

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

In the Matter of)
)
Alliance For Contact Services, et al.,)
) CG Docket No. 02-278
Petition For Declaratory Ruling That The)
FCC Has Exclusive Regulatory)
Jurisdiction Over Interstate Telemarketing)

**COMMENTS OF VERIZON SUPPORTING JOINT PETITION FOR
DECLARATORY RULING REGARDING THE FCC'S EXCLUSIVE REGULATORY
JURISDICTION OVER INTERSTATE TELEMARKETING**

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Introduction and Summary

The coalition's petition regarding the Commission's exclusive jurisdiction should be granted. As discussed in more detail below, the Telephone Consumer Protection Act of 1991 ("TCPA"),² which was incorporated into the Communications Act of 1934 ("Communications Act"),³ grants the Commission exclusive jurisdiction over all interstate telemarketing, and states therefore have no authority to regulate in that area. In addition, the Commission has the authority categorically to preempt state regulations regarding interstate telemarketing that differ in any way from the Commission's rules, on the grounds that different state laws necessarily either will directly conflict with, or will frustrate the objectives of, the federal regulatory scheme.

¹ These comments are being filed on behalf of the Verizon telephone companies, which are listed in Attachment A; Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance; NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions; Verizon Select Services Inc.; and Verizon Online-New Jersey LLC, Verizon Internet Services Inc. and GTE.Net LLC d/b/a Verizon Internet Solutions (which operate under the trade name Verizon Online) (collectively, "Verizon").

² *Telephone Consumer Protection Act of 1991*, Public Law 102-243, 105 Stat. 2394 (1991); 47 U.S.C. § 227.

³ 47 U.S.C. §§ 151 *et seq.*

Finally, a ruling from this Commission declaring its exclusive jurisdiction over interstate telemarketing is the most efficient means to bring an end to the current situation, in which a growing number of states enact and enforce laws that purport to govern interstate calls, creating a patchwork of different, inconsistent standards for interstate telemarketing throughout the country.

ARGUMENT

I. The Commission Has Exclusive Jurisdiction Over Interstate Telemarketing

Congress has granted the Commission – not the states – exclusive jurisdiction over interstate telemarketing, and the Supremacy Clause of the United States Constitution bars states from imposing regulation over the subject.⁴

First, the language of the TCPA itself makes clear that the Commission has exclusive jurisdiction over interstate telemarketing. In the TCPA, Congress enacted “comprehensive telemarketing legislation” to establish a “uniform” federal scheme governing telemarketing.⁵ In that statute, Congress directed the Commission – and only the Commission – to promulgate rules that would govern interstate telemarketing, stating that “*the Commission shall* prescribe regulations to implement the requirements of [the TCPA].” *See* § 227(b)(2) (emphasis added). In *USTA II*,⁶ the D.C. Circuit ruled on the significance of a similar grant of authority in the Telecommunications Act of 1996 (“1996 Act”). In the 1996 Act, Congress required incumbent

⁴ *See, e.g.*, U.S. Const. art. VI; *Mississippi Power & Light Co. v. Mississippi ex rel. Moore*, 487 U.S. 354, 377 (1988); *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 299-300 (1988); *Southwestern Bell Wireless Inc. v. Johnson Cty. Bd. of Cty. Comm’rs*, 199 F.3d 1185, 1189-92 (10th Cir. 1999).

⁵ *See* 137 Cong. Rec. S. 18317, 102nd Cong. 1st Sess. (Nov. 26, 1991) (statement of Sen. Pressler).

⁶ *United States Telecom Ass’n v. FCC*, 359 F.3d 554, 565-568 (D.C. Cir. 2004) (“*USTA II*”).

carriers to provide “unbundled access” to certain elements of their networks and directed “*the Commission*” to “determin[e] what network elements should be made available” as unbundled network elements. *See* 47 U.S.C. §§ 251(c), 251(d)(2) (emphasis added); *see also* § 251(d)(1) (directing “the Commission” to adopt any regulations necessary to implement the Act). In *USTA II*, the D.C. Circuit rejected the Commission’s attempt to delegate this authority to state commissions. *See* 359 F.3d at 565-568. According to the court, the Act by its terms not only permitted, but *required*, the Commission – and the Commission alone – to make the determinations assigned by Congress. *See id.*

The same principles apply here. Congress directed that “the *Commission* shall prescribe regulations to implement the requirements of [the TCPA].” *See* § 227(b)(2) (emphasis added). Congress therefore directed the Commission – not the states – to adopt rules governing telemarketing, including both *interstate* and *intrastate* telemarketing. To make this absolutely clear, Congress also amended section 152(b) – the section of the Act that generally preserves state authority over intrastate communications – to grant the Commission jurisdiction over *intrastate* communications “as provided in . . . [the TCPA].” *See* § 152(b).⁷ The *only* exception to the Act’s grant of exclusive authority over all telemarketing is a section providing that “State law[s] that impose[] more restrictive *intrastate* requirements or regulations” on certain specified activities are not preempted.⁸ *See* § 227(e)(1) (emphasis added). Any other regulation of

⁷ *See also Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 18 FCC Rcd 14014, ¶ 83 (2003) (“*2003 TCPA Order*”) (the TCPA “give[s] the Commission jurisdiction over both interstate and intrastate telemarketing calls”).

⁸ For example, as the Commission has previously recognized, the TCPA deprives states of the right to establish less restrictive requirements or regulations, even for purely intrastate telemarketing. *See 2003 TCPA Order* ¶ 81.

telemarketing – including *all* regulation of interstate telemarketing – is within the sole province of the Commission.

Indeed, Congress’ express grant of exclusive jurisdiction over interstate telemarketing is also evident in the legislative history of the TCPA and the placement of the TCPA within the Communications Act. Courts and this Commission have long recognized that the Communications Act grants the Commission exclusive jurisdiction over all interstate communications, and that states therefore have no authority to regulate interstate communications.⁹ By codifying the TCPA within the Communications Act, Congress brought interstate telemarketing within the Commission’s jurisdiction over all interstate communications, to the exclusion of state regulation. Indeed, the legislative history of subsection 227(e)(1) – the subsection addressing preemption of state authority – confirms Congress’ intent to preempt state regulation of interstate telemarketing:

Section 227(e)(1) clarifies that the bill is not intended to preempt State authority regarding *intrastate* communications except with respect to the technical standards ***Pursuant to the general preemptive effect of the Communications Act of 1934, State regulation of interstate communications, including interstate communications initiated for telemarketing purposes, is preempted.***¹⁰

⁹ See, e.g., *National Association of Regulatory Utility Commissioners v. FCC*, 746 F.2d 1492, 1498 (D.C. Cir. 1984) (“[i]nterstate communications are *totally entrusted* to the FCC”) (emphasis added); *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404, ¶ 16 (2004) (the Commission has “exclusive jurisdiction over ‘all interstate and foreign communications’”); *American Telephone and Telegraph Company and the Associated Bell System Companies*, 56 FCC 2d 14, ¶ 21 (1975) (“the States do *not* have jurisdiction over interstate communications”) (emphasis added).

¹⁰ 137 Cong. Rec. S. 18781, at 18784 (Nov. 27, 1991) (statement of Senator Hollings) (emphases added); see also *Telephone Consumer Protection Act of 1991*, § 2(7) (Congressional finding that state “statutes restricting various uses of the telephone for marketing” cannot control “interstate operations”); 137 Cong. Rec. S. 16204, at 16205, 102nd Cong. 1st Sess. (Nov. 7,

Thus, both the plain statutory language and the legislative history of the TCPA make clear that Congress has expressly granted the Commission exclusive jurisdiction over interstate telemarketing, and state laws purporting to regulate interstate telemarketing are invalid.

Second, even putting aside the express language of the TCPA and its legislative history, the Commission's exclusive jurisdiction over interstate telemarketing is clear from the comprehensive nature of the federal regulatory regime Congress established in the TCPA. As courts have repeatedly recognized, Congress' grant of exclusive jurisdiction need not be explicitly stated.¹¹ Rather, the determinative question is whether Congress intended for federal law to supplant state laws in the same field.¹² Congressional intent to supplant state law can be inferred from the nature of the federal statutory scheme.¹³ State regulations are therefore invalid if Congress has demonstrated an intent to supersede state law by crafting its own "unified and comprehensive regulatory system" governing the area. *See Southwestern Bell*, 199 F.3d at 1190.

The Commission applied these principles in its *Operator Services*¹⁴ decision to grant a petition similar to the one here. *Operator Services* involved a Tennessee law imposing certain requirements on operator assisted services providers. For example, the Tennessee law required

1991) (statement of Senator Hollings) ("The State law does not, and cannot, regulate interstate calls. Only Congress can protect citizens from telephone calls that cross State boundaries. That is why Federal legislation is essential").

¹¹ *See Capital Cities Cable, Inc. v. Crisp*, 467 U.S. 691, 698 (1984); *Fidelity Federal Savings and Loan Ass'n v. De la Cuesta*, 458 U.S. 141, 153 (1982); *Southwestern Bell*, 199 F.3d at 1189-92.

¹² *See, e.g., Mississippi Power*, 487 U.S. at 377; *Schneidewind*, 485 U.S. at 310; *Southwestern Bell*, 199 F.3d at 1189-92.

¹³ *See Capital Cities Cable*, 467 U.S. at 698; *Fidelity Federal Savings*, 458 U.S. at 153; *Southwestern Bell*, 199 F.3d at 1189-92.

¹⁴ *Operator Services Providers of America Petition for Expedited Declaratory Ruling*, 6 FCC Rcd 4475 (1991) ("*Operator Services*").

providers, at the beginning of each call, to disclose the costs for providing operator services and to offer to transfer the customer to another provider without charge. *See Operator Services* ¶ 2. Tennessee’s statute purported to apply to calls originating in the state, regardless of the destination of the call. As such, the Tennessee law attempted to regulate operator services for interstate calls. *See id.* ¶¶ 2, 6.

In response to a petition for declaratory ruling, the Commission ruled that it has exclusive jurisdiction over operator services for interstate calls and that Tennessee’s operator services law was therefore invalid. *See id.* ¶ 4. As the Commission explained, Congress enacted the Telephone Operator Consumer Services Improvement Act (“TOCSIA”) in 1990 to protect consumers from unfair and deceptive practices related to operator services used to place interstate calls and directed the Commission to promulgate rules implementing those protections. *See* 47 U.S.C. § 226; *Operator Services* ¶ 3. TOCSIA and the Commission’s regulations require, for example, that each provider of operator services identify itself at the beginning of each call, before the consumer incurs any charges; permit the caller to terminate the call without incurring any charges; and disclose its rates and how those rates will be calculated upon request. *See* 47 U.S.C. § 226; 47 C.F.R. §§ 64.703 – 64.708.

The Commission ruled that TOCSIA occupied the field regarding interstate operator services, thus demonstrating Congress’ intent to grant the Commission exclusive jurisdiction over the area and bar state regulation on the subject. *Operator Services* ¶¶ 13-14. As the Commission explained, Congress intended TOCSIA to provide a comprehensive solution to problems associated with interstate operator services. The statute addressed a broad range of issues related to interstate operator services, and directed the Commission to conduct a general rulemaking to establish rules that would protect consumers from unfair and deceptive practices

in their use of operator services. *Id.* ¶ 14. The Commission concluded that it was therefore “apparent that Congress intended to, and did, create a comprehensive legislative solution to any problems in the interstate OSP industry – a federal solution that precludes a potpourri of differing state requirements.” *Id.* As a result, the Tennessee law purporting to regulate interstate operator services was invalid.

Similarly, the TCPA’s comprehensive regulation of interstate telemarketing demonstrates Congress’ intent to supplant state law in that area. As this Commission has already recognized, it was the “clear intent of Congress” to provide a “uniform regulatory scheme” to address interstate telemarketing. *See 2003 TCPA Order* ¶ 83. Congress did so by enacting “comprehensive telemarketing legislation” in the form of the TCPA, which established a regulatory framework to govern interstate telemarketing and which directed the Commission to promulgate regulations implementing its requirements.¹⁵ The TCPA, together with the Commission’s regulations, established requirements addressing a broad range of issues, big and small, related to interstate telemarketing, such as: the national do-not-call registry, the use of automatic dialing and prerecorded messages, the minimum number of rings before a telemarketer may disconnect a call, unsolicited facsimile messages, limitations on the time of day when telemarketing calls can be made, and bans on calls to emergency telephone lines, health care facilities, pagers, and cellular phones.¹⁶ This “unified and comprehensive regulatory system” occupies the field and leaves no room for state regulation with regard to interstate telemarketing. *See Southwestern Bell*, 199 F.3d at 1190. As was the case in *Operator Services*, Congress’ comprehensive legislative solution to interstate telemarketing demonstrates Congress’ intent to

¹⁵ *See* 137 Cong. Rec. S. 18317, 102nd Cong. 1st Sess. (Nov. 26, 1991) (statement of Sen. Pressler); *see generally* 47 U.S.C. § 227.

¹⁶ *See* 47 U.S.C. § 227; 47 C.F.R. §§ 64.1200, 64.1601, 68.318.

grant the Commission exclusive jurisdiction and precludes the current “potpourri of differing state requirements.” *See Operator Services* ¶ 14.

II. The Commission Has The Authority Categorically To Preempt State Regulation Of Interstate Telemarketing That Differs From Federal Rules

Even apart from the Commission’s exclusive statutory jurisdiction over interstate telemarketing, the Commission has the authority to invalidate all state laws that purport to regulate interstate telemarketing in any way different from the Commission’s rules. Courts have repeatedly recognized that the Commission can properly preempt entire categories of state regulation that conflict with *or* frustrate the Commission’s rules and policies. *See, e.g., City of New York v. FCC*, 486 U.S. 57, 64 (1988) (“The statutorily authorized regulations of an agency will pre-empt any state or local law that conflicts with such regulations *or* frustrates the purposes thereof”) (emphasis added).¹⁷

Although this type of preemption is sometimes referred to in the case law as “conflict preemption,” the Supreme Court has repeatedly made clear that “conflict preemption” is *not* limited to cases where it would be impossible simultaneously to comply with the federal and state regulations, as erroneously suggested by some commenters in prior filings.¹⁸ For example, in *Geier v. American Honda Motor Company*,¹⁹ the Supreme Court held that preemption applies whenever the state law “stands as an obstacle” to the “full purposes and objectives” of federal law “whether that ‘obstacle’ goes by the name of ‘conflicting; contrary to; . . . repugnance; difference; irreconcilability; inconsistency; violence; curtailment; . . . interference,’ or the like.”

¹⁷ *See also, e.g., Computer & Communications Industry Ass’n v. FCC*, 693 F.2d 198, 214-15 (D.C. Cir. 1982); *California v. FCC*, 75 F.3d 1350, 1360 (9th Cir. 1996).

¹⁸ *See, e.g.,* Comments of the Wisconsin Attorney General, CG Docket No. 02-278 at 5-9 (filed Feb. 2, 2005).

¹⁹ *Geier v. American Honda Motor Company*, 529 U.S. 861 (2000).

Id. at 873. Moreover, the Court expressly rejected the argument that “conflict preemption” was limited to cases of “impossibility”:

This Court has not previously driven a legal wedge . . . between “conflicts” that prevent or frustrate the accomplishment of a federal objective and “conflicts” that make it “impossible” for private parties to comply with both state and federal law. *Rather, it has said that both forms of conflicting state law are “nullified” by the Supremacy Clause.*

Id. (emphasis added); *see also Operator Services* ¶ 16 (“a conflict [for purposes of preemption] arises when state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress”).

Accordingly, this Commission properly preempts “state or local law that conflicts with [its] regulations *or* frustrates the purposes thereof.” *City of New York*, 486 U.S. at 64, 66 (emphasis added). In the case of state regulation of interstate telemarketing, *both* of these standards for preemption are satisfied, and the Commission therefore has the authority to preempt state law that differs from the federal standards. In fact, the Commission has already recognized that “any state regulation of interstate telemarketing calls that differs from [the federal do-not-call] rules *almost certainly would conflict with and frustrate* the federal scheme and almost certainly would be preempted.” *See 2003 TCPA Order* ¶ 84 (emphasis added).

First, there can be no doubt that many, if not all, of the state laws that impose different rules on interstate telemarketing conflict with the Commission’s rules implementing the TCPA. As documented in the coalition’s petition, states have enacted laws that purport to regulate a wide variety of activities in interstate telemarketing.²⁰ However, as discussed above, the

²⁰ *See Joint Petition For Declaratory Ruling That The FCC Has Exclusive Regulatory Jurisdiction Over Interstate Telemarketing*, CG Docket No. 02-278 at 9-32 (filed Apr. 29, 2005) (“*Coalition Petition*”) (summarizing state regulation of interstate telemarketing and highlighting

Commission has developed a complex and comprehensive federal regulatory scheme governing almost every aspect of interstate telemarketing, ranging from establishing a national do-not-call registry to regulating the hours during which businesses may make telemarketing calls. The Commission's regulations are the result of countless deliberate decisions, in which the Commission carefully balanced numerous competing policy concerns, including the needs of businesses to communicate with current and recent customers, consumers' privacy concerns, technological limitations, and more.

Given the breadth of the federal scheme, *any* attempt by states to impose requirements on interstate telemarketing will almost certainly be inconsistent with at least some of the federal standards established by the Commission. In fact, as the coalition has demonstrated, dozens of states have enacted conflicting laws that differ from, and are more restrictive than, the Commission's standards. *See Coalition Petition* at 9-32. Moreover, state laws that impose different standards (including more restrictive standards) conflict with federal law because they undermine the Commission's determinations and "make impossible achieving the balance" sought by the Commission. *See Operator Services* ¶ 16; *see also Geier*, 529 U.S. at 874-886 (preempting more restrictive state standards because they upset the balance of different technologies established by the Department of Transportation).

Second, different state laws purporting to govern interstate telemarketing frustrate the accomplishment of "the full objectives and purposes of Congress" in enacting the TCPA and establishing the federal regulatory regime. *See Geier*, 529 U.S. at 873. The Commission already has found that "it was the clear intent of Congress generally to promote a uniform regulatory

conflicts); Letter from Ian D. Volner and Ronald M. Jacobs, Counsel for the Direct Marketing Association, to Commission, CG Docket No. 02-278 (filed Jan. 10, 2005) (same).

scheme under which telemarketers would not be subject to multiple, conflicting regulations.”

2003 TCPA Order ¶ 83. Differing state laws that create a patchwork of inconsistent rules across the country necessarily stand as an obstacle to Congress’ stated goal of creating a uniform national standard to govern interstate telemarketing calls. Indeed, the Commission has already recognized that inconsistent state rules governing *interstate* calls “frustrate the federal objective of creating uniform national rules, to avoid burdensome compliance costs for telemarketers and potential consumer confusion.” *2003 TCPA Order* ¶ 83. The Commission should therefore categorically preempt all state laws that purport to regulate interstate telemarketing in any way that differs from the federal regulatory scheme.

III. A Declaratory Ruling Granting The Coalition’s Petition Is Preferable To The Commission’s Current Case-By-Case Approach

Because of its exclusive jurisdiction over interstate telemarketing and its authority categorically to preempt different state laws, the Commission has the ability to resolve – once and for all – the invalidity of state telemarketing laws that attempt to create a patchwork of different standards for interstate calls. In its *2003 TCPA Order*, however, the Commission stated that it would address the validity of state regulation of interstate telemarketing on a “case-by-case basis.” *2003 TCPA Order* ¶ 84. As discussed below, the Commission should abandon its “case-by-case” approach and grant the coalition’s petition, thus achieving a global resolution to the problem of different and inconsistent state laws.

As the coalition has extensively documented in its petition, dozens of states have ignored this Commission’s cautionary words regarding the need for uniform standards nationwide and “encourag[ing] states to avoid subjecting telemarketers to inconsistent rules.” *See 2003 TCPA Order* ¶ 84. Instead, states have enacted numerous different laws that purport to govern interstate telemarketing. These laws vary from the Commission’s regulations in a number of

ways, ranging from imposing different standards for when prerecorded messages can be used, to requiring telemarketers to submit scripts in advance to state regulators. *See Coalition Petition* at 9-32.

In response to these laws, and the Commission's statement that it would evaluate preemption on a "case-by-case basis," parties have filed petitions with the Commission seeking a declaration that specific portions of a particular state's telemarketing law is barred because it conflicts with the TCPA and the Commission's rules or frustrates the policies and objectives underlying those rules.²¹ Verizon has supported those petitions, because the state laws at issue demonstrably stand as an obstacle to the TCPA and the Commission's regulations and are therefore invalid under the principles of conflict preemption discussed above.²²

Although Verizon continues to support those petitions, proceeding through a series of individual preemption petitions pursuant to the Commission's proclaimed "case-by-case basis" wastes the Commission's resources. The Commission's case-by-case approach results in an individual inquiry into each state's telemarketing law to determine whether each one conflicts

²¹ See *Petition for Declaratory Ruling by TSA Stores, Inc.*, CG Docket No. 02-278 (filed Feb. 1, 2005) (addressing Florida law); *Petition for Expedited Declaratory Ruling by National City Mortgage Co. ("NCMC")*, CG Docket No. 02-278 (filed Nov. 22, 2004) (addressing Florida law); *Petition of Consumer Bankers Association ("CBA")*, CG Docket No. 02-278 (filed Nov. 19, 2004) (addressing Wisconsin law); *Petition of CBA*, CG Docket No. 02-278 (filed Nov. 19, 2004) (addressing Indiana law); *Petition for Declaratory Ruling by American Teleservices Association, Inc. ("ATA")*, CG Docket No. 02-278 (filed Aug. 24, 2004) (addressing New Jersey law); *Petition for Declaratory Ruling by Mark Boling*, CG Docket No. 02-278 (filed Aug. 11, 2003) (addressing California law).

²² See *Verizon Comments in Support of Petition for Declaratory Ruling by ATA*, CG Docket No. 02-278 (filed Nov. 17, 2004) (addressing New Jersey law); *Reply Comments of Verizon in Support of ATA's Petition*, CG Docket No. 02-278 (filed Dec. 2, 2004); *Verizon Comments in Support of Petitions of NCMC and CBA*, CG Docket No. 02-278, at 5-8 (filed Feb. 2, 2005) (addressing Florida, Indiana, and Wisconsin laws); *Reply Comments of Verizon in Support of Petitions of NCMC and CBA*, CG Docket No. 02-278, at 5-8 (filed Feb. 17, 2005); *Comments of Verizon in Support of Petition of TSA Stores, Inc.*, CG Docket No. 02-278 (filed Mar. 31, 2005) (addressing Florida law).

with the Commission's regulations. Under this piecemeal approach, this inquiry will be repeated dozens of times in order to address each state that has attempted to regulate interstate telemarketing, and even to address different provisions of a single state's law. And it will be repeated again as states enact new telemarketing regulations or attempt to revise old ones to evade the Commission's rulings. Such a process wastes Commission resources by requiring staff separately to investigate and resolve each petition.

Moreover, such a process creates uncertainty in the interim period while parties await the Commission's decisions on individual petitions. Uncertainty regarding the invalidity of existing state laws will encourage states to continue enacting and enforcing laws on interstate telemarketing. And, until this Commission can resolve that uncertainty, companies will be discouraged from engaging in telemarketing activity that this Commission deemed appropriate under the federal rules, but that may nevertheless violate states' inconsistent, invalid restrictions on interstate telemarketing. This uncertainty not only harms businesses that are deterred from engaging in lawful behavior – it also harms consumers who, as a result, may not be informed of new products, services, and pricing plans that can provide consumer savings and other benefits.²³ The chilling effect created by uncertainty regarding states' improper attempts to regulate interstate communications therefore upsets the balance achieved by this Commission between consumers' privacy interests, consumers' interest in receiving information, and the interests of businesses in contacting customers. *See Operator Services* ¶ 16; *2003 TCPA Order* ¶¶ 43, 112.

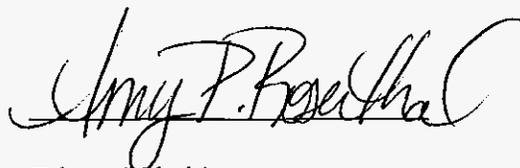
²³ *See 2003 TCPA Order* ¶ 112 (recognizing that consumers benefit from telemarketing by learning about new offers that may save them money or benefit them in other ways); Declaration of Judy K. Verses, submitted with Verizon Comments in Support of Petition for Declaratory Ruling by ATA, CG Docket No. 02-278 (filed Nov. 17, 2004) (Verizon uses telemarketing to promote new products, including broadband products, and pricing packages that can lower consumers' costs).

Most importantly, however, these case-by-case inquiries are not necessary to resolve questions regarding the validity of state regulations on interstate marketing. As shown above, the Commission has both exclusive jurisdiction over interstate telemarketing and the authority globally to preempt state laws governing interstate telemarketing that differ in any way from the federal standards. Granting the coalition's petition on either of these grounds would resolve the current controversy in a single ruling and clarify that state attempts to impose their own regulations on interstate telemarketing calls are invalid. Clarifying the invalidity of all of these state laws in a single inquiry will preserve Commission resources and promote certainty regarding states' authority and the standards with which telemarketing services must comply. Granting the coalition's petition is therefore the most efficient means of clarifying the Commission's sole authority over interstate telemarketing and striking invalid state telemarketing laws.

CONCLUSION

For the foregoing reasons, the coalition's petition should be granted.

Respectfully submitted,



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THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon

Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.