

## *The Enterprise Prison Institute*

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**Knut A. Rostad**  
*President*

June 27, 2002

Carole Danielson  
Division of Marketing Practices  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Washington, DC 20580

Dear Ms. Danielson:

The Enterprise Prison Institute appreciates the opportunity it had to participate in the recent Telemarketing Sales Rule workshop. EPI also appreciates the opportunity to submit follow up comments to the workshop. As requested, these comments shall be brief and not duplicative of our initial comments. As with our initial submission, these comments only relate to the FTC's inquiry concerning prison based telemarketing programs.

Our comments address three issues: (1) to report on whether prison based telemarketing programs are in fact only in state prisons and not federal institutions, (2) an observation that at the workshop most participants on the panel, even those who initially supported some type of FTC action in this area, were impressed that the issue appears to be a local issue, and (3) to share the experiences of one program in a Western state, which not surprisingly, reflects the situations in other prisons.

With respect to (1), EPI would like to confirm a question that was raised during the workshop that appeared to attract the interest of most participants. This issue concerns the venue of prison based telemarketing programs. At the workshop, I indicated that it was my understanding there were no inmate telemarketers within the federal prison system employed by the private sector. I want you to know that this has been verified with the Federal Bureau of Prisons. This means, of course, that all inmates that would be covered by any FTC enforcement action are only inmates within state prisons.

Second, while it is obvious that we believe that these programs are most appropriately regulated, if at all, at the state level, we found it most interesting that a number of participants on the panel also reached this conclusion after hearing the facts about these programs. Interestingly, we observed that participants who initially expressed concern with these activities and supported some type of FTC action, eventually commented on the record that while there may always be risks in these types of programs, due to the local nature and small number of participants in these programs, regulation would more appropriately lie with the states, not the federal government.

Interestingly, the only panelist that remained steadfast in his conviction that the FTC should regulate in this area did not represent a consumer group or governmental body, but DialAmerica, a private company whose only comments during the panel session were general agreement with the FTC that there is a problem. In fact, this entity's initial written submission did not even address the FTC's questions regarding the issue of privacy abuses as set forth in the NPRM, but rather summarily concluded that the FTC should ban the practice altogether. EPI would find it disconcerting if the FTC, in determining whether a practice is abusive under the TSR, accepted and relied upon the comments of a private company whose only interest in the proceedings, as it appears from the record, are to suppress lawful methods of competition.

EPI urges the FTC to consider the reactions and comments on the record from parties who, after hearing about the limited geographic and quantitative scope of prison based telemarketing programs, remarked that this truly is a state issue. EPI would also urge the FTC not to consider the comments of a company whose sole interest in the proceedings is to remove prison programs from competition, namely, their competition.

Last, during the workshop, several panelists questioned whether existing safety procedures and standards were sufficient to protect consumers from privacy abuses. Without going into detail here, EPI wishes to direct the FTC's attention to certain of EPI's points in its initial written submission which are responsive to these inquiries; namely, that there are but a handful of reported incidents in this area (and even those incidents only involved telephonic contact and no actual resulting harm), and that most prison telemarketing programs have in place strict security and safety procedures. EPI would also like to share for the record the experiences of an entity that has been utilizing prison telemarketing programs for several years, with great success for all parties involved.

## State Site I

State Site I is an inbound call center where inmates complete order forms that require an individual's name, city/state, and telephone number (no street address). Once completed, these forms are immediately removed from the telemarketing center and transmitted via facsimile to a central civilian office where the consumer is called back and the sale is consummated.

The screening for inmate participants in State Site I is significant and the competition for these jobs is vigorous. “High security” inmates are automatically prohibited from securing these jobs – only medium and minimum-security inmates are eligible. Further, only inmates who have a “perfect” conduct record for the immediately preceding six month period are eligible. Inmates are also screened for education levels and communications skills. As the only jobs in this institution, competition is fierce and there are several applicants for each opening. The operator of the program reports there is a “strong ‘self-monitoring’ mechanism” built into the program. He also remarks how different the incentives and labor market forces are inside as opposed to outside a prison. “It’s so different inside an institution. These guys love these jobs. Nobody, but nobody wants another inmate doing anything that might jeopardize them. People in this industry on the outside have never seen anything like it.”

Further, all telephone numbers that call into this prison are captured by a company-paid-for software program which automatically “blocks” any outgoing calls to these numbers from all prison telephones. One prison staff member is dedicated to monitoring the calls. All inmates are strip-searched as they leave the call center.

In the three years that this owner has operated this call center, there has never been one incident of reported misuse of information. He also reports that upon release from incarceration, any of his trained telemarketers can secure a civilian call center job which on average pays between \$350 to \$400 a week – which in his state is a respectable, and livable, wage. In fact, this owner reports that he currently employs eight or nine former inmates that he trained in his prison program.

We appreciate the opportunity to provide this additional information. Please feel free to contact me at 301/320-9180 with any additional questions.

Sincerely,

Knut A. Rostad