

**FEDERAL TRADE COMMISSION  
OFFICE OF THE SECRETARY  
ROOM 159-H  
600 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON DC, 20580**

**THE FACT ACT DISPOSAL RULE, R-411007**

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**COMMENTS OF ACA INTERNATIONAL IN RESPONSE  
TO THE FEDERAL TRADE COMMISSION'S REQUEST  
FOR COMMENT ON THE FACT ACT DISPOSAL RULE**

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**INTRODUCTION**

The following comments are submitted on behalf of ACA International (“ACA”) in response to the request by the Federal Trade Commission (“FTC” or “Commission”) for comments on the notice of proposed rulemaking to issue regulations implementing the disposal of consumer report information and records set forth in section 216 of the Fair and Accurate Credit Transactions Act of 2003 (“FACTA”). *See* 69 Fed. Reg. 21388 (April 20, 2004) (“NPRM”).

**I. Statement on ACA**

ACA International is an association of credit and collection professionals who provide a wide variety of accounts receivable management services. Founded in 1939 and headquartered in Minneapolis, ACA represents approximately 5,300 third party collection agencies, attorneys, credit grantors, and vendor affiliates. ACA members include sole proprietorships, partnerships, and corporations ranging from small businesses to firms employing thousands of workers. ACA’s mission is to help its members serve their communities and meet the challenges created by changing markets through leadership, education, and service. ACA members comply with all applicable federal and state laws and regulations regarding debt collection, as well as ethical standards and guidelines established by ACA. ACA members are regulated by the Commission under the Fair Debt Collection Practices Act (“FDCPA”), the Fair Credit Reporting Act (“FCRA”), the Gramm-Leach-Bliley Act (“GLBA”), and other federal and state laws.

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ACA members generally are “furnishers” of consumer information under the FCRA, as amended by the FACTA. As accounts receivable management firms, ACA members possess consumer report information and records. This information generally is provided by the clients of ACA members, for example, credit grantors, healthcare organizations, and various retail merchants. The information is used for a “business purpose” within the meaning of section 216, namely, to attempt the collection of past due accounts receivable on behalf of the underlying creditor. In some instances, ACA members also are “users” of consumer reports where permissible under the FCRA for purposes of effectuating collection.

**II. Summary of section 216 and the Proposed Rule**

Section 216 of the FACTA requires “any person that maintains or otherwise possesses consumer information, or any compilation of consumer information, derived from consumer reports for a business purpose to properly dispose of any such information or compilation.” § 216(a). There is no affirmative statutory requirement to dispose of the information. *See* § 216(b)(1) (stating that the disposal provisions shall not be “construed to require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law”). Section 216(b)(2) clarifies that the disposal rules do not “alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.” Finally, as the Commission notes in the NPRM, the proposed Rule must be consistent with existing Federal laws, including the GLBA. 69 Fed. Reg. at 21388 col. 3. Consequently, section 216(a) establishes the basic requirement that a person who maintains consumer report

