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Deputy General Counsel
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January 14, 2008

Ms. Lynn Montgomery
Federal Communications Commission
Governmental Affairs Division
445 12th Street SW
Washington, DC 20554

FILED/ACCEPTED
JAN 16 2008
Federal Communications Commission
Office of the Secretary

Re: CG Docket No. 02-278

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Dear Ms. Montgomery:

Bank of America appreciates the opportunity to submit comments to the Federal Communication Commission on the proposed rule implementing the Telephone Consumer Protection Act of 1991. As one of the of world's largest financial institutions, providing a full range of banking, investing, asset management and other financial and risk management products and services, Bank of America has a strong interest in the efficient implementation of this Rule. Our comments will focus on the importance of the accuracy of the National Do-Not-Call Registry.

Telemarketing is an important method of selling goods and services to consumers across the country. Many consumers value the savings and convenience that this type of marketing provides. At the same time, many consumers choose not to receive telemarketing calls, and Bank of America is committed to honoring that preference. Further, we support the efforts of the FCC and the Federal Trade Commission to manage the National Do-Not-Call Registry.

If the Do-Not-Call Registry is to serve its purpose, it must accurately reflect the preference of consumers. The challenge presented by the Commission's rule is how to accomplish that goal when there is frequent turnover in telephone numbers, and therefore the possibility that a previous subscriber's preference will be imputed to a current subscriber who has a different preference. Whether that means a customer who wishes to receive calls being denied them, or a customer who wishes to avoid calls receiving them, the Registry does not function well without timely information about consumer preference.

The Commission has determined that it is not necessary for numbers on the National Do-Not-Call Registry to expire after five years in order to maintain a high level of database accuracy. Rather, the Commission believes that disconnected and reassigned number purging is sufficient to achieve this goal. This conclusion is based primarily on the assumption that the database administrator will be able to identify all disconnected and reassigned numbers and allow for their accurate and timely removal from the list.¹ Bank of America believes that it is critical for the Commission to put in place a system that

¹ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 72 Fed. Reg. 71099 (71100) (2007) (to be codified at 47 C.F.R. pt. 64).

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carefully monitors the Registry to purge it of numbers no longer subscribed to by the listing consumer. This will ensure that the Registry is functioning efficiently and that there are not numbers on the Registry that do not belong on it.

We are concerned that the methods used by the telephone companies to identify disconnected and reassigned numbers is inadequate to guarantee the database accuracy expected of the Registry. The validity of this information is dependent upon the diligence of these individual companies in reporting disconnected and reassigned numbers. If the telephone companies do not provide the disconnected and reassigned number information in an accurate and timely manner then the National Do-Not-Call Registry will not provide the intended consumer benefit.

This risk is exacerbated significantly by elimination of the five-year expiration period, which allows some disconnected or reassigned telephone numbers to remain on the Registry indefinitely. Thus, if the FCC does eliminate the expiration period, it should develop a system-wide solution to ensure that disconnected or reassigned numbers are regularly purged from the Registry in some systematic manner.

Bank of America respectfully submits that these risks could be mitigated with implementation of the following measures:

1. The FCC and the FTC should work together to perform a quarterly sampling of the disconnected and reassigned populations as well as the numbers remaining on the Registry in order to assess the accuracy of these databases. In the event that inaccuracies are identified, the Commission and the FTC could require each individual telephone company to certify the accuracy of the information provided to the database administrator. Results of this sampling should be reported on an annual basis by the agencies.
2. Database maintenance activities by month, including telephone numbers added and removed, should be reported annually. Care should be given to demonstrate the relationship between the disconnected and reassigned number volume and national averages.
3. Any errors discovered as part of the validation of the accuracy of the National Do-Not-Call Registry should be published to the Registry website by the FCC and the FTC. Transparency in error acknowledgement and resolution will provide greater consumer and industry confidence in the use of the National Do-Not-Call Registry.

Bank of America thanks the Commission for this opportunity to comment and welcomes any feedback or questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg", is written over a horizontal line. The signature is fluid and cursive.