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

**Re: Free Annual Credit Reports
Rule No. R411005**

Dear Mr. Secretary:

I thank the Federal Trade Commission ("FTC") for its Request for Comments on the Proposed Amendments to the Rule to Prevent Deceptive Marketing of Credit Reports and to Ensure Access to Free Annual File Disclosures (the "Proposed Rules").

Industry Abuse and Consumer Confusion

As you know, information in a credit report may affect the interest rates that consumers pay on credit cards and loans, whether credit will be extended to the consumer, and how much the consumer pays for automobile and homeowners insurance. It may even impact the consumer's ability to get a job or housing. Further, some consumers learn that they are victims of identity theft when they discover fraudulent accounts on their credit reports. As a result, government agencies, including this Office, strongly recommend that consumers regularly take advantage of their right under federal law to obtain their free credit reports once a year from the three major national credit reporting agencies.

There is no official, government-sanctioned website for ordering a free credit report other than AnnualCreditReport.com. "Lookalike" websites purport to offer "free" credit reports, but their primary purpose is to get people to sign up—often unwittingly—for paid products or services. Unfortunately, myriad companies and websites take advantage of consumers' knowledge of the federal law entitling consumers to one free credit report per year from each of the three major credit reporting agencies (Equifax, Experian, and TransUnion). Over 10,000 consumers across the country have complained to the Better Business Bureau about deception by just one website—FreeCreditReport.com (and its owner, Consumerinfo.com, Inc., which is owned by Experian) ("FCR.com")—which only provides a "free" credit report if a consumer signs up for additional paid services, which are then charged monthly to consumers' credit cards.

Like FCR.com, other companies have created web pages that are confusingly similar to the government-sanctioned site—AnnualCreditReport.com. While the FTC has attempted to police this area, including enforcement actions against FCR.com in 2005 and 2007, the industry continues to engage in practices that confuse consumers and undermine their ability to exercise their rights under federal law to obtain a truly “free” credit report.

The Minnesota Experience

This Office has heard from many Minnesotans about their difficulties in getting the free credit report allowed by law as a result of the above practices. Minnesotans’ experiences are largely uniform and include the following issues:

“Free” sites are not actually free. The most common consumer complaint is that competing websites—those other than AnnualCreditReport.com—sign consumers up unknowingly for paid products and services when consumers get their supposedly “free” credit reports from those sites. The additional paid services—mentioned in the fine print of these websites—are mandatory for consumers who want to get their “free” credit reports. The websites are designed such that many consumers are not aware that they have signed up for the additional services, and only find out about them when reviewing their credit card statements. The services are also priced at small monthly amounts that often go unnoticed by consumers for a period of time.

FCR.com and like websites confuse consumers. Experian has engaged in a multi-million dollar advertising campaign for FCR.com (including television commercials and internet search engine sponsorships). This advertising directs many consumers to FCR.com rather than AnnualCreditReport.com—the truly free site. Once at FCR.com, many consumers state that they simply wanted their free credit report, were unaware that they had signed up for any additional products or services, and if they had been fully aware of what the additional products or services were, they would not have purchased them.

Consumer impact is enormous. The problem for Minnesota consumers is two-fold. First, the companies’ deception tricks consumers into paying unwanted fees. Second, the deception discourages consumers from obtaining their free credit reports and taking control of their personal finances. This results in a substantial irony: government officials encourage consumers to obtain and review their free credit reports in part to detect fraudulent accounts. Consumers who attempt to obtain their free credit reports are then duped into unknowingly signing up for paid products or services, resulting in dubious charges on their credit cards. The FTC’s rules must be sufficiently strong to change the practices of companies that have proven unwilling to police themselves, even after previous enforcement actions.

The FTC Can Help

I encourage the FTC to amend the rules in such a way that will meaningfully deal with this problem.

First, **the new rules should ban the industry's use of the word "free" when the product is not free, or is contingent on purchasing a paid product or service, or is contingent on agreeing to a trial period for a product or service, or where there are other financial strings attached.** The abuses of FCR.com are a prime example. As FCR.com's advertisements exist in current form, consumers are misled to believe that FCR.com is the government-sanctioned website. FCR.com and other websites prey on consumers' knowledge that they are entitled to one free credit report each year from each of the three major credit reporting agencies. Banning the word "free" when the product is not free, or when there are other strings attached, would solve much of the consumer confusion regarding the availability and accessibility of the truly and completely free credit reports provided pursuant to federal law at AnnualCreditReport.com.

Second, **the FTC should ban the use of the Uniform Resource Locator ("URL") "FreeCreditReport.com" and like websites that mislead the consumer to believe that the website is the government-sanctioned site, AnnualCreditReport.com.** The intent of such a URL is to divert consumers from the actual free site, AnnualCreditReport.com, and onto a site where consumers must sign up for a service in order to get their "free" credit report. Banning Experian and other companies from using deceptive URLs would provide an immediate and substantial benefit to consumers in Minnesota and across the country.

Third, **the FTC should adopt a broad definition of "free credit report" that explicitly covers the "trial periods" that are used by FCR.com and other websites, so that FCR.com and others cannot attempt to circumvent the new rules on the technical legal argument that agreeing to a trial period is not a "purchase."** The FTC should include language in the definition of "free credit report" in the Proposed Rules that explicitly addresses the use of free "trial periods."

Finally, the website AnnualCreditReport.com is the only website sanctioned by the government at which consumers may obtain free credit reports. Absolutely no marketing of paid products or services should be allowed on the website AnnualCreditReport.com.

I thank you again for the FTC's publication of the Proposed Rules and the invitation to comment on these important issues.

Sincerely,

LORI SWANSON
Attorney General