



[Billing code: 6750-01-S]

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request;

Extension

AGENCY: Federal Trade Commission (“FTC” or “Commission”).

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (“OMB”) to extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for the FTC’s enforcement of the information collection requirements in its regulation “Duties of Furnishers of Information to Consumer Reporting Agencies” (“Information Furnishers Rule”), which applies to certain motor vehicle dealers, and its shared enforcement with the Bureau of Consumer Financial Protection (“BCFP”) of the furnisher provisions (subpart E) of the BCFP’s Regulation V regarding other entities. That clearance expires on June 30, 2019.

DATES: Comments must be filed by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Information Furnishers Rule, PRA Comment, P135407,” on your comment and file your comment online at <https://www.regulations.gov/>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC

20024.

FOR FURTHER INFORMATION CONTACT: Tiffany George (202-326-3040), Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, 600 Pennsylvania Ave. NW, CC-8232, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Under the Dodd-Frank Act,¹ most of the FTC’s rulemaking authority for the furnisher provisions of the Fair Credit Reporting Act (“FCRA”)² transferred to the BCFP. The FTC, however, retained its furnishers rulemaking authority for motor vehicle dealers that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.³ In addition, the FTC retained its authority to enforce the furnisher provisions of the FCRA and rules issued under those provisions. Thus, the FTC and BCFP have overlapping enforcement authority for many entities subject to BCFP’s Regulation V (subpart E) and the FTC has sole enforcement authority for the motor vehicle dealers subject to the FTC rule.

Under section 660.3 of the FTC’s Information Furnishers Rule⁴ and section 1022.42 of the BCFP Rule,⁵ furnishers must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that they furnish to a consumer reporting agency (“CRA”) for inclusion in a consumer report.⁶

¹ Pub. L. 111-203, 124 Stat. 1376 (2010).

² 15 U.S.C. 1681 *et seq.*

³ *See* Dodd-Frank Act, § 1029(a), (c).

⁴ 16 CFR Part 660.

⁵ 12 CFR Part 1022.

⁶ The rule also provides that an entity is not a furnisher when it: provides information to a CRA solely to obtain a consumer report for a permissible purpose under the FCRA; is acting as a CRA as defined in section 603(f) of the FCRA; is an individual consumer to whom the furnished information pertains; or is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer’s character, general reputation, personal characteristics, or mode of living in response to a specific request from a CRA.

Section 660.4 of the FTC Rule and section 1022.43 of the BCFP Rule require that entities which furnish information about consumers to a CRA respond to direct disputes from consumers. These provisions also require that a furnisher notify consumers by mail or other means (if authorized by the consumer) within five business days after making a determination that a dispute is frivolous or irrelevant (“F/I dispute”).

Under the PRA, 44 U.S.C. 3501-3521, Federal agencies must get OMB approval for each collection of information they conduct or sponsor. “Collection of information” includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The FTC is seeking renewed clearance for its assumed share of the estimated PRA burden regarding the information furnisher requirements under the FTC and BCFP Rules.

Burden statement:

The FTC last submitted to OMB and received approval for its burden estimates for these furnisher rules on May 10, 2016. The discussion below updates and refines that analytical framework for purposes of renewing this PRA clearance.

The FTC’s currently cleared burden totals are 10,607 hours with \$488,148 in associated labor costs.⁷ The newly revised estimates are 17,055 hours with \$878,307 in associated labor costs. The estimated number of furnishers affected by the rules has increased from 3,986 to 7,210.⁸ The estimated number of hours needed to comply remains unchanged. The labor cost

⁷ OMB Control No. 3084-0144.

⁸ The BCFP estimates that there are 16,000 furnishers, excluding motor vehicle dealers that are subject to the FTC’s jurisdiction, with an allocation to that agency of 63% of the burden or 10,080 respondents. *See* BCFP Supporting Statement Part A, Fair Credit Reporting Act (Regulation V) 12 C.F.R. 1022 (OMB Control Number: 3170-0002) (https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201707-3170-002). Allocating the remaining 37% of the burden to the FTC yields 5,920 respondents, excluding motor vehicle dealers that are subject to the FTC’s jurisdiction. Based on figures obtained from the North American Industry Classification System (NAICS) Association’s database of U.S. businesses, the FTC estimates that there are approximately 129,000 motor vehicle dealers determined as follows: 88,695 car dealers per NAICS data (53,549 new car dealers, 35,146 used car dealers)

estimates have been revised based on updated data. Estimated capital/non-labor costs remain \$0 because the affected entities are already likely to have the necessary supplies and/or equipment (e.g., offices and computers) for the information collections within the Rule. The details that follow calculate the FTC's revised burden hours estimates and updated labor cost estimates.

Section 660.3 of FTC Rule/Section 1022.42 of BCFP Rule:

A. Burden Hours

Yearly recurring burden of 2 hours for training⁹ to help ensure continued compliance regarding written policies and procedures for the accuracy and integrity of the information furnished to a CRA about consumers.

$$7,210 \text{ respondents} \times 2 \text{ hours for training} = \mathbf{14,420 \text{ hours}}$$

B. Labor Costs

Labor costs are derived by applying appropriate estimated hourly cost figures to the burden hours described above. The FTC assumes that respondents will use managerial and/or professional technical personnel to train company employees in order to foster continued compliance with the information furnisher requirements under the FTC and BCFP Rules.

$$14,420 \text{ hours} \times \$56.58^{10} = \mathbf{\$815,884}$$

in addition to 4,023 Recreational Vehicle Dealers; 9,248 boat dealers; and 26,706 motorcycle, ATV/All Other Motor Vehicle Dealers. See <https://www.naics.com/six-digit-naics/?code=44-45>. It is difficult to determine precisely the number of motor vehicle dealers that are subject to the FTC's jurisdiction and that are furnishers. Given the restrictions in section 1029(a) of the Dodd-Frank Act that motor vehicle dealers subject to the FTC's jurisdiction are those that routinely assign consumer contracts governing retail credit to an unaffiliated third party finance source, Commission staff believes the number is *de minimis*. Accordingly, the FTC estimates that 1% of motor vehicle dealers subject to the FTC's jurisdiction are furnishers of information to CRAs or 1,290 respondents. Thus, 1,290 motor vehicle dealers + 5,920 other entities = 7,210 respondents for the FTC's burden calculations.

⁹ 74 FR 31484, 31505 (July 1, 2009 FTC and Federal financial agencies final rules).

¹⁰ <http://www.bls.gov/news.release/ocwage.nr0.htm>: "Occupational Employment and Wages -- May 2017," Bureau of Labor Statistics, U.S. Department of Labor, released March 30, 2018, Table 1 ("National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2017) (hereinafter, "BLS Table 1"). See mean hourly wage for "Training and Development Managers."

Section 660.4 of FTC Rule/Section 1022.43 of BCFP Rule:

A. Burden Hours

No recurring burden hours other than that necessary to prepare and distribute F/I notices (estimate: 14 minutes per notice¹¹).

1. 21,720 total F/I disputes¹²
2. Motor vehicle dealer only furnisher disputes is assumed to be 4% of the total: $21,720 \times .04 = 869$ F/I disputes¹³
3. 20,851 respondents (21,720 - 869 FTC only) \div by 2 = 10,425 F/I disputes for the FTC co-jurisdiction
4. 869 FTC only F/I disputes + 10,425 additional F/I disputes = 11,294 F/I dispute notices for the FTC's jurisdiction
5. 11,294 F/I disputes x 14 minutes each = **2,635 hours**

B. Labor Costs

Labor costs are derived by applying appropriate estimated hourly cost figures to the burden hours described above. The FTC assumes that respondents will use skilled administrative support personnel to provide the required F/I dispute notices to consumers.

$$2,635 \text{ hours} \times \$23.69^{14} = \mathbf{\$62,423}$$

Thus, total estimated burden under the above-noted regulatory sections is **17,055 hours**

¹¹ 74 FR at 31505.

¹² *Id.* at 31506 n. 58.

¹³ FTC staff believes that 4% is a reasonable estimate based on recent data. See “Key Dimensions and Processes in the U.S. Credit Reporting System: A review of how the nation’s largest credit bureaus handle consumer data,” December 2012, pp. 14, 29, 31, 34. The BCFP report noted that almost 40% of all consumer disputes at the nationwide CRAs, on average, can be linked to collections. It stated that collection trade lines generate significantly higher numbers of consumer disputes than other types of trade lines – specifically, four times higher than auto-related dispute rates. These figures seem to suggest that almost 10% of all consumer disputes at the nationwide CRAs, on average, can be linked to auto-related disputes. When the FTC issued its final Rule, FTC staff estimated that 40% of direct disputes would result in the sending of F/I dispute notices. See 74 FR 31506 n.58. The FTC’s estimate of 4% is based on taking forty percent of the 10% of all consumer disputes at the nationwide CRAs, on average, linked to auto loans.

¹⁴ The revised figure is an average of Bureau of Labor Statistics mean hourly wages for potentially analogous employee types: first-line supervisors of office and administrative support workers (\$28.14); bookkeeping, accounting, and auditing clerks (\$19.76); brokerage clerks (\$25.41); eligibility interviewers, government programs (\$21.45). See BLS Table 1. This averages to \$23.69 per hour, rounded.

and **\$878,307 labor costs**.

Request for Comment: Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the disclosure requirements; and (4) how to minimize the burden of providing the required information to consumers.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Write “Information Furnishers Rule, PRA Comment, P135407” on your comment. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it through the <https://www.regulations.gov> website by following the instructions on the web-based form provided. Your comment -- including your name and your state -- will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the [regulations.gov](https://www.regulations.gov) site.

If you file your comment on paper, write “Paperwork Comment: FTC File No. P135407” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade

Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at www.regulations.gov, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential" – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we

cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Heather Hipsley,

Deputy General Counsel.

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