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REPORT: CAN BIG DATA DETERMINE CONSUMER CREDIT RISK?

National Consumer Law Center Finds Errors and Potential Federal Legal Violations

Download the report and charts: http://www.nclc.org/issues/big-data.html

(BOSTON) Big data makes big promises that it can determine credit risk of consumers through information culled from Internet searches, social media, and mobile apps, and offer better lending products than payday loans to unbanked and underbanked consumers. Finding a way of getting affordable access to credit is of vital importance to the economic well-being of the 64 million consumers in the United States who have no credit history or lack sufficient credit history to generate a credit score. A new report from the National Consumer Law Center (NCLC) analyzes the information generated by major data brokers and seven lending products based on underwriting by big data and concludes that big data doesn't live up to its promises.

"*Big Data: A Big Disappointment for Scoring Consumer Credit Risk* raises several red flags for consumers, policymakers, and federal regulators," says National Consumer Law Center attorney Persis Yu, co-author of the report. "Transparency and accuracy are some of the core tenets of consumer protection laws and our analysis finds those requirements are nearly impossible to meet with big data."

Big Data Accuracy

NCLC asked 15 volunteers obtain their data files from eBureau, ID Analytics, Intelius, and Spokeo. The two co-authors also obtained reports from Acxiom. "The reports were riddled with inaccuracies or included little or incomplete information," notes Jillian McLaughlin, co-author of the report and a Master of Public Policy candidate at the Harvard Kennedy School of Government. Errors ranged from the mundane—a wrong e-mail address or incorrect phone number—to serious flaws, including incorrect incomes and mixing of identities.

NCLC's analysis found that many big data brokers could be considered consumer reporting agencies (CRAs) and subject to the Fair Credit Reporting Act (FCRA). The FCRA imposes substantial duties on a CRA, including accuracy, disclosure, and the right to dispute items on a report. It is highly unlikely, given the size of the data set and the sources of information, that the companies that provide big data analytics and the users of that data are meeting these FCRA obligations.

Evaluating the Discriminatory Impact

"We also have serious concerns regarding potential discrimination against underserved populations, including people of color and low-income consumers," says Yu. Because big data scores use undisclosed algorithms, it is impossible to analyze the algorithm for potential racial discriminatory impact. According to the data brokers' marketing materials, consumers are judged based upon data generated from their Internet usage, mobile applications, and social media. However, access and usage of these sources vary by race and socioeconomic status, and thus any algorithm based upon them may have racial disparities.

Big Data, Better Products?

Finally, proponents of big data underwriting argue that by using multiple factors to price credit, the cost of credit will be reduced for low-income borrowers, enabling lenders to provide lower-cost small loans as alternatives to payday loans. NCLC evaluated seven loan products based on big data underwriting: Great Plains Lending, MySalaryLine, Plain Green, Presta, and RISE, all of which use ThinkFinance technology; Spotloan, which uses ZestFinance technology; and LendUp. Six of these products present themselves as payday loan alternatives, yet, like payday loans, carry triple-digit annual percentage rates. Even more troubling: All of the lenders, except Presta and MySalaryLine, require borrowers to provide sensitive banking information (i.e. bank name, routing number, and account number). A lender could potentially use this information to reach into a bank account and take the funds if the consumer fails to make a payment, thus ensuring that the lender will be repaid prior to life-sustaining necessities, such as rent or food, and trapping borrowers into a cycle of debt.

Key Federal Policy Recommendations

- The Federal Trade Commission (FTC) should continue to study big data brokers and credit scores testing for potential discriminatory impact, compliance with disclosure requirements, accuracy, and the predictiveness of the algorithms.

- The FTC and the Consumer Financial Protection Bureau (CFPB) should examine big data brokers for legal compliance with FCRA and ECOA.

- The CFPB should create a mandatory registry for consumer reporting agencies so that consumers can know who has their data.

- The CFPB should require all of the financial products it regulates to meet Regulation B's requirements for credit scoring models.

- The CFPB, in coordination with the FTC, should create regulations based upon the FTC's research that:
  a. Define reasonable procedures for ensuring accuracy when using big data;
  b. Specify a mechanism so that consumers can do a meaningful review of their files including all data points that can be linked to that consumer (not just those that identify the consumer explicitly); and
  c. Define reasonable procedures for disputing the accuracy of information.

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