

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

In the Matter of)	
)	
Telemarketing Rulemaking – Comment)	FTC File No. R411001
)	

**COMMENTS OF
TELECOMMUNICATIONS FOR THE DEAF, INC.**

1. Telecommunications for the Deaf, Inc. (“TDI”), through undersigned counsel, hereby submits its Comments to the Federal Trade Commission’s (“Commission”) notice of proposed rulemaking (“NPRM”) in the above-referenced proceeding.¹

I. INTRODUCTION

2. TDI is a national advocacy organization actively engaged in representing the interests of the twenty-eight million Americans who are deaf, hard of hearing, late-deafened, and deaf-blind. TDI’s mission is to promote equal access to broadband, media and telecommunications for the aforementioned constituency groups through consumer education and involvement, technical assistance and consulting, application of existing and emerging technologies, networking and collaboration, uniformity of standards, and national policy development and advocacy. Only through equal access will these twenty-eight million Americans be able to enjoy the opportunities and benefits of the telecommunications revolution to which they are entitled. Furthermore, only by ensuring equal access for all Americans will society benefit from the myriad skills and talents of persons with disabilities.

¹ *Notice of Proposed Rulemaking and Order*, 16 CFR Part 310, Telemarketing Sales Rule, Billing Code 6750-01-P (rel. Jan. 2002).

II. COMMENTS

3. TDI applauds the Commission's efforts to amend its Telemarketing Sales Rule ("TSR")² to further enhance its protections to consumers from deceptive and abusive telemarketing practices. In particular, TDI supports the establishment of a national "do-not-call" registry by the Commission that will allow consumers to stop calls from all companies within the Commission's jurisdiction by placing their telephone number in the registry. Consumers with hearing or speech disabilities would benefit greatly from being able to have their names placed on a national "do-not-call" registry. While the Commission and many states have enacted rules in the past to allow consumers to ask to be placed on the individual "do-not-call" list of any telemarketer that calls, consumers with hearing and speech disabilities have not been able to take advantage of such rules. While this large group of consumers has telephones, they need to use a TTY device and telecommunications relay service to place calls. Yet these same consumers often receive calls from telemarketers that are not equipped to handle TTY calls. As a result, these consumers have no way of communicating with the telemarketers when they call, and telling them to place the consumer on that telemarketer's "do-not-call" list. The Commission's proposed national "do-not-call" registry, however, has the potential to finally give consumers with hearing and speech disabilities the opportunity to take advantage of the TSR.

4. TDI is concerned, however, that as currently proposed, the full benefits of the Commission's new registry will not be available to the millions of consumers with hearing and speech disabilities. According to a report by the National Center for Health Statistics, more than 23 million people are deaf or have a hearing disability, and more than 2.7 million people have a speech

² 16 CFR Part 310.

disability.³ Similarly, the U.S. Census Bureau 1992 Survey of Income and Program Participation noted that 10.9 million Americans have a functional limitation in “[h]earing what is said in a normal conversation” and 2.3 million have a functional limitation in “[h]aving one’s speech understood.” Therefore, the Commission should be careful to ensure that its proposed rules take into account the needs of this important and large group of consumers. TDI urges the Commission to adopt the changes described below to make its national “do-not-call” registry available to all consumers in the United States.

A. Procedures for Placing a Consumer’s Name on the National “Do-Not-Call” Registry

5. The Commission proposes that in order for an individual consumer to be placed on the national “do-not-call” registry, the individual consumer must make the request from their home telephone. The Commission states that this is necessary in order to ensure that only consumers who actually wish to be on the registry are placed there. While TDI supports the Commission’s underlying goal of not placing consumers on the registry that do not want to be there, TDI is greatly concerned with the proposed means of achieving that goal. Consumers that have hearing or speech disabilities generally are not able to hold conversations over the telephone, or interact with computer databases or interactive voice response systems (IVR) over the telephone, without, or even with the use of special telecommunications equipment or services, such as TTY equipment and telecommunications relay services. Therefore, unless other means of registering are made available, the Commission’s requirement that consumers call a toll-free number and express their desire to be placed on the registry would in effect keep consumers with hearing and speech disabilities from utilizing this registry.

³ Prevalence of selected chronic conditions: United States, 1990-1992.” National Center for Health Statistics. Vital Health Stat. 10(194), 1997.

6. In order to rectify this situation, TDI proposes that the Commission make available a toll-free line for TTY callers and accept requests by relay, fax, e-mail, or secure online registration. The Commission should be aware that if a person calls through the relay service, even though the relay service has automatic number identification (ANI) for their internal use, the ANI may not be passed through to the other end. Therefore, other provisions need to be made to verify the identity of the caller. In addition, many deaf and hard of hearing consumers have a telephone line solely for use with their fax machines or Internet access, and have no use at all for voice calls. Therefore, TDI recommends that the Commission confirm receipt of the requests to be placed on the “do-not-call” registry in the same manner that they were received – voice, fax, e-mail, etc.

B. Scope of National “Do-Not-Call” Registry

7. The Commission’s NPRM asks how to define the scope of telemarketers covered by its proposed “do-not-call” registry. TDI believes the registry should be as broad in coverage as possible. Most business that use telemarketing do not own TTY devices and do not know how to communicate with a TTY user. Therefore, TDI supports the use of the registry to eliminate all telemarketing calls from all sellers and telemarketers covered by the TSR. TDI also supports, however, giving consumers the ability to subsequently agree to accept telemarketing calls only from specific sellers or charitable organizations with respect to which they have provided express verifiable authorization.

8. TDI recognizes that not all companies fall under the jurisdiction of the Commission, and therefore certain types of entities are exempt from the TSR’s coverage. TDI encourages, however, the Commission to work closely with other government agencies, such as the Federal Communications Commission, that do monitor the telemarketing activities of companies under their jurisdiction. The Commission should work with these agencies to develop a uniform method of

regulating telemarketers, such as developing a truly national “do-not-call” list that covers all industries and organizations.

C. Blocking of Caller ID Information

9. The Commission notes that some telemarketers use a variety of tactics to get consumers to answer their calls. For instance, many consumers will use caller ID to screen their calls. As a result, some telemarketers will block their company’s name or telephone number from appearing on the caller ID. The Commission proposes to combat this practice by prohibiting the blocking of the name or telephone number of the calling party from caller ID services. TDI supports this proposal, and would like to add that the number displayed must be able to accept calls, and not be perpetually busy or idle. Frequently members of our organization have tried to call businesses that claim to have TTY service, only to find that no one ever answers the telephone or that the telephone is left off the hook.

III. CONCLUSION

10. TDI applauds the Commission's efforts to curtail the abuses of many telemarketers, and to establish a national "do-not-call" registry. TDI strongly urges the Commission, however, to make this registry accessible to all consumers, especially people with hearing or speech disabilities. The Commission must establish alternative ways for consumers to place themselves on the list, other than calling a toll-free number that is not compatible with TTY service.

Respectfully submitted,

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