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Updated: 22/08/2013

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welcome to the latest issue of

# PRIVACY THIS WEEK

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## USA: \$3.5 million FCRA settlement for furnisher rule infringement

The Federal Trade Commission (FTC) announced - on 15 August 2013 - that Certegy Check Services (Certegy), the largest cheque authorisation service company in the USA, agreed, in Case 1:13-cv-01247, to pay \$3.5 million to settle alleged infringements of the Fair Credit Reporting Act (FCRA).

Certegy is a consumer reporting agency that compiles consumers' personal information and uses it to help retailers determine whether to accept payments by cheque. The FTC's complaint alleged, among others, that Certegy did not follow proper dispute procedures - by placing an excessive onus on the consumer to verify discrepancies - or assure the maximum possible accuracy in the consumer information it provided to retailers.

In addition to orders requiring Certegy to make improvements to its dispute and data verification procedures, the FTC ordered the company to pay a fine of \$3.5 million, the second-largest civil penalty ever issued in an FCRA case and the first issued for infringement of the 'Furnisher Rule'. The Furnisher Rule requires that furnishers of consumer information ensure the accuracy and completeness of the information they provide, and investigate consumer disputes about the accuracy of their information.

“ This [serves] as a wake-up call for furnishers to review their policies and procedures for [FCRA] compliance. ”

"This settlement should serve as a wake-up call for furnishers to review their policies and procedures for compliance with the Furnisher Rule's requirements", said Melinda

search and very practical to use.

*Michael Powders Counsel European Data Protection &  
Procurement, IBM*

McLellan, Associate at Hunton & William LLP. "That said, Certegy is somewhat unique because it's subject to the FCRA both as a furnisher and as a consumer reporting agency. The first three counts in the FTC's complaint concern Certegy's alleged compliance failures as a consumer reporting agency; only Count IV alleges violations of the Furnisher Rule. Certegy's dual role [...] may have encouraged the FTC to use this as a test case for alleging a Furnisher Rule violation."

Michelle Cohen, Member at Ifrah Law PLLC and Co-Chair of the E-Commerce Practice, told DataGuidance: "The FTC [reminds] Certegy - and others that collect consumer information, such as other data brokers - that sensitive consumer information, particularly that affecting consumers' day-to-day financial lives, must be accurate and that consumers have a right to dispute that information when covered by the [FCRA]."

"Businesses should take note that [the FCRA and Fair Debt Collections Practices Act] are not antiquated laws", Cohen continued. "Businesses should 'dust off' their compliance protocols, specifically with respect to those laws, to make sure that their credit reporting and debt collection practices comply with the laws, the regulations, and any guidance in recent enforcement actions."

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