



April 15, 2004

Mr. Howard Beales
Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave.
Washington, DC 20580

Federal Trade Commission, FACTA Free Reports, Post Office Box 1031, Merrifield, VA 22116-1031

Re: Request for FACT Act Regulations to Require Spanish Language Access to Anti-Identity Theft Rights; Free File Disclosures Rule, Matter No. R411005

The undersigned consumer and civil rights groups ask the Federal Trade Commission to require Spanish language access to the three key elements of identity theft prevention or remedy under the Fair and Accurate Credit Transactions Act of 2004 (FACT Act), which allow consumers to request the following: a free annual credit report, a fraud alert, and trade line blocking. We are disappointed that the recent notice of rulemaking does not require that the consumer credit reporting agencies make the first of these three rights accessible in Spanish or that the centralized web site be available in a multilingual format.

Key consumer rights should be made available in the five to ten non-English languages with the largest number of speakers in the U.S. At a minimum, however, access to three key identity-theft related protections should be available to consumers for U.S. consumers whose primary language is Spanish. According to the 2000 Census, among respondents 18 to 64 years of age, nearly 19.6 million speak Spanish. One third of the Spanish-speaking population speaks English "not well" or "not at all." Therefore, access to bilingual information is especially important to those persons whose dominant or sole language is Spanish.

The growth of the commercial sector of the U.S. economy serving Spanish-speaking consumers suggests a deep consumer interest in accessing information in Spanish. For example, Univision's Spanish language television stations in Los Angeles, Miami, Dallas, Houston, Phoenix and Fresno dominate the market—regardless of language—among all adults 18 to 34 years old. In ten U.S. cities, Univision claims more total adults in this age group than any other station for the early evening local news spot. In three major US cities, a Spanish-language early evening newscast claims more of these viewers than the combined viewers for ABC, CBS and NBC. (Univision Announces 2003 First-Quarter Results, dated May 8, 2002, available at www.Univision.com).

Access to affordable credit is key to enabling families to build wealth and long-term financial security. The Hispanic homeownership rate (48.1%) has surpassed the homeownership rate for African Americans (47.5%) and between 1995 and 2000 Hispanics accounted for more than 16% of new homeowner growth. A clean credit report and absence of erroneous, identity theft-generated information is essential to increasing Hispanic homeownership. (National Council of La Raza, State Hispanic America 2004, (citing census data), available at www.nclr.org).

Other Hispanic households are mortgage-ready but are underserved by the credit industry because current credit scoring models do not accurately account for various financial behaviors or reflect the risk or creditworthiness of Latinos. Latinos, especially immigrants, are more likely to avoid accumulating good or bad debt; disproportionately use fringe banking services, which often do not report information to the credit reporting agencies; and are often employed as seasonal or contractual labor that enables them to pay off debt in irregular cycles, which often results in lower credit scores. For example, Latinos are more likely to have credit scores below 620 than Whites, and 22% of Latinos do not have a sufficient credit history to generate a credit score. (Freddie Mac, "Making Mortgage Lending Simpler and Fairer for America's Families" and Stegman, et.al, "Automated Underwriting: Getting to "Yes" for More Low-Income Applicants").

The ability to access a free credit report is a key element in homeownership-readiness and for general financial literacy. Spanish-speaking consumers who receive a free credit report and find that their positive payment information is missing may become educated about the need to retain records of timely rent payments and other nontraditional sources to demonstrate creditworthiness. Consumers who find that positive information is missing from their credit reports may also inform regulators who have advised lenders that it is inappropriate to report only negative information.

Free credit reports can also educate consumers whose credit reports accurately reflect negative credit information. Learning about the impact of a credit flaw on future economic opportunities may affect future behavior. These consumers may also use knowledge of the contents of their credit reports to explain to a future creditor the particular circumstances surrounding a prior credit problem before the credit report information results in a denial of credit or an offer of high-priced credit.

Furthermore, Spanish-speaking consumers, like other consumers, can become victims of identity theft. News sources have reported identity theft against persons with common Spanish surnames. (See Brenton Herald (Associated Press article), ID Theft Rising Among Common Hispanic Names, Dec. 7, 2003). The cited news article quotes law enforcement officials as describing identity theft against Hispanics with common Spanish surnames as a serious part of the identity theft problem. A fraud alert under Section 112 of the FACT Act, FCRA Section 605A, is the earliest opportunity a consumer has to reduce or prevent harm to the consumer's credit and the loss of economic opportunities, which can result from identity theft. A promptly-placed fraud alert can prevent harm to the consumer after an occurrence such as a stolen wallet, notice that an employer's personnel files have been compromised, or a compelling reason to believe that a thief may have acquired the consumer's information.

The Federal Trade Commission advises consumers to place a fraud alert as an important "first step" (www.consumer.gov/idtheft/recovering_idt.html#17). In order to place a fraud alert, however, a consumer must give highly sensitive personal information such as a Social Security Number to the credit reporting agency. Consumers may be unwilling to share this very sensitive personal information with a translator if a translator is needed to place a fraud alert because the credit reporting agency does not have bilingual staff to process such requests directly from the consumer.

Trade line blocking, provided under FACT Act Section 152, FCRA section 605B, is a key remedy for victims of identity theft. Trade line blocking is crucial to cleaning up a credit report, which has been compromised by negative information generated by the conduct of an imposter. Similar to a fraud alert, a consumer must share very sensitive financial information with a credit reporting agency in order to request a trade line block. Again, consumers may be hesitant to use a translator as a proxy to request a trade line block. Therefore, it is important that the FTC require the CRAs to hire competent bilingual, bicultural staff to assist Spanish-speaking consumers to exercise their credit report-related rights.

The free credit report is both an identity theft fighting tool and a means of promoting financial literacy. Consumers routinely report that they were unaware of an identity theft until they were denied credit or were

offered credit at high rates due to negative information in their credit reports. Routine examination of the credit report can lead to early detection of identity theft. Congress required a free annual credit report in order to allow consumers to discover information generated by thieves and to find other errors in their credit files before the consumer is further harmed. As the financial services industry increasingly embraces risk-based pricing, it is essential that each consumer's credit report accurately reflect his or her true credit risk.

U.S. businesses, such as banks and insurance companies, recognize the value of Spanish language marketing. Unfortunately, the consumer credit reporting agencies have no economic interest in effectively marketing the right to a free credit report. For this reason, the Federal Trade Commission's regulation regarding the centralized system – where free credit reports can be requested – should require that each method for ordering a free report be accessible in Spanish.

Finally, we recognize that the Federal Trade Commission has and continues to engage in a variety of Spanish language outreach and consumer education activities. Those activities are valuable, but they do not take the place of mandated language access to specific statutory rights. Therefore, we encourage you to reconsider issuing a rule that would address these concerns.

Thank you for the opportunity to raise these important issues. We look forward to hearing from you.

Very truly yours,

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