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Office of the Secretary
Federal Communications Commission
Room 4-C740
445 12th Street, S.W.
Washington, D.C. 20554

RE: Notice of Proposed Rulemaking and Memorandum Opinion Order Pertaining to Rules and Regulations **Implementing** the Telephone Consumer Protection Act (CG Docket No. 02-278 and CC Docket No. 92-90)

To the Office of the Secretary:

Citigroup, Inc., New York, NY, appreciates the opportunity to express its support for a single national do-not-call list administered by the Federal Communications Commission ("the Commission"), as well as the opportunity to make additional comments regarding the above referenced Notice of Proposed Rulemaking ("Proposal" or "Rulemaking") implementing the Telephone Consumer Protection Act of 1991 ("TCPA").

As a diversified financial services company with customers in every state, Citigroup is keenly aware of the importance of respecting a customer's preferences with respect to telephone communication for marketing purposes. Citigroup's businesses have a history, predating recent do-not-call state legislation, of seeking and respecting such customer preferences. Recently, however, a patchwork of differing state requirements have made this process much more difficult. Citigroup believes that it is in the best interests of telephone consumers and those businesses, such as Citigroup, which rely on telephone communication with customers, for the Commission to reassert the leadership role mandated by Congress in this area. There is a need for additional uniform national standards, particularly with respect to a national do-not-call list (DNC list), that protect consumers without unduly hampering legitimate business practices.

Telephone "Marketing" to Customers is Crucial for Citigroup's Diverse Financial Businesses

Citigroup is a diversified global financial services company. It is the nation's largest registered financial holding company. Citigroup and its subsidiaries provide a broad range of financial

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services to consumer and corporate customers and have 192 million customer accounts in 100 countries. Citigroup engages in retail and corporate banking, asset management and trust services through eleven insured depository institutions, including Citibank, N.A. It engages in life insurance and annuity underwriting and a range of insurance agency activities through its Primerica and Travelers Life Insurance subsidiaries, and in securities activities through Salomon Smith Barney, a registered broker/dealer and a member of the New York Stock Exchange.

The Consumer Group operates on a global basis and is a major focus of Citigroup's business. That Group includes CitiFinancial, the one of the largest consumer finance operation in North America with more than 1500 offices that offer personal loans, auto loans and real estate secured loans. It includes Citigroup's credit card business, the largest provider of credit cards in the U.S. and the world, with 93 million accounts. It also includes Primerica Financial Services, which sells life insurance and annuities, as well as mutual funds and mortgages and personal loans, through more than 100,000 independent representatives.

Citigroup conducts a significant amount of its business with its customers through the use of the telephone. It conducts this business directly through subsidiaries, such as banks, insurance companies, registered broker/dealers, finance companies and mortgage companies. In addition, Citigroup often deals with customers and consumers indirectly through independent contractors, making extensive use of call centers that are staffed by such third parties. Certain Citigroup business lines, such as its credit card business, depend on telephone access to customers for service, sales, card activation, card upgrades, balance transfers and virtually every aspect of the business. Indeed, telephone communication with customers, often involving the offer of additional products and services, is a necessary component of a large number of Citigroup's businesses.

Citigroup Supports a Single National Do-Not-Call List

While Citigroup has an interest in a number of issues raised in the Rulemaking, and commends the Commission for the thorough and thoughtful nature of the Proposal, Citigroup believes there are a few key issues of overwhelming significance. Primary among the issues raised by the Commission is the establishment of a national structure to permit consumers in all States to choose not to receive telemarketing calls. Equally important, however, is that this national DNC list supplant rather than supplement the myriad of State lists. Moreover, it must do so in a manner that is administratively feasible and that allows Citigroup and other businesses to continue to contact both their own customers and those consumers who do not register on a do-not-call *list*.

The company specific do-not-call lists required by the FCC's 1992 Order implementing the TCPA and the 1995 Reconsideration Order have proven to be effective in permitting Citigroup and its subsidiaries to honor the wishes of its customers. Customers are asked at the outset of their relationship, or in annual privacy notices, about their preferences in receiving calls for

marketing purposes. This process allows the customer to make his or her choice with specific reference to the business relationship the customer expects to establish with Citigroup rather than some all encompassing choice based on contacts with companies in which the customer has no interest.

The customer has a context in which to assess the benefits that a particular company can provide, including the range and quality of services and products, and to weigh those benefits against the value the customer places on being free of any type of marketing call. It also provides Citigroup with a very directed customer preference so that Citigroup does not waste resources in future marketing efforts that will not only be unsuccessful, but counter-productive. This process is prompt, efficient and it does not expose any basic customer information, such as address or phone number, to a public registry.

Nevertheless, the company-by-company approach adopted in 1992 by the Commission has been supplemented by multiple State requirements. In footnote 48 of its Proposal the Commission cites the States that have do-not-call lists in place, those that have passed legislation but not yet established the do-not-call administrative structure and those States considering do-not-call legislation. There is every indication that the number of States adopting such legislation will continue to grow. It appears that the national DNC list proposed by the Federal Trade Commission ("FTC") would merely add to this patchwork of diverse and conflicting requirements.

It is not merely the number of lists to be reviewed by a national corporation, such as Citigroup, that is problematic. Each State may have its own unique set of exemptions, requirements for the frequency of obtaining and incorporating updates to the list, cost of the list, identifying information, and procedures for resolving questions about the list. Some States permit Citigroup to call its customers and others do not. The definition of a customer relationship may differ from State to State. There is, in short, a need for uniformity and a single administrative process.

The Commission's current individual company requirement is the most effective way for Citigroup to deal with its customers, but it is now merely an additional list to be integrated with multiple state lists and perhaps the FTC national DNC list. The Commission has been charged by Congress in the TCPA with the responsibility for the balancing of consumer protection and legitimate telemarketing interests. The Commission was the first to establish consumer protections in this area. The key to consumer telecommunication regulation, as the Commission's Proposal makes abundantly clear, is an understanding of the media rather than a focus on the marketing message. An understanding of the technology is critical, and it is the area in which the Commission, rather than any federal or state agency, has the most appropriate expertise.

Citigroup believes that the Commission has in place the most directed and flexible Rule. Nevertheless, the expansion in the number of those businesses marketing by telephone, the burdens on the consumer in receiving unwanted calls and the response of legislators in a significant number of states, all suggest the need for the Commission to regulate in this area,

The mere fact that so many states have passed DNC statutes is one overwhelming indication that the Commission should revisit its earlier decision on a national DNC list.

Citigroup suggests that Commission action would benefit interested businesses, consumers and the States. The administrative benefits to business in updating one list and dealing with a single regulatory standard across all lines of business and third party contractors is self-evident.

Consumers would benefit because they would have a single registration that is more likely to be reviewed by all companies to prevent erroneous calls. They will have a national agency with technical expertise to administer the program and address ongoing issues. They may receive coverage in states where they would not have it. They are more likely to receive the benefit of a uniform standard that applies to functionally regulated entities that the FTC proposal, for example, does not reach. Such a rule would also address an argument that the States may not regulate interstate telephone calls under DNC laws because TCPA and the Communications Act of 1934 already preempt such state statutes. In addition, companies will find it easier to inform customers of DNC rights and procedures in nationally distributed information.

Finally, the States benefit in the sense of being able to provide protections they consider important to consumers without the costs of maintaining a DNC system, the need to update procedures and rules periodically, and the first-tier obligation of investigation and enforcement.

Citigroup urges the Commission to adopt such a national DNC list and to explicitly articulate the ample legal basis to occupy the field on such DNC lists. The proposed FTC list suffers from the dual infirmities that it does not replace state lists and it does not reach certain functionally regulated companies. Citigroup is willing to accept more comprehensive coverage than that offered by the states or the FTC proposal if it can have the certainty and uniformity of a single nationwide list.

Any National DNC List Should Have Certain Additional Characteristics

a) Businesses Must Be Able To Call Customers

Virtually all state DNC statutes recognize some exemption for existing customers of a business. Citigroup businesses engage in a number of routine business calls that might otherwise be restricted by DNC laws as “marketing.” These calls should be exempted from any regulation implementing a national DNC list because the customer has voluntarily chosen to establish a relationship with a particular company such as Citigroup. Without an exemption, the DNC listing could substantively limit the ability of financial institutions to provide the type of attention and service that the customer expects. For example, welcome calls to a new credit card customer can involve an effort to learn which of the many value-added products and services associated with Citigroup’s credit cards the customer may wish to purchase. Other types of routine calls include those by a broker or investment advisor to discuss market developments that might result in sales of securities to achieve a different portfolio mix. Service

calls, including those to investigate possible fraud in an overdrawn bank account, may be covered if the result is a new account with overdraft protection. There may be calls to alert customers that mortgage rates make refinancing beneficial and to inform the customer of a low fee or no fee option.

This is clearly an exception of critical importance that the FTC proposal does not address. It is telling that nearly all States provide some exemption for an existing customer relationship. The mandate of Congress in the TCPA is to balance the interests of consumers and the legitimate interests of business. This suggests that the FCC should join the States in recognizing the need for business to call existing customers without having to determine, in advance or in the course of the call, if the call might cross a murky line from service to sales or from customer relations to marketing. Fortunately, a number of States have helpful language based on an "established relationship" or customer status that could provide the basis for such an exemption.

b) The National List Should Be Updated Quarterly

There are two timing issues with respect to any national list: (1) the need for business to acquire and use updated lists and (2) the lead time between publication of the DNC list and the time it is binding on a business. In Citigroup's case, the use of such a list requires input of data and coordination between a number of subsidiaries and third party marketers. Based on Citigroup's experience, the maximum number of required updates per year should not exceed four and the grace period from Commission publication to full business implementation should not be less than 30 days.

c) Listings Should Be for a Fixed Period

A list becomes outdated after some period of time, if for no other reason than relocation of customers. While customers may call to register new numbers if they move, they may neglect to remove a prior number. It would not be burdensome to a consumer to register every three years.

Predictive Dialers are Not Auto Dialers

Predictive dialers should not be designated as auto dialers under the TCPA Rule. Although a predictive dialer has the ability to store numbers and to produce the numbers to be called, the distinguishing factor is that a predictive dialer does not produce those numbers randomly or sequentially. Rather, it stores a given set of numbers that the marketer intends to call. There is no record of abuse in predictive dialers calling emergency lines for police or fire companies or hospital rooms that are prohibited under the TCPA Rule to an auto dialer.

In fact, Citigroup would argue that programmed predictive dialers are far more accurate in calling a particular consumer than calls placed by manual dialing. Although use of predictive dialers can result in "dead air" or disconnected calls that are annoying to consumers, Citigroup

believes setting a reasonable abandonment rate for such calls is the most effective way to deal with this issue. With a limit on the abandonment rate, the Commission could reduce the annoyance to consumers caused by "dead air" without increasing the annoyance caused by erroneous calls generated by manual dialing. Predictive dialers also reduce costs and those savings can be passed on to consumers.

Citigroup does not believe the mandating that caller identification information be transmitted with the use of predictive dialers is an appropriate way of addressing concerns about predictive dialers. Neither the technology to transmit such information nor the use of caller I.D. on consumers' phones appears to be so widespread at this stage as to be a practical, least costly, universal solution. Regulating an appropriate abandonment rate is the preferable method of addressing predictive dialer issues.

Wireless Telephone Numbers

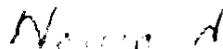
Citigroup is prepared to treat wireless telephone numbers as "residential telephone numbers" and subject them to the time of day limitations of the TCPA Rule.

Private Right of Action

The TCPA Order currently permits an individual consumer to file suit in State court if the consumer has received more than one telephone call in a 12-month period from or on behalf of any single telemarketer to whom the consumer has made a do-not-call request. With the proposed adoption of a national DNC list, companies presumably find it more difficult initially to avoid errors than in the case of a company specific do-not-call request. The period of transition to a national DNC list would not be the appropriate time to expand such a private right of action to a single erroneous telephone call.

The Citigroup contacts for this proposal are the undersigned at (212) 559-2938 or James Scott at (212) 559-2485, scottj@citigroup.com.

Very truly yours,



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