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Syed Ejaz
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Via Email: syed.ejaz@consumer.org

Dear Mr. Ejaz:

Thank you for your letter to the Consumer Data Industry Association ("CDIA") seeking additional information about the accuracy of credit reporting information. This data propels individual consumer credit needs and the overall American economy. The nationwide credit bureaus, Equifax, Experian, and TransUnion, help millions of consumers obtain the credit they need for a new car or a new home, to send their kids to college, and much more.

Accuracy is the bedrock of the credit reporting industry, and getting credit reports right for consumers is our most important job. That mission is reflected by the 98% accuracy rate of credit reports. Using questionable data and a slanted advocacy campaign to paint a picture of an inaccurate credit reporting ecosystem, as Consumer Reports has done, does a disservice for consumers. CDIA and our member companies continue to improve on the high degree of accuracy rates already proven. With a finely tuned balance of the accuracy required by law and the speed demanded by consumers, CDIA members empower economic opportunity every single day.

We are pleased to respond to your letter, and we offer seven key points in response. First, credit reports are highly accurate. Second, the Consumers Reports survey is not grounded in empirical research. Third, the credit reporting dispute process is sound, efficient, and beneficial for consumers. Fourth, the elevated credit reporting complaint levels reported to the CFPB must be understood in context, and they are primarily driven by credit repair schemes. Fifth, we encourage Consumer Reports and its consumer group partners to join CDIA to curb the activities of deceptive credit repair, which offers little or no consumer benefit and takes time and resources away from helping consumers with real problems. Sixth, how consumers access their credit reports online strikes a careful balance between ease of access and security. Seventh, the process of identity matching strikes a careful balance between providing access to authenticated consumers and denying access to unauthorized users.

1. Credit reports are highly accurate

Accuracy is the lifeblood of the credit reporting system, and credit bureaus already have a high degree of accuracy. The credit bureaus' hard work is proven by several reports and studies that withstand rigorous academic and scientific scrutiny. In addition to this empirical research, there are government agency observations. The Federal Trade Commission ("FTC") said that there is a "market incentive[] to maintain and improve the accuracy and completeness of [credit] reports."[1] The Federal Reserve Board highlighted the reliability that credit reports provide when it said that "[o]verall, research and creditor experience has consistently indicated that credit reporting company information...generally provides an effective measure of the relative credit risk posed by prospective borrowers."[2]

If the errors Consumer Reports alleges were true, the American credit economy would be crippled. Even though millions of U.S. residents continue to feel the painful effects of the COVID-19 pandemic, the national average FICO score increased by seven points in 2020, the largest annual improvement in at least a decade.[3] Consumers reduced their credit card debt by 14%, which impacts credit utilization, and the portion of consumers with a subprime score decreased nearly 3%.[4] A FICO spokesperson said that for 2020, "[m]issed payments reported are down, consumer debt levels are decreasing and the significant steps taken by both the government [with] stimulus spending and private sector [with] lender payment accommodations to help consumers affected by COVID-19 are all contributing to this trend in average score."[5] The most recent consumer debt information continues to show positive results. In the U.S., in May 2021, the bank card default rate fell to 3.01% from 4.40% compared to the same period in 2020 and fell 0.22% from April 2021. The first mortgage default rate fell to 0.28% from 0.52% compared to the same period in 2020 and fell 0.05% from April 2021. The auto default rate fell to 0.34% from 0.56% compared to the same period in 2020 and fell 0.09% from April 2021.[6]

A high accuracy rate is proven in several studies. In 2011, the Policy and Economic Research Council ("PERC") looked at over 81,000 credit accounts on consumers' credit reports. This study was the most comprehensive and statistically sound study ever performed on the accuracy of data collected and maintained by Equifax, Experian, and TransUnion. The study was also the first (and only) third-party, peer-reviewed study dealing with credit report errors and their material effect on consumers' creditworthiness. In this study, just 0.93% of all credit reports examined by the consumers prompted a dispute that resulted in a credit report correction and an increase of a credit score of 25 points or greater.[7]

The FTC accuracy study from 2012 showed that just 2.2% of participants had errors in their reports that lowered their score tier by one or more tiers, like moving from nonprime to subprime,[8] showing a nearly 98% accuracy rate. The development of the methodologies and reviews of both the PERC study and the FTC study took years to design and refine.[9] The Consumer Reports "survey" appears to have been designed and executed without any attempt at testing or impartiality.

Since the 2012 FTC Report was published, a great deal has occurred. For example, the CFPB began supervising the nationwide credit bureaus; far less medical debt and public records appear on credit reports; documents submitted from consumers with disputes are scanned and shared with furnishers, and major investments in technology have occurred.[10] To suggest a degradation in credit report accuracy is to ignore the advances that have been made to benefit consumers. The Consumers Reports press release inviting consumers to "hold credit bureaus accountable" makes clear that Consumers Reports had already reached its conclusions before any "survey" responses were returned. The provocative headline in the press release shows bias from the start and that the "survey" was not intended to elicit empirical research.[11]

2. The Consumer Reports survey is not grounded in empirical research

Consumer Reports shared the experiences of nearly 6,000 consumers who participated in and completed a survey sponsored by Consumer Reports.[12] As a result of this unscientific review, unmoored from practical research, Consumer Reports alleged a high inaccuracy rate of credit reports. This report is not the first time that Consumers Union or Consumer Reports has been taken to task for its surveys of credit report inaccuracy. Not one but two federal agencies have criticized research undertaken by Consumers Union or other consumer group partners of Consumers Union.

Reports issued by the U.S. Public Interest Research Group ("U.S. PIRG"), Consumers Union, and the Consumer Federation of America ("CFA") are often cited for perpetuating the myth of inaccuracies in credit reports.[13] In the FTC's view of the PIRG and Consumers Union reports, "questions have...been raised about the sample size and representativeness of the samples",[14] and neither of these organizations "relied on the participation of all of the...key stakeholders in the credit reporting process."[15] The General Accountability Office ("GAO") reviewed available literature on perceived inaccuracies, including the PIRG, CU, and CFA reports, and concluded that:

> [t]wo of the studies did not use a statistically representative methodology because they examined only the credit files of their employees who verified the accuracy of the information, and it was not clear if the sampling methodology in the third study was statistically projectable. Moreover, all three studies counted any inaccuracy as an error regardless of the potential impact. Similarly, the studies used varying definitions in identifying errors, and provided sometimes obscure explanations of how they carried out their work. Because of this, the findings may not represent the total population of credit reports maintained by the CRAs. Moreover, none of these groups developed their findings in consultation with members of the credit reporting industry....[16]

The lack of care and independence displayed with the earlier generation of Consumer Reports reporting on credit reports repeats itself today. It is disappointing that the most recent review deviates from Consumer Reports' guideposts for "rigorous, independent testing and research..."[17]

3. The credit reporting dispute process is sound, efficient, and beneficial for consumers.

Accuracy is our north star. Accurate credit reports are driven by both the law[18] and competition.[19] Several consumer groups, including Consumer Reports, called the federal Fair Credit Reporting Act ("FCRA") "a robust law that gives consumers Fair Information Practices based rights. For example, consumers have the right to know about, inspect, dispute and correct their files. The FCRA requires purpose specificity before a report can be accessed."[20] Consumers are encouraged to review their credit reports at www.annualcreditreport.com, where they can obtain one free report per credit bureau per year. The nationwide credit bureaus also extended through early-2022, the ability of consumers to obtain one free report per credit bureau per week.

Consumer Reports shrouds its biased critique of the credit report dispute process in a facade of statistically valid research. Scientifically stress-tested data from the PERC study shows that 95% of all consumers who participated in the dispute process were satisfied with the outcome[21] and data from the FTC shows that more than 90% of disputes that were resolved "as requested by the consumer."[22]

4. The elevated credit reporting complaint levels reported to the CFPB must be understood in context, and they are primarily driven by credit repair schemes.

A. The CFPB does not scrutinize complaints received to its Consumer Complaint Database

It is important to remember that while the credit bureaus have a legal obligation to investigate all disputes by consumers to the credit bureaus, the CFPB does not evaluate the validity of complaints, but it should. The CFPB itself has said that "we [the CFPB] don't verify all the allegations [that consumers report to the CFPB] in complaint narratives."[23] This lack of analysis by the CFPB makes it hard for the public and others to assess what is a general complaint about credit bureaus, what is a complaint about

data furnishers, what is a question, and what is a complaint about credit bureaus that is a statutory complaint required to be processed under the FCRA. It is important to note that a "complaint" may not consist of any actual dispute on a consumer's file.

The disputes against credit bureaus are often disputes about companies other than credit bureaus. The Consumer Complaint Database does not but should consider that credit bureaus are unlike other CFPB-regulated entities in that nationwide credit bureaus are not consumer-facing and the data they safeguard is reported to them by others, called data furnishers under the FCRA. A sizable majority of errors (88%) on credit reports come from the data furnishers to the credit bureaus but are not caused by the credit bureaus themselves.[24]

The credit bureaus have robust procedures to process disputes and to do in a timely fashion, but the CFPB has conflated disputes, which are subject to an established statutory scheme to ensure accuracy of credit report data, with complaints, which "express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer's personal experience with a financial product or service."[25]

B. Consumers are more acutely focused than ever on their financial situation throughout the pandemic

The public health crisis associated with COVID-19 also created substantial financial stress for many consumers. Lenders and creditors had to quickly adapt their procedures to quickly comply with new CARES Act relief provisions and credit reporting requirements.[26] The natural, increased interest in their financial status created opportunities for consumers to submit concerns about their credit reports and the CARES Act accommodations to the nationwide credit bureaus through the CFPB complaint portal. According to the CFPB, beginning in April 2020, consumers began to submit more than 3,000 complaints mentioning coronavirus keywords nearly every month, with over 32,000 complaints mentioning coronavirus keywords in 2020.[27]

C. Complaints against CRAs should be considered in the context of number of consumers

During the COVID-19 pandemic, consumer complaints did increase year over year by nearly 54%,[28] but the CFPB acknowledged in its annual report to Congress that complaint volume should be considered in the context of the size and market share of the companies that are under supervision. It is natural that companies with more customers may reasonably have more complaints than companies with fewer customers.[29] The nationwide credit bureaus are in a unique position when compared to other financial services providers. These three bureaus compile information on well over 200 million U.S. consumers. By contrast, the largest banks in the U.S. serve far fewer consumers.[30] The amount of information and the number of consumers served by the credit reporting system is one of many reasonable explanations for the volume of complaints mentioning CRAs.

The nationwide credit bureaus serve more consumers than almost any other business in the U.S. These credit bureaus are intermediaries – but critical intermediaries - between consumers and their lending institutions. This role puts credit bureaus in a position that is highly visible, operationally important, well-regulated, and uniquely situated. Given this dynamic, consumer complaints to the CFPB Consumer Complaint Database are often not customer service complaints about a CRA, but rather disputes about the information on their credit report. These disputes might relate to the information provided by a lender, an outdated address, or a credit score, which is information that originates with an

entity other than a consumer reporting agency. As a result, most complaints against the national CRAs in the Consumer Complaint Database should not be attributed to errors made by the consumer reporting agencies when the CFPB has given consumers the ability to dispute issues with their lenders through the bureaus.

D. The CFPB portal does not distinguish FCRA statutory disputes from complaints

Even before the complaint portal went live, the consumer reporting industry expressed concern to the CFPB regarding the characterization of information submitted to the complaint portal and the CFPB's role in publishing information without further explanation. The CFPB never properly accounted for the unique nature of credit reporting in the design or the execution of the complaint portal.

The nationwide credit bureaus do not maintain the original records, but protect information reported to them by data furnishers. Therefore, the CFPB should differentiate the disputes from the complaints submitted through its portal and track only the complaints about credit bureaus' practices following a consumer exercising his or her rights under the FCRA.

The federal Fair Credit Reporting Act ("FCRA") establishes a detailed mechanism for consumers to use when submitting a dispute about data in their files. The CFPB examines the credit bureaus' consumer services teams and is fully aware of the millions of dollars invested in working with consumers who have questions or wish to submit disputes. Therefore, the CFPB should differentiate the disputes from the complaints submitted through its portal and track only the complaints about credit bureau practices following a consumer exercising his or her right under the FCRA.

E. Credit repair organizations inundate the portal

CDIA and our members respect the CFPB's efforts to establish the portal and recognize the benefit to consumers of a central government channel to express concerns about financial service providers. Yet, the Complaint Database is being used as a tool for credit repair.

The nationwide credit bureaus indicate that a substantial number of complaints in the CFPB complaint portal appear to be associated with credit repair organizations.[31] These credit repair organizations profess to assist consumers in "cleaning up" their credit reports for a fee by disputing negative information on consumer reports. These outfits submit numerous disputes (not complaints, as distinguished above) to the CFPB Complaint Database on behalf of consumers to attempt to overwhelm the system and ultimately get the accurate but negative information removed from the report. This practice creates the appearance of benefiting consumers, but the benefit is skin-deep. If a credit repair organization is successful in clearing accurate, negative information from a report, that consumer may go on to add new credit obligations that the consumer might not be able to pay for. The removal of accurate but adverse consumer credit information blinds lenders and creditors to previous obligations or payment behavior, and this opaque view of a consumer's true risk puts businesses, consumers, and taxpayers in a position of holding the bag. To crack down on the use of the Complaint Database as a conduit for credit repair, the CFPB should require validation that items submitted by credit repair organizations are done so with the consent and full understanding of the consumer. To better assist consumers, lenders, consumer reporting agencies, and the financial system, we can work together to curb the activities of dishonest credit repair.

5. **We invite Consumer Reports, and its consumer group partners to join CDIA to curb the activities of deceptive credit repair, which offer little or no consumer benefit and take time and resources away from helping consumers with real problems.**

A key impediment for credit bureaus in servicing consumers comes from credit clinic demands on the bureaus. The nationwide credit bureaus report that somewhere between one-third to one-half of all disputes filed with credit bureaus are from credit clinics. These credit clinics are encouraging consumers to pay them to have accurate but adverse information removed from credit reports. Forcing credit bureaus to respond to credit clinic disputes the same way they must respond to legitimate disputes detracts from a credit bureau's ability to devote the full weight of its consumer assistance resources to consumers who have legitimate disputes and need real help. A good summary of what a credit clinic is and how it takes services away from consumers in real need is as follows:

> The goal [of a credit clinic] is to flood the [credit bureaus'] processing centers and to try to get a dispute to fall through the cracks. Credit reporting agencies call the practice 'jamming' because they say it jams up the credit report dispute process... In 'jamming,' a repair clinic will challenge everything, including records of debts that the consumer failed to pay. If the review isn't complete because, as commonly happens, a data furnisher doesn't get back to the credit bureau in time, the agency is obligated to remove the disputed record. On Day 31, the credit report is cleansed of disputed but unverified items, and the bad debt vanishes from the consumer's report.[32]

Consumers would benefit from greater enforcement against credit repair clinics for violations of the Credit Repair Organizations Act ("CROA"),[33] and federal and state unfair or deceptive trade practices laws. Consumers would also benefit from laws to further limit a credit repair clinic's ability to perpetrate fraud on CRAs, and by extension, on lenders and credit bureaus. Consumer Reports would be doing a service to the consumers it wants to protect by calling on the FTC, CFPB, and state attorneys general to enforce the laws they have at their disposal against credit repair operations. We hope you can join us in this crackdown on credit repair outfits.

6. **How consumers access their credit reports online strikes a careful balance between ease of access and security.**

Consumer Reports suggests that the credit bureaus cast aside security protocols, which would make it easier for fraudsters to access other consumers' credit files. Consumer Reports has often discussed the importance and sensitivity of information found in credit reports. Consumer Reports has also discussed how important it is to safeguard that data. It defies logic that Consumer Reports would suggest, in an era where the "Coronavirus Pandemic Is a Perfect Storm for Fraud,"[34] that the credit bureaus should make it easier for scam artists and infiltrators to access credit reports.[35]

Under the law, credit bureaus *must* require that consumers furnish "proper identification" before releasing copies of reports.[36] The regulations specifically require that credit bureaus "adjust the information to be commensurate with an identifiable risk of harm arising from misidentifying the consumer."[37] That includes employing "other methods of authentication of a person's identity which may include, but would not be limited to, answering questions to which only the consumer might be expected to know the answer."[38] For these reasons, a consumer seeking to access her credit report online from a credit bureau may be asked "out-of-wallet" questions, so that fraudsters who have obtained minimum personal information are not able to access sensitive financial information. These questions are also called challenge questions or knowledge-based questions. No matter what the question structure is called, these questions are designed so that only the consumer will know the answers to the questions asked.

A high-quality knowledge-based authentication system must be dynamic and balanced to find the midpoint between not allowing too many people in by not keeping the right people out. Contrary to Consumer Reports's support for more data security,[39] we are disappointed that Consumer Reports would advocate for loser security standards for such highly sensitive data and credit reports.

7. The process of identity matching strikes a careful balance in identification and authentication

Consumer Reports has unfairly criticized credit bureaus in their matching of consumer information. If the credit bureaus followed the Consumer Reports demand for exact matching, more file fragmentation would occur, and consumers could find it harder to obtain a match between a credit report and their application. The inability to match more consumers more fully will be especially painful for consumers trying to close on a mortgage on a deadline or standing in a retail point of sale to get instant credit and a discount. The inability to match more consumers more fully leaves consumers at a disadvantage when they want their positive history properly aligned with the correct file. A strict data matching mandate proposed by Consumer Reports will have the harshest impact on consumers with a limited credit history.

CDIA and our members share a goal with many others, including Consumer Reports, to find more ways to bring un- and under-banked consumers into the financial mainstream. However, by insisting as Consumer Reports does, that the credit bureaus employ a strict data-matching requirement, Consumer Reports puts "credit invisibles," many of whom are people of color, young consumers, and new immigrants, in further danger of never getting the help they need to fully enter the credit system. When the Federal Trade Commission studied data matching proposals like those suggested by Consumer Reports, the FTC said that "[r]equiring a match on a minimum number of points of identifying information would [increase] 'file segmentation.'" The FTC added that "[a]n increase in file segmentation would be particularly harmful to consumers with relatively little credit history. Because lenders cannot distinguish such consumers from bad credit risks who have managed to establish a new 'segmented' file, an increase in segmented files would be likely to make lenders hesitant to extend credit to a consumer with a 'thin' file."[40]

A mandatory matching system like that proposed by Consumers Reports increases the likelihood of fraud. The FTC said that when confronted with "the serious consequences of a bad credit history, some consumers...attempt to manipulate the system to escape their existing credit history. File segmentation is a strategy in which the consumer attempts to establish a new credit identity by applying for credit using identifying information that will not be matched to the customer's existing file. Requiring a match on a minimum number of points of identifying information would make such abuse easier."[41]

The FTC noted that "[a] matching process is efficient if the number of incorrect matches cannot be reduced without also reducing correct matches, or vice-versa" and that "[m]andatory matching rules would be likely to lower match efficiency." Matching is "hard to define," said the FTC because consumers, frequently women, change their names following a marriage or divorce. Transgender consumers change their first name, and maybe their middle and last names. Consumers are not always consistent in their use of nicknames or middle initials. Sometimes a name is reversed, like when "'Frank Howard is actually 'Howard Frank'". Millions of consumers move every year and sometimes a ZIP+4 is used, and sometimes it's not.[42] And then there are the "keystroke error[s] and errors arising from illegible handwriting. When credit applications are made orally over the phone, names and addresses may be misspelled.[43]

Matching on a full Social Security Number ("SSN") poses all the same problems with matching on other identifying information. Congress specifically directed the FTC to study the impact that requiring an exact SSN match would have on the completeness and accuracy of credit reports. The FTC rejected an exact match concept "because the data provided by furnishers is imperfect and unlikely to allow precise matching, the proposal [of requiring an exact match of all nine digits] also would likely lead to more 'fragmented files.' If this occurred, credit reports would be less informative, and the cost of credit could increase substantially."[44]

Conclusion

Thank you for seeking additional information about the accuracy of credit reporting data. With accuracy as our north star, the nationwide credit bureaus provide accurate, reliable information to lenders and creditors to propel individual consumer credit needs and the overall American economy. The nationwide credit bureaus, Equifax, Experian, and TransUnion, help millions of consumers obtain the credit they need for a new car, a new home, to send their kids to college, and much more. The data provided by the nationwide credit bureaus have been proven, by empirical, third-party validated studies, and in the daily marketplace, to be highly accurate and predictive.

Consumers Reports is rightly interested in the dispute resolution system. We are pleased that the dispute process is sound, efficient, and beneficial for consumers. Objective reviews and marketplace testing prove the soundness, efficiency, and benefits of the credit reporting system. The elevated credit reporting complaint levels reported to the CFPB must be taken into greater context, and we show that they are primarily driven by credit repair schemes.

We encourage Consumer Reports and its consumer group partners to join CDIA to curb the activities of deceptive credit repair, which offers little or no consumer benefit and takes time and resources away from helping consumers with real problems.

How consumers access their credit reports online strikes a careful balance between access and security, and the process of identity matching strikes a careful balance in identification and authentication. It is disappointing that Consumer Reports, which has indicated its support for enhanced data security and more accuracy, would suggest the credit bureaus take risks with their security and matching protocols in ways that would likely harm the very consumers Consumer Reports is trying to protect.

Thank you for your interest in how we maintain an accurate, reliable, efficient, consumer-driven credit reporting system.

Sincerely,

Eric J. Ellman
Senior Vice President, Public Policy & Legal Affairs

[1] Federal Trade Commission, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003*, 7 (Dec. 2004), http://www.ftc.gov/reports/facta/041209factarpt.pdf. ("2004 FTC Report").

[2] Robert B. Avery *et al.*, *An Overview of Consumer Data and Consumer Reporting*, Federal Reserve Bulletin, 50-51 (Feb. 2003), (citations omitted), http://www.federalreserve.gov/pubs/bulletin/2003/0203lead.pdf; *See also*, Robert B. Avery *et al.*, *Credit Reporting Accuracy and Access to Credit, Federal Reserve Bulletin*, 320 (Summer 2004), https://www.federalreserve.gov/pubs/bulletin/2004/summer04_credit.pdf.

[3] *Experian 2020 Consumer Credit Review*, https://www.experian.com/blogs/ask-experian/consumer-credit-review/ (last visited, June 22, 2021).

[4] *Id.*

[5] *Id.* These findings were consistent with what the CFPB reported early in the pandemic. In a report issued in August 2020, the CFPB noted that from March 2020 to June 2020, consumers had not experienced significant increases in delinquency or other negatives credit outcomes following the onset of the COVID-19 pandemic, and that credit card balances fell substantially. *See,* Consumer Financial Protection Bureau, *The Early Effects of the COVID-19 Pandemic on Consumer Credit*, CFPB Office of Research Special Issue Brief, 1-4 (Aug. 2020), https://files.consumerfinance.gov/f/documents/cfpb_early-effects-covid-19-consumer-credit_issue-brief.pdf.

[6] Press release, S&P Dow Jones Indices, *S&P/Experian Consumer Credit Default Indices Show Second Straight Drop in Composite Rates in May 2021* (June 15, 2021), https://www.spglobal.com/spdji/en/corporate-news/article/sp-experian-consumer-credit-default-indices-show-second-straight-drop-in-composite-rate-in-may-2021/.

[7] Michael A. Turner *et al.*, *U.S. Consumer Credit Reports: Measuring Accuracy and Dispute Impacts*, Policy and Research Council ("PERC"), 8 (May 2011), https://www.perc.net/wp-content/uploads/2013/09/DQreport.pdf. ("PERC Study").

[8] Federal Trade Commission, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, A-4 (Dec. 2012), http://www.ftc.gov/os/2013/02/130211factareport.pdf.

[9] The FTC accuracy study, released in 2012, began in 2004 and was refined over time following extensive internal and public reviews. *See, e.g.,* Notice of a Pilot Study to Aid Federal Trade Commission Staff in Conducting a Study of Accuracy and Completeness of Consumer Reports, Pursuant to Section 319 of the Fair and Accurate Credit Transactions Act of 2003, 69 Fed. Reg. 61675 (Oct. 20, 2004), https://www.govinfo.gov/content/pkg/FR-2004-10-20/pdf/04-23453.pdf and, Notice of Agency Information Collection Activities Regarding a Pilot Study Pursuant to Section 319 of the Fair and Accurate Credit Transactions Act of 2003, 70 Fed. Reg. 24583 (May 10, 2005), https://www.federalregister.com/Browse/AuxData/B796BFBA-A9A2-455E-BBAD-1FFBD16040C4. As noted by the FTC in a press release covering the Third Interim Report (2008), the Second Interim Report "reviewed the results of an initial pilot study [from 2004] designed for testing a potential methodology for a nationwide survey, and it proposed a second pilot study to address certain problems uncovered in the first study. In both pilot studies, randomly selected consumers reviewed their credit reports with an expert to identify potential errors, and then disputed potential errors that the expert believed could have a material effect on their credit standing." Press Release, Federal Trade Commission*, FTC Issues Third Interim Report to Congress on Results of Studies Required by FACT Act* (Dec. 23, 2008), https://www.ftc.gov/news-events/press-releases/2008/12/ftc-issues-third-interim-report-congresson-results-studies.

[10] Additional credit bureau innovations since the 2012 FTC Report include requiring debt collectors to include the name of the original creditor; retiring legacy data reporting formats and requiring all furnishers to report in the Metro 2® Format; and requiring the full date of birth to be reported for authorized users.

[11] Press release, Consumer Reports, *Credit report errors have gotten worse during the pandemic and can have serious consequences for consumers* (Feb. 9, 2021), https://advocacy.consumerreports.org/press_release/credit-report-errors-have-gotten-worse-during-the-pandemic-and-can-have-serious-consequences-for-consumers/.

[12] This Consumers Reports review was in partnership with other groups, including the National Consumer Law Center ("NCLC") and U.S. PIRG. Consumer Reports,

https://action.consumerreports.org/creditcheckup?INTKEY=I12MAIM (last visited July 16, 2021). The results of the Consumer Reports "investigation" is online, Press Release, Consumer Reports, June 10, 2021, Consumer Reports investigation finds more than one-third of consumers found errors in their credit reports, https://advocacy.consumerreports.org/press_release/consumer-reports-investigation-finds-more-than-one-third-of-consumers-found-errors-in-their-credit-reports/.

[13] For example, the first PIRG report, issued in 1998, reviewed 133 files of 88 people (out of 200 million Americans with credit histories). The second PIRG report in 2004 reviewed the credit reports of 154 people, most of whom were PIRG members or staffers. The sample sizes were not representative of the population, nor were the conclusions drawn statistically sound. For example, PIRG did not seek the input of creditors with regard to likelihood of an adverse credit decision, and based its conclusions on its own staffs' opinions as to who would or would not receive credit. The Consumers Reports report was based on it asking 57 employees and their relatives to obtain their credit reports and identify anything they thought was wrong, regardless of whether it might actually impact the credit decision and again based on the consumers' own conclusions.

[14] 2004 FTC Report, iii.

[15] *Id.*, 22.

[16] Richard J. Hillman, *Consumer Credit – Limited Information Exists on Extent of Credit Report Errors and Their Implications for Consumers*, General Accounting Office, GAO-03-1036T, 9-10 (July 31, 2003), https://www.gao.gov/assets/gao-03-1036t.pdf.

[17] Consumer Reports, https://www.consumerreports.org/cro/about-us/what-we-do/index.htm (last visited June 16, 2021).

[18] 15 U.S.C. § 1681 *et seq.*

[19] *See, infra,* at n. 1 (The FTC wrote that there is a "market incentive[] to maintain and improve the accuracy and completeness of [credit] reports").

[20] *Oversight Hearing on Data Security, Data Breach Notices, Privacy and Identity Theft, Before the S. Comm. on Banking, Housing, and Urban Affairs*, 111th Cong. 5-6 (Sept. 22, 2005), https://www.banking.senate.gov/imo/media/doc/ACFDC9B.pdf (Testimony of Edmund Mierzwinski, U.S. PIRG on behalf of Consumer Federation of America, Consumers Union, Electronic Privacy Information Center (EPIC), Privacy Rights Clearinghouse, Privacy Times, U.S. Public Interest Research Group (U.S. PIRG), and World Privacy Forum) ("Consumer Groups").

[21] PERC Study, 8.

[22] Donald S. Clark, *Report on Complaint Referral Program Pursuant to Section 611 (e) of the Fair Credit Reporting Act*, Federal Trade Commission, 5 (Dec. 29, 2008), http://www.ftc.gov/os/2008/12/P044807fcracmpt.pdf.

[23] Bureau of Consumer Financial Protection, Consumer Complaint Database, http://www.consumerfinance.gov/complaintdatabase/ (last visited June 16, 2021). The Federal Reserve's Office of Inspector General ("OIG") "found examples of noticeable inaccuracies in our analysis of the 254,835 complaints in the Consumer Complaint Database [when it looked at the complaint database in 2014]". Federal Reserve System, Office of the Inspector General, *Opportunities Exist to Enhance Management Controls Over the CFPB's Consumer Complaint Database*, Federal Reserve & Bureau of Consumer Financial Protection, 20 (Sept. 10, 2015), http://oig.federalreserve.gov/reports/cfpb-management-controls-consumer-complaint-database-sep2015.pdf.

[24] *Credit Reports: What Accuracy and Errors Mean for Consumers Hearing Before the Subcom. on Consumer Protection, Product Safety, and Insurance of the S. Comm. On Commerce, Science, and Transportation*, 113th Cong. (May 7, 2013), https://www.govinfo.gov/content/pkg/CHRG-113shrg82373/pdf/CHRG-113shrg82373.pdf (Testimony of Stuart K. Pratt, President and CEO, Consumer Data Industry Assn.).

[25] *CFPB Company Portal Manual*, v. 3.4 (June 2020), https://www.acainternational.org/assets/advocacy-resources/cfpb-company-portal-manual---version-3.4---june-2020.pdf?viawrapper.

[26] The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Pub. L. 116-136, , 134 Stat. 281 (2020).

[27] Consumer Financial Protection Bureau, Consumer Response Annual Report: January 1 - December 31, 2020. Consumer Financial Protection Bureau, March 24, 2021, p. 11, available at https://files.consumerfinance.gov/f/documents/cfpb_2020-consumer-response-annual-report_03-2021.pdf.

[28] Press Release, Bureau of Consumer Financial Protection, *CFPB Annual Complaint Report Highlights More than a Half-Million Complaints Received in 2020* (March 24, 2021), https://www.consumerfinance.gov/about-us/newsroom/cfpb-annual-complaint-report.

[29] Bureau of Consumer Financial Protection, Consumer Complaint Database, http://www.consumerfinance.gov/complaintdatabase/ (last visited June 16, 2021).

[30] The second largest bank in the U.S., Bank of America, has approximately 66 million consumer *and* small business clients. Subtracting out for small business clients leaves a much smaller number of consumer clients. *The 15 Largest Banks in the U.S.*, https://www.bankrate.com/banking/biggest-banks-in-america/ (ranking Bank of America as the second largest bank in the U.S. (last visited June 16, 2021); *Bank of America Company Overview*, https://newsroom.bankofamerica.com/companyoverview (last visited June 16, 2021).

[31] Equifax recently testified before Congress that more than 65% of complaints in the CFPB complaint portal appear to be associated with credit repair organizations. *Consumer Credit Reporting: Assessing Accuracy and Compliance Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Fin. Servs.*, 117th Cong. 4 (May 26, 2021), https://financialservices.house.gov/uploadedfiles/hhrg-117-ba09-wstate-andersonb-20210526.pdf (Testimony of Beverly Anderson, President, Global Consumer Solutions, Equifax Inc.).

[32] Kelly Dilworth, *'Jamming' cleans your credit – temporarily*, creditcards.com (Feb. 20, 2014), https://www.creditcards.com/credit-card-news/clean-credit_report-dispute-jamming-1270.php. The House Committee on Banking, Finance and Urban Affairs recognized that "representations by credit repair clinics are often misleading, and consumers, mostly low- and moderate-income individuals, are cheated out of the money they paid for services." Federal Trade Commission, *Report on Credit Education and the Credit Repair Organizations Act*, 6 (May 3, 2017), https://www.ftc.gov/system/files/documents/reports/report-credit-education-credit-repair-organizations-act-federal-trade-commission-report-congress/p054815_ftc_report_to_congress_re_credit_education_and_the_croa.pdf. *See also,* S. Rep. No. 103-209, at *7 (1993).

[33] 15 U.S.C. §§ 1679 – 1679j.

[34] Bruce Dorris, *Coronavirus Pandemic Is a Perfect Storm for Fraud*, Association of Certified Fraud Examiners (Mar. 31, 2020), https://www.acfe.com/press-release.aspx?id=4295010491.

[35] Consumer Action, a partner with Consumer Reports in its current credit reporting report, noted that "as the nation continues to struggle through the challenges of a pandemic, fraudsters and identity thieves are exploiting the crisis by targeting consumers as they seek information, resources, financial relief, housing assistance and treatment for COVID-19." Consumer Action adds that:

> Instances of account fraud and identity theft have been increasing for years, but the COVID-19 crisis presented criminals with the opportunity to exploit the unique circumstances of a global pandemic. Widespread fear and uncertainty, combined with newly established relief programs and a nationwide vaccine rollout, created opportunities for fraudsters and thieves.

Consumer Action, *Coping with COVID-19, Avoid pandemic-related ID theft and account fraud*, 1 (2021), https://www.consumer-action.org/downloads/english/ID-account-theft_COVID_2021_EN.pdf.

Data from the FTC shows that in 2020, identity theft increased 113% over 2019, and AARP reported that "there were 2.18 million reports of fraud [in 2020], and impostor scams were the most common type of fraud. These involve criminals posing as others to wheedle money or personal information from victims. For example, the crooks may masquerade as a government employee; romantic interest; or relative or friend with an urgent financial need. Katherine Skiba, Pandemic Proves to Be Fertile Ground for Identity Thieves, AARP (Feb. 5, 2021), https://www.aarp.org/money/scams-fraud/info-2021/ftc-fraud-report-identity-theft-pandemic.html.

[36] 15 U.S.C. § 1681h(a)(1).

[37] 12 C.F.R. § 1022.123(a)(2).

[38] 12 C.F.R. § 1022.123 (b)(2).

[39] See, Letter from Consumers Union to the U.S. H. Comm. on Fin. Servs., Sept. 13, 2018, https://advocacy.consumerreports.org/wp-content/uploads/2018/09/Consumers-Union-Opposes-HR-6743.pdf ("As consumers learned following the Equifax data breach, the massive security failure that led to the theft of the personal information of over 145 million people, the United States has a shockingly inadequate data security infrastructure. This bill [H.R. 6743, the Consumer Information Notification Requirement Act by U.S. Rep. Luetkemeyer], if passed, would further weaken existing protections for data held by financial institutions. This would leave consumers even more vulnerable to identity theft, which led to $17 billion in losses last year.") (citation omitted).

[40] Fed. Trade Comm'n, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003*, Dec. 2004, iv ("FTC 2003 Report"), at 51.

[41] *Id.*, at 51.

[42] *Id.*, at 47.

[43] *Id.*, at 41.

[44] *See,* 2004 FTC Report, iv, pp. 38-40 (examining the costs and benefits of requiring the CRAs to increase the number of points of identifying information used to match a consumer to a credit report, including an exact match on SSN).