



**Property Casualty Insurers  
Association of America**

Shaping the Future of American Insurance

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October 26, 2004

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



RE: FACTA Prescreen Rule,  
Project No. R411010

**Property Casualty Insurers Association of America Comments**

The Property Casualty Insurers Association of America (PCI) offers the following comments to the FACT Act Prescreen Rule (Project No. R411010.) 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. Our comments pertain solely to the application of the rule to the prescreened solicitations for insurance. We appreciate the approach the Federal Trade Commission (FTC) took in developing the rule, it appeared that the FTC tried to meet the needs of the industry, while still attempting to meet the requirement of the FACT Act to establish a rule. The FTC has requested comments regarding a number of the elements of the proposed rule. There are three elements that require the FTC to change the rule prior to finalizing it.

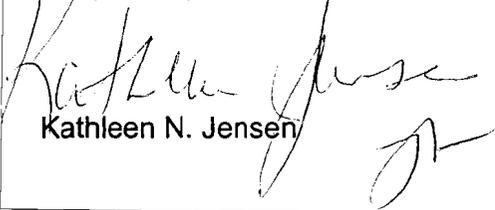
In the notice of proposed rulemaking request for public comment the FTC states a number of times that this rule is meant to be flexible and to allow companies to determine how to best meet the standard of a notice that is "simple and easy to understand." Yet the rule ends up being VERY specific with respect to the font size of various provisions and even placement of the notice. The PCI is concerned that with such specificity in the rule, the result is that a company is prohibited from determining the best method to meet the standard. Wouldn't the need for making the information noticeable be equally met by a smaller type font than is prescribed in the rule, but that the information is in an outstanding color such as red or orange? PCI recommends that the rule include the language used in the rule for Standards for Safeguarding Customer Information section of the Gramm Leach Bliley Act, §314.3(a), "You shall develop, implement, and maintain a comprehensive information security program ... Such safeguards shall include the elements set forth in §314.4 and shall be reasonably designed to achieve the objectives of this part as set forth in paragraph (b) of this section." By stating this in the rule, the companies clearly understand what their opt-out must

achieve, but allows the companies to determine the best way to comply without running afoul of the rule. Most definitely the FTC should provide examples of font, type face and language which can be used in the opt-out notice of the application form, but it should be clear that these are merely examples and that a company must determine what is the best way to achieve the goal. We suggest that if a company follows precisely the language and font size and style suggested in the rule, then that should be a "safe-harbor" for the company.

The anticipated effective date is 60 days from the rule being finalized. Sixty days is an insufficient amount of time for a company to be considered in compliance with this rule. As the FTC notes, companies that prescreen insurance applicants already are required to send an "opt-out" notice. Furthermore, as the FTC notes many companies have the "opt-out" notice preprinted on the back of the application form. Not only will it be necessary for a company to draft new "opt-out" language as suggested in the new rule, but they must also get all new "pre-screen" paper stock to be printed with the revised "long form" notice information, in the different font, typeface or color on the back of the paper stock. Additionally, it will be necessary to do programming and workflow changes to assure that an "opt-out" is processed accurately in a timely fashion. PCI believes that at least six months will be needed to make all of the necessary changes. Therefore, in response to two of the questions, "Is the effective date adequate and appropriate?" – No, six months is more appropriate. And "Is the Commission's estimate of the burden of the proposed rule is accurate?" – No, in addition to drafting the language there is the programming changes and paper stock changes, identified above which greatly increases the cost and burden for complying with the rule.

PCI appreciates the opportunity to comment on the proposed Prescreen Rule. If you would like to discuss any of these comments, please do not hesitate to contact me via telephone at 847-553-3718 or via e-mail at [kathleen.jensen@pciaa.net](mailto:kathleen.jensen@pciaa.net).

Respectfully submitted,

  
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