

United States



of America

Federal Trade Commission

I, Donald S. Clark, Secretary of the Federal Trade Commission, and official custodian of its records, do hereby certify that the attached is a full, true, and complete copy of:

Complaint and Decision and Order, issued by the Federal Trade Commission on August 14, 1995, In the Matter of Equifax Credit Information Services, Inc., Docket No. C-3611, 120 F.T.C. 577 (1995).

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the seal of the Federal Trade Commission to be affixed this twentieth day of February, 2007, at Washington, D.C.

A handwritten signature in cursive script that reads "Donald S. Clark".

Donald S. Clark

Donald S. Clark
Secretary

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Complaint

IN THE MATTER OF

EQUIFAX CREDIT INFORMATION SERVICES, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FAIR CREDIT REPORTING ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3611. Complaint, Aug. 14, 1995—Decision, Aug. 14, 1995*

This consent order requires, among other things, a Georgia-based corporation to follow reasonable procedures to assure maximum possible accuracy when preparing consumer reports as required by the Fair Credit Reporting Act and to also maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under Section 604 of the Fair Credit Reporting Act.

Appearances

For the Commission: *Christopher W. Keller, Donald D'Entremont and David Medline.*

For the respondent: *Kent Mast, Kilpatrick & Cody, Atlanta, GA.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Equifax Credit Information Services, Inc. ("Equifax"), a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said Acts, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

DEFINITIONS

For the purpose of this complaint, the following definitions apply:

The terms "person," "consumer," "consumer report," "consumer reporting agency," and "file" are defined as set forth in Sections

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603(b), (c), (d), (f), and (g), respectively, of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. 1681a(b), 1681a(c), 1681a(d), 1681a(f), and 1681a(g).

"Permissible purpose" means any of the purposes listed in Section 604 of the FCRA, 15 U.S.C. 1681b, for which a consumer reporting agency may lawfully furnish a consumer report.

"Subscriber" means any person who, pursuant to an agreement with Equifax, furnishes credit information to Equifax or who requests or obtains a consumer report from Equifax, excluding consumers, public record sources, and independent contractors who provide public record information.

"Credit information" means information described by Section 603(d) of the FCRA, which Equifax maintains with respect to any consumer, that Equifax obtains from subscribers, public records or any other sources and from which Equifax creates consumer reports.

"Mixed file" means a consumer report in which some or all of the information pertains to consumers other than the consumer who is the subject of that consumer report.

"Consumer DTEC report" means a type of consumer report, by whatever name, containing only consumer identifying information such as name, telephone number, mother's maiden name, address, zip code, year of birth, age, any generational designation, Social Security number or substantially similar identifiers, or any combination thereof, together with information showing employment or employment status.

PARAGRAPH 1. Respondent Equifax Credit Information Services, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 1600 Peachtree Street N.W., Atlanta, Georgia.

PAR. 2. Respondent is now and has been regularly engaged in the practice of assembling or evaluating information on consumers for the purpose of furnishing, for monetary fees, consumer reports to third parties. Respondent furnishes these consumer reports to third parties through the means or facilities of interstate commerce. Hence, respondent is a consumer reporting agency, as defined in Section 603(f) of the Fair Credit Reporting Act.

PAR. 3. Respondent has furnished consumer DTEC reports on consumers to subscribers who did not have a permissible purpose to obtain such reports.

PAR. 4. Respondent, by creating or maintaining mixed files as alleged below in paragraphs nine, ten, and eleven, and subsequently making disclosure of the information in mixed files to consumers who request file disclosure pursuant to Section 609 of the Fair Credit Reporting Act, furnishes information pertaining to consumers other than the consumer who is requesting file disclosure. Respondent, by creating or maintaining mixed files as alleged below in paragraphs nine, ten, and eleven, and subsequently displaying the information in mixed files to subscribers, furnishes information to subscribers pertaining to consumers for whom the subscriber does not have a permissible purpose to receive a consumer report.

PAR. 5. Respondent from time to time furnishes to subscribers, in response to subscribers' inquiry requests for consumer reports, consumer reports for which subscribers have no permissible purpose.

PAR. 6. By and through the acts and practices alleged in paragraphs three, four, and five, respondent has violated Section 607(a) of the Fair Credit Reporting Act by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes listed under Section 604.

PAR. 7. Respondent includes in consumer reports, other than consumer reports described in Section 605(b) of the Fair Credit Reporting Act, accounts placed for collection or charged to profit and loss that antedate the report by more than seven years, and other adverse items of information, including that accounts have been delinquent, that antedate the report by more than seven years.

PAR. 8. By and through the acts and practices alleged in paragraph seven, respondent has violated Section 605(a) of the Fair Credit Reporting Act by furnishing consumer reports containing derogatory information beyond the statutorily limited period for reporting such information.

PAR. 9. Respondent fails to maintain reasonable procedures, including adequately monitoring, measuring, or testing its information gathering, storing, and assembling systems, to assure maximum possible accuracy of the consumer reports it furnishes. Respondent has, for example, failed adequately to correct its computer system or implement procedures to reduce sufficiently the occurrence or reoccurrence of inaccuracies in consumer reports.

including mixed files and logical errors (such as multiple listings of the same credit account and items that are not likely to pertain to the report subject such as credit accounts opened when the consumer was a minor).

PAR. 10. Respondent fails to follow reasonable procedures to avoid inclusion in a consumer report of public record information that pertains to consumers other than the consumer who is the subject of that consumer report or is otherwise inaccurate, including procedures to sample, verify and otherwise corroborate public record information furnished in consumer reports by respondent.

PAR. 11. By and through respondent's failures as alleged in paragraph nine and ten, respondent fails to take reasonable steps to reduce the incidence of inaccuracies in consumer reports, including mixed files and inaccurate public record information. As a result, information contained in some of the consumer reports that respondent furnishes does not pertain to the consumer who is the subject of the consumer report or is otherwise inaccurate.

PAR. 12. By and through the acts and practices alleged in paragraphs nine, ten, and eleven, respondent has violated Section 607(b) of the Fair Credit Reporting Act by failing to maintain and follow reasonable procedures to assure maximum possible accuracy of the information contained in its consumer reports.

PAR. 13. Respondent fails adequately to prevent the reappearance in consumer reports of either inaccurate or unverified information that has been previously deleted.

PAR. 14. By and through the practices alleged in paragraph thirteen above, respondent has violated Section 607(b) of the Fair Credit Reporting Act by failing to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the consumer report relates, and Section 611 of the Fair Credit Reporting Act by failing promptly to delete inaccurate or unverified information from its consumer reports.

PAR. 15. Respondent fails adequately to give disclosures required by Section 609 of the Act to each consumer who has requested disclosure, has provided proper identification as required under Section 610 of the Act and has paid or accepted any charges which may be imposed under Section 612 of the Act.

PAR. 16. By and through the acts and practices alleged in paragraph fifteen, respondent has violated Section 609 of the Fair Credit Reporting Act.

PAR. 17. Respondent fails properly to reinvestigate disputes conveyed by consumers concerning their files, including but not limited to failing to reinvestigate disputes as requested by consumers within a reasonable period of time, and failing to follow reasonable procedures designed specifically to resolve (i) disputes by consumers that are due to mixed files and (ii) the specific issue raised in consumer disputes relating to inaccuracy or incompleteness, including the repeated inclusion in consumer reports of previously disputed inaccurate or incomplete items.

PAR. 18. By and through its acts and practices as alleged in paragraph seventeen above, respondent has violated Section 611 of the Fair Credit Reporting Act by failing, within a reasonable period of time, to reinvestigate and record the current status of disputed information.

PAR. 19. Respondent in some instances fails to reinvestigate consumer disputes unless the consumer complies with requirements beyond those in Section 611 of the Fair Credit Reporting Act, including but not limited to:

- a. Requiring the consumer to pay a fee for updating and recording the current status of disputed items;
- b. Requiring the consumer to provide copies of identifying documentation including but not limited to: driver's license, Social Security card, and utility bills; and
- c. Requiring written authorization from the consumer to reinvestigate an item the consumer has disputed.

PAR. 20. By and through the acts and practices alleged in paragraph nineteen, respondent has violated Section 611 of the Fair Credit Reporting Act by refusing to reinvestigate consumer's disputes.

PAR. 21. The acts and practices set forth in this complaint as violations of the Fair Credit Reporting Act constitute unfair or deceptive acts or practices in commerce in violation of Section 5(a) of the Federal Trade Commission Act, pursuant to Section 621(a) of the Fair Credit Reporting Act.

Chairman Pitofsky not participating.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration, and which, if issued by the Commission, would charge respondent with violations of the Fair Credit Reporting Act and Section 5(a) of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments received, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Proposed respondent Equifax Credit Information Services, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 1600 Peachtree Street, N.W., Atlanta, Georgia.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

For the purpose of this order, the following definitions apply:

"Commission" means the Federal Trade Commission.

"Equifax" means Equifax Credit Information Services, Inc., its successors and assigns, and its officers, agents, and employees acting in such capacity on its behalf, directly or through any corporation, subsidiary, division or other device.

"FCRA" means the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, as the same from time to time may be amended or modified by statute or by regulations having the effect of statutory provisions.

The terms *"person," "consumer," "consumer report," "consumer reporting agency," "file,"* and *"employment purposes"* are defined as set forth in Sections 603(b), (c), (d), (f), (g), and (h), respectively, of the FCRA, 15 U.S.C. 1681a(b), 1681a(c), 1681a(d), 1681a(f), 1681a(g), and 1681a(h).

"Permissible purpose" means any of the purposes listed in Section 604 of the FCRA, 15 U.S.C. 1681b, for which a consumer reporting agency may lawfully furnish a consumer report.

"Subscriber" means any person who, pursuant to an agreement with Equifax, furnishes credit information to Equifax or who requests or obtains a consumer report from Equifax, excluding consumers, public record sources, and independent contractors who provide public record information.

"Prescreening" means the process whereby Equifax, utilizing credit information, compiles or edits for a subscriber a list of consumers who meet specific criteria and provides this list to the subscriber or a third party (such as a mailing service) on behalf of the subscriber for use in soliciting those consumers for an offer of credit.

"Credit information" means information described by Section 603(d) of the FCRA, which Equifax maintains with respect to any consumer, that Equifax obtains from subscribers, public records or any other sources and from which Equifax creates consumer reports.

"Mixed file" means a consumer report in which some or all of the information pertains to consumers other than the consumer who is the subject of that consumer report.

"Consumer DTEC report" means a type of consumer report, by whatever name, containing only consumer identifying information such as name, telephone number, mother's maiden name, address, zip

code, year of birth, age, any generational designation, Social Security number or substantially similar identifiers, or any combination thereof, together with information showing employment or employment status.

"Mixed-use subscriber of consumer DTEC reports" means the following subscribers who obtain consumer DTEC reports: attorneys, law firms, detective agencies, private investigators, and protective services firms.

"Joint user" means a user of a consumer report jointly involved with a subscriber in a decision for which there is a permissible purpose to obtain the consumer report and for which the consumer report was initially obtained.

"Approval date" means the date on which the Associate Director for Enforcement of the Bureau of Consumer Protection of the Commission notifies respondent that the methodologies required by paragraph II.1. of this order have received final approval.

I.

It is ordered, That Equifax, in connection with the collection, preparation, assembly, maintenance and furnishing of consumer reports and files, forthwith cease and desist from failing to:

1. Maintain reasonable procedures designed to limit the furnishing of consumer reports to subscribers that have permissible purposes to receive them under Section 604 of the FCRA, as required by Section 607(a) of the FCRA. Such procedures shall include but are not limited to:

a. Continuing to require in Equifax's contracts that those who obtain consumer reports from Equifax in the form of lists developed through prescreening make a firm offer of credit to each consumer on the lists and take reasonable steps to enforce those contracts; and

b. Reasonable procedures to avoid (i) including in a consumer report information identifiable as pertaining to a consumer other than the consumer for whom a permissible purpose exists as to such report; and (ii) displaying files identifiable as pertaining to more than one consumer in response to a subscriber request on one consumer.

2. Maintain reasonable procedures designed to limit the furnishing of consumer DTEC reports to subscribers under the circumstances described by Section 604 of the FCRA, as required by Section 607(a) of the FCRA. Such procedures shall include, with respect to prospective subscribers of consumer DTEC reports, before furnishing any consumer DTEC report to such subscribers, and with respect to current consumer DTEC subscribers, within six months after the effective date of this order:

a. Adoption of procedures requiring all consumer DTEC subscribers to provide written certification that subscribers will not share or provide consumer DTEC reports to anyone else, other than the subject of the report or to a joint user;

b. Continuation of procedures requiring all consumer DTEC subscribers to provide written identification of themselves; written certification of the permissible purpose(s) for which the consumer DTEC reports are sought; and written certification that the consumer DTEC reports will be used for no other purpose(s) than the purpose(s) certified;

c. With respect to each entity that becomes a consumer DTEC report subscriber on or after the effective date of this order, visitation to its place of business to confirm the certifications made pursuant to paragraphs 1.2.a. and 1.2.b. of this order;

d. Refusing to furnish consumer DTEC reports to subscribers who fail or refuse to provide the certifications required in paragraphs 1.2.a. and 1.2.b. of this order;

e. Requiring each mixed-use subscriber of consumer DTEC reports to provide a separate certification as to the permissible purpose for each consumer DTEC report it requests before the consumer DTEC report is furnished to it; and

f. Terminating access to consumer DTEC reports by any subscriber who Equifax knows or has reason to know has obtained, after the effective date of this order, a consumer DTEC report for any purpose other than a permissible purpose, unless that subscriber obtained such report through inadvertent error -- *i.e.*, a mechanical, electronic, or clerical error that the subscriber demonstrates was unintentional and occurred notwithstanding the maintenance of procedures reasonably designed to avoid such errors.

3. Maintain reasonable procedures as required by Section 607(a) of the FCRA to avoid including in any Equifax consumer report, other than a consumer report described in Section 605(b) of the FCRA, any information, notice or other statement that indicates directly or indirectly the existence of items of adverse information, the reporting of which is prohibited by Section 605(a) of the FCRA.

4. Follow reasonable procedures to assure maximum possible accuracy of the information concerning the consumer about whom the consumer report relates, as required by Section 607(b) of the FCRA. Such procedures shall include but are not limited to reasonable procedures:

a. To detect, before credit information is available for reporting by Equifax, logical errors in such credit information.

b. To prevent reporting to subscribers that credit information pertains to a particular consumer unless Equifax has identified such information by at least two of the following identifiers: (i) the consumer's name, (ii) the consumer's Social Security number, (iii) the consumer's date of birth, (iv) the consumer's account number with a subscriber or a similar identifier unique to the consumer; provided however that,

(A) For public record information only, if such public record information does not contain at least two of the above identifiers, Equifax may identify such public record information by the consumer's full name (including middle initial and suffix, if available) together with the consumer's full address (including apartment number, if any); and

(B) In the future Equifax may alternatively identify credit information (including public record information) by a discrete identifier that is (i) unique to the consumer, (ii) not utilized by Equifax at the time of execution of this agreement, and (iii) not susceptible of data entry error.

c. To assure that information in a consumer's file that has been determined by Equifax to be inaccurate is not subsequently included in a consumer report furnished on that consumer;

d. To prevent furnishing any consumer report containing information that Equifax knows or has reason to believe is incorrect, including information that the consumer or the source or repository

of the information has stated is not accurate (including that it does not pertain to the consumer) unless Equifax has reason to believe that the statement is frivolous or irrelevant or, upon investigation, not valid;

e. To avoid the occurrence of mixed files, including but not limited to mixing of files as the result of entry of data by subscribers when seeking consumer reports; and

f. To avoid reporting in a consumer report public record information that pertains to consumers other than the consumer who is the subject of the consumer report, or which does not accurately reflect information concerning such subject as it appears on public records, including but not limited to following reasonable procedures to sample, verify or otherwise corroborate public record information furnished by Equifax.

5. Maintain reasonable procedures so that information disputed by a consumer that is deleted or corrected upon reinvestigation by Equifax, does not subsequently appear in uncorrected form in consumer reports pertaining to that consumer; provided, however, that if after Equifax has deleted such information from the file, Equifax reverifies such information, Equifax may reinsert such information in the file and report such information in subsequent consumer reports concerning that consumer if, and only if, Equifax advises the consumer in writing that the information has been reinserted.

6. Make disclosure of the nature and substance of all information (except medical information) in its files on the consumer at the time of the request for disclosure, as required by Sections 609 and 610 of the FCRA, to any consumer who has requested disclosure, has provided proper identification as required under Section 610 of the FCRA, and has paid or accepted any charges that may be imposed under Section 612 of the FCRA.

7. Reinvestigate and record the current status of items of information the completeness or accuracy of which is disputed by a consumer, when the consumer directly conveys the dispute to Equifax, and Equifax does not have reason to believe the dispute is frivolous or irrelevant. Such reinvestigation shall include but not be limited to:

a. Completing any reinvestigation, *i.e.*, verifying, deleting, or modifying all disputed items in the consumer's file, within thirty (30)

days of receipt of the consumer's dispute; provided, however, that if Equifax in good faith cannot determine the nature of the consumer's dispute, Equifax shall attempt to determine the nature of the dispute by contacting the consumer by mail or telephone within five (5) business days of receiving the consumer's dispute, and complete its reinvestigation within thirty (30) days of the consumer's response if Equifax in good faith can then determine the nature of the consumer's dispute;

b. Communicating to the source used to verify the disputed information, a summary of the nature and substance of the consumer's dispute;

c. Accepting the consumer's version of the disputed information and correcting or deleting the disputed information, when the consumer submits to Equifax documentation obtained from the source of the information in dispute which confirms that the disputed information on the consumer report was inaccurate or incomplete, unless Equifax in good faith has reason to doubt the authenticity of the documentation, in which case Equifax need not accept the consumer's version of the dispute if it reinvestigates the dispute by contacting the source of the information and verifies that the documentation is not authentic; and

d. Employing reasonable procedures designed specifically to resolve (i) consumer disputes that Equifax has reason to believe arise from mixed files, and (ii) consumer disputes that indicate the repeated inclusion in consumer reports of previously disputed inaccurate or incomplete items.

8. Reinvestigate consumer disputes in accordance with Section 611 of the FCRA. In connection therewith, Equifax shall impose no requirements beyond those in Section 611 of the FCRA, including but not limited to requirements that the consumer:

a. Pay a fee for updating and recording the current status of disputed information;

b. Provide copies of identifying documentation, including but not limited to driver's license, Social Security card, and utility bills; and

c. Provide a written authorization before reinvestigating information the consumer has disputed.

9. Continue, upon completion of the reinvestigation of information disputed by a consumer, to write the consumer and provide the following:

- a. The results of the reinvestigation conducted by Equifax; and
- b. A statement advising the consumer of the consumer's right to request that Equifax furnish notification that information has been deleted, or furnish a copy or codification or summary of any consumer statement of explanation of the dispute that has been filed by the consumer, to any person specifically designated by the consumer who has within the preceding two years received a consumer report for employment purposes, or within the preceding six months received a consumer report for any other purpose, which contained the deleted or disputed information.

II.

It is further ordered. That Equifax shall, annually for the five (5) year period following the approval date, measure, monitor, and test the extent to which changes in its computer system, including its algorithms, reduce the incidence of mixed files.

1. In complying with this Section, Equifax shall submit, within one hundred eighty (180) days of the effective date of this order, for approval to the Associate Director for Enforcement, Bureau of Consumer Protection, of the Federal Trade Commission ("ADE"):

- a. A proposed methodology for establishing a baseline against which changes may be measured, monitored, and tested; and
- b. A proposed methodology for accurately measuring, monitoring, testing, and reporting the effects of changes made against the baseline established under the preceding paragraph.

2. For five (5) years following the approval date, Equifax shall submit annually to the ADE, in writing, the results of its comparison using the methodologies approved by the ADE as specified in paragraph II.1. above, and to the extent not otherwise provided, shall include with such reports the results of a statistically significant analysis to determine the incidence of mixed files.

III.

It is further ordered, That Equifax shall, annually for five (5) years following the effective date of this order, submit the following information to the ADE within sixty (60) days of the anniversary of the effective date of this order and with respect to the preceding twelve (12) month period:

1. The total number of file disclosures to consumers by Equifax;
2. The number of occasions on which consumers have informed Equifax that they dispute information in files maintained by Equifax;
3. The number of such disputes where the disputed information was verified as accurate;
4. The number of such disputes in which information disputed was deleted from, or modified in, the disputing consumer's file, after reinvestigation response; and
5. The number of such disputes in which information disputed was deleted from the disputing consumer's file because no response to Equifax's verification inquiry was received within thirty days.

IV.

It is further ordered, That, except for Section III above, Equifax shall, until the expiration of five (5) years following the effective date of this order, maintain and upon request make available to the ADE for inspection and copying, all documents demonstrating compliance with this order. Such documents shall include, but are not limited to, representative copies of each form of agreement or contract governing subscriber access to or use of credit information, each periodic audit or similar report concerning the testing or monitoring of its systems for preparation, maintenance, and furnishing of consumer reports and files, instructions given to employees regarding compliance with the provisions of this order, and any notices provided to subscribers in connection with the terms of this order.

V.

It is further ordered, That Equifax shall deliver a copy of this order to all of its present and future management officials having administrative or policy responsibilities with respect to the subject matter of this order.

VI.

It is further ordered, That Equifax shall notify the ADE at least thirty (30) days prior to any proposed change in Equifax that might affect compliance obligations arising out of this order such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries.

VII.

It is further ordered, That Equifax shall, within one hundred eighty (180) days of service of this order, deliver to the ADE a report, in writing, setting forth the manner and form in which it has complied with this order as of that date. The Commission shall keep such report and its contents, or any report, document, or other information provided under Sections II, III, or IV above, or any notification provided under Section VI above, strictly confidential, in accordance with the Commission's Rules of Practice.

VIII.

It is further ordered, That if the FCRA is amended (or other similar federal legislation enacted) or the Commission issues any interpretation of the FCRA, relating to any obligation imposed on Equifax herein, which creates any new requirement for compliance with the FCRA that directly conflicts with any obligation imposed on Equifax by this order, Equifax may conform the manner in which it conducts its business as a consumer reporting agency or its use of credit information to the requirements of such statutory provision or interpretation; provided, however, that Equifax shall notify the ADE promptly if it intends to change its conduct as provided for in this Section, and provided further that nothing in this provision shall limit the right of the FTC to challenge any determination of direct conflict

by Equifax hereunder and to seek enforcement of Equifax's obligations under this order to the extent such determination is erroneous. For purposes of this order, and by way of example only, a "direct conflict" between this order and a new statutory amendment or interpretation shall include a requirement in any such amendment or interpretation that a consumer reporting agency complete a task or obligation addressed in this order in a greater period of time than is specified in the order.

IX.

This order does not address the issue of disclosure under Section 609 of Credit Information (whether or not separately maintained in any file), including but not limited to credit information utilized for fraud alert or similar application verification services, which categorizes the identifiers on the consumer or categorizes any other data on the consumer and is susceptible of being furnished to a subscriber, and the order does not in any way limit the right of the Commission to take any appropriate action after entry of this order relating to this issue, nor does it limit in any way Equifax's defenses to any such action.

Chairman Pitofsky not participating.