Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION INITIAL COMMENTS

The National Telecommunications Cooperative Association (NTCA)[1] submits its initial comments in response the Federal Communications Commission's (Commission's or FCC's) Further Notice of Proposed Rulemaking (FNPRM) in the above-captioned proceeding.[2]

In the FNPRM, the Commission seeks comment on implementation of the Do-Not Call Implementation Act of 2003. The bill, signed into law on March 11, 2003, requires the FCC to issue a final rule in the above-captioned proceeding within 180 days of March 11, 2003 and to consult and coordinate with the Federal Trade Commission (FTC) to maximize consistency with the rule promulgated by the FTC in 2002 establishing a national do-not-call registry.[3]

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[1] NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 556 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many also provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). And all are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

[2] *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991,* CG Docket 02-278, FCC 03-62 (rel. March 25, 2003).

I. THE FCC SHOULD MODIFY ITS TELEMARKETING RULES TO BE CONSISTENT WITH FTC DO-NOT-CALL RULES

The FCC specifically asks how it can make its telemarketing rules consistent with those of the FTC. NTCA strongly supports consistency in regulatory rules between and within regulatory agencies. Duplicative and conflicting rules only cause industry uncertainty and make resolution of issues more difficult.

The FCC should modify its existing definition of an "established business relationship" exemption in its Telephone Consumer Protection Act (TCPA) rules to be consistent with the definition contained in the FTC rules. Businesses are exempt from the do-not-call registry if the business/seller has a business relationship with a consumer. The FCC's business relationship rule states:

> *"The term established business relationship means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the residential subscriber regarding products or services offered by such a person or entity, which relationship has not be previously terminated."*[4]

The FCC definition placed no time restriction on the established business relationship. Under this rule, a consumer making one transaction with a business can be deemed to have a relationship with that business for eternity, and therefore the business

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[3] 47 C.F.R. § 310.4(b).
[4] 47 C.F.R. § 64.1200(f)(4).

would be exempt from the do-not-call regulations should that consumer add his number to the national registry.

The FTC disagreed with this definition determining that including a specific time limit from the date of last business transaction balances the privacy needs of consumers and the need of businesses to contact their current customers. Specifically, the FTC determined that 18-months is an appropriate time frame for an "established business relationship." This means a business is provided an 18-month window from the date of its last transaction with a customer to market other products and services. NTCA supports the inclusion of the 18-month time limit in the FCC's rules. Inclusion of the limit will foster consistency and eliminate confusion about the obligations of businesses.

II. CONCLUSION

NTCA strongly supports the FCC's initiative to make its telemarketing rules consistent with that of the FTC. The Commission should modify its definition of an "established business relationship" by adding an 18-month time limit from the time of a transaction that a business that call the buyer with information on products and services. Inclusion of the time limit will balance the privacy needs of consumers and the need of business to contact current customers.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in CG Docket No. 02-278, FCC 03-62 was served on this 5th day of May 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy
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