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02-278



Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

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Federal Communications Commission
Office of the Secretary

The Honorable Jim McCrery
U.S. House of Representatives
2104 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman McCrery:

Thank you for your letter to Chairman Michael K. Powell of the Federal Communications Commission (Commission or FCC) on behalf of your constituent, Mr. Robert Graham, regarding the Commission's rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). Specifically, Mr. Graham believes that the national "Do-Not-Call" rules will deprive small businesses of their free speech rights and will lead to a loss of jobs in the telemarketing industry. He asks that the do-not-call rules be repealed. Your correspondence was forwarded to the Commission's Consumer & Governmental Affairs Bureau for handling.

On July 3, 2003, the Commission released a Report and Order in CG Docket No. 02-278, which adopted rules establishing a national do-not-call registry and other amendments to its telemarketing and facsimile advertising rules. The national do-not-call registry is nationwide in scope, includes all telemarketers, with the exception of certain non-profit organizations, and covers both interstate and intrastate telemarketing calls.

The Commission received over 60 petitions for reconsideration and/or clarification of the Commission's July Report and Order. These petitions--at least one of which raises issues specific to the insurance industry--are currently under review. We have placed a copy of Mr. Graham's correspondence in the public record for this proceeding. Although the period for filing petitions for reconsideration has closed, Mr. Graham's concerns may nevertheless be addressed along with the other petitions pending before us on our telemarketing and fax rules.

We appreciate your inquiry. Please do not hesitate to contact us if you have further questions.

Sincerely,

[Handwritten signature]

K. Dane Snowden
Chief
Consumer & Governmental Affairs Bureau

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02-278

JIM McCRERY
4TH DISTRICT, LOUISIANA

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February 23, 2004

*CCP
unsub calls
651*

Honorable Michael K. Powell, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Powell:

It is my understanding that the Federal Communications Commission (FCC) is currently reviewing motions requesting the FCC to reconsider its rule on insurance telemarketers. I understand this rule does not include exemptions for small businesses. Specifically, I have been contacted by a constituent, Mr. Robert Graham, who believes the lack of an exclusion for insurance salesman, has created a particular hardship.

Enclosed are Mr. Graham's comments on the rule and requested relief. I would like the FCC to review his comments when considering further modifications to the do-not-call registry.

Thank you for your attention to this matter.

With kindest regards, I am

Sincerely yours,

J. McCrery
JIM McCRERY
Member of Congress

JOM:jn
enclosure

cc: Mr. Robert Graham
10019 Brittany Drive
Shreveport, LA 71106

2 MAR 2004 RCUD

TELEMARKETERS WERE CONVICTED WITHOUT A TRIAL

As I laid my life on the line in Viet Nam for my fellow citizens, I never dreamed that those same citizens would turn on me like mad dogs in 2002. Now I am treated as a convicted criminal. I am ordered by state law to get a bond to do a job that I have done freely and unhindered for thirty-two years. Why? Constitutional and historical revisionist now say constitutionally guaranteed free speech is no longer free for the telemarketers. Privacy moguls and disillusioned legislators have usurped our United States Constitution. This unjust, unfair, unnecessary law must be repealed. It is prejudicial, tyrannical, unlawful, intolerant, and translates spite into law.

Under our jurisprudence a person accused of a crime has been guaranteed "due process". Telemarketers have been tried in the media and convicted as guilty and demonized and slandered. It is easy to "prove" guilt when only one side is told. When free speech is on trial I will always vote for free speech. If you want privacy, get an unlisted number. If you want no calls at mealtime, use an answering machine or unplug your phone. What you really want is to "punish" people you deem to be a pest and beneath you.

Passing laws to deny free speech is un-American and unlawful. Let free speech win this contest and let freedom ring!

Robert Graham

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SODOMITES HAVE BETTER P.R. THAN TELEMARKETERS

If I could prove a sizable percentage of telemarketers are gays, lesbians and African Americans, I could get DO NOT CALL repealed almost instantly. It is politically "in" to discriminate, demoralize and punish "all" telemarketers for the sins of a few. Like Alfred E. Newman said in his 1950's magazine, "it's a Mad, Mad, Mad World"! That is hitting the nail on the head. People are upset – mad. They are very emotional about this issue and they want revenge. They want what they want even if it violates the constitution, puts hundreds of thousands out of work, and sabotages the economy, not to mention it is evil to legislate people out of their jobs.

For years black Americans have felt discrimination and lack of opportunity due to racism wrongs they have suffered. Our government recognized these injustices and enacted laws to protect against discrimination and allow freedom of opportunity. Telemarketers are now the repressed minority and yet their job and opportunity is being denied. Precious freedoms, supposedly "guaranteed" by our United States First Amendment, are being abridged. The First Amendment reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, etc., etc.". The Do Not Call law abridges (denies) telemarketers freedom of speech. That is the reason for, and full intent of passage of this law. Unless and until these unconstitutional laws are repealed, telemarketers are being denied the freedom of speech other Americans enjoy and value so highly.

Clearly the American people will see the ambivalence and unfairness of promoting non-discrimination against women voters, African-Americans, and simultaneously DISCRIMINATING against telemarketers because they are "THE ACCEPTABLE WHIPPING BOY" of current demagoguery. Our constitution is a great law. You must ignore it or misinterpret it to justify discrimination against the telemarketers.

Politicians who value their vows to uphold the constitution must repeal these unjust laws. Citizens who want their rights protected must allow telephone calls or "equal justice for all" is only a tingling cymbal and a sounding gong.

Robert Graham

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DO NOT CALL IS POLITICALLY POPULAR EVIL

It is easy to win a debate when only one side is presented. DNC is being imposed on law abiding, tax paying workers to deprive them of their free speech rights. It is just dead wrong to pass laws that legislate people out of their jobs. As a friend said "that is as wrong as two left shoes"

Politicians sworn into office vow to uphold our United States Constitution. The duty of all state and federal senators and representatives is to pass only those laws that do not violate either their vow or our constitution. As a republic and a country based on law, it is both sad and repugnant that DNC takes away the very freedom of speech that our soldiers in every war died to protect. This law undermines and defeats the sovereignty and efficacy of our great constitution. It renders it's assertion that all men are created equal a bad joke.

If telemarketers are equal then they have free speech rights that legislators must respect and not destroy. DNC manifestly divides us as a nation and makes some winners and others losers. This law tramples equality under the law (a foundation principle of our government). This law trashes the first amendment.

In the 1850's I remember blacks being relegated and forced to sit in the back of the public buses. It was wrong, but at least they were allowed the ride and the injustice was corrected. Telemarketers are yesterdays blacks being discriminated against today. By denying telemarketers freedom of speech, and a freedom to do their job, the DO NOT CALL law is little more than legalized discrimination.

If we really believe that America is the home of the brave and the land of the free, we must allow free, unfettered free speech to all citizens and not just some! Repeal DNC and let freedom ring and reign.

Robert Graham

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GOOD REASONS WHY "DO NOT CALL" SHOULD HAVE NEVER BEEN PASSED

1. The common sense rule, a law to halt unwanted calls was unnecessary. Unwanted calls can be stopped by a number of widely available measures. Some include; (a) unlisted phone number, (b) screen calls with answer machine, (c) caller ID, (d) out-of-area tele-zapper, etc., etc
2. This law violates freedom of speech (and will in my opinion be found unconstitutional) guaranteed by the First Amendment of the United States Constitution.
3. This law will cause thousands of Louisiana salespeople to either lose their job or have their income shrink dramatically. Ironically, the law forces those thousands of individuals and businesses that are devastated by this law to pay 100% of the cost. At about \$1,500 to \$2,500 a year minimum, this amounts to a substantial cost increase for small business people. This same law allows those hundreds of thousands who sign up to do so free of charge. Basic fairness demands all share this cost if it is a fair law. Whatever happened to equal protection under the law? "Do Not Call" kills jobs, destroys economic opportunity and is an unjust, freedom-of-speech killing law.
4. Why pass any law during a recession that hurts the economy? Had you asked yourself the question "is this helping provide jobs?" The obvious answer is no. Do we need more jobs in Louisiana? Yes. Is it right to kill the messenger's job because you don't like the message.
5. This law costs jobs and hurts companies whose sales to Louisiana residents run into the millions. This loss of income to individuals and businesses will only accelerate the outflow of jobs and companies who find this costly, anti-business law unnecessary and unfair. Salespeople should not have been targeted and punished for exercising their First Amendment right of free speech. The tax collections in future years will shrink and make Medicaid, education and other state supported plans harder to fund.

In summary, passing "Do Not Call" was a popular fiasco. Its passage opened "Pandora's Box". This law has been sown in the wind and Louisiana will reap the whirlwind. Ironically, giving people what they want often backfires. The tremendous harms done by this law dwarfs any perceived good realized through its passage. For example: lost jobs, failed companies, lost telephone sales of life insurance and health insurance, real estate refinancing, telephone company plans, etc., etc Calling Louisiana residents to ask for their business is a business practice that for decades has produced jobs and revenue for the state. Passing laws that deny economic opportunity for Louisiana citizens is self-defeating and weakens an already weak economy.

Robert Graham

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DO-NOT-CALL: UNCONSTITUTIONAL

If freedom of speech is good for you brother, then don't deny me my freedom of speech.

Citizens angry with other American citizens turned to our legislators for justice. They felt their wishes to stop incoming telephone calls should be law. Unfortunately their desires violated the First Amendment to our United States Constitution. That little detail did not stop our legislators from passing the law anyway.

You see, our constitution guarantees "freedom of speech" not "freedom from speech". By definition, freedom means not censored, not restricted, not restrained, not encumbered, and having free access. A citizen either has freedom or they do not have freedom. Do-Not-Call kills freedom of speech and is unconstitutional.

When our legislators are sworn into office, they pledge to uphold our United States Constitution. They cannot, must not, and should not vote for any law that violates our constitution. To violate this oath of office and pass unconstitutional legislation is a violation of the public trust. The only way to restore public trust is to repeal this law.

This law needs to be repealed or our government is guilty of tyranny against its own citizens. No state laws should be enacted that obviously violates our United States Constitution as this law does! The Bible says it best; "In the same way you would have others do unto you, do so unto them". Proponents of Do-Not-Call would not like their freedom of speech taken away. Therefore, they should not take my freedom of speech from me.

It is really a mystery to me how people can celebrate our national freedoms and unite to fight foreign enemies and at the same time deny other American citizens their constitutionally protected freedom of speech rights. I am entitled to my freedom of speech but you are not legally entitled (under the United States Constitution) to freedom from my free speech. If you can censor out my free speech you have effectively legalized discrimination. This twisting and misinterpretation of our constitution will dilute and eventually undermine our great national legal foundation - our United States Constitution. We must not let this happen if we are to remain the home of the brave and the land of the free. Long live America and long live freedom for all.

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DO NOT CALL

Admittedly, some telemarketers have behaved badly and made many people angry. The volume of telemarketing calls has gone up in recent years due to the rapid increase of cell phone and telephone companies. Also, the explosion of credit card companies and low interest rates have spawned many other offers to refinance mortgages or to offer second mortgage loans. Some people hate these calls while others benefit from one or more of these telemarketing calls and welcome the savings (related to the calls). You see, the glass is both half-full and half-empty at the same time, it is all in how one sees it

This *free* (emphasis "free") market system has made America into the economic marvel of the world. I have always heard "if it ain't broke - don't fix it" and I wonder how a law like "Do-Not-Call" (which severely restricts free speech) can be seen as good. Sales, often initiated by a telephone call, is the engine that runs a free market economy.

Economics 101 would teach anyone that depriving salespeople of a high percentage of their market leads to vastly decreased sales. Less sales means lost jobs; a weaker economy, decreased company earnings, and less tax money available to provide needed state revenues.

When a law undermines a vital cog in the economic wheel, we all suffer. Bad law predictably produces bad results and "Do-Not-Call" will leave a trail of lost jobs, lost opportunity, lost freedom of speech, and lost tax revenues. This picture is as pretty as the slimy trail left by a snail.

Repeal "Do-Not-Call" and restore hope for thousands. Repeal this law and restore both sanity and respect to the profession you represent. Repeal this law and reinstate freedom of speech to its rightful place ahead of individual rights to privacy. It is no secret that privacy is individually available without killing free speech and punishing thousands of innocent telemarketers for the sins of a few bad ones.

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