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Federal Trade Commission
Office of the Secretary, Room 159-H (Annex C)
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Washington, DC 20580
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**RE: Procedures to Enhance the Accuracy and Integrity of Information
Furnished to Consumer Reporting Agencies, Project No. R611017**

The Privacy Rights Clearinghouse (PRC)¹ appreciates the opportunity to comment on the Interagency Advance Notice of Proposed Rulemaking (ANPR) in above matter. The Federal Trade Commission (FTC) joined by the federal banking agencies² (the agencies) seek public input on how to ensure accuracy and integrity of information furnished to consumer reporting agencies as well as circumstances under which furnishers must reinvestigate a consumer dispute about accuracy.

We direct our comments as follows:

1. Introduction
2. Employment Reports
3. Insurance Claims Reports
4. Bifurcated Rulemaking Is Necessary
5. Recommendations
6. Conclusion

1. Introduction

The agencies are required by Section 312 of the Fair and Accurate Credit Transaction Act of 2003 (FACT Act) to establish standards for accuracy of information furnished to consumer reporting agencies. The ANPR also seeks public comment about procedures

¹ The Privacy Rights Clearinghouse is a nonprofit consumer education and advocacy organization based in San Diego, CA, and established in 1992. The PRC advises consumers on a variety of informational privacy issues, including financial privacy, medical privacy and identity theft, through a series of fact sheets as well as individual counseling available via telephone and e-mail. It represents consumers' interests in legislative and regulatory proceedings on the state and federal levels. www.privacyrights.org

² The agencies include the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), and National Credit Union Administration (NCUA). Although comments are to the FTC, we assume the comments will be shared with all involved agencies.

the agencies should establish for consumers to resolve disputes directly with those that furnish information to consumer reporting agencies.

Much has been written about the causes and harms to consumers that result from inaccurate consumer report data.³ As the ANPR notes, consumer organizations along with the Federal Reserve Board⁴ have identified a wide variety of errors and omissions that can adversely affect consumers' credit scores and the ability to get credit at a reasonable rate. The FTC is conducting an ongoing study and will soon submit the agency's second report to Congress on credit report accuracy.

Identity theft, dual reporting of a single event, failure to properly report a delinquency date, unbalanced reporting of negative data, mixed and fragmented files, and partial data matches all lead to erroneous credit data. Moreover, the problems faced by consumers attempting to correct such problems are well documented in complaints. The difficult task of correcting the multitude of problems is evident in the 11-year timeline established by Congress.

Despite all that has been written and studied on accuracy, all efforts to our knowledge have examined only credit reports. Credit history can be a factor in deciding whether a consumer gets a job, insurance, or rental housing. However, a credit check is not necessarily the only component when one is considered for employment, insurance, or rental housing. The problems consumers encounter when inaccuracies are reported for employment or insurance purposes are not the same as those of inaccurate credit data.

Certainly, credit report inaccuracies and inadequate dispute processes are issues that urgently need the attention of all the agencies involved in this ANPR. However, as the ANPR notes, there are many types of "furnishers." Data is furnished from many sources, not all of which are regulated by one of the banking agencies.

Given the many different entities that furnish information for credit and other consumer reports, it is not feasible to adopt a uniform standard that fits all situations. Banks, credit unions and credit card companies all furnish data to credit bureaus. These federally regulated financial institutions can adhere to a single scheme.

However, we question that the same standards can apply to all other furnishers, particularly public criminal court records and state-regulated insurance companies. For this reason, we recommend that this rulemaking be bifurcated.

- The FTC and banking agencies should jointly consider steps to address inaccuracies and dispute resolution procedures for *credit reports*.

³ The most comprehensive study of the credit reporting system can be found in *Credit Scores & Credit Reports, How the System Really Works, What You Can Do*, Evan Hendricks, Published by Privacy Times, Inc., 2005

⁴ *An Overview of Consumer Data and Credit Reporting*, Federal Reserve Bulletin, Feb. 2003, <http://www.federalreserve.gov/pubs/bulletin/2003/0203lead.pdf>

- The FTC should separately undertake a review of inaccuracies in employment reports and insurance claims reports. From our experience, job applicants and employees encounter significant problems when an erroneous criminal history is reported to an employer. Local, state and federal court records are public records that are available to anyone and are *not* compiled for the purpose of furnishing data to consumer reporting agencies.

Another major source of consumer complaint stems from data provided by insurance companies to CRAs that maintain claims histories. As we discuss below, there is no national standard for identifying an "inaccuracy" in an insurance claims report. In our opinion, accuracy in criminal records and insurance claims reports are not issues that can be addressed in the same context as federally regulated financial institutions.⁵

We focus our comments on employment and insurance claims reports, the issues about which we see a growing number of consumer complaints.

2. Employment Reports

Employment Screening Is on the Rise

Employment screening has dramatically increased in recent years. The increase can be attributable to a number of factors. Technology has made employment screening faster and cheaper. Threats of terrorism, employer liability, and workplace violence are factors in increased employment screening. And new laws that require employment screening or enhanced checks are commonplace for many jobs.

Employers may, but do not necessarily, consider credit history in hiring new employees or rating current employees for promotion or retention. A criminal history check, with or without an accompanying credit check, is still covered by the FCRA when supplied by a consumer reporting agency.⁶

Reports show more and more employers, now as a minimum, check criminal history. The Society for Human Resource Management (www.shrm.org), for example, has reported that 80% of employers now check criminal history of job applicants. The National Association of Professional Background Screeners (www.napbs.com), a trade association in existence for just three years, already has over 300 listed members.

⁵ Credit reports may include public record data about bankruptcies, liens, or civil judgments. As the FRB noted, this can lead to problems in credit reporting such as dual reporting of the same event. Certainly, public records included in a credit report is something the agencies jointly need to address. However, criminal record data, most often a concern for employment reports, is not included in credit reports.

⁶ See e.g. FTC Staff Opinion Letter to John Beaudette, June 9, 1998, www.ftc.gov/os/statutes/fcra/beaudett.htm

The PRC has published three guides for employees and small business owners.⁷ With over 120,000 unique visitors to the PRC website each month, our pages on employment screening receive nearly the same number of visitors as our pages on identity theft. The most common inquiry to the PRC hotline (e-mail and phone) is that a consumer reporting agency (CRA) has erroneously reported a criminal record to a potential or current employer.

When reporting for employment purposes, CRAs have an added duty under FCRA §613 to ensure accuracy and completeness of public record information that may negatively affect an applicant or employee. The CRA must either notify the consumer at the time negative information is reported to the employer or establish procedures to ensure accuracy and completeness of information. Despite this additional requirement, the PRC has been contacted by many applicants as well as current employees who have been shocked to learn they have not “passed” a criminal records check.

Many inaccuracies can be attributed to shortcomings in the FCRA itself. The FCRA does not require employment-screening CRAs to match data elements in public records. Nor does the FCRA require screeners to even apply common sense by matching such factors as date of birth, race, or known addresses. We have heard of numerous examples of criminal records being reported for employment purposes where the criminal record includes an age or race that could not possibly be associated with the applicant.

What Consumers Tell the PRC about Employment Checks

The results of an erroneous criminal history can be devastating, following an individual for a lifetime. We have heard all too many horror stories about an erroneous criminal history being reported to an employer. Here are just a few examples:

- A 60-year old woman living in an Eastern state recently called the PRC hotline. She applied for a job at a bank. A CRA sent the potential employer a report with a three-page criminal history that said this applicant was currently incarcerated in Texas. Although the two women shared the same common name and date of birth, the race did not match the applicant. Also, most criminal records were from dates when the applicant had documented addresses in another state. The woman told PRC she had lived in Texas, but not for 20 years. The applicant was advised by the CRA to clear this with the Texas state criminal records agency. To do this, she had to pay to have fingerprints sent to Texas. Needless to say, this job applicant feared the job was lost.

A number of consumers who contacted the PRC later told their story to the press:

⁷ Fact Sheet 16, *A JobSeeker’s Guide*, www.privacyrights.org/fs/fs16-bck.htm; Fact Sheet 16a, *Employment Background Checks in California: New Focus on Accuracy*, www.privacyrights.org/fs/fs16a-califbck.htm; Fact Sheet 16b, *Employment Background Checks: A Guide for Small Business Owners*, www.privacyrights.org/fs/fs16b-smallbus.htm

- The March 20, 2006, issue of *People Magazine* (page 177) featured four people who contacted the PRC after experiencing difficulty obtaining a job due to an erroneous criminal record reported to a potential employer.⁸ One of them, Ron Peterson of California, had been living out of his truck and working a part-time night job in a department store as a result of erroneous criminal records attributed to him. Someone in Arizona either used his identity when arrested, or perhaps it was a case of mistaken identity because he has a common name. Although he once had a successful career, he now finds himself unemployable because of the negative information retrieved in background checks.
- Raymond Lorenzo looked for a job for about five years without success. He even got another degree to enhance his credentials, but still didn't find work. "I had to bring it up to my school to say, 'hey, what's going on?'" Lorenzo said. That's when he saw the results of a background check. He was stunned by what he calls some shocking mistakes, the result of criminal identity theft.⁹
- John McDonald spent hours perfecting his résumé and cover letters before applying for information-technology jobs in his native Boston. He only learned of his "criminal record" when a potential employer hired a screening agency to investigate his background. When he did not hear from the potential employer, he pressed for information and learned that he had been erroneously labeled a criminal.¹⁰
- Kenneth Schustereit, at age 18, was found guilty of a misdemeanor and spent part of his summer vacation in jail. Thirty years later, an employment report erroneously showed he was guilty of a felony and had spent seven years in jail.¹¹

The Intelligence Report and Terrorism Prevention Act of 2004 [Pub. L. 108-458] requires the Attorney General (AG) and the U.S. Department of Justice to report to Congress on ways to improve, standardize and consolidate the existing statutory authorization, programs, and procedures for the conduct of criminal history record checks for non-criminal justice purposes, primarily employment purposes.

⁸ "Identity Crisis," *People* (March 20, 2006) pp. 177-180.

⁹ "Errors on background checks preventing workers from jobs," *Eyewitness News*, Hartford, CT, Feb. 19, 2006, www.wfsb.com/Global/story.asp?S=4523113

¹⁰ Matt Bradley, "Who is checking the background checkers?" *Christian Science Monitor*, November 28, 2005. www.csmonitor.com/2005/1128/p13s02-wmgn.html

¹¹ Kim Zetter, "Bad Data Fouls Background Checks," March 14, 2005, *Wired News*, www.wired.com/news/privacy/0,1848,66856,00.html

The PRC responded to the Attorney General's solicitation of comments¹², and in doing so reported many examples of consumers who complained to us about erroneous criminal record data reported to employers. Following are just a few of the examples included in our comments to the Attorney General:

False information reported. Mr. Socorro was fired from his executive-level position with Hilton Hotels after a background check returned a false positive. Mr. Socorro never got his job back, despite the fact that he was able to clear his name. Mr. Socorro's problems didn't stop there. He has had trouble getting a job for several years after his bad background check incident. (Edward Socorro, Plaintiff, vs. IMI Data Search, Inc. and Hilton Hotels Corp., Defendants. Case No. 02 C 8120, United States District Court for the Northern District of Illinois, Eastern Division, 2003 U.S. Dist. Lexis 7400, April 28, 2003, Decided; May 2, 2003, Docketed)

False information reported. A 49-year old engineer was fired from his job because a background check report said there was an outstanding warrant for his arrest. After many hours spent trying to find the source of this inaccurate information, he learned a background checking company had confused him with a much younger man with a similar name but of a different race. The background checking company refused to change its report; the court refused to change the file because the record did not belong to the engineer; and the employer refused to take him back because it sensed trouble. The best this victim could do was to obtain a letter, which he must carry with him at all times, from the state Attorney General saying there is no outstanding warrant for his arrest.

No access to report. A young father from a mid-Western state secured a badly needed job. He was fired after a short time with only the vague explanation that there was something "wrong" with his background check. Not having seen the report, he could only guess that the "problem" may have been from a minor offense for which he was offered and completed a period of probation with the understanding that a recorded conviction would not result. When advised of his rights by PRC staff to see his report, this individual received a copy of the report from the employer and was rehired.

False information reported. An applicant at a major department store chain was not hired for a job because a national background screening company mixed his identifying information with that of another person. Even when the mistake was reported, the chain withdrew its job offer.

Identity theft victim. Karen first learned she was a victim of criminal identity theft when she couldn't get a job or rent an apartment. She has been unable to resolve the matter and regain her good name, even after visiting several police departments in jurisdictions where her imposter was arrested.

¹² *Groups Warn of Privacy Risks in Employment Screening*, www.privacyrights.org/ar/DOJbackgrd.htm#9

Identity theft victim. Tina had a background check done for a job she was applying for at a southern university. The report included nine pages detailing criminal activity. She believes her sister stole her identity. She has been frustrated in her efforts to take care of the problem because she has been unable to get the cooperation of either the AG's office or law enforcement to help her clean up her record.

Such errors raise serious questions for employers and individuals alike. Who is this person? What is the truth? How does someone prove he is not the same person identified as a criminal in a commercial background check? The stories also illustrate the absolute necessity of a viable, accessible redress process. And if a job is in the balance, redress must be completed before employment is denied or terminated. It is abundantly clear, however, that the procedure adopted to redress problems with credit reports will not work in the context of criminal records reported for employment purposes. (We discuss the reasons for this further in Section 4 below.)

The above stories are but a small sampling of situations reported to the PRC where a faulty criminal background check has impeded an opportunity to get or keep a job. This can happen for any number of reasons. Criminal identity theft is on the rise. CRAs may not sufficiently match data elements to ensure that the record being reported actually belongs to the applicant or employee.

Significant shortcomings also exist in the criminal records system. Problems and concerns about inaccurate and incomplete criminal record data are addressed in a report entitled *The National Crime Information Center, A Review and Report*, prepared by Assistant Professor Craig N. Winston for the National Association of Professional Background Screeners.¹³

In April 2006, PRC Director Beth Givens, speaking at the annual NAPBS Convention in Nashville, Tennessee, addressed many of the problems encountered in criminal records checks for employment.¹⁴ In addition to recounting several individuals' stories, Givens' made several recommendations for improvement which we include in Section 5 below.

3. Insurance Reports

Like employers, insurers may consider creditworthiness as a factor in insurance underwriting and premium pricing. The insurance industry has also developed a separate scoring system for insurance based on credit history. But, insurers now use another type of consumer report, the claims history report.

¹³ *A Review and Report*, Assistant Professor Craig N. Winston, www.napbs.com/MiscDocs/NCICReportJuly252005.pdf

¹⁴ Beth Givens, *The Tradeoff Between Privacy and Openness in Employment Screening*, speech presented to 2nd annual conference of the National Association of Professional Background Screeners, April 5, 2006, www.privacyrights.org/ar/NAPBS-PrivacyOpenness.htm .

Two companies collect claims data from insurance companies, maintain the data, and issue consumer reports based on the data. Comprehensive Loss Underwriting Exchange -- or CLUE -- reports are issued from data collected by data broker ChoicePoint. The Insurance Services Office (ISO) which calls its database the Automated Property Loss Underwriting System -- or A-PLUS -- also provides claims reports to insurance companies. Like financial institutions that report to credit bureaus, insurance companies voluntarily report to a claims database. Information reported may vary from company to company and state to state.

Inaccurate data included in insurance claims reports has generated numerous consumer complaints. Following are some examples of inaccurate information in CLUE Reports. The first three are excerpted from a report issued by the California Department of Insurance in 2003.¹⁵

- A former 21st Century Insurance fraud investigator [who is a 32-year-old homeowner and mother] was forced to get substandard homeowner's insurance at three times the normal price because the house she was purchasing was "blacklisted" on a national Comprehensive Loss Underwriting Exchange (CLUE) report.
- A 75-year-old homeowner was "blacklisted" after she made a telephone inquiry about her policy coverage with Allstate, with whom she had continuous homeowner's coverage for 30 years.¹⁶
- The Chief of the Consumer Services Division, California Department of Insurance and Palm Springs homeowner was turned down when he attempted to get insurance for his new home. An inaccurate CLUE report showed five claims, two of which were for another property owned by the seller in a different city; two other "claims" were only for coverage inquiries and one claim was fully remedied and should not have had bearing on his eligibility.

The National Association of Insurance Commissioners (NAIC) has also recognized the growing problem of consumer complaints related to CLUE Reports. Following is an excerpt from a California Department of Insurance press release posted on the NAIC web site:

News: 2003 Press Release:¹⁷ CLUE – Comprehensive Loss Underwriting Exchange

¹⁵ These and other examples of consumer complaints can be found in PRC Fact Sheet 26, *CLUE and You: How Insurers Size You Up*, www.privacyrights.org/fs/fs26-CLUE.htm#1 These complaints are taken from consumers who contacted the California Department of Insurance, and told at a 2003 press conference, (August 4, 2003, #093) www.insurance.ca.gov/docs/FS-News.htm .

¹⁶ A report on the website of the Insurance Information Institute indicates that many states have considered legislation limiting what can be reported to claims data bases such as CLUE, <http://www.iii.org/media/hottopics/insurance/clue/> .

- The CDI experienced a four-fold increase in formal complaints from consumers regarding homeowner insurance issues, in particular non-renewal of coverage.
- In all of 2001, the California Department of Insurance ... received 318 formal complaints regarding homeowner insurance. In contrast, by the third quarter of 2002, we had received more than 1,200 written complaints from consumers, making it the top complaint to the hotline.
- As of March 2003, formal complaints regarding homeowner non-renewal and CLUE database are pacing at the same rate they did in late 2002, exceeding 100 per month.

Additional consumer complaints about errors in claims reports can be found in the FTC's own files. A May 2005 Freedom of Information Act (FOIA) request submitted to the FTC by PRC and Privacy Activism revealed many such consumer complaints. Here are just a few of the examples from the FTC files, identified by the FTC's page numbering system:

- Consumer writes that he received a loss history report from ChoicePoint on 02.01.05. Consumer reports that he has no insurance claims on his home but ChoicePoint reports four. (FTC File Page 77 of 526, 3/22/05)
- The consumer had his clue report pulled from Choicepoint Consumer Center inorder [sic] to obtain new insurance. This report came back with his father's information. (FTC File Page 246 of 526, 4/21/05)
- Consumer claims that she had applied for insurance and was given her CLUE Report through Choicepoint. Consumer states that her Choicepoint report shows information from someone with the same last name that had moved into the consumers previous apartment. Consumer has filed an IDT report about losing her wallet in 10-2003 but is unsure if this is caused by IDT. (FTC File Page 260 of 526, 3/19/04)
- Consumer is calling to file a complaint against Choicepoint consumer Center, which is a collection agency for the consumers car insurance company. The consumers' complaint is that the collection agency has 3 accidents on this report that he was not responsible for. There are claims on his report for accidents that happened before his vehicles were even purchased. (FTC File Page 306 of 526, 10/8/03)

The above are just a few of the many consumer complaints about insurance claims data files reported to the PRC, California Insurance Commissioner, NAIC, and the FTC.

¹⁷ NAIC Fact Sheet - Homeowner Insurance Issues, May 19, 2003, www.naic.org (Specific URL is not available; use the website's search feature to find the fact sheet.)

Insurance claims reports are, of course, consumer reports, and inaccuracies may be disputed under the FCRA.

However, inaccurate information is not the only problem inherent in claims databases. Other problems stem from a lack of national standards about what can or cannot be reported in an insurance claims report. For example, in some states mere telephone inquiries to an insurance agent about coverage may be included in CLUE reports as a negative factor affecting insurability or premiums. Claims submitted but not paid because of deductible amounts or lack of coverage may also be included. A call for roadside service might even affect insurance rates.¹⁸ One can only wonder whether the many insurance companies now selling identity theft insurance would consider a claim against such policies a negative factor in setting premiums.

For consumers, varying state rules create an enormous amount of confusion about what is or is not a disputable entry on an insurance claims reports. The NAIC is developing but to our knowledge has not finalized a model state code for insurance claims reports. Even after national standards are adopted, it is clear that the same procedures for accuracy and dispute resolution applied to credit reports cannot apply to insurance claims reports.

4. Bifurcated Rulemaking Is Necessary

Nearly all attempts to report and identify inaccuracies in consumer reports have been directed at credit reports. Certainly the integrity of the credit industry depends on accuracy, and many problems have been identified. Inaccurate reporting by furnishers of information in these reports is almost entirely focused on federally regulated entities such as banks and credit unions.

However, employment reports are unique and problems cannot be addressed by the same standard that applies to credit reports.¹⁹ We believe the following are reasons that a different standard must be developed for reports issued in an employment context:

- Job applicants and employees have limited ability to prescreen for inaccurate information. Even though free employment reports are now required by the FCRA, the FCRA does not require that consumers, at the time of authorizing a report, be notified of the name of the CRA that will report to the employer. There are now hundreds, perhaps even thousands, of employment screening companies in the U.S.
- A job applicant's ability to see an employment report is triggered by the employer's willingness to acknowledge that something in the report led to an

¹⁸ "Insurers' Road Service Could Prove Costly," Randy Diamond, *Tampa Tribune*, December 15, 2005, www.tampatrib.com/MGBIMO9K8HE.html

¹⁹ The California legislature has addressed the distinctions between types of consumer reports by adopting separate laws for credit reports (CA Civil Code §1785) and reports on employment, insurance, and rental property (CA Civil Code §1786).

adverse decision. Rather than following the FCRA procedure, an employer may simply say there was a more qualified candidate.

- An employer is unlikely to keep a job open while an applicant resolves an erroneous employment report with a CRA. Employers have no obligation to reinstate a job offer, even after a mistake has been corrected.
- A consumer who has a low credit score, even one based on valid data, can rebuild a favorable record. But inaccurate information in an employment report, especially erroneous criminal data, may follow a consumer for a lifetime.

Nor, in our opinion, can inaccuracies and dispute procedures in insurance claims reports be addressed by the same standard that applies to credit reports. Primarily this is because the insurance industry is regulated by states. This results in a patchwork of laws that dictate what may or may not be included in insurance claims reports.

5. Recommendations:

We offer the following recommendations for change, for employment, insurance, and for credit reports.

Employment screening reports:

- Employment reports should be governed by a law separate from reports issued for credit decisions. For example, the California legislature has addressed the distinctions between types of consumer reports by adopting separate laws for credit reports (CA Civil Code §1785) and reports on employment, insurance, and rental housing applications (CA Civil Code §1786).
- The FTC should coordinate with the U.S. Dept of Justice and State Attorneys General to ensure accuracy in criminal records furnished for employment consumer reports.
- The FTC should analyze the complaints it has received from job applicants regarding problems they have experienced with background check reports. Such problems would include erroneous criminal records as well as noncompliance by employers and third-party screening companies with the FCRA regarding adverse notice requirements, among others. A thorough analysis of such complaints is likely to uncover trends and structural problems that need to be addressed by further agency rulemaking and/or legislation.

Insurance claims reports:

- The FTC should coordinate with state insurance commissioners and the NAIC to create uniform standards for reporting claims data information and adopting dispute procedures.
- The FTC should analyze the complaints submitted to the agency by individuals regarding CLUE and ISO reports. The FOIA submitted in May 2005 by the PRC and PrivacyActivism turned up a significant number of complaints about CLUE.²⁰ A thorough analysis of such complaints is likely to uncover trends and structural problems that need to be addressed by further agency rulemaking and/or legislation.

Although we have chosen to focus our comments on employment and insurance reporting, we add several recommendations here that we believe are critical to improving the accuracy of data furnished to credit bureaus. Most of these recommendations are documented in Evan Hendricks' book, *Credit Scores and Credit Reports: How The System Really Works, What You Can Do*.²¹ They are also discussed in ANPR comments submitted by Evan Hendricks and four other organizations, comments which we endorse.

Credit reporting:

- Credit bureaus must assume responsibility for coordinating furnisher information to eliminate dual reporting. If, for example, a creditor sells a delinquent account for collections, the account should not be reported under the creditor's name *and* again as a collection matter. Similarly, if a collection action results in a lawsuit, the matter should not be reported as both a collection matter and a negative public record. Only credit bureaus are in the position to eliminate dual reporting.
- Competitive factors such as prescreening should be eliminated from the credit reporting process. For example, some creditors may not report high credit limits or a good payment history for fear their good customers may be solicited through the prescreening process.
- Furnishers that choose to report to a credit bureau should be required to report all information relevant to an account that could affect a credit score, e.g. available credit limits.

²⁰ The Freedom of Information Act request submitted by the PRC and PrivacyActivism in May 2005 focused on complaints to the FTC regarding employment screening. Because ChoicePoint provides consumer reports for both employment screening *and* insurance claims, the results of the FOIA included complaints about its CLUE product, even though these complaints were not germane to the FOIA request. We believe that an analysis by the FTC that focuses solely on consumers' complaints regarding insurance claims reports will find many more complaints than were inadvertently included in our FOIA request.

²¹ Evan Hendricks, *Credit Scores and Credit Reports: How The System Really Works, What You Can Do*. (2nd Edition, Privacy Times, 2005).

- Agencies should adopt procedures to eliminate imbalance in credit reports. Furnishers such as telephone companies and utilities that choose to report negative data should also be required to report favorably on consumer accounts.

6. Conclusion

The FTC and the banking agencies are in a unique position to study problems associated with the credit reporting industry. The agencies may adopt procedures to ensure more accurate reporting and a meaningful dispute resolution procedure. The joint agencies should move forward to consider this as well as establish uniform procedures for financial institution furnishers to settle consumer disputes.

However, it is not realistic to proceed under the assumption that a uniform procedure for accuracy and disputes can be adopted to fit all furnishers. For this reason, the FTC and the banking agencies should limit the initial phase of the joint inquiry to financial institutions. As we've explained in Section 4 above, the ANPR involving non-credit consumer reporting, e.g. insurance claims and employment screening reports, should be considered separately from an ANPR involving credit reporting.

We again appreciate the opportunity to comment on the agencies' ANPR.

Sincerely,

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