

Supplement to Statement of Commissioner Julie Brill on *Data Brokers: A Call for Transparency and Accountability*

This supplement to my Statement on the Commission's report, *Data Brokers: A Call for Transparency and Accountability*, summarizes my understanding of the Commission's legislative recommendations:

For marketing products, the report recommends that legislation require the brokers to:

- Create a centralized mechanism, such as an Internet portal, where data brokers identify themselves, describe their information collection and use practices, and provide links to access, transparency and choice mechanisms;¹
- Provide consumers with access to their data, including any sensitive data, at a reasonable level of detail;²
- Provide consumers with the ability to suppress information;³
- Disclose to consumers that they use not only the raw data from their sources, such as a person's name and income range, but that they also derive certain inferences from the data;⁴
- Disclose to consumers the names and/or categories of their sources of data;⁵ and
- Require their consumer-facing sources to (a) provide a prominent notice to consumers that they share consumer data with data brokers and give consumers choices – express affirmative consent for sharing sensitive information, the ability to opt-out of sharing other information; (b) provide information about the data brokers with which they share transactional and other data about consumers; and (c) provide links or other references to the data broker's choice mechanisms, including links to the centralized portal described above.⁶

For risk mitigation products, the report recommends that legislation require:

- Consumer-facing companies that use risk mitigation products to identify the data broker whose data they rely on if the risk mitigation product adversely affects a consumer's ability to complete a transaction or obtain a benefit;⁷ and
- Risk mitigation data brokers to provide consumers with access to information about them and the ability to correct erroneous information, in a manner consistent with maintaining appropriate levels of data security.⁸

¹ FED. TRADE COMM'N, *DATA BROKERS: A CALL FOR TRANSPARENCY AND ACCOUNTABILITY* at 20 n.52, 21 (2014) [hereinafter *DATA BROKER REPORT*].

² *Id.*

³ *Id.* at 50-51.

⁴ *Id.* at 51.

⁵ *Id.* at

⁶ *Id.* at 51-52.

⁷ *Id.* at 53.

Finally, the report recommends that legislation require companies offering people search products to:

- Allow consumers to access their own information and opt out of the use of this information;⁹
- Clearly disclose any limitations of the opt-out, such as the fact that close matches of an individual's name may continue to appear in search results;¹⁰ and
- Clearly disclose to consumers the data brokers' sources of information, to enable correction at the source.¹¹

⁸ *Id.* at 53.

⁹ *Id.* at 53.

¹⁰ *Id.* at 53.

¹¹ *Id.* at 53.