Consumer Financial Protection Bureau

1700 G Street NW, Washington, D.C. 20552

February 17, 2022

Commission Secretary April Tabor
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Re: Dun & Bradstreet, Inc.; File No. 172 3196

Dear Commission Secretary Tabor,

I write in response to the Federal Trade Commission's ("FTC") request for comment on its proposed settlement agreement with business credit reporting agency Dun & Bradstreet ("D&B"). The proposed settlement agreement establishes that D&B has engaged in unfair and deceptive practices by selling small businesses a suite of services called CreditBuilder, misleading small businesses about the value of CreditBuilder, and failing to correct credit reporting errors identified and disputed by its small business customers.

The CFPB commends the FTC for addressing this misconduct by D&B, given the clear harms caused to small businesses, their owners, and employees. As with consumer credit reporting, there are troubling conflicts of interest when the purveyor of credit reports also sells ancillary services, as evidenced in this latest enforcement action by the FTC. When Congress passed the Fair Credit Reporting Act, it may not have contemplated the serious challenges that small businesses face with respect to business credit reports and associated services such as the provision of credit scores. As the FTC's enforcement action underscores, small businesses may not benefit from the protections of the Fair Credit Reporting Act when it comes to business credit reports and credit scores.

Business credit reports not only influence whether a small business can obtain financing from a financial institution or trade credit, but also whether the small business's customers and suppliers will transact with it. Financial institutions and trade creditors often rely on business credit reports as a reliable source of information on the payment history and credit score of small businesses seeking financing. Business credit reporting errors can prevent small businesses from accessing financing altogether or obtaining financing on terms appropriate to their actual credit risk profiles. Without financing, these businesses may not be able to cover cash flow needs or invest to expand their operations, making them less resilient in facing challenges and less able to seize opportunities.

Equally, suppliers to small businesses often use business credit reports in deciding whether to provide goods and services to small businesses and on what terms. Business customers of small businesses may make credit report inquiries when determining whether to buy from a particular small business. As a result, errors on business credit reports can cause great financial and commercial harms to small businesses.

Compounding the impact of these reporting errors, small businesses (as do individual consumers) lack leverage to contest errors made by credit reporting agencies. Moreover, minority- and women-owned businesses may be disproportionately affected by such errors and credit reporting agencies' failures to timely correct such errors.[1] Finally, credit reporting agencies like D&B may be harvesting and monetizing these potentially erroneous data points in other contexts, underscoring the need to protect small businesses by ensuring due care is taken to maintain accurate records.

The proposed settlement provides refunds for the cost of CreditBuilder subscriptions. Of course, refunds alone may not deter future failures to address disputed errors. The CFPB supports greater remedial authorities for the FTC to be more in line with other civil law enforcement agencies. In this matter, the harms to small businesses go beyond the cost of Credit Builder, particularly because small businesses may lose out on contracts or financing opportunities from unlawful practices like those outlined in the FTC's complaint. Stronger authorities for the FTC may help to remediate this full range of harms. The CFPB also stands ready to work with the FTC and other federal and state law enforcement partners to examine whether there are other unlawful practices related to small business credit reporting by other providers.

The CFPB is currently in the process of developing regulations to implement the congressional directive in Section 1071 of the Dodd-Frank Act, which requires financial

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[1] *Cf*. Bureau of Consumer Fin. Prot., *Disputes on Consumer Credit Reports*, at 8 (Oct. 2021), https://files.consumerfinance.gov/f/documents/cfpb_disputes-on-consumer-credit-reports_report_2021-11.pdf (finding in the consumer credit context more credit report disputes in majority Black and majority Hispanic neighborhoods than in majority white neighborhoods).

institutions to collect and report to the CFPB certain data on applications for credit by small businesses. Once this rule is finalized, regulators will be better able to understand the landscape of credit availability to small businesses that for too long have had to rely on opaque business credit reporting agencies as gatekeepers of financing. My colleagues and I look forward to working with the FTC to analyze the reported data to further the work of our two agencies.

Many small businesses have been destroyed by the pandemic, and many companies have preyed on their pain. Business credit reporting companies should not be able to unfairly harm a small business's and their owner's or operator's financing opportunities, and we look forward to continuing our efforts to root out misconduct.

Should you have questions about this comment letter, please contact Kyle Thetford in the Office of Small Business Lending Markets by e-mail at kyle.thetford@cfpb.gov or by phone at (202) 435-9043.

Sincerely,

Grady Hedgespeth

Grady Hedgespeth
Assistant Director, Small Business Lending Markets