1. A national Do-Not-Call list would create a more effective and simplified way for consumers to remove their names from telemarketing call lists and for telemarketers to ascertain which prospects do not wish to be called.

Telemarketing calls place a significant burden on the vast majority of the public who wish not to receive such calls. Current methods for eliminating these calls are ineffective. The Direct Marketing Association, for example, has instituted a do-not-call list (which costs $5 to sign up for on-line). However, I can personally attest that signing up for this list is largely ineffective; it appears most telemarketers do not check the DMA list.

The current TCPA mechanism of contacting individual companies to direct them to place one on a company-based do-not-call list is similarly largely ineffective. The burden of record keeping to track which do-not-call lists have been subscribed to falls to the consumer. Worse, the offending company may call back at least once with no penalty. Finally, there is significant history of telemarketing companies changing names frequently to continue abusive telemarketing. Presumably, a national do-not-call list would significantly help this situation—presuming that no calls are allowed to those on the list.

Thus, the creation of a single, do-not-call list would aid both the consumer, by having a single place to register their preferences, and telemarketing businesses, by assuring that those (legally) called are willing to receive calls from telemarketers.

2. The creation of a national do-not-call registry by the FCC in partnership with the FTC would address the jurisdictional gaps left by the FTC proposed national do-not-call database.

In early 2002, the FTC proposed amending its Telemarketing Sales Rule and the creation of a national do-not-call database. At that time, the FTC recognized that the limits of the FTC's jurisdiction meant that a fairly extensive group of entities would not be covered by the proposed rules. Such entities include credit unions, savings and loans, nonprofit organizations, insurance companies, and banks.

It is clear that many consumers would prefer a broader ability to exclude telemarketing calls—certainly including financial institutions and telecommunications carriers, which are among the most egregious telemarketers.

3. All telemarketing calls should be prohibited which require the receiving party to bear any portion of the cost without explicit prior permission.

Specifically, telemarketing calls (or communications of any kind—including pages and text messages) should be prohibited to wireless devices. The excuse that some choose to purchase large blocks of minutes is no excuse at all. First, not all wireless customers make such a decision, and, second, those of us who do choose to purchase blocks of minutes attempt to choose the plan that is least expensive for our own calling. Telemarketing calls would require us to select more expensive plans and/or use expensive minutes over-plan.

4. It is important that the private right of action guaranteed by the TCPA be maintained to enforce the National do-not-call list.

History strongly suggests that a number of unscrupulous telemarketers will ignore any such national do-not-call list. The FCC/FTC will only be able to enforce penalties against the most egregious offenders; the only way to effectively promote compliance with the law is to include the private right of action currently provided by the TCPA.

5. Conclusion.

A national do-not-call list of the kind proposed by the FCC's NPRM would answer a long-felt consumer need for better control over telemarketing calls to the home. Further, <u>any</u> unsolicited telemarketer communication with wireless devices must be prohibited, as the cost is ultimately transferred to the consumer. Finally, the private right of action guaranteed by the TCPA must be extended to the national do-not-call list to ensure compliance.