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June 19, 2003

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Submitted Electronically

Re: CG Docket No. 02-278  
Rules and Regulations Implementing the  
Telephone Consumer Protection Act of 1991  
Response to Ameriquest Mortgage Company *ex parte* meeting

Dear Ms. Dortch:

This letter is in response to the June 5, 2003 meeting of Kevin Morfield, Thomas J. Noto, and Adam Bass from the Ameriquest Mortgage Company (“Ameriquest”), Erik V. Huey and Ronald M. Jacobs of Venable, Baetjer, Howard & Civiletti, LLP, and Clayton S. Friedman of Baker & McKenzie with Commissioner Kathleen Q. Abernathy, Matthew A. Brill, and Shannon Torgerson, as documented for the record by a letter from Mr. Huey and Mr. Jacobs.

Ameriquest claimed that consumers are more accepting of calls requesting a “face-to-face” meeting before a transaction is completed. This issue has been discussed in various comments to the NPRM and in the FTC’s Do-Not-Call proceedings.

The FTC considered the issue of face-to-face meeting request calls and concluded that the record shows that consumers are increasingly frustrated with such calls. The FTC’s final rule does not exempt such calls from their DNC list provisions. In their statement the FTC commented that:

The rulemaking record shows that face-to-face transactions are not less susceptible to certain abusive practices prohibited in § 310.4. For this reason, the Commission has determined that telemarketing calls to solicit a face-to-face presentation or the purchase of pay-per-call services should be subject to certain Rule provisions designed to limit abusive practices.<sup>1</sup> (emphasis in original, internal citations omitted)

Ameriquest also bases their request for a face-to-face exemption on the claim that such calls are more likely to be local calls and that local calls are less intrusive than others.

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<sup>1</sup> FTC Final Amended Rule and accompanying Statement of Basis and Purpose at 205. 68 Fed. Reg. 4656 (January 29, 2003). Reference to 16 C.F.R. §310.4, “Abusive telemarketing acts or practices”, in the new rule.

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However, the fact that a call is from a local company does not eliminate the disruption to a consumer who is awakened or interrupted from dinner or an important activity.

Ameriquest cites the TCPA provision at 47 U.S.C. §227(c)(1)(C). This provision of the TCPA only requires only that the Commission *consider* the issue of local calls, and does not require the Commission to actually provide any difference in the regulation of local and non-local calls.

In the case of Ameriquest, a face-to-face request call may not be local. According to their website, Ameriquest is a nationwide company with over 200 local offices.<sup>2</sup> Calls could be placed from a nationwide call center or from a local office. With nationwide companies such as Ameriquest, face-to-face solicitation calls are not necessarily local calls. While, according to their letter, the calls from Ameriquest are from those that conduct the face-to-face transaction, they do admit that the calls may be made "...by those who make calls to schedule services for consumers." With nationwide companies the scheduling calls could be made by people on a phone bank using predictive dialers.

A face-to-face request exemption would create an inconsistency with the FTC's DNC list regulations which do not have that exemption. The FTC DNC list does not apply to intrastate calls. However, for the many consumers who live in the many cities that are close to a state line, a "local" call to schedule a meeting may well be an interstate call, subject to the FTC regulation. (For example, according to Ameriquest's web site, a consumer in Vancouver, WA would be covered by their Portland, OR office.)<sup>3</sup> For those consumers to determine if a call is a violation of the DNC list rules they would have to know whether or not the business placing the call is regulated by the FTC, and, if it is, whether the call was placed from a national call center, a local office in the adjacent state, or a local office in the same state.

I urge the Commission to reject Ameriquest's proposed exemption of calls soliciting face-to-face meetings.

Very truly yours,

/s/ John A. Shaw

cc: Commissioner Kathleen Q. Abernathy, kabernat@fcc.gov

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<sup>2</sup> www.ameriquestmortgage.com. Last viewed on June 19, 2003.

<sup>3</sup> Information found by entering the zip code 98660 into the "Find a Branch page".