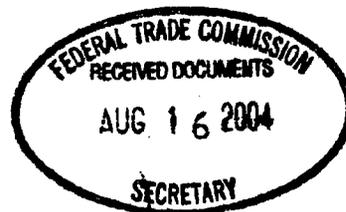




**Property Casualty Insurers  
Association of America**

Shaping the Future of American Insurance

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August 16, 2004

Federal Trade Commission  
Office of the Secretary  
Room H-159 (Annex Q)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

RE: FACT Act Affiliate Marketing Rule  
Matter No. R411006

### **Property Casualty Insurers Association of America Comments**

The Property Casualty Insurers Association of America (PCI) offers the following comments to the proposed FACT Act Affiliate Marketing Rule (Matter R411006.) PCI, a leading property and casualty trade association, represents over 1,000 companies that write 38 percent of the US property/casualty insurance market. PCI member companies write all lines of coverage, including automobile, homeowners, workers' compensation, surplus lines and reinsurance, in all 50 states and the District of Columbia. The membership is comprised of every type of insurance company – stock, mutual, reciprocal and Lloyds.

On behalf of our member companies, PCI respectfully submits the following comments and asks that they be made part of the official record.

PCI believes that the FTC does not have the authority to promulgate a rule to be applied to the property/casualty insurance industry. In the Telemarketing Sales Rule adopted in 2003, the FTC acknowledged that the insurance industry is exempt from the FTC's jurisdiction. PCI believes this exemption applies as well to the FACT Act Affiliate Marketing Rule. This needs to be clarified in the FACT Act Affiliate Marketing Rule.

Even though the property/casualty industry is exempt from the FTC rule, we realize that the FACT Act and the Fair Credit Reporting Act does apply to the property/casualty insurance industry and therefore the FTC rule may be influential to those entities who regulate the industry. Therefore, there are a number of areas we believe the FTC needs to change or further clarify in their proposed rule.

On page 9 the *Commission invites comments on whether the term "eligibility information," as defined, appropriately reflects the scope of coverage, or whether the regulation should track the more complicated language of the statute regarding the communication of information that would be a consumer report, but for clauses (i), (ii), and (iii) of section 603(d)(2)(A) of the FCRA.*"

