



ISSUES

Consumer Privacy

Updated 2003

Position

PIA National believes that privacy concerns should be dealt with in an overall uniform framework that guides the regulatory actions of each of the financial services sectors rather than through an industry-by-industry approach. We further assert that consumers should have the right to receive notice giving them the ability to "opt out" of any information sharing proposed by a financial institution with whom they do business, including information shared within an affiliated company. Additionally, PIA National maintains that financial institutions be required to get affirmative consent ("opt in") from consumers before sharing any medical information or particularly sensitive information within a financial services conglomerate.

Background

From medical information to financial information, consumer privacy is a growing concern for the American public. As our economy shifts from being industry-focused to information-focused, Americans' personal information is increasingly more valuable while at the same time at greater risk of being improperly disseminated.

The passage of the Gramm, Leach, Bliley Act (GLBA) redefined what was meant by the financial services industry. Through the eyes of federal banking oversight, it created a world of functional regulation. Attempting to bequeath equal status to banking, thrift, equities and insurance regulators, GLBA requires all to cooperate and coordinate into a theoretically seamless set of requirements for multi-product/line functions performed by financial service entities. Among the more immediate time-specific mandates within GBLA are the provisions related to privacy. These provisions required functional regulators to issue privacy regulations within six month of GLBA's enactment. In the case of insurance, the National Association of Insurance Commissioners (NAIC) is the functional regulator. Accordingly, NAIC adopted its model in Fall, 2000, requiring compliance by July 1, 2001.

PIA National continues work with NAIC and the rest of the industry to achieve a more common, consistent approach to insurance privacy practices. Each day more of PIA National membership

is expanding into all forms of insurance and financial services. While the products, services and "carriers" may be different; our member agencies are dealing with the same client and common data. Consumers need and desire a common, consistent approach to these integrated business dealings.

Recent History

The 107th Congress saw the introduction of a plethora of legislation related to privacy. These bills covered many areas; from requiring schools to obtain parental consent before personal information is collected on students for commercial purposes, to more general privacy bills which directly affect financial institutions.

Because PIA recognizes this issue is larger than just our industry, we supported H.R. 583, the Privacy Commission Act, sponsored by Representatives Asa Hutchinson (R-AR) and Jim Moran (D-VA). The bill created a federally appointed, bi-partisan commission to formulate and recommend a comprehensive approach regarding the use of personal information in the evolving marketplace. The commission would study current laws, conduct field hearings nationwide, identify potential threats to individual privacy in the cyber age and, after eighteen months, report its findings to Congress, including any legislative recommendations for the reform or augmentation of current laws.

Another key House bill, H.R. 4678, the Consumer Privacy Protection Act, was introduced by Representatives Cliff Stearns (R-FL) and Billy Tauzin (R-LA). This bill targeted its privacy protections at business transactions. The House Energy and Commerce Subcommittee on Commerce, Trade and Consumer Protection held hearings on this legislation. This legislation will likely be reintroduced during the 108th Congress.

On the Senate side, Paul Sarbanes (D-MD) introduced S. 30, or the Financial Information Privacy Protection Act of 2001. PIA National agreed with many of the bill's key provisions including an "opt out" for affiliate sharing and an "opt in" for sharing some types of sensitive financial or medical information. Unfortunately, no action was taken on this legislation.

Also introduced in the Senate was S 2201, the Online Personal Privacy Act. The bill, more focused than other, expanded online protections for consumers' personal information. Introduced by Senator Ernest F. Hollings, the bill was taken up by the Senate Commerce Committee (then chaired by Senator Hollings) and passed. The full senate never voted on the measure.

Current Situation

Privacy issues could see a resurgence during the 108th Congress. Representative Cliff Stearns, chairman of the Subcommittee on Commerce, Trade and Consumer Protection was the primary sponsor of H.R. 4678. A key cosponsor of the bill was Representative Billy Tauzin, chairman of the Commerce Committee. So it is likely that the Commerce Committee will resume its efforts.

In the Senate, the shift in power to the Republicans has left Senator Richard Shelby in charge of the Senate Banking Committee. Senator Shelby has always been a staunch privacy advocate and will likely have an aggressive privacy agenda.