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Including professional corporations

1201 New York Avenue, N.W., Suite 1000
Washington, D.C. 20005-3917
(202) 962-4800, Fax (202) 962-8300
www.venable.com

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Office of the Secretary
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: In the Matter of Implementation of the Telecommunications Act of 1996
CC Docket No. 96-115

Dear Ms. Roman Salas:

Enclosed please find an original and nine copies of the *Reply Comments of The Direct Marketing Association* in the above-captioned proceeding. Two extra copies are also enclosed. Please stamp and return these copies to our courier.

As required by the Commission's order of August 28, 2001 in the above-referenced proceeding, we are also concurrently providing diskette and a paper copies to Ms. Janice Myles, Common Carrier Bureau and the Commission's copy contractor, Qualex International.

Thank you for your assistance in this matter.

Sincerely,

Rita L. Brickman

Enclosure

DC2:331651

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Before the
Federal Communications Commission
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of)	
)	
Implementation of the)	CC Docket No. 96-115
Telecommunications Act of 1996)	
)	
Telecommunications Carriers' Use of)	
Customer Proprietary Network)	
Information and Other Customer Information)	
)	
Implementation of the Non-Accounting)	CC Docket No. 96-149
Safeguards of Sections 271 and 272 of the)	
Communications Act of 1934, As Amended)	

REPLY COMMENTS OF THE DIRECT MARKETING ASSOCIATION

In its original comments, The Direct Marketing Association (“DMA”) has shown that “opt-out” is an effective and constitutional means to inform consumers of their rights, and protect information that consumers may regard as personal. Several commenters favoring “opt-in” argue that “opt-out” would not effectively address the Commission’s concerns about CPNI privacy. Yet there is no empirical evidence to support these claims. On the contrary, the accumulated years of experience with the “opt-out” regime applicable to cable subscribers’ “personally identifiable information” pursuant to the Cable Subscriber Privacy provision of the Communications Act establishes that an “opt-in” regime is unnecessary to fulfillment of the goals that underlie the CPNI rules. Cable subscriber information is functionally identical to CPNI, and the program has been fully effective in protecting legitimate privacy considerations without

unreasonable constraint upon equally legitimate business interests. This experience provides empirical proof that “opt-out” is both narrowly tailored and effective.

Accordingly, the Commission should not seek to evade the Tenth Circuit’s decision. To ensure the protection of consumers’ privacy rights, it should require that “opt-out” notices meet certain objective standards of clarity, and that consumers be provided a reasonable period of time after notice to opt-out.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "I. D. Volner". The signature is stylized with a long horizontal stroke at the beginning.

Ian D. Volner
Rita L. Brickman

Venable, Baetjer, Howard & Civiletti, LLP
1201 New York Avenue, N.W.
Suite 1000
Washington, DC 20005-3917
202.962.4800
idvolner@venable.com
rlbrickman@venable.com

Attorneys for The Direct Marketing Association

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