

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

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<i>In the Matter of</i>)	DOCKET NO. C-4213
)	
MILLIMAN, INC.,)	
a corporation.)	
_____)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Milliman, Inc. (“respondent”), has violated provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., and the Federal Trade Commission Act, 15 U.S.C. § 41 et seq., and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Washington corporation with its office or principal place of business located at 1301 Fifth Avenue, Seattle, Washington.
2. Since at least 2005, respondent has marketed IntelliScript, a data aggregation service that provides individual medical profiles, including, but not limited to, prescription drug purchase histories of insurance applicants, to health and life insurance companies.
3. Respondent has contractual relationships with insurance companies that use IntelliScript for underwriting or claims review purposes. These insurance companies require applicants to sign a consent form, which authorizes the insurance company or its agents to access the consumer’s health and medical records, including prescription drug records.
4. Respondent has contractual relationships with Pharmacy Benefit Managers (“PBMs”), which maintain records of individuals’ prescription drug histories. Respondent obtains an insurance applicant’s five-year prescription drug history from the PBMs and creates a medical profile on the applicant for the insurance company. The medical profile generated by IntelliScript includes, but is not limited to: all prescription drugs, including dosage and number of refills filled by the insurance applicant for the previous five years. It also includes, for each drug, the name and address of the dispensing pharmacy, as well as the name and address of the prescribing doctor, including medical specialty. The medical profile generated by IntelliScript analyzes the individual’s prescription drug

history and provides a “map” of the risk levels associated with each drug, based on information provided by the insurer.

5. The medical profile generated by IntelliScript is a consumer report as that term is defined in Section 603(d) of the Fair Credit Reporting Act, 15 U.S.C. §1681a(d), because it bears on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer’s eligibility for credit or insurance.

6. In providing medical profiles generated by IntelliScript to insurers, respondent is now and has been a consumer reporting agency, as that term is defined in Section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. §1681a(f), because it regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties for monetary fees, dues, or on a cooperative nonprofit basis. Respondent furnishes these consumer reports to third parties through the means or facilities of interstate commerce.

7. Section 607(d) of the Fair Credit Reporting Act, 15 U.S.C. § 1681e(d), requires that any consumer reporting agency provide, to any person to whom it provides a consumer report; a “Notice To Users of Consumer Reports: Obligations of Users Under the FCRA,” the required content of which is set forth in 16 CFR 698, Appendix H. Respondent has failed and continues to fail to provide this notice to insurance companies that purchase medical profiles generated by IntelliScript.

8. By and through the practices described above, respondent has violated Section 607(d) of the Fair Credit Reporting Act, 15 U.S.C. § 1681e(d).

9. By its violation of Section 607(d) of the Fair Credit Reporting Act, and pursuant to Section 621(a) thereof, 15 U.S.C. § 1681s, respondent has engaged in unfair and deceptive acts and practices in or affecting commerce in violation of Section 5(a)(1) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this sixth day of February, 2008, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary