

United States Senate

WASHINGTON, DC 20510

January 23, 2019

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580

Dear Chairman Simons:

We write to comment on the proposed rule by the Federal Trade Commission (FTC) to implement the credit monitoring provisions applicable to active duty military consumers in section 302(d) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (Public Law No. 115-174), which was enacted in May 2018.

As you know, the Economic Growth, Regulatory Relief, and Consumer Protection Act contains a provision authored by us that requires credit reporting agencies to offer their electronic credit monitoring services to all active duty military servicemembers, including Reservists and the National Guard, free of charge. The provision also requires the FTC to promulgate regulations pursuant to the requirements of this subsection no later than one year after the date of enactment.

According to the FTC, members of the military face a higher degree of risk of identity theft than the general public—almost twice as much—in part because military families may relocate frequently and many servicemembers are living on their own and earning a paycheck for the first time.¹ According to the *2016 Consumer Sentinel Network Data Book*, the FTC received over 34,000 identity theft complaints from military members, placing it as the second highest complaint filed.² The Consumer Financial Protection Bureau has also received complaints from active duty servicemembers who reported damage to their credit reports because of identity theft.³

Active duty servicemembers have sacrificed to serve our country, and we know they are disproportionately targeted for identity theft. The least we can do is give these brave men and women the tools necessary to protect their financial well-being while they are serving on our behalf. Credit reports play a critically important role in making financial decisions like obtaining a mortgage or an auto loan, but also in applying for jobs and undertaking other important life events. With data breaches and identity theft on the rise in recent years, and with our military personnel particularly vulnerable to these threats, it is more important than ever to ensure our servicemembers have access to credit monitoring services.

¹ “Military Consumer Protection”, <https://www.ftc.gov/news-events/media-resources/military-consumer-protection>

² “Consumer Sentinel Network Data Book”, https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-january-december-2016/csn_cy-2016_data_book.pdf

³ “Fraud protection tools to help safeguard servicemembers”
https://files.consumerfinance.gov/f/201508_cfpb_fraud-protection-tools-to-help-safeguard-servicemembers.pdf

As the authors of this provision, we wish to make clear that it was not our intent—nor the intent of Congress—to create an opportunity for credit bureaus to profit from the personal information of active duty servicemembers. The text of the provision plainly states that servicemembers shall receive “free electronic credit monitoring.” Therefore, in its rulemaking, the FTC should clarify that “free” in this context expressly prohibits the following uses of servicemembers’ personal information collected by credit bureaus:

- Secondary uses or disclosure to third-parties;
- Marketing purposes; and,
- Implying identity theft insurance should be purchased.

We urge the FTC to publish a final rule that offers the most robust credit monitoring service possible to the largest number of servicemembers as permitted by the law, and shields servicemembers from unsolicited marketing to the greatest extent possible under the law. We also urge the FTC to conclude the rulemaking process expeditiously so that servicemembers may begin benefiting from this service as soon as possible.

We look forward to your response.

Sincerely,



Thomas R. Carper
United States Senator



Christopher A. Coons
United States Senator