



April 15, 2002

VIA HAND DELIVERY

Mr. Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Telemarketing Rulemaking—FTC File No. R411001

Dear Secretary Clark:

The Internet Commerce Coalition (“ICC”) submits this comment letter solely with respect to the Commission’s proposal to single out “Internet services” and “Web service” for exclusion from the Business-to-Business (“B-to-B”) exception to the Telemarketing Sales Rule.

The ICC’s mission is to work for clear, stable and predictable laws that foster the growth of the Internet and E-Commerce. The Coalition's members include leading Internet and E-Commerce companies and trade associations, including AOL Time Warner, BCE Teleglobe, BellSouth, CompTel, eBay, Internet Alliance, SBC Communications, Inc., and Verizon. The Coalition works to promote policies that allow service providers, their customers, and other users to do business on the global Internet under reasonable rules governing liability and use of technology that encourage the growth of this vital medium. Not all of the members of the Internet Commerce Coalition fall within the jurisdiction of the Federal Trade Commission. However, all offer web and Internet services, and are therefore concerned with the proposed Rule’s broad mischaracterization of “Internet services” and “Web services” as inherently fraudulent.

The ICC believes that the Internet and Web services industry should not be singled out indiscriminately as presenting a greater risk of fraud. All of the Internet and web-related services offered by members of the ICC, and the overwhelming majority of services offered by others in our industry, are entirely legitimate, beneficial commercial

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offerings that have been instrumental in fueling unprecedented economic growth and productivity increases in the American economy.

Based upon a finding that small businesses have in some instances been victims of “website cramming,” the Commission proposes changing the Telemarketing Sales Rule to subject B-to-B offerings of “Internet services” and “Web services” to all of the regulatory requirements of the TSR.¹

The Internet Commerce Coalition abhors website cramming and supports strong FTC action against crammers. However, the ICC is convinced that this aspect of the proposed Rule is excessive. The Commission indicates that it intends that its exception to the TSR B-to-B exemption “encompass any and all services related to the World Wide Web” and “the provision of access to the Internet, or any component thereof, such as electronic mail, the World Wide Web, websites, newsgroups, Internet Relay Chat or file transfers.”

Sweeping such a broad category of services into the TSR would create needless special regulation of legitimate offerings, without any clear benefit that would justify the burden. The Commission could not have defined more broadly the services that will fall outside of the B-to-B exemption, and fails to provide any basis for regulating such a broad category of services.

We recommend that, at a minimum, the Commission sharply narrow the scope of services that would be excluded from the B-to-B exemption to the TSR so that they correspond solely to the area of concern that the Commission has cited as problematic, namely cramming of web hosting services.

The ICC thanks the Commission for its consideration of this comment letter.

Sincerely,

James J. Halpert, Coordinator
Internet Commerce Coalition

¹ The Commission defines “Internet services as “the provision, by an Internet Service Provider, or another, of access to the Internet.” “Web services” are defined as “designing, building, creating, publishing, maintaining, providing or hosting a Web site on the Internet.”