

October 03, 2002

Re: In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991
CG Docket No. 02-278

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National Do Not Call Data Base Comments

Quite simply, such a national registry, in some form, should exist. However, if the Commission elects to pursue this option, it should bear in mind that Congress authorized it to look into *any* and *all* options to achieve the goals of the TCPA.

In the opinion of most people who, the overwhelming majority of consumers would want their names and/or telephone numbers on such a do-not-call (hereafter "DNC") list.

If the commission adopts a national DNC list, it should do so regardless of whether the Federal Trade Commission acts on this matter. The FTC prohibitions are essentially unenforceable by the general public, unlike the FCC's TCPA rules which provide for a meaningful private right of action. The outbound telemarketing industry has proven in a decade that it will not abide by the existing rules of either the FCC or the FTC without vigorous enforcement action. To entrust a national DNC list to the FTC, with its record of weak rules coupled with that agency's historical lack of enforcement of its existing telemarketing sales rules, would be to do nothing on this issue.

Should a national DNC list be adopted by the FCC, it should not preclude any existing or future state DNC lists. Some state laws are more comprehensive than the TCPA, and any such laws should not be supplanted by any action of the FCC. If a number is listed in both a national and a state's DNC databases, there is no harm, and a greater chance the DNC demand will be honored.

If it is necessary for the Commission to seek authority from Congress to allow concurrent state DNC databases with a national database it should seek such authority. Clearly the consumer should be able to take advantage of the most protective measures available under either federal or their state's laws.

The Commission is always to be mindful also of the wishes of the outbound telemarketing industry in balancing their interests with that of the consumers. It should also hold them to their often expressed, if seldom applied in practice, anthem "We don't want to call those who don't *want* to be called." Excellent! There is a wonderful mutually compatible solution to the conflicting interests of those wishing to not be solicited and with the industry's expressed wish to not solicit anyone who doesn't want their calls.

If the Commission does not implement a national "do-not-call" list, it should implement an "All-May-Call" list (hereafter, "AMC"). Under an AMC list approach, all consumers *wanting* to receive such calls would register their numbers. All other numbers would be precluded from being called with "unsolicited advertisements", "unsolicited solicitations", and "telephone solicitations." The Commission's broad scope, as authorized by Congress would encompass this proposal.

Thus the outbound industry *would have* its often disingenuously opined result: The ability to identify and call *only* those *wanting* to receive such calls. The outbound industry **should have** their expressed wish! Further, the costs of such a list would be far smaller than the costs of maintaining a national DNC list, for reasons that are obvious to everyone in this nation, including the outbound industry representatives. The entire national AMC list would fit on a single CD-Rom which could be conveniently accessed via the FCC's website for the mutual benefit of the entire outbound industry, and those who enjoy its offerings.

This proposal is worthy of implementation, absent a new national DNC list.

Respectfully submitted for your consideration,
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