

COMMENTS OF THE ELECTRONIC PRIVACY INFORMATION CENTER

to the

FEDERAL TRADE COMMISSION

Military Credit Monitoring

83 FR 57693

January 7, 2019

The Electronic Privacy Information Center (“EPIC”) submits these comments in response to the Federal Trade Commission’s (“FTC”) notice of proposed rulemaking and request for public comment on a proposal to provide free credit monitoring military members.¹

EPIC submits comments in this proceeding to state clearly that these protections should be available to all U.S. consumers.

EPIC is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues and is a leading consumer protection advocate. Following the Equifax breach, EPIC testified at hearings before the Senate² and House of Representatives³ on consumer data security.

¹ FTC, *Military Credit Monitoring*, Proposed Rule, 83 Fed. Reg. 57693 (Oct. 17, 2017), <https://www.federalregister.gov/documents/2018/11/16/2018-24940/military-credit-monitoring>.

² *Hearing on Consumer Data Security and the Credit Bureaus Before the Committee on Banking Before the S. Comm. on Housing, and Urban Affairs*, 115th Cong. (2017) (testimony of Marc Rotenberg, EPIC President), <https://epic.org/privacy/testimony/EPIC-Testimony-SBC-10-17.pdf>.

³ *Hearing on Examining the Current Data Security and Breach Notification Regulatory Regime Before the Subcomm. on Financial Institutions and Consumer Credit of the H. Comm. on Financial Services*, 115th Cong. (2018) (testimony of Marc Rotenberg, EPIC President), <https://epic.org/testimony/congress/EPIC-Testimony-HFS-2-14-18.pdf>.

The Agency rule follows from section 302 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018. Section 302 amends the Fair Credit Reporting Act to allow the removal of adverse information about medical debt in a consumer report and shall provide free credit monitoring services. Section 301 also: (1) requires a consumer reporting agency to provide a consumer with free credit freezes and to notify a consumer of their availability, (2) establishes provisions related to the placement and removal of these freezes, and (3) creates requirements related to the protection of the credit records of minors.

Following the Equifax breach, EPIC made several recommendations on the actions Congress should take, including credit freezes and requiring credit bureaus to provide free, life-long credit monitoring services⁴ and prohibit mandatory arbitration.⁵

Section 301 provides credit freezes for all consumers, however the proposed agency rulemaking in section 302 provides credit monitoring services for only active military service members.

EPIC agrees with the Commission that it would not be appropriate for the consumer's access to the free credit monitoring service to be contingent on allowing the credit bureau "to use the consumer's information for unrelated, secondary uses."⁶ If credit bureaus are permitted to use the information obtained for other purposes, they will use it for advertising or other monetization methods.

However, free credit monitoring services, like credit freezes, should be available to all

⁴ Marc Rotenberg, *Equifax, the Credit Reporting Industry, and What Congress Should Do Next*, Harvard Business Review (Sept. 20, 2017), <https://hbr.org/2017/09/equifax-the-credit-reporting-industry-and-what-congress-should-do-next>.

⁵ Christine Bannan, *Equifax's data breach sins live on to this year's tax season*, The Hill (Feb. 1, 2018), <https://thehill.com/opinion/finance/371815-equifaxs-data-breach-sins-live-on-to-this-years-tax-season>.

⁶ Proposed Rule at 57697.

consumers and not just service members. The should seek rulemaking authority to provide free credit monitoring services for all U.S. residents. This rulemaking is a step in the right direction, but it only addresses a small portion of those affected by data breaches.

Sincerely,

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