Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991	)	**CG Docket No. 02-278**
	)	
	)	
	)	

To: The Commission

REPLY COMMENTS OF
THE ALARM INDUSTRY COMMUNICATIONS COMMITTEE

The Alarm Industry Communications Committee ("AICC"), on behalf of its members, submits these Reply Comments in accordance with the Commission's *Notice of Proposed Rulemaking*, FCC 10-18 (released January 20, 2010) proposing modifications to Commission Rules 64.1200 et. seq. in an effort to obtain conformity with recent modifications made to the FTC Telemarketing Sales Rule (the NPRM).

Statement of Interest

AICC is comprised of representatives of the Central Station Alarm Association (CSAA), Electronic Security Association (ESA),[1] Bosch Security Systems, Digital Monitoring Products, Digital Security Control, Telular, Stanley Tool (alarm division, formerly known as Honeywell Monitoring), Honeywell Security, Vector Security, Inc., ADT Security Services, Inc., AES-IntelliNet, GE Security, Alarm.com, Emizon LLC, Intertek Testing and Security Network of America, and the Underwriters Laboratories. ESA and CSAA, representing the alarm dealer segment, have 2434 member companies providing alarm service to the public. AICC member

[1] CSAA and ESA are associations comprised of central station alarm companies, alarm monitoring centers, alarm installation companies and alarm manufacturing companies. Their memberships represent the majority of such companies operating in the United States.

companies protect a wide range of sensitive facilities and their occupants from fire, burglaries, sabotage and other emergencies. Protected facilities include government offices, power plants, hospitals, dam and water authorities, pharmaceutical plants, chemical plants, banks, schools and universities. In addition to these commercial and governmental applications, alarm companies protect a large and ever increasing number of residences and their occupants from fire, intruders, and carbon monoxide poisoning. Alarm companies also provide medical alert services for obtaining ambulances in the event of medical emergencies. Therefore, it is important that AICC member companies have a reasonable way to stay in touch with their customers without fear of inadvertently blundering into TCPA violations.

The Commission Should Narrowly Tailor its Proposed Rules to Telemarketing Calls

The NPRM proposes to require, "for all calls, prior consent to receive prerecorded telemarketing messages must be obtained in writing."[2] Currently, this requirement only exists for numbers listed on the national do-not-call registry, and would be extended under the NPRM to all telephone numbers.[3] The NPRM also proposes to reconsider the "existing business relationship" exemption, which allows for the placement of pre-recorded calls to numbers provided in connection with an existing business relationship.[4]

While AICC applauds the Commission's intent to provide consumers with better protection from unsolicited advertisements, AICC is concerned that the Commission's approach is overbroad with regard to the above items. Specifically, while the Commission's NPRM clearly announces an intention to target unsolicited telemarketing and similar commercial calls (NPRM

[2] NPRM at ¶16.
[3] NPRM at ¶19.
[4] NPRM at ¶28.

at ¶2) the proposed rule revisions apply to all calls. Yet, as AICC describes above, and other commenters have pointed out,[5] there are many non-telemarketing uses for auto-dialed and/or pre-recorded voice calls. Further, the NPRM recognizes that the FTC's modifications apply only to telemarketers.[6] The proposed rule changes, however, do not make the same distinction, and would instead apply the written consent requirement to all calls. Importing the FTC's restrictions while at the same time broadening the scope of their applicability runs counter to the Commission's stated objectives, and creates unnecessary burdens on businesses that need to make calls that do not fall into the category of solicitations the Commission is proposing to curtail.

A number of alarm companies use the contact number provided by their customer to not only contact that customer about their account status, but also to verify installation/maintenance appointments. Auto dialers or recorded messages can be used for this purpose. Certain alarm companies that have detected an alarm signal and have repeatedly tried to contact the customer via live operator will use an auto dialer to continue calling the designated contact number, while the operator takes other steps to address the alarm. This use of auto dialers often results in reaching the customer. The ability to make these calls has dramatically reduced false dispatches of law enforcement and is highly recognized by the law enforcement community as a valuable approach to reducing false alarms. Thus, it is important that alarm companies not be subjected to unnecessary burdens for these legitimate uses of auto dialers and recorded messages. Presumably, the use of an autodialer to contact a customer – whether calling their wireline or

[5] See, e.g., Comments of West Corporation, CG Docket No. 02-278, February 18, 2010.
[6] See, e.g., NPRM at ¶9-10.

wireless number, falls under the "emergency" exemption of Rule Section 64.1200(a)(2).[7] However, there are a number of important "non-solicitation" calls that are best accomplished by autodialer calls, such as appointment verifications and account status inquiries, that would not be covered by the emergency exemption.

The Commission should limit the applicability of the proposed rules to telemarketers. As drafted, the proposed rules would require express written permission from the customer before an alarm company could send a pre-recorded call to a customer's wireless number (unless the emergency exemption applies). AICC's members have no way of knowing whether a customer's number is a landline number or a wireless number, and wireless devices make up a significant and constantly increasing percentage of telephones - in some cases a wireless device is the only means of contacting a customer. This problem is exacerbated by the ability of all customers to port their landline number to a wireless device, without notifying their alarm service provider. When a customer gives a vendor or creditor a particular phone number, that customer expects to be contacted on that number in connection with its relationship with that vendor (and indeed, a wireless number is a logical choice for an alarm contact). Therefore, requiring written consent for all automated calls to wireless numbers and eliminating the "established business relationship" exemption create a needless burden on businesses that do not tele-market, but use automated calls for other business (and in the case of many alarm companies, safety) purposes. AICC respectfully submits that it is counterintuitive to make it <u>more</u> difficult for consumers to receive information relevant to their business relationships when the Commission's stated

[7] If there is any doubt that the emergency exemption applies to attempts to contact an alarm services user in response to an alarm activation, the Commission should take this opportunity to clarify that the exemption does in fact apply.

purpose is to reduce harassing telesales calls. The Commission's approach should be more narrowly tailored.

If the Commission finds that the proposed rules should retain their over-arching applicability rather than limited application to telemarketers, then the Commission should consider adding exemptions similar to those available for calls to residential lines. Given the increasingly ubiquitous nature of wireless numbers, the Commission should provide clearly defined exemptions similar to those stated in §§ 64.1200(a)(2)(i)-(iii)[8] of the Rules, permitting calls made for commercial purposes but which do not include an unsolicited advertisement to be made without written consent, for all numbers (not just residential lines).

Conclusion

In conclusion, AICC strongly encourages the Commission to adopt a more narrowly tailored approach by expressly limiting its proposed rule changes (specifically the imposition of a written permission requirement and the elimination of the "established business relationship") to telemarketing and other similar sales calls. In the alternative, the Commission should provide clearly defined exemptions for commercial calls which do not include an unsolicited advertisement to be made without written consent to wireless numbers.

[8] 47 CFR 64.1200(a)(2).

Respectfully submitted,

Alarm Industry Communications Committee

John A. Prendergast
Salvatore Taillefer, Jr.
Its Attorneys

Blooston, Mordkofsky, Dickens,
Duffy, & Prendergast, LLP
2120 L Street NW
Suite 300
Washington DC 20037
Tel: 202-659-0830

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