Before the Federal Trade Commission
Washington, D.C. 20580

Telemarketing Rulemaking – Comment FTC File No. R411001
Comments of NeuStar, Inc.

April 15, 2002

1. NeuStar, Inc, (NeuStar) submits the following comments in response to the Federal Trade Commission's (FTC) Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding.[1] In the NPRM, the FTC seeks comment on revisions to the Telemarketing Sales Rule (TSR) including the creation of a national "do-not call" registry database (DNCR). NeuStar supports the FTC's efforts to implement a national DNCR, and as an experienced provider of national databases and registry services, provides comments and suggestions focusing on the vital features of a successful database: effectiveness, security and accessibility. As a neutral third party administrator of critical infrastructure numbering and internet registry services, NeuStar has a unique understanding of the requirements necessary to implement and maintain an effective and secure DNCR accessible by industry members and consumers in a simple and cost-effective manner.

I. INTRODUCTION

2. Before a reliable registry can be designed and implemented for the full benefit of consumers, the FTC must provide guidance on significant policy issues that will directly affect the viability of the proposed business opportunity for potential DNCR vendors. NeuStar encourages the FTC to use these comments and those of other vendors to construct a request for proposal (RFP) that

provides the requisite direction as to: 1) the desired cost recovery method (i.e., an industry pays or market pays model, as detailed herein); 2) how the FTC will enforce its DNCR and cost recovery rules as applied to telemarketers; and 3) how the national DNCR will operate in relation to the various existing and pending state do-not call registries. As a potential vendor, NeuStar's interests in the DNCR are the same as those of the FTC and the consumer, which is to provide an effective, cost efficient, enforceable and secure DNCR.

3. NeuStar understands the challenges facing the FTC. For more than six years, NeuStar has worked successfully with federal government agencies such as the Federal Communications Commission (FCC) and the Department of Commerce (DOC), state public utilities commissions, and the telecommunications and Internet industries to develop and implement registry service solutions that meet their most challenging needs. As a neutral third party administrator of critical infrastructure numbering services such as the North American Numbering Plan (NANP), national thousands-block number pooling, and the Number Portability Administration Center (NPAC), and Top Level Domain Registries (TLDR) for .US and .BIZ, NeuStar is in a unique position to assist the FTC in addressing the timely implementation of a vast, reliable, and accurate national registry service. Moreover, the database registries that NeuStar has developed, implemented, and maintains use different methods for data registration and user interfaces, billing and collection, and data dissemination. It is NeuStar's belief that

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[1] *Telemarketing Sales Rule,* Notice of Proposed Rulemaking, (http://www.ftc.gov/bcp/conline/edcams/donotcall/rule.htm) 67 *Fed. Reg.* 4492 (Jan. 30, 2002) (NPRM).

a discussion of its registry experiences, in relation to the benefits of each system and the regulations necessary to resolve any shortcomings, will benefit the FTC in its decision making process.

II. IVR-BASED DNCR MODEL

4. As demonstrated below, all registries follow the same basic architecture: a registrant that registers data, a registry that stores the data, and users of the data that obtain the data from the registry. In the model outlined in the NPRM, the consumer is the registrant, the DNCR is the registry, and the telemarketers are the users of the data. For the purposes of these comments and with regard to user access to registry data, the term telemarketer will include all other parties that will access the DNCR database, such as law enforcement and regulators.

Generic Registry Architecture:	**Registrant**	**→**	**Registry**	**→ Data User**
FTC's DNCR Architecture:	**Consumers**	**→**	**DNCR**	**→**
	Telemarketers			

Important aspects of this registry architecture are: 1) the process for provisioning data into the DNCR, 2) the method for validating the information provided by the consumer, and 3) the method of recovering the costs of the DNCR.

5. In the model proposed by the FTC, data is provisioned into the DNCR via a toll free telephone call from the consumer to an interactive voice response unit (IVR). The IVR captures the calling telephone number using automatic number identification (ANI). The IVR prompts the caller to enter the telephone number he or she wishes to register. If the telephone number matches the ANI, the number is registered. Because the telephone number used for registration is a toll-free number, one can infer that the FTC expects an "Industry-Based Cost Model" where the telemarketers are billed for access to the data as a means for the DNCR to recover its costs.

A. IVR Implementation Costs

6. The FTC-proposed solution, while feasible, has some disadvantages. IVR hardware does not scale (add and delete capacity) in a cost effective manner. Upon rollout of the service, the DNCR will experience a spike in demand thereby necessitating large investments in hardware and software. After many weeks, demand will level off to a fraction of the initial surge, rendering much of the initial investment obsolete. Further, the majority of IVRs are based on circuit switching, like the public-switched telephone network (PSTN), as opposed to packet switching, like the Internet. Internet-based registries are more flexible and cost effective when providing services that experience wide variations in demand.

7. In the solution proposed in the NPRM, the DNCR will be highly reliant on the toll-free service provider. The DNCR will likely have to spend a significant amount of resources on this aspect of the registry in relation to other important registry services such as data management, report generation, industry representation, and change management.

B. IVR Provisioning Process

8. The IVR solution, as defined in the NPRM, is very limited in the information it collects about the consumer (i.e., telephone number and date/time of registration). NeuStar realizes that the FTC purposely limited the definition of the solution for the purposes of billing administration costs and for the protection of consumer billing information and privacy. Such limited information, however, makes it difficult to differentiate between individual consumer preferences. That is, it is difficult to treat one consumer differently than another. Administering additions, modifications, and deletions, as well as managing impacts from outside events (e.g., loss or cancellation of phone service) for a specific

consumer may require additional data about that consumer. Also, a positive list, such as the one proposed in the NPRM that would allow consumers to choose to be contacted by specific telemarketers (e.g., charities), may require additional data about the consumer. Additional consumer data, such as name and address, often are used as a simple method to provide validation for consumer activity.

9. The proposed validation process likely will not be able to validate all consumers. This is because ANI cannot be provided to the DNCR in certain circumstances. Some common reasons why ANI may not be provided are:

- The serving switch of the local telecommunications service provider (TSP) does not have ANI capability;
- The consumer is served by a PBX or direct trunk from a TSP (apartment buildings and assisted living quarters are increasingly being served in this manner and in many cases ANI cannot be passed through these types of connections); and
- The call transits a switch in the network that does not forward ANI.

All of these problems lead to the very real possibility of leaving entire buildings, assisted-living facilities, communities, towns, and even cities without the ability to provision registrations in the DNCR.

10. Another potential problem with the provisioning process is that it will not allow children of elderly parents to provision registrations for them from a remote location, such as their home or office. The child's ANI would not match the parent's telephone number. The combination of all of these factors may have a significant impact on a key beneficiary of the DNCR—the elderly.

C. Industry-Based Cost Model

11. NeuStar's local number portability (LNP) registry employs a model in which the users of the registry data are billed, equivalent to the telemarketers in the proposed DNCR. While this

Industry-Based Cost Model certainly is feasible, it has limitations. The registry likely will recover its costs from the users based on three parameters: 1) number of users/telemarketers; 2) the amount of data accessed; and 3) how frequently the data is accessed. In addition to these parameters, the registry may factor in the revenue of the users –users with lower revenues pay less than users with higher revenue.

12. These parameters require a complex billing model with many variables. For the DNCR, The most difficult parameter to monitor and verify would be the number of users. This parameter is also the most important because it has the greatest effect on the ability of the DNCR to recover its costs. Like all industries, telemarketing is subject to new companies introducing service, existing companies going out of business, and mergers. It is likely that the introduction of the DNCR will have an impact on this activity in the telemarketing industry. If the number of telemarketers decreases as a result of the DNCR, the cost of the registry will increase for the remaining telemarketers.

13. Further, a DNCR model that bills the telemarketers will require a great deal of oversight by the FTC. The FTC will have to perform a significant role in defining and certifying telemarketers, validating the cost recovery mechanism, and enforcing compliance. The consumers are considered the primary beneficiaries of the DNCR, not the telemarketers. Therefore, absent regulatory mandates, telemarketers will have little incentive to pay for the service. An enforcement system that relies exclusively on consumers and public service or government agencies to sue telemarketers who violate the TSR will not provide for adequate or timely cost recovery for the provisioning of the DNCR.

III. ALTERNATIVES

14. While the FTC's proposed model is feasible, there are other alternatives that deserve consideration. A model worth evaluating is the one created by the Internet Corporation for Assigned Names and Numbers (ICANN) for the management of a TLDR for Internet domain names. In a TLDR, the registrant is the domain name holder and the data users are the users of the Internet. All Internet users rely on TLDRs to provide freely available real time access to routing information about domain names. Common applications such as browsers and email are routed over the Internet by using this method.

Generic Registry Architecture: **Registrant → Registry → Data User**
FTC's DNCR Architecture: **Consumers → DNCR → Telemarketers**
ICANN's TLDR Architecture: **Name Holders → TLDR → Internet Users**

15. ICANN, as the oversight body for the TLDR, enters into a contract with the TLDR provider (i.e., registry provider). This contract covers important aspects of the registry service, including:

- The administration of names on behalf of the name holders (adds, modifies, deletes);
- The information collected and disclosed regarding the name holder;
- Access to the data by users; and
- The price for the service.

NeuStar has entered into such contracts as a registry provider with ICANN to provide the TLDR service for the .BIZ domain and the DOC/National Telecommunications and Information Administration (NTIA) to provide the TLDR service for the .US domain.

16. Although the basic architecture of the TLDR is the same as that proposed for the DNCR, there are some major differences. The TLDR is a "Market-Based Cost Model" wherein the registrant pays for the service. Key differences, as described herein, include the fact that the

provisioning of data is performed by using the Internet rather than the telephone network. Also, a registrar provides a retail channel between the registry and the registrant.

Generic Registry Architecture:	**Registrant**	**→**	**Registry**	**→**	**Data User**
FTC's DNCR Architecture:	**Consumers**	**→**	**DNCR**	**→**	**Telemarketers**
Generic TLDR Architecture:	**Name Holders**	**→**	**Registrar**	**→**	**TLDR → Internet Users**

A. Market-Based Cost Model

17. The most significant difference is that the TLDR model is a Market-Based Cost Model (i.e., the registrant pays and there is no cost to the users of the data). The registrants are willing to pay for the registry service because they believe there is value in the service. Given that consumers will find value in the DNCR, the FTC may want to consider such a model because it simplifies many aspects of the registry and offers more flexibility to the consumer.

18. As stated above, an Industry-Based Cost Model will be difficult to administer due to the complex nature of the pricing alternatives and the difficulty involved in defining, counting, monitoring, and validating the telemarketers. Once the FTC establishes parameters such as price, services offered, data collection, consumer awareness efforts of the DNCR, it will be easier to estimate the demand from consumers than from telemarketers. A Market-Based Cost Model will allow potential DNCR providers to better estimate their costs and provide a more accurate and competitive bid in an RFP process. Further, the DNCR will be easier to maintain for both the provider and the FTC if they do not have to rely on recovering costs from an industry segment that may not have a market incentive to use the service and whose industry may become affected by the introduction of the service.

19. NeuStar submits that the Market-Based Cost Model removes the telemarketer validation and certification process as a factor in the FTC's selection and oversight of the DNCR provider. However, even in a Market-Based Cost Model, the need still exists to identify telemarketers

for the purposes of compliance monitoring. In a Market-Based Cost Model the DNCR should identify and certify its data users and provide that information to the FTC for compliance monitoring.

B. Data Validity and Accuracy

20. If the consumer were to pay for the service, one can assume that the information provided will be more valid and accurate. The simple fact that the consumer is paying for the service implies that the data provided by the consumer (i.e., the telephone number) is valid. There is little to be gained by providing invalid data. Therefore, it would be unnecessary to implement a validation mechanism such as that described in the proposed ANI solution.

21. In addition to ensuring the validity of the data, the consumer will have the incentive to ensure that the data is accurate and up-to-date and make the required changes to the status of his or her telephone number in the DNCR. There is no such incentive in the Industry-Based Cost Model. There are only two entities that have reliable knowledge of changes to the status of a telephone number, the consumer and the consumer's TSP. It would be very difficult and costly to get this information from the telephone company.

C. Registrars

22. In the TLDR model, name holders (and applicants) deal directly with registrars and registrars interface with the registry. This creates a wholesale/retail model where the registry is the wholesale service provider and the registrar is the retail service provider. A Market-Based Cost Model for the DNCR could be implemented with or without a retail channel, the registrar. There would be no role for a registrar in an Industry-Based Cost Model.

23. The benefit of a registry-registrar model is that it provides more sales channels for the service. These sales channels provide greater awareness to consumers thus increasing adoption of the service. Registrars compete with each other, which tends to improve service and cost to the consumers. With regard to the DNCR, one could see a natural role for telephone companies as registrars. Telephone companies could provide enhanced services tracking and monitoring compliance based upon incoming calls. Other registrars could tailor their service to the elderly. A supermarket may become a registrar for just such a purpose. Existing TLDR registrars could bundle services, such as buying a domain name and getting a DNCR registration free. To the extent that the DNCR is viewed as a service to the consumers, registrars can play a significant role in its success.

24. One issue the FTC may have regarding the inclusion of registrars in this process is how the FTC would provide oversight for their activity. The FTC enters into a contract with the selected DNCR provider and included in that contract is an accreditation process for registrars and a registry-registrar contract. This process will cover all of the pertinent aspects of the registrar's behavior. Among other things, it will cover the registration process (data collection, disclosure, and use requirements) and the wholesale price. It can also include other DNCR-specific requirements such as a "not-to-exceed" retail price and direct-to-consumer marketing guidelines, covering both email marketing (i.e., spam) and telemarketing. The contractor has a direct contractual link from the registry to the registrar. By utilizing the skills of the registrar industry, the FTC can increase the total quantity of registrations in the DNCR.

D. Provisioning Process

25. Another alternative worth discussing is in regard to the provisioning process. The FTC-proposed solution employs a telephone-based registration process. The consumer calls the DNCR's IVR using a toll-free number, the IVR prompts the user for registration information, the IVR performs a simple validation, and it registers the number or provides other options. The TLDR employs an Internet-based registration process. Applying this model to the DNCR, consumer would access the DNCR's web page, enter their registration information, and then the number would be registered or the DNCR would provide other options.

26. An Internet-based registration process could be used for either a Market-Based Cost Model or an Industry-Based Cost Model. In the Market-Based Cost Model, an Internet-based registration could be deployed with or without registrars in the process. In a model that includes registrars, the consumer would go to a registrar's web page as opposed to the registry's web page. Registrars could offer alternatives to web-based registration, such as call centers, fax and mail. The registrar would interface with the registry on behalf of the consumer.

27. There are many benefits to an Internet-based registration process. Packet-switched (Internet) networks are far more efficient, robust, and cost effective than circuit-based (telephone) networks. This is especially true when it comes to transporting and provisioning simple and repetitive data such as that envisioned for the DNCR. Further, the Internet is more resilient to outages in the network and variations in demand for service.

28. An Internet-based model provides the flexibility for remote registrations. That is, the consumer does not have to originate the call from the specific telephone that is being registered. This would solve the problem of not being able to register a telephone number because the network did not

forward ANI to the IVR. It would allow families of the elderly and others who may need assistance to register their telephone number for them.

29. The Internet model, however, cannot use ANI to validate calls. As previously discussed, in a Market-Based Cost Model, the act of paying implies validation. In a Market-Based Cost Model, the DNCR vendor could ask for the name and address of the consumer and compare it to existing databases such as the Master Street and Address Guide (MSAG) or any number of directory assistance databases. While this is a simple method of validation, using information largely available to the public, it is clearly more flexible and inclusive than the telephone-based model. It is also as valid a method for determining a consumer's intent as the ANI method.

IV. DELETING AND UPDATING CONSUMER TELEPHONE NUMBERS

30. Currently there is no ability to monitor the status (e.g., active, inactive) of a specific telephone number on an industry-wide basis. Only two entities have reliable knowledge as to the status of a specific telephone number – the consumer and the TSP. Obtaining this information from the TSP would require a bi-lateral agreement between the DNCR and each of the more than 2,000 TSPs. Clearly, this process would be costly and difficult to implement.

31. The most reliable source for the status of a specific telephone number is the consumer. In a telemarketer pays model the consumer is less likely to notify the DNCR of disconnects and other activity associated with the telephone number. In a Market-Based Cost Model, the consumer has incentive to maintain the accuracy of the data.

V. PROCEDURES TO UPDATE THE NUMBERS IN THE DNCR IN THE EVENT OF AREA CODE CHANGES?

32. As the North American Numbering Plan Administrator (NANPA) and the Local Number Portability Administrator (LNPA), NeuStar is very familiar with telephone numbering and area code relief efforts. New area codes are introduced when existing area codes have exhausted their capacity. There are basically two methods for introducing area codes, splits and overlays. When an overlay is introduced, new users within a specific geography will receive the new numbers. This will not impact the DNCR because no existing consumers' numbers will be affected.

33. Area code splits however, will affect the DNCR database. When an area code splits, consumers in half of the area code will get new phone numbers with the new area code. If those consumers have registered numbers in the DNCR, those numbers will also have to be changed. When an area code split is introduced, there is a transition timeframe called a permissive dialing period. Typically, this period lasts six months, but the timeframe can vary from area code to area code. During this period, the consumer will be treated as if he or she has two phone numbers, the one with the old area code and one with the new area code. The problem is not limited to how to change the registration information but also how to manage the information during the permissive dialing period.

34. NeuStar has addressed and solved this problem in its LNPA registry. The first step is to understand the schedule for the implementation of the new area code. The pertinent dates are the introduction of permissive dialing, which is the introduction of the new area code, and the end of permissive dialing, this is when the consumers' numbers change to the new area code. The second step is to identify the specific central office codes (the second three digits after the area code in a telephone number) that are going to change to the new area code. This second step will help the DNCR identify

all of the affected telephone numbers in the registry. On the date permissive dialing begins, the database needs to be modified so it will recognize both phone numbers. One way of accomplishing this is to create a duplicate record with the new area code. When permissive dialing ends, all of the affected records with the old area code can be deleted from the database. Another way to do this is to create logic in the database that allows it to associate one seven-digit phone number with two area codes. When permissive dialing ends, the old area code can be removed.

VI. CONSUMER VERIFICATION AND DATA CHANGES

35. There are two methods for providing consumers with the capability of verifying the entry of their number in the DNCR and to make changes to their data, either allowing anyone to view all data or allowing each individual consumer to view their own data. Both raise privacy concerns. The first alternative would only let consumers verify, not modify or delete, their registration. In this alternative, a complete list of all registrations is made available to the public. The most effective method for providing the list is via the web. Consumers could go to a website and view a list of all registered telephone numbers to see if their number was on the list. Another web-based method would be similar to the "check domain" capability in the TLDR. Anyone can go to the registry website and enter a domain name to check for availability. The registry will respond with whether or not the domain name is assigned. This is also a method that could be used for this purpose. Unfortunately both of these methods provide all registration information to anyone who would want it, including those who may abuse the information. Consumers' privacy may be infringed, particularly in an Industry-Based Cost Model, in that the method provides a free source of the data to telemarketers or anyone who would want to provide that data to telemarketers.

36. The alternative method, letting each individual consumer view his or her own data, would allow the consumer that provisioned the data to verify, delete and modify the data. This method would require the DNCR to provide security information, such as user name and password, to the consumer. Consumers could go to the DNCR website, enter the security information and view their status. This process is a common service in the TLDR industry. Registrars provide their customers two possible DNCR payment models, the Industry-Based Cost Model and the Market-Based Cost Model. Some of the attributes that are common to both of these models are: 1) consumers register individual telephone numbers with the registry to be included on the DNC list; 2) telemarketers set up an account with the DNCR so that the DNCR can provide authorization for access and track activity; 3) and telemarketers will access the DNCR on a regular basis for an updated DNC list.

39. As stated above, billing the telemarketers will be a complex process involving heavy regulatory oversight. The DNCR likely will recover its costs from the telemarketers based on three parameters: 1) the number of telemarketers who use the service; 2) how amount of data accessed by the telemarketers; and 3) the frequency with which they access it. In addition to these parameters the DNCR may factor in the revenue of the users –users with low revenue pay less than users with high revenue.

40. The DNCR provider will spend a significant amount of money just to deploy the registry. It is important that the telemarketers cover that initial expenditure plus yearly operating expenses. The DNCR provider has three options:

1) The telemarketers pay for the initial deployment cost and it will recover its operating costs based on monthly DNC list subscriptions,

2) The telemarketers pay monthly minimums that allow it to recover the deployment cost over a reasonable timeframe, e.g., 12-24 months, while recovering additional deployment and operating costs through DNC list subscriptions,
3) Assume the deployment cost risks and recover costs through DNC list subscriptions.

41. While these options are feasible (NeuStar has developed a similar cost scheme for the LNPA function), they are complex and require heavy regulatory oversight. The FTC will have to classify and certify each telemarketer and the cost allocation scheme—prior to deployment of the service. An aggressive or inexperienced DNCR applicant could miscalculate the cost recovery mechanisms and put the DNCR at risk. Or the industry could transform quickly and the cost recovery algorithm could become invalid in a short period of time. The FTC must monitor the market closely and react quickly to prevent the failure of the DNCR or a sudden necessary increase of the cost to the telemarketers.

42. The Market-Based Cost Model has the benefit of leveraging an imbedded base of service providers and infrastructure. DNCR applicants for a Market-Based Cost Model will be able to estimate the consumer demand better than they will be able to estimate telemarketer demand. They will be able to estimate the incremental cost to modify their existing infrastructure to support the additional registrations and therefore, will be able to provide a competitive price to the industry.

43. The billing model in the TLDR industry includes a retail sales channel, the registrars. Registrars fund an account with the TLDR that is debited as the registrar registers names on behalf of its customers. When the account decreases to a certain level, the registrar is notified and it replenishes its account. The registrars will bill their customers through various traditional methods such as credit cards, checks, and other accounts. This billing and collection model would be effective for the DNCR should the FTC approve a registry-registrar architecture.

44. When determining an appropriate billing model, the FTC should weigh a regulatory-based model, wherein the total cost for the service is allocated across an industry that must be compelled to pay for the service, versus a market-based model, wherein the FTC and the DNCR provider determine a valid market-based price to be paid by the beneficiaries of the service.

VII. PRICING

45. NeuStar has developed an Internet registry within the .US and .BIZ franchises that is a state-of-the-art, innovative, world-class solution. It will be relatively simple and within reasonable cost to leverage this existing infrastructure to accommodate a national DNDR service. Factors such as economies of scope and scale, interoperability, feasibility, and security will be considered in each of the required operational aspects of a national DNCR as well as innovations NeuStar will propose. Leveraging existing registry architecture will reduce both the costs associated with development and the time-to-market.

46. The costs associated with coordination and management of a national DNCR are variable with respect to registration and transaction volumes as well as the ability to provide the highest levels of service. NeuStar will consider each of these determinations when analyzing costs to operate the FTC's requirements. Additionally, creative pricing structures can be developed to accommodate demand or needs of a diverse market place. For example, a multi-tiered, volume-pricing model is successfully used by NeuStar today within the .BIZ franchise. A sample of this model is provided below. This chart, provided in our proposal for .BIZ, is illustrative of a TLDR and reflects the volumes and services required to support such a registry. Please note that this price structure reflects wholesale

costs and does not reflect the retail prices that will be charged by registrars. Costs for a DNCR registration may be more or less, depending upon the volumes and services required.

Annual Price	Volume Range (Names Under Management)		
5.30	-	to	4,999,999
5.00	5,000,000	to	9,999,999
4.75	10,000,000	+	

47. NeuStar's complimentary business practices will drive numerous management and operational synergies required to develop and operate a world-class DNDR. Our past and current experience providing registry services gives us a solid base for generating a fair and reasonable business plan that will be cost effective for all players.

48. Notably, the term length of the DNCR vendor contract with the FTC will affect pricing of the system. In the NPRM, the FTC proposes to establish the registry for a two-year trial time period. This limited trial term does not provide potential vendors with enough certainty in the business opportunity to justify the time and resources it would cost a vendor to develop the hardware and software necessary to quickly implement a secure and effective DNCR. A longer contractual period would encourage the DNCR vendor to invest sufficient capital to establish an effective system and it would lower the price point for consumers. NeuStar suggests that the FTC consider issuing an RFP allowing for a longer initial term, such as four years, with a series of renewable one-year options.

VIII. PROPERTY RIGHTS

49. In choosing a vendor for the DNCR, the FTC undoubtedly will seek an entity not only capable of providing the base service, but also one with the capability to innovate its service to further serve the public interest. To ensure the most candid and complete responses from such an entity,

however, the FTC must provide adequate protection of the proprietary rights of the vendor, not only in the bid process, but also in the actual development of the proposed system. Absent such protection, a given vendor might be forced to not offer the best possible solution for fear that that it would lose control of important intellectual property or other rights in its proposed system.

50. On the other hand, the FTC must ensure ownership by the government of those aspects of the system critical to the provision of the service in the future, independent of the vendor then providing the service. The best approach to such rights in a registry like the DNCR, can be seen in the basic structure of data and system rights used for the .US Internet registry. Specifically, data collected by the registry for the provision of the contract service is owned by the government under applicable provisions of the Federal Acquisition Rules (FAR). The contract between the vendor and the government contains any additional terms with regard to data use, and requires that such terms be passed on to any other entity that must access and use such data. This basic data use model would work well for the DNCR. Further, NeuStar recommends that the FTC require the DNCR Vendor to escrow its database on a regular basis with a third party and make that escrow account accessible by the FTC. This would ensure that the FTC has access to the most critical information maintained by the DNCR. The database would include not only consumer registration information but also the telemarketer database, and the telemarketer activity database.

51. Beyond the data rights, however, the ownership and rights in the systems developed by the registry operator to provide the service should belong to the registry operator. Different vendors likely would build different systems with varying properties. The service delivery mechanism need not be unique and, should the government find it necessary to switch vendors, a new vendor would need only the data to continue the service.

52. Thus, for a service such as the DNCR, the relevant system rights that the government would need to control are rights to the data, not the systems used to provide access to that data. Therefore, rights in registry hardware and other proprietary rights (including intellectual property rights) should remain with the vendor.

IX. CONCLUSION

53. NeuStar appreciates the opportunity to share its registry experiences with the FTC as they apply to a future national DNCR. NeuStar urges the FTC to weigh the pros and cons of the solution approaches outlined in these comments and to incorporate specific provisions that address those factors in the RFP.

Respectfully Submitted,

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