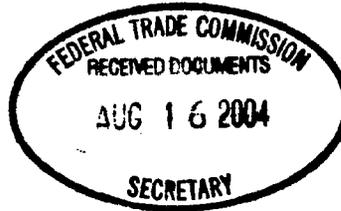


State Farm Insurance Companies



August 11, 2004

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

One State Farm Plaza
Bloomington, Illinois 61710-0001

James R. Tuite
Associate General Counsel
Phone: (309) 766-2127
Fax: (309) 766-4909

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

Dear Sir or Madam:

This comment letter is sent on behalf of State Farm Mutual Automobile Insurance Company in response to the Commission's request for public comment on the proposed Affiliate Marketing Rule published in the *Federal Register* on June 15, 2004 (69 *Fed. Reg.* 33324). State Farm appreciates the opportunity to comment on the Commission's proposed rule.

State Farm Mutual Automobile Insurance Company ("State Farm") is the leading underwriter of private passenger automobile insurance in the United States, and State Farm with its affiliated property companies State Farm Fire and Casualty Company, State Farm General Insurance Company and State Farm Florida Insurance Company, is the largest homeowner insurance carrier in the United States. The State Farm group of companies provides insurance products and financial services to consumers across the United States. State Farm is generally recognized as a leader among insurers, with 71.6 million policies in the United States (and Canada). It also meets consumers' financial needs through the State Farm Bank® products as well as mutual funds and variable products. The main means by which State Farm reaches and services consumers is through State Farm licensed agents. More than 16,700 State Farm agents provide services and assist millions in meeting their insurance and financial services needs.

Our comments focus on the language of the Fair and Accurate Credit Reporting Act ("FACT Act") affiliate sharing provisions in Section 214 (adding Section 624 of the Fair Credit Reporting Act, codified at 15 U.S.C. 1681s-3), and requiring that the language be carried forward to the FTC rules. Specifically, State Farm is concerned with the omission of explicit and meaningful language from the statute in the proposed regulations.

The scope of Section 624 is outlined in subsection (a)(4) of the section. That provision provides, in relevant part:

(4) Scope. This section shall not apply to a person – (A) using information to make a solicitation for marketing purposes to a consumer with whom

the person has a pre-existing business relationship.

The legislation provides a clear definition of “pre-existing business relationship” in Section 214(d)(1) as “a relationship between a person, or a person’s licensed agent, and a consumer based on four possible scenarios.

The Commission’s proposed rules omit a crucial phrase from the statutory definition of pre-existing relationship in the proposed section 680.3(i). The proposed definition in section 680.3(i) should mirror the statute’s language by providing that the term “Pre-existing business relationship” means a relationship between a person or a person’s licensed agent and a consumer based on the types of relationships outlined in the statute.

State Farm also provides comment with respect to the proposed section 680.20(c), noting that the introductory portion should be modified to mirror the scope provisions set forth in section 214(a)(4) of the FACT Act, quoted above. In this respect, we offer the following language for your consideration.

(c) *Exceptions.* The provisions of this part (i.e., 16 CFR Part 680) shall not apply to a person using information:

(1) To make or send a marketing solicitation to a consumer with whom the person making the solicitation has a pre-existing business relationship as defined in § 680.3(i);

This language follows both the actual language and intent within the “scope” provisions of Section 214.

Finally, State Farm believes an example of an exception may provide some guidance in relation to the pre-existing business relationship exception, particularly to the extent “pre-existing business relationship” must be defined in terms of a relationship between a person or a person’s licensed agent, and a consumer. Such an example may outline those instances where a consumer has purchased a policy of insurance or other financial service product through a person’s licensed agent. In those instances, the agent has a pre-existing business relationship with the consumer and provisions of this part of the regulations (i.e., 16 CFR Part 680) are not applicable to the solicitations of such licensed agent.

We appreciate the opportunity to provide these comments to the Commission. Thank you for your consideration. Please feel free to contact me in the event you have any questions.

Sincerely yours,


James R. Tuite
Associate General Counsel