporting agencies to request:

- Name
- Date of birth
- Social Security Number
- Address
- Previous address if the consumer has lived at their address for less than two years.

Limitation on Legal Liability

Currently, in order to retrieve a credit report through annualcreditreport.com, a consumer must agree to a lengthy disclosure that limits the legal liability of the credit reporting agency. Credit reports retrieved through the mail are not subject to any legal disclaimers. These disclaimers manifestly impair the legal rights of a consumer to correct any errors on their credit report.

The three major nationwide credit reporting agencies (Experian, Equifax, and TransUnion) repeatedly engage in measures that harm consumers. Detailed disputes about inaccuracies on credit reports are handled in a perfunctory, formalistic manner—reduced to a two digit code by an automated dispute system and then outsourced to foreign vendors. Additionally, the credit reporting agencies use overly broad criteria for identifying consumers, causing the credit reports of different consumers to become mixed or merged. The National Consumer Law Center documented these abuses in a report this year, “Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in Their Credit Reports.” Despite the importance of credit reports, the system is plagued with inaccuracies. Multiple studies have found serious errors in 25 percent of credit reports. With a credit report being a gatekeeper to credit, employment, rental housing, insurance, and many other financial services it is vital that consumers maintain all their legal rights to ensure a complete and accurate credit report.

As such, we recommend that the FTC require:

- All credit reporting agencies providing a consumer with their annual free credit file provide that file in full detail and without any limitation on legal liability.

FTC Should Eliminate Confusion Between Free Services and Pay-For Services.

Credit reporting agencies lead consumers away from the official free credit report site by falsely promoting credit monitoring services as “free” credit reports. Although the marketing of these products as “free” is problematic, the focus of this comment is how the official free credit report site could better eliminate some of this confusion. First, annualcreditreport.com has no real distinguishing characteristics between this site and others. And second, when consumers do arrive at the correct website, they are inundated with advertisements for pay-for-services causing additional confusion.

Consumers do not know that annualcreditreport.com is the official website to obtain a copy of their free credit reports.

Many consumers know that they are entitled to a free credit report each year; however, they do not know where to find it. Thus, many resort to a search engine to find the web address. The fact that a search for “free credit report” using Google’s search engine produces annualcreditreport.com as the first site (after the sponsored links) is encouraging. However, the description provided by the search engine does not distinguish it from any other credit monitoring service.

Once a consumer reaches annualcreditreport.com, the content of the website fails to alleviate the confusion. Although the website does contain the language: “AnnualCreditReport.com is the official site to help consumers to obtain their free credit

report.” The language is off to the side and is not clear enough given the commonality of the words “only” and “official” in advertising.

Consumers are looking for a government run website. Experian, Equifax, and TransUnion all offer pay-for credit monitorings services through their own websites. Therefore, having the official site run by these three credit reporting agencies is a conflict of interest. As such, we recommend that the FTC:

- Have oversight over the official website content;
- Provide a .gov domain name to house the central website;
- Make it clear, in large font, and on top of the website, that this is the website affiliated with the FTC; and
- Have the website designed so that the search engine description of the website states that it is the official website.

Consumers are led away from the website by extraneous advertising for pay-for services.

Finally, allowing advertising on annualcreditreport.com site further exacerbates consumer confusion. Because of the numerous “pop-up ads” and advertising for pay services, many consumers believe they need to purchase these services in order to receive their free credit report. This confusion stems from a lack of understanding the difference between credit reports and credit scores. Many think that the report and the score are the same thing or that they come together. So when an advertisement says to follow a link to get the score, many consumers do not realize that it is not part of the service they are getting. Nonetheless, for some consumers it would be helpful to obtain their credit score. Therefore, to help consumers make informed choices about the services they are receiving, we recommend the FTC require the central free credit report website to:

- Remove all “pop-up ads” and any other advertising on the pages that a consumer must use to access his or her credit report;
- Provide a section that explains credit scoring and offers links to services that provide credit scores; and
- Provide a section that explains credit monitoring services and offer links to those websites.

Again, we thank you for this opportunity to comment. If you have any questions, please do not hesitate to contact me at (585) 295-5630.

Respectfully submitted,

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