

**BEFORE THE FEDERAL TRADE COMMISSION
WASHINGTON, D.C.**

**In the Matter of:
Telemarketing Rulemaking—Supplemental Comment of the
Vermont Attorney General’s Office
(June 28, 2002)**

FTC File No. R411001

At the Telemarketing Sales Rule (TSR) forum in early June 2002, the Federal Trade Commission staff asked for any available data on the level of consumer understanding regarding preacquired account information practices by telemarketers. In response to that request, AARP conducted a telephone survey on June 14-19, 2002, based on a nationally representative sample of 1,240 respondents 18 years of age and older, including 610 respondents age 50 or older. The Vermont Attorney General’s Office wishes to direct the Commission’s attention to the results of that survey.

In summary, the AARP survey found that:

- Many consumers *do not understand* that their credit and debit card accounts can be charged even if the consumer does not provide the account number directly to the telemarketer (whether in an upsell situation or not). Indeed, for both upsells and non-upsells, a total of 60% of survey respondents either thought that their account could not be charged in that situation or did not know whether it could be charged.
- Second, the overwhelming majority of consumers—between 73% (for upsells) and 79% (for non-upsells)—*do not want* their credit and debit card accounts to be charged unless the consumer provides the account number directly to the telemarketer.

The AARP survey substantiates the view of consumer advocates that many people do *not* understand that telemarketers can charge their accounts without obtaining the account number directly from the consumer, and that most consumers think that telemarketers should *not* be permitted to do so. The survey’s findings provide strong quantitative support for the Commission’s pending proposal to revise the TSR so as to prohibit the sharing and receipt of billing information except, with consumer consent, to process a payment in connection with that particular transaction. *See* 310 C.F.R. § 310.4(a)(5) (as proposed).

Survey results. The survey questions and a summary of the responses are as follows:

1. Often telemarketers ask you to buy something with a credit card or debit card. Do you think telemarketers are able to cause charges to your credit card or debit card without getting your credit or debit card numbers directly from you?

	Yes they can	No they can't	Don't know	Refused
Total %	39	45	15	1

2. Do you agree or disagree that a telemarketer should only be able to cause charges to your credit card or debit card if you expressly provide the telemarketer with your credit or debit card numbers? (Get answer, then ask: Is that strongly or somewhat agree/disagree?)

	-----AGREE-----			-----DISAGREE-----			Don't know	Refused
	NET¹	Strongly	Somewhat	NET	Somewhat	Strongly		
Total %	80	69	10	14	3	11	5	1

3. Do you think telemarketers are able to cause charges to your bank account without getting your account number directly from you?

	Yes they can	No they can't	Don't know	Refused
Total %	35	51	13	1

4. Do you agree or disagree that a telemarketer should only be able to cause charges to your bank account if you expressly provide the telemarketer with your account number? (Get answer, then ask: Is that strongly or somewhat agree/disagree?)

	-----AGREE-----			-----DISAGREE-----			Don't know	Refused
	NET	Strongly	Somewhat	NET	Somewhat	Strongly		
Total %	80	69	11	13	3	11	4	2

5. Sometimes when people buy products from a telemarketer with a credit or debit card, they will be asked to buy other products from a second company. Do you think telemarketers can charge these other products to your credit card or debit card without getting your credit or debit card numbers directly from you?

	Yes	No	Don't know	Refused
Total %	38	48	12	2

¹ "NET" signifies the total percentages within a category, such as the total of respondents who agreed or disagreed with the survey statement. In nos. 2, 4 and 6, there are "NET" totals that do not precisely equal the sum of the subtotals because of rounding-off.

6. Do you agree or disagree that the second company should be able to charge these other products to your credit or debit card without getting your credit or debit card numbers directly from you? (Get answer, then ask: Is that strongly or somewhat agree/disagree?)

	-----AGREE-----			-----DISAGREE-----			Don't know	Refused
	NET	Strongly	Somewhat	NET	Somewhat	Strongly		
Total %	19	16	3	74	5	70	5	2

Discussion. As the above results show, 45% of the respondents did not believe that telemarketers can cause charges to a credit or debit card account without obtaining the account number directly from the consumer. (Question 1.) Another 15% did not know one way or the other. Only 39% responded, “Yes they can.” The results were similar when AARP asked for consumers’ views on the ability of telemarketers to charge their *bank account* without obtaining the account number directly from the consumer—51% said they could not do so, 13% did not know, and only 35% said they could. (Question 3.)

Moreover, 69% of the respondents strongly agreed that telemarketers *should* only be able to charge a credit or debit card account if the consumer expressly provides the telemarketer with the account number. (Question 2.) Another 10% agreed “somewhat,” while a strikingly low 14% disagreed in any way with the statement. The results were similar for bank accounts—69% agreed strongly that telemarketers should only be able to charge a bank account if the consumer expressly provides the account number to the telemarketer; 11% agreed somewhat; and only 14% disagreed in any way. (Question 4.)

The AARP survey posed two further questions, directed at “upsell” scenarios. When asked if they thought that telemarketers can charge upsold products to a credit or debit card without obtaining the account number directly from the consumer,² 48% of the respondents replied “no,” while another 12% did not know. (Question 5.) Only 38% understood that their accounts could be charged on an upsell without the consumer’s providing the account number to the telemarketer. When asked if they agreed or disagreed that telemarketers *should* be able to charge their accounts in this same situation, 70% disagreed strongly and another 5% disagreed somewhat, while only a total of 19% agreed in any way that such charges should be possible. (Question 6.)

For most consumers, then, privacy trumps any industry-touted “benefits” associated with telemarketer access to billing information, providing powerful support for the FTC’s proposed ban on the use of preacquired account information in telemarketing except for certain payment-processing purposes.

The Vermont Attorney General’s Office thanks the Commission for this opportunity to offer the foregoing supplemental information and reiterates its support for the comments previously submitted by the National Association of Attorneys General.

² This question and the next did not specify whether the telemarketer was the same as or different from the original telemarketer—that is, whether the upsell was “internal” or “external.”