



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

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*In the Matter of:*

*Rules and Regulations Implementing  
The Telephone Consumer Protection Act of 1991*

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) CG Docket No. 02-278  
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**REPLY COMMENTS OF THE AMERICAN TELESERVICES ASSOCIATION**

**I. GENERAL OVERVIEW**

The American Teleservices Association (“ATA”) respectfully submits these reply comments in response to the Commission’s proposed rulemaking to require telemarketers to honor registrations with the National Do-Not-Call Registry until the registrations are cancelled by the consumers or the telephone numbers are removed by the database administrator because they were disconnected *or* reassigned.

ATA agrees with all commenters that urge the Commission to work with the FTC to ensure that telephone numbers are removed from the Registry as quickly as possible when the appropriate purging standard has been met.<sup>1</sup>

**II. JOINT PETITION FOR DECLARATORY RULING THAT THE  
COMMISSION HAS EXCLUSIVE REGULATORY JURISDICTION  
OVER INTERSTATE TELEMARKETING CALLS**

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<sup>1</sup> See, Letter from Paul J. Boyle, Senior Vice President of Public Policy, and Laura Rychak, Legislative Counsel, Newspaper Ass’n of America, to Marlene H. Dortch, Office of the Sec’y Fed. Commc’ns Comm’n at 3 (Jan. 14, 2008) (on file electronically with the Fed. Commc’ns Comm’n).

This docket's record is replete with instances where states continue to subject interstate telemarketers to an unfair and burdensome patchwork of conflicting laws and regulations. As DMA commented, since the Commission published its 2003 Report and Order, state Supreme Courts and at least one federal court have reached opposite conclusions over the legal authority of states to implement and enforce these conflicting requirements on interstate telemarketers.<sup>2</sup>

While DMA called for the Commission to "take-up the preemption issue in 2008,"<sup>3</sup> the more appropriate call to action is for the Commission to, once and for all, declare that states do not have jurisdictional authority to impose more restrictive requirements on interstate telemarketers than those imposed by the TCPA. The precedence and authority for this conclusion is clearly supported in ATA's petition for Declaratory Ruling that the Commission has exclusive regulatory jurisdiction over interstate telemarketing calls and other supporting materials found in this docket. ATA was joined in its petition by the DMA, and thirty-one (31) other trade associations, for profit entities, charities, and nonprofits in April 2005, yet the Commission has failed to rule on it. As the record indicates and as alluded to by the DMA, the Commission's failure to rule on this issue has created enormous confusion in the telemarketing industry and imposes significant financial and compliance burdens on all businesses, regardless of their size, while trying to ensure that they carry-out compliant telemarketing programs.

ATA respectfully urges the Commission to rule on this issue.

Respectfully submitted,

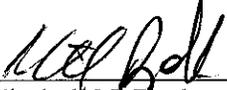
AMERICAN TELESERVICES ASSOCIATION

By Counsel

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<sup>2</sup> Comment of the Direct Mktg. Ass'n, p. 3 (Jan. 14, 2008).

<sup>3</sup> Id.



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