



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

March 5, 2013

Pam Dixon  
Executive Director  
World Privacy Forum  
State of California

*Re: In the Matter of Equifax Information Services LLC, File No. 102 3252*

Dear Ms. Dixon:

Thank you for your comment regarding the Federal Trade Commission's consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The Commission appreciates your thoughtful consideration of this matter. Specifically, your comment: (1) asserts that the relief obtained from Equifax Information Services LLC ("Equifax") is inadequate; (2) asks whether affected consumers have been offered credit monitoring or other services; (3) expresses concern that Equifax's practices are continuing; and (4) requests that the consent agreement be revised to include more facts.

The Commission is committed to protecting consumers in financial distress as well as safeguarding consumer privacy and believes that the proposed order with Equifax will further this objective. The proposed consent order does not require Equifax to provide credit monitoring services to consumers whose names were included on the prescreened lists, because that remedy would not have addressed the conduct at issue in this case. We have not alleged that the prescreened lists contained Social Security numbers or other information used to commit identity theft, which is what a review of credit reports or credit monitoring would address. Rather, the injunctive relief is tailored to the practices at issue in the complaint, as described below.

Additionally, with respect to your concern that you have seen lists from Equifax of consumers who were late in paying mortgages, neither the Fair Credit Reporting Act ("FCRA") nor the proposed consent order prohibit Equifax from generating and selling prescreened lists based upon any particular set of criteria, provided that a "firm offer of credit" is made to all consumers on the list. The complaint alleges that Equifax furnished prescreened lists to persons that it did not have reason to believe would use them to make a "firm offer of credit" and that it failed to maintain reasonable procedures to prevent such sales from occurring. The proposed consent order includes a number of injunctive provisions designed to prevent future violations of this type. For example, the order prohibits Equifax from furnishing prescreened lists to anyone that it does not have reason to believe has a permissible purpose to receive them and from failing

to maintain reasonable procedures to limit the furnishing of prescreened lists to anyone except those who have a permissible purpose to receive them. The order goes beyond the requirements of the FCRA by prohibiting Equifax from selling prescreened lists in connection with offers for debt relief products or services and mortgage assistance relief products and services, when advance fees are charged, with limited exceptions.

The monetary remedy in the proposed consent order is disgorgement, which is limited to the amount of the entity's ill-gotten gains. The order requires Equifax to pay \$392,803 which represents its gross revenue from the sale of the lists at issue, and does not include deductions for overhead or any other expenses. In deciding whether the amount and type of monetary remedy in this or any other consent order is appropriate in relation to the alleged violations, the Commission carefully considers a variety of factors, including the type of monetary relief authorized by law, the specific facts at issue, and the alleged violations of the law. The Commission considered these factors in this case and determined that disgorgement and injunctive provisions will provide the appropriate level of relief. Further, should Equifax violate any term of the final order, it could be liable for civil monetary penalties of up to \$16,000 per violation per day (pursuant to Section 5(l) of the FTC Act).

With respect to your requests for additional facts, we are unable to provide non-public information or additional facts beyond the information that is already contained within the public documents regarding this matter. The precise figures you request come from company records which were obtained during the investigation and which are subject to confidentiality protections.

Having considered all the facts of this case and all of the comments submitted in response to the proposed order, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work. The Commission thanks you again for your comment.

By direction of the Commission, Commissioner Leibowitz and Commissioner Wright not participating.

Richard C. Donohue  
Acting Secretary