



August 16, 2004

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

***Re: FACT Act Affiliate Marketing Rule, Matter No. R411006***

Dear Sir or Madam:

The National Association of Mortgage Brokers (NAMB) appreciates the opportunity to comment on the Affiliate Marketing Rule proposed by the Federal Trade Commission. We support this rule for the reasons that follow.

### **Mortgage Brokerage Industry**

Mortgage brokers act as intermediaries between consumers and lenders when the borrower finances the purchase a home or refinances an existing mortgage. A typical broker maintains business relationships with various lenders to provide consumers with numerous financing options. These partnerships allow the 44,000 mortgage broker companies employing over 360,000 employees in the United States to offer consumers the most competitive mortgage products available. Mortgage brokers originate two out of every three residential loans in any given year by advising homebuyers throughout the home financing process and delivering cost effective mortgages to consumers. As the single largest group of loan originators, mortgage brokers undoubtedly have played a significant role in increasing the rate of homeownership in the United States to an all-time high of 69.2 percent.

NAMB is the only national trade association exclusively devoted to representing the mortgage broker industry. As the voice for mortgage brokers, NAMB speaks on behalf of more than 24,000 members in all 50 states and the District of Columbia. NAMB offers educational courses and certification programs to mortgage professionals to enhance and maintain their professional expertise. By adhering to a strict code of ethics and best lending practices, NAMB members guide consumers through the mortgage loan origination process. NAMB's government affairs representation ensures the voice of the mortgage broker industry is heard on Capitol Hill.

## **Combating Predatory Lending and Possible Identity Theft Opportunities**

The proposed regulations generally prohibit companies from using certain information about a customer to market its products or services to that customer unless the customer is first given notice and a reasonable opportunity to opt out of receiving such solicitations. NAMB supports this regulation for two reasons.

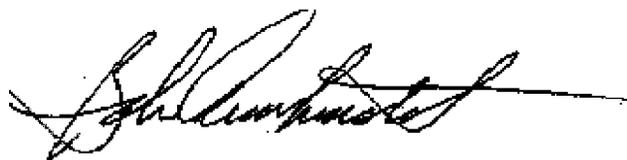
First, we believe the practice would provide a less competitive marketplace, as consumers might be more inclined to remain with a particular lender or companies affiliated with that lender. By granting affiliates the ability to market freely, consumers become more susceptible to being steered toward loan products or services "less favorable in terms and or cost" than what they might find in a more competitive marketplace. For instance, consumers with non-prime or Alt-A mortgages can become trapped into these loans if they are bombarded with solicitations from the affiliates of their current lender. When customers are steered into particular loans, the likelihood that they accept abusive loan terms may increase. As a result, deterring loan steering may also help prevent predatory lending.

Second, we believe that all consumers should be given the opportunity to opt-out of inclusion on any shared customer lists between affiliated companies due to identity theft concerns. Consumers today find their mailboxes jammed with unsolicited offers for credit and services they do not need or want causing them to spend countless hours shredding documents to protect their identities. Due to identity theft concerns, more and more customers are choosing to opt-out of all marketing lists. As a result, NAMB agrees that consumers should be given the opportunity to opt-out of inclusion on affiliate marketing lists since they have no knowledge of the privacy protection policies, security practices or information disposal practice policies of those affiliated companies.

### **Conclusion**

NAMB commends the FTC for protecting customers from unauthorized use of their personal information. NAMB believes the rule should help prevent customers from being steered into abusive mortgages and help prevent identity theft. Please let us know if you have questions concerning our comment letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Armbruster", with a long horizontal flourish extending to the right.

Bob Armbruster  
President