

27 November 2012

**Private and Confidential**

Our Ref: JHEVM

Your Ref:

Contact: John Humphrey

### **BTG Global Risk Partners Limited – Credit Bureau Searches**

We write further to your letter of 19 November 2012, copied to various directors of Begbies Traynor Group plc.

Your comments about BTG failing to understand this matter, playing games and wasting time are all rejected. We believe that BTG Global Risk Partners Limited's ("BTG") position has been made clear by its letter of 14 November 2012.

Your interpretation of Section 35 of the Data Protection Act 1998 seems to rely on the fact that information can only be obtained pursuant to this exemption if the person requesting the information holds a valid court order. This is not the case. The wording of section 35(2) is clear on this point although each instance needs to be looked at in its own specific circumstances. The fact is that the data controller, in this case Equifax and Experian have to be satisfied that the relevant exemption can be relied upon. You have previously made assertions, specifically in your letter of 2 October 2012 which reflect comments alleged to have been made by Equifax to you. In fact, the wording of BTG's agreement with Equifax regarding this point is as follows:-

#### **3. Data Protection and Personal Data**

*3.1 Before using any Service to obtain Personal Data (unless authorised under the Applicable Regulations), you must first obtain the consent of that person and, where the use of the Service relates to a consumer credit application or agreement, in particular notify him or her in writing that the information which he or she gives to you:*

- a. may be disclosed to a credit reference, or fraud prevention agency, which may keep a record of that information; and*
- b. that we may disclose that information, and the fact that a credit search was made, to our other customers for the purposes of assessing the risk of giving credit, for account management, to trace debtors and for the prevention of fraud and money laundering.*

*You will, on request, give us a copy, or transcript, of the notification that you use*

Please note that the words "unless authorised under the Applicable Regulations" are included in this clause. The "Applicable Regulations" to which the reference refers is the Data Protection Act 1998. BTG made a request relying on one of the relevant exemptions in the Data Protection Act and as per Equifax's terms, in this instance the consent of the individual is not required. This is subject to the credit reference agency, in this case Equifax, being satisfied as to the basis of the exemption. Your statements about BTG confirming to Equifax that they [BTG] had your specific consent are therefore rejected.

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The grounds upon which BTG made the requests for information were pursuant to the exemptions set out in Section 35 (2) of the Data Protection Act. Experian and Equifax supplied such data pursuant to these exemptions and were satisfied that BTG had complied with their respective procedures which did not require BTG to confirm that your specific consent had been obtained.

BTG will make similar representations to the Information Commissioners Office if this required.

Yours faithfully



**BTG Global Risk Partners Limited**