

Before the
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

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Notice of Proposed Rulemaking for Changes to the)	
Telemarketing Sales Rules, 16 CFR Part 310)	FTC File No. R411011
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Comments of the Yellow Pages Integrated Media Association

1. The Yellow Pages Integrated Media Association (YPIMA), formerly the Yellow Pages Publishers Association, hereby submits these comments regarding the Federal Trade Commission's (FTC) rulemaking regarding changes to the Telemarketing Sales Rule (FTC File No. R411011).

2. YPIMA is the global trade association based in Berkeley Heights, New Jersey, representing the Yellow Pages industry, both print and electronic. YPIMA members include Yellow Pages publishers, and other businesses associated with the Yellow Pages industry. Many YPIMA members operate on-line directory services, such as Superpages.com and Switchboard.com.

3. YPIMA is particularly interested in this proceeding because of the proposed changes to the business-to-business telemarketing exemption in 16 CFR Section 310.6(g). The proposed rule eliminates the business-to-business exemption of the marketing of Internet services and Web services. YPIMA member companies currently offer these services to other businesses, particularly small businesses within the context of their on-line directory offerings. Members must use telemarketing methodologies to sell these services to small businesses because the high cost of premise visits makes face-to-face sales calls impractical.

4. The elimination of the business-to-business exemption for telemarketers of Internet services or Web services is unsound public policy and will impede small business's access to these emerging technologies thereby hindering their ability to expand their product and service offerings and attract new customers. Certainly, more choices that allow small businesses access to profit generating services, not less, are better for the small business community.

Acknowledging that other sales rules may apply, the elimination of the exemption will affect the cost structure of these services by resulting in increased administrative overhead that will prove costly, burdensome and disruptive both to the small business and to the suppliers of these services.

5. For many small businesses, their current use of print Yellow Pages advertising represent the most significant marketing tool they utilize. Admittedly, disreputable organizations may use telemarketing techniques to deliver fraudulent offers to small businesses. However, it is all the more important to allow reputable companies to offer expanded services such as Web and Internet services to small businesses. The majority of Yellow Pages advertisers are small businesses that have successfully used the product's unique features to grow their business. Today, these small businesses spend more than \$13.5 billion annually on Yellow Pages advertising. As stated, Yellow Pages publishers are beginning to offer on-line products to complement and enhance their printed advertising services.

6. Small businesses have come to trust these marketing partners and can expand their marketing efforts or begin new relationships with these publishers without fear of fraudulent activity.

7. While small business represents a critical component of the economy, it is a sector that is often ignored by advertising agencies, marketing consultants, and media outlets that cannot, or

choose not, to address the small business market. Many times the cost of sales is the determining factor. If sales costs increase due to additional administrative mandates under the Telemarketing Sales Rule, then small businesses will not be able to readily avail themselves of new ways to grow their business. The gap between the large businesses and small businesses ability to adopt new technologies will widen if small businesses are not permitted to utilize the services of targeted and efficient providers of these technologies.

8. Removing the exemption for business-to-business telemarketing of Internet services and Web services will impede those businesses that have the most to gain from these technological advances. Many small businesses suffer because of their relative distance from major commercial centers and the prohibitive costs of traditional marketing programs. Internet services and Web services offer these small businesses the opportunity to establish a presence with potential customers in a financially viable manner. And, just as Yellow Pages publishers have used telemarketing to successfully provide the appropriate print products for small, remote businesses, telemarketing is also necessary to furnish customized Internet services and Web services for these same businesses.

9. Most Yellow Page advertisers are small businesses, yet market penetration is small when compared to the number of small businesses who do not advertise in the Yellow Pages. The non-advertisers represent millions of small businesses nationwide. A considerable number of these businesses would benefit from exploring Internet and Web-based services, and thus need ready access to reputable providers to enhance their awareness, and assist them in developing suitable marketing programs.

10. The Federal Communications Commission (FCC) adopted rules in its proceedings implementing the Telecommunications Act of 1996 (Telecom Act) that recognize the expansion

of print products into Internet and Web based products with the goal of enhancing competition in the directory publishing industry:

“...interpreting section 222(e) as entitling directory publishers to obtain subscriber list information for use in Internet directories will further Congress’s goal of promoting competition in directory publishings. ... We find that extending the guarantees of section 222(e) to publishers of telephone directories on the Internet will further enhance competition in the market for directory publishing¹”

11. The FCC recognized that the information provided to publishers was meant to be used for marketing and sales purposes:

“Directory publishers, however, engage in additional activities “for the purpose of publishing directories.” We conclude that these activities include the marketing of directory advertising to businesses. ... the marketing of directory advertising is essential to the process of publishing directories. ... We therefore conclude that the statutory phrase “for the purpose of publishing directories” encompasses the use of subscriber list information to solicit yellow pages advertising.²”

12. The Telecom Act and the FCC encourage development of Yellow Page directories on the Internet, and have created rules that facilitate this evolution. The FTC's proposed rule change would artificially hinder that evolution.

¹ FCC 01-27; Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended; CC-Docket No. 99-273; First Report And Order; paragraph 42.

² Third Report And Order in CC Docket No. 96-115, Second Order on Reconsideration of the Second Report and Order in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273; paragraph 118.

13. The Yellow Pages industry and the FTC are very aware of fraudulent practices targeted at the small business community. For example, Yellow Page publishers have worked diligently with the FTC, postal authorities, Better Business Bureaus, state attorneys general, local district attorneys, and numerous business organizations such as the U.S. Chamber of Commerce to combat bogus billing operations. The economic interests of the publishers supported these collaborative efforts, and the resulting benefits have allowed small businesses to become increasingly sophisticated in their dealings with marketers, thus serving small businesses and reputable publishers well. This campaign continues but certainly some fraud remains, as it will within these developing Internet and Web marketing industries. But rules that inhibit business-to-business telemarketing of these services, in this developing industry, will do more to hinder or delay the growth and competitive prospects of the customers of these businesses, than it will benefit the efforts to combat fraud.

14. YPIMA respectfully requests that the FTC not amend section 301(g) to remove Internet and Web services from the business-to-business telemarketing exemption.

Respectfully submitted,

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