

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

COMMENTS

OF

PHONE DATA STRATEGIES, AN ANCHOR COMPUTER COMPANY

**TELEMARKETING RULEMAKING AND USER FEE COMMENT
FTC File No. R411001**

(Proposed Telemarketing Sales Rule User Fees)

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I. Introduction

The proposals of the Federal Trade Commission (the “Commission” or “FTC”) to impose user fees on telemarketers to fund a national Do-Not-Call List (the “DNC List”) in its May 29, 2002 Notice of Proposed Rulemaking governing 16 C.F.R. Part 310 (67 Fed. Reg. 37362) (the “NPRM”) suffer from largely the same deficiencies as the Commission’s proposal to amend the Telemarketing Sales Rule (“TSR” or the “Rule”) articulated in a separate NPRM. 67 Fed. Reg. 4492 (Jan. 30, 2002) (the “Rule NPRM”). And as such, I support the comments of The Direct Marketing Association and The American TeleServices Association.

In addition, I wanted to bring to the commissions attention a deficiency in both the revisions to the TSR as it relates to the DNC List and the user fee section. I am a small business and do not have access to a team of attorneys to help me write the following comments. So please accept my apology beforehand that they are in plain and simple English. The published intent of this DNC List is to give consumers a national (as opposed to an individual State) option and resource whereby they can, if they wish, have their name on a list indicating that they do not want to receive calls. The intent of this portion of the TSR and its vision of how to implement is just plain wrong. Let’s start at the beginning. If you want to give consumers a means not to be called, you can’t have multiple jurisdictions ..I understand that, but the average consumer won’t. And you can’t have exemptions. I understand that (especially the political and charitable exemptions and the limits on FTC jurisdiction) but the average consumer won’t. If you want to have a national service but don’t pre-empt the States you don’t have a truly national service. I understand that, but the average consumer won’t.

If you want this to actually work, you must make it available to any business that is engaged in or causing others to engage in telephone calls for commercial purposes at no charge

(taxpayer dollar supported). The fact is, the issue isn't the cost, about which you have had much discussion ... BUT it is in fact, about getting as many folks who make calls to use the data without any roadblocks. Imposing fees on everyone in the calling game is a roadblock, and would require significant administration. Charge me \$5,000.00 a year for the data...and let me suppress or flag the registrants every time a client of mine asks me to append data. But don't require all of my clients pay you a fee. Your logic is at cross-purposes with the DNC List's intent. This should be a free service that I and others like me provide as a matter of good business practice and consumer protection.

On the state DNC side, that is in fact, what most firms do for their clients, and it supports the states goal of not having their citizens on the list get calls. Seems simple enough to me. PEOPLE WHO DO NOT WANT TO RECEIVE CALLS SHOULD NOT HAVE TO GET CALLS. Legitimate Businesses DO NOT want to call them. But now you have confused the cost of managing a process with the noble intent of the DNC List. Solution: charge every consumer \$1 a year, with four million consumers (and that is a modest number to be sure) you are covered, and no one will balk. Charge any company who wants the data for suppressing or flagging an annual processing fee for use and access (like the majority of States) without regard for the number of accessors, and just get the data out there. That is your goal after all. We believe you should work with the FCC, the SEC and the states and come out with a single program rather than a piecemeal approach.

There's not a consumer I know who wouldn't pay a buck a year for this service. It's cheaper than a gallon of gas, and will go a lot further in terms of consumer satisfaction. You've created a rule on the one hand but designed a system to implement it that focuses on funding

rather than implementing the intent and spirit of the rule...it works at cross-purposes to your TSR intent.

I also want to comment on the incredible amount of consumer confusion YOU will create when you advertise your service, but won't deliver what the consumer expects (unless they read the fine print with all the exemptions and disclaimers...) For example, most of the states that do have a DNC List encourage as many people to use the list as possible. Sadly, the model you have adopted, like New York, is a revenue generator NOT a consumer protection device.

I am in the data and information append business. My clients do not want to contact people [even their own customers] by phone if these folks choose not to be called. I truly question the Commission's proposal to collect fees for the DNC List and the fact that I believe the proposal works at cross-purposes not only to the TSR, but also to the consumer you are seeking to protect. In addition, both the TSR and the proposal to collect fees do not address the issue of the thousands of data and information providers that are in the business of providing businesses with updated and accurate information on their customer and prospect files through the appending of such publicly available sources.

Thank you very much for considering my input and suggestions.

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