

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

In the Matter of Notice of Proposed Rulemaking  
to Amend the Telemarketing Sales Rule  
FTC File No. R411001

SUPPLEMENTARY COMMENTS OF  
THE PROMOTION MARKETING ASSOCIATION

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The Promotion Marketing Association (“PMA”) has been the leading non-profit association representing the promotion marketing industry since 1911. Our membership consists of more than 650 companies representing diverse aspects of the industry, including many Fortune 500 consumer goods and service companies, advertising and promotion agencies, and university faculty who educate about promotional activities as part of a business curriculum.

Through its undersigned counsel, the PMA respectfully submits these supplementary comments in response to the Federal Trade Commission’s request for public comments in connection with its proposed amendments to the Telemarketing Sales Rule (“TSR” or “Rule”), 16 C.F. R. Part 310.<sup>2</sup> The PMA is pleased to have been selected to participate in the Commission’s three-day Telemarketing Sales Rule Forum

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<sup>2</sup> Notice of Proposed Rulemaking (“NPRM”), 67 Fed. Reg. 4492 (January 30, 2002).

(the “Forum”) on June 5-7, 2002, and submits these supplementary comments to address the new issues that were raised during the Forum.

As an initial matter, we would like to indicate our full support for all of the points addressed in the Supplementary Comments filed by the Electronic Retailing Association (“ERA”). Specifically, we agree with and fully support each of the points and recommendations made by the ERA regarding the issues of the national do-not-call registry, the treatment of upsells, the proposed ban on preacquired account information and predictive dialers. In order to spare the Commission having to read two sets of essentially similar comments, we will not repeat those arguments in these comments, but do wish the Commission to be cognizant of the fact that each of the issues raised in ERA’s comments are of extreme importance to PMA membership as well. We would respectfully urge the Commission to consider seriously the very specific and constructive recommendations put forth by ERA in its Supplementary Comments, all of which would satisfy our members’ concerns.

In addition, we note that one new issue raised during the Forum revolved around specific odds disclosures in telemarketing prize promotions. On this issue, we wish to reiterate our belief that the approach taken in Section 310.3(a)(1)(iv) of the Proposed Rule is an appropriate one in that it mandates such disclosures when the odds are fixed, but permits the disclosure of the manner in which the odds will be calculated if the odds cannot be determined in advance. As we indicated during the Forum, to require a statement of approximate fixed odds, in situations where the odds will depend on the number of entries received and cannot be calculated in advance, will not result in furnishing any meaningful information to the consumer, but to the contrary,

may actually mislead the consumer as to their actual odds of winning. In our view, the current approach strikes the proper balance and addresses the needs of consumers as well as businesses. Moreover, we are not aware of evidence in the regulatory record indicating otherwise.

We thank the Commission for giving us the opportunity to submit these supplementary comments, and look forward to continuing to work with the Commission to ensure that the revised Rule represents a reasonable and balanced approach to the issues. Should you have any additional questions or concerns, please contact the undersigned.

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