

FTC Settles FCRA Suit Against “People-Search” Companies

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On September 11, the FTC announced that it had reached a [settlement](#) with two “people-search” companies which would resolve charges that the companies had engaged in practices that violated the Fair Credit Reporting Act (“FCRA”). The California-based defendants market “people-search” services, allowing users to search unlimited background reports on individuals, and charge monthly subscription fees to view the full reports. Searches can be run using an individual’s name and/or city and state of residence.

In its original [complaint](#), the FTC alleged that the defendants made millions of dollars as a result of various illegal activities, including the use of deceptive marketing practices in order to attract business. Specifically, the complaint alleged that the defendants engaged in the following activities in violation of the FCRA:

- Claiming their background reports are the most accurate reports available to the public, however, all the information used in their background reports is obtained from third parties that expressly disclaim that the information is accurate and that they take no steps to verify the accuracy of the information.
- Claiming an individual has criminal or arrest records when the individual does not have any criminal or arrest records or only has minor traffic violations.
- Claiming that consumers can “Remove” or “Flag as Inaccurate” information in background reports. These features, however, removed the disputed information only from the report as displayed to that customer, and the same item of information remained visible to other customers who searched for the same person. In addition, the companies never took any steps to investigate items flagged by consumers as inaccurate, to modify the reports, or to flag to other customers that the information had been disputed.
- Failing to disclose that third-party reviews were incentivized and that the reviewers had a material connection to the defendants.

Subject to court approval of the proposed order settling the lawsuit, the companies will be required to, among other things, pay a \$5.8 million penalty, mandate disclosure of any material connections to endorsers, and establish and implement a comprehensive monitoring program to regularly review, assess, and determine compliance with the FCRA.

Putting it into Practice: This enforcement action underscores that companies engaged in the business of selling consumer background data may qualify as consumer reporting agencies (“CRA”) that are required to comply with the FCRA. Accordingly, companies that sell consumer data but wish to avoid being characterized as a CRA should review their operations to ensure that the data they sell is not being used to determine consumers’ eligibility for employment, housing, credit, insurance, or similar benefits.

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