

not preclude the use of auto dialers where live operators are brought on line upon the call being answered.

V. THE NTCs AGREE THAT CALLS TO FORMER OR EXISTING CLIENTELE SHOULD BE EXEMPTED.

The Commission asks parties to comment on its tentative conclusion that a "prior" or existing business relationship authorizes an auto dialer call to that party.³² The NTCs agree with this conclusion. As the Commission notes, calls involving pre-existing commercial relationships indicate a willingness on the part of the customer to interact with the caller and are therefore less intrusive than "cold calls."

The NTCs believe that the term "business relationships" should include both former and existing clientele. Attempting to identify when the business relationship was severed would be difficult to administer. Is, for example, a customer who purchased a computer under warranty a former or an existing client during the course of the warranty? Is the consumer still an existing client after the computer is no longer covered by a warranty, but the consumer continues to have access to a customer service center?

The NTCs further agree with the Commission's conclusion that there is no need for a separate, express exemption for debt collection, provided the "prior or existing relationship" exemption is adopted.

³² NPRM at 5, para. 14.

VI. CONCLUSION

The NYNEX Telephone Companies' comments reflect their dual interests as carriers and telemarketers. These comments have attempted to balance the privacy rights of our subscribers and the benefits of telemarketing, while, in accordance with the TCPA, minimizing costs to our subscribers. The NTCs have drawn from the experience of states within their region to recommend a regulatory approach that balances these interests.

As such, the NTCs have recommended that the restrictions on prerecorded or artificial messages contained in proposed §64.1100 and the proposed standards contained in §63.318 are sufficient to protect the privacy interests of residential phone subscribers. If deemed necessary, these restrictions may be supplemented with a notice to consumers regarding measures against unwanted telephone solicitations to be published in white pages directories, and reasonable time of day restrictions.

In any event, the NTCs strongly advise against either network based solutions or special directory markings, either of which will have a limited effect and will, inconsistent with the Act, pass costs on to the consumer.

The NTCs further recommend that the Commission interpret the term "auto dialer" in such a manner as to include only those devices that automatically dial a telephone number and deliver an automated a prerecorded message.

Finally, the NTCs agree with the Commission's conclusion that calls to former and existing clientele should be exempted.

Respectfully submitted,

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Dated: May 26, 1992