



Capital One Financial Corporation
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August 12, 2004

Federal Trade Commission
Office of the Secretary
Room H-159 (Annex Q)
600 Pennsylvania Avenue, NW
Washington, DC 20580
<http://www.regulations.gov>
RIN 3084-AA94

RE: FACT Act Affiliate Marketing Rule, Matter No. R411006 –
Comments of Capital One Financial Corporation

Dear Sir or Madam:

Capital One Financial Corporation (“Capital One”) appreciates the opportunity to comment on the proposed rules governing affiliate marketing (the “Proposed Rule”) issued by the Federal Trade Commission (the “Commission”). These affiliate marketing rules are required by section 214(b) of the Fair and Accurate Credit Transactions Act (the “FACT Act”).

Capital One had 46.6 million customers and \$73.4 billion in managed loans outstanding, as of June 30, 2004. A Fortune 200 company, Capital One is one of the largest providers of MasterCard and Visa credit cards in the world. Capital One also issues automobile loans through its Capital One Auto Finance business. Our businesses can make more responsible lending decisions and extend credit to a wider group of consumers because of their ability to share certain types of information with each other for marketing purposes.

We would like to offer the following comment on the Proposed Rule:

The Commission Should Delay the Mandatory Compliance Date for the Final Rule Until at Least June 2005, Because Many Organizations Will Send their Opt-Out Notices to Consumers in Annual Privacy Notices Mailed on a Rolling Basis.

We request that the Commission delay the mandatory compliance date for this regulation until at least June 2005, because many larger organizations will require a

significant amount of time to comply with the opt-out requirements contained in the Proposed Rule. While we appreciate the flexibility that we have under the Proposed Rule to include these notices in our annual Gramm-Leach-Bliley privacy notices (“GLB Notices”), larger organizations such as Capital One will likely send out these notices on a rolling basis. For instance, we send our GLB Notices to our customers once each year, over a three-month period from March through May. As a result, such companies will not be able to comply with this rule using their GLB Notices until well into 2005.

We recognize that the underlying statute places some limitations on the Commission in this regard. The FACT Act requires the Commission to issue final rules in this regard by September 4, 2004, with an effective date no later than six (6) months thereafter. The rule could therefore become effective around March 2005. However, we urge the Commission to consider ways to delay mandatory compliance until at least June 2005 due to the limitations that an earlier compliance date would place on lenders’ ability to incorporate this opt-out notice into their GLB Notices.

We appreciate the opportunity to respond to the Proposed Rule. If you have any questions about this letter, please contact me at (703) 720-2266.

Sincerely,

/s/ Andres L. Navarrete

Andres L. Navarrete
Director and Associate General Counsel
Capital One Financial Corporation