BEFORE THE
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

In the Matter of	)	
	)	
Telemarketing Rulemaking - Comment	)	FTC File No. 411001
	)	
	)	

COMMENTS OF
SBC COMMUNICATIONS INC.

Paul Mancini
Vice President and
Assistant General Counsel
Cynthia J. Mahowald
Vice President and General Counsel
Gary Phillips
General Attorney and
Assistant General Counsel

SBC Communications Inc.
1401 Eye Street, N.W. Suite 400
Washington, D.C. 20005
(202) 326-8868

Counsel:

John F. Kamp
William B. Baker
Amy E. Worlton

Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

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In the Matter of	)	
	)	FTC File No. 41 1001
Telemarketing Rulemaking - Comment	)	
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COMMENTS OF SBC COMMUNICATIONS INC.

I. INTRODUCTION

1. SBC Communications Inc. ("SBC") hereby submits its comments in response to the Federal Trade Commission's ("Commission" or "FTC") *Notice of Proposed Rulemaking* ("NPRM")[1] and *Notice of Proposed New Privacy Act System of Records*,[2] which propose extensive changes to the Telemarketing Sales Rule ("TSR").[3] In the NPRM, the Commission proposes, among other things, to create a national "do not call" list and to extend the TSR to business-to-business telemarketing of Internet and web services.

2. SBC brings a broad-based and informed perspective to the FTC's proposals. SBC's local exchange common carrier subsidiaries provide more than 60 million telephone lines, and its common carrier long distance companies serve more than three million subscribers on 5.3 million long distance lines. SBC's advanced services subsidiaries, currently treated as common carriers by the Federal Communications Commission ("FCC"), serve more than 1.5 million lines of high speed data transport in

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[1] Telemarketing Sales Rule; Proposed Rule, 67 Fed. Reg. 4492 (January 30,2002) ("Proposed Rule" or "NPRM").

[2] Proposed New Privacy Act System of Records to Facilitate Compliance with the Do-Not-Call Provisions of the Commission's Telemarketing Sales Rule, available at www.ftc.gov/os/2002/03/frnprivacyactdonot.htm (last visited 3/2 1/02).

[3] 16 C.F.R. Part 310.

SBC's 13 states of operation.[4] Prodigy and other SBC Internet service providers connect more than three million subscribers to the Internet. SBC also operates web services businesses, as that term is defined in the NPRM, as well as management services, telecommunications equipment and directory companies. These many businesses give SBC extensive experience managing multiple large databases of consumer information.

3. Both SBC's common carrier and non-common carrier subsidiaries telemarket their products and services, generally to individuals with whom SBC has an established business relationship. At times, SBC entities may employ third party agents to sell SBC's services and products. In addition, SBC common carrier subsidiaries telemarket the products and services of SBC non-common carrier subsidiaries. Thus, for example, customers can order non-common carrier Internet service from the common carrier telephone company, and conversely, can order common carrier services through SBC's web services companies. These arrangements and even some aspects of SBC's corporate structure are closely regulated under the *TelecommunicationsAct of 1996*,[5] related federal communications laws and FCC regulations.

4. SBC supports the consumer privacy and protection principles inherent in existing telemarketing regulations. But SBC urges the Commission to reconsider the proposed amendments to the TSR. First, the Commission lacks jurisdiction over common carriers and their agents. To the extent the agency attempts to extend the TSR to SBC non-common carrier affiliates and their agents, it will disrupt competitive balances that Congress and the FCC have carefully constructed in a series of statutes and regulatory decisions over two decades. Second, the proposed "do not call" list will impose undue burdens on responsible telemarketers like SBC, whose marketing efforts are generally

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[4] SBC provides local exchange telecommunications and related services in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

[5] Pub. L. 104-104 (1996).

directed to those with whom the company has an established business relationship.[6] Twenty states have implemented "do not call" lists,[7] and FCC regulations already allow consumers to opt-out from company-specific telemarketing;[8] thus, adding a national "do not call" list will compound administrative burdens without substantially adding to consumers' existing powers to avoid unwanted telemarketing calls. Third, the Commission may have materially underestimated the significant expense and technological challenges inherent in administering the "do not call" list. Fourth, the Commission has not offered sufficient justification for the proposed extension of the TSR to business to business telemarketing of Internet and web services, which will significantly encumber legitimate online service providers and delay small business' adoption of valuable online tools without substantially increasing their protection from fraud.

5. The vast majority of telemarketers are respectful of consumers because they depend on consumer goodwill for their financial well-being. SBC's most important asset is its relationship with its customers, and accordingly, all of SBC's subsidiaries strive to engage only in responsible telemarketing in compliance with applicable laws. SBC insists that its agents do the same. The Commission should focus its rulemaking

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[6] SBC is aware that other parties commenting in this proceeding have argued that the Commission lacks the statutory authority to establish a national "do not call" list, as such a list will necessarily impose burdens on many legitimate telemarketing activities that are neither "deceptive" or "abusive." *See* the *Telemarketing Consumer Fraud and Abuse Prevention Act,* 15 U.S.C. § 6102(a)(1) ("The Commission should prescribe rules prohibiting deceptive telemarketing acts or practices and other abusive telemarketing acts or practices."). There is no need for SBC to assert such an argument here, as the FCC already comprehensively regulates telemarketing by common carriers and their affiliates.

[7] Florida, Oregon, Alaska, Alabama, Georgia, Arkansas, Kentucky, Tennessee, Connecticut, Idaho, Maine, Missouri, New York, Wyoming, California, Colorado, Indiana, Louisiana, Texas, and Wisconsin have passed "do not call" statutes of various sorts. Several other states are considering "do not call" legislation, including Maryland, New Jersey, South Carolina, South Dakota, Utah, Vermont and Washington.

[8] *See* 47 C.F.R. § 64.1200(e)(2).

authority on "abusive" and "deceptive" telemarketing practices, not law-abiding companies.[9]

II. THE FTC LACKS JURISDICTION OVER COMMON CARRIERS AND THEIR AGENTS, AND THE PROPOSED RULE CONFLICTS WITH EXISTING FCC REGULATION OF TELEMARKETING BY COMMON CARRIERS.

6. The Commission's Proposed Rule suffers from two serious flaws insofar as it would apply to telemarketing on behalf of communications common carriers and their affiliates. The first is that the Commission's lack of jurisdiction over common carriers and their agents would prevent it from affecting their telemarketing practices. Its proposed solution to regulate out-sourced telemarketing firms acting as agents of common carriers is not lawful. Second, the Commission's proposed amendments to the TSR would directly conflict with a complex, comprehensive and carefully balanced regulatory scheme, developed by Congress and enforced by a different agency – the FCC.

A. The FTC Lack of Jurisdiction Over Common Carriers and Their Agents Would Make The Proposed Rule Ineffective

7. **As** the Commission recognizes, it does not have jurisdiction over either common carriers such as SBC's local exchange carriers and long distance companies or over purely intrastate telemarketing.[10] Thus, the Commission's Proposed Rule would not apply to telemarketing conducted by telecommunications common carriers using in-house personnel, or to any telemarketing conducted on an intrastate basis.

8. The FTC's authority does not extend to agents of common carriers who perform telemarketing services. These agents are engaged in common carrier activity, and are thus exempted from the Commission's jurisdiction. The Commission has not sufficiently justified its contention that although common carriers are exempt from FTC authority, "any third party hired by an exempt entity to conduct its telemarketing activities *would* be

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[9] See 15 U.S.C. § 6102(a)(1).

[10] See, *e.g.*, NPRM, ***supra*** note 1, at 4519, nt. 265.

covered by the TSR."[11] The lone authority upon which the Commission relies in the NPRM, and the cases cited therein, provide no support for the proposition that the Commission has jurisdiction over a common carrier's agent assisting in selling services subject to the *Communications Act of 1934,* as amended.[12]

9. The Commission's lack of jurisdiction also renders unclear whether the revised TSR is intended to apply when a common carrier's inbound telemarketing operation receives a call related to common carrier services and, after completing that transaction, offers to sell Internet services, equipment, voice mail or other non-common carrier services. Today, statutory or regulatory requirements governing telecommunications carriers sometimes require these services to be provided by non-carrier affiliates of the common carrier. If the Commission were to attempt to apply the TSR to the telemarketing of these services, it would be acting beyond its current statutory authority.

10. There is no need for the Commission to assert jurisdiction over the agents or affiliates of telecommunications common carriers because – as discussed in the next section – these issues are already directly and comprehensively addressed by other federal law, enforced by the FCC, which specifically authorizes such joint marketing and sales.

11. The Commission may believe that it may implement the proposed revisions to the TSR and simultaneously campaign to have Congress expand its jurisdiction to include common carriers. The far better course would be to resolve jurisdictional and related market-affecting issues before any implementation of the Proposed Rule. This is all the more prudent because, as shown in the following section, even if the Commission were successful, application of the Proposed Rule would seriously conflict with long-standing substantive requirements under several federal statutes administered by the FCC and

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[11] *Id.* (emphasis in the original) (quoting Telemarketing Sales Rule; Statement of basis and purpose of final rule, **60** Fed. Reg. 43842,43843 (Aug. 23, 1995)).

[12] Indeed, neither *Official Airline Guides, Inc.* v. *FTC*, 630 F.2d 920 (2d Cir. 1980), nor *FTC* v. *Miller,* 549 F.2d 452 (7* Cir. 1977), involved an agency relationship.

would disrupt a telecommunications regulatory scheme that Congress has carefully constructed.

B. Telemarketing By Common Carriers, Their Agents and Affiliates Is Already Addressed Carefully And Comprehensively By Other Statutes Administered By The FCC With Which The NPRM's Proposal Would Directly Conflict.

12. As the FCC already regulates telemarketing by and on behalf of common carriers, their agents, and to some extent, their affiliates, the Proposed Rule is wholly unnecessary as applied to these entities. The FCC and Congress developed this statutory and regulatory framework only after extensive consideration and careful balancing of the rights of competitors and consumers. This framework already regulates in detail what services common carriers and affiliated non-common carriers may market together or for one another, what customer information can be used and under what circumstances, and the type of customer verification the seller needs to document a customer's purchase decision. These pervasive regulations address – and often authorize – the very types of telemarketing that the Proposed Rule purports to govern.

13. First, under section 227 of the *Communications Act of **1934**,* as amended (the *Telephone Consumer Protection Act* or "TCPA"),[13] the FCC exercises general jurisdiction over telemarketing by common carriers as well as by their non-carrier affiliates. Significantly, the TCPA and the FCC's implementing regulations apply to both interstate and intrastate telemarketing calls by all carriers, non-carriers and their agents. Therefore, unlike the Proposed Rule, existing FCC telemarketing regulation under the TCPA provides complete jurisdictional coverage of telemarketing activities.

14. Pursuant to the TCPA, the FCC has adopted comprehensive regulations that allow businesses to telemarket to customers with whom they have an existing business relationship, unless a customer requests to be placed on a company's internal "do not

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[13] *Telephone Consumer Protection Act of 1991,* 7 FCC Rcd. 8752, ¶ 24 (Sept. 17, 1992).

call" list.[14] The Commission's "do not call" proposal, which we discuss more fully below, would create confusion as to whether a business may call its existing customers who happen to appear on the FTC's national "do not call" list but who have never requested placement on the company's internal list. The Commission should reconsider the proposed "do not call" rule, as this additional layer of telemarketing regulation may well conflict with existing FCC rules.

15. Second, section 222 of the *CommunicationsAct of 1934,*[15] as amended, and the FCC's implementing regulations specifically address how telecommunications carriers may use Consumer Network Proprietary Information ("CPNI") they obtain from their customers and other carriers in marketing products and services, including in the course of inbound telemarketing. These rules, for example, prescribe when a carrier or its agent may use customer account information generated by network operations to market additional services, and when customer consent is required. The Commission's amendments to the TSR concerning the handling of account information could create a tension with these well-established CPNI regulations, should they be applied to common carriers' agents or affiliates.

16. Third, sections 272 through 276 of the *CommunicationsAct of 1934,*[16] as amended, and the FCC's implementing regulations create an additional, carefully balanced set of rules governing marketing activities by carriers and their carrier and non-carrier affiliates. These provisions specifically address the joint marketing of carrier and affiliated carrier and non-carrier services as part of a detailed set of requirements governing the relationships and data flows among different corporate members of the SBC family. Consistent with this framework, the SBC companies telemarket each other's products; for example, customers can order non-common carrier Internet service from the common carrier telephone company, and can also order common carrier services

[14] See 47 C.F.R. § 64.1200(e)(2).

[15] 47 U.S.C. § 222.

[16] 47 U.S.C. §§ 272-276.

through SBC's web services companies. These joint marketing arrangements were expressly contemplated by Congress as recently as 1996. The proposed TSR revisions, however, do not take into account this framework and could create confusion as to which customers a telemarketer may contact and what information may pass between company affiliates. There is no need for the Commission to attempt to superimpose a new and different set of rules into this field that Congress and the FCC have already occupied fully.

C. The Proposed Rule Would Interfere With Established Industry Practice, Existing FCC Regulation and Customer Expectations Relating To "Upselling."

17. The expanded definition of an "Outbound Telephone Call" in Proposed Rule 310.2(t) is targeted at the practice of "upselling," in that it includes: (a) transfers of a call to a telemarketer other than the original telemarketer; and (b) telemarketers that solicit on behalf of multiple sellers.[17] When a telemarketer makes an "outbound call" under the Proposed Rule, he or she would be required, among other things, to repeat certain disclosures concerning the marketed offer.[18] Significantly, the Commission does not find the practice of "upselling" unlawful or abusive in and of itself.

18. This extension of the TSR will encumber established telemarketing practices if it were to be applied to SBC entities. Upselling is common marketing practice in general and in the telecommunications industry, where it is often used to market non-common carrier services and goods (as in the sale of a Caller ID device accompanying the sale of Caller ID, or the sale of a modem with the sale of DSL Internet access service).

19. Congress specifically contemplated upselling in the joint marketing provisions of the *Telecommunications Act of 1996*,[19] and consequently, the Commission's Proposed Rule could disrupt carefully-constructed, industry-specific regulation. The Commission

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[17] *See* NPRM, ***supra*** note 1 at 4541.

[18] *Id.* at 4500.

[19] *See, e.g.,* 47 U.S.C. §§ 272(g) and 274(c).

should reconsider whether the disclosure rules need apply to upselling involving two or more affiliates of a common carrier, particularly where a current business relationship exists with the called party and other federal law applies.

20. The Proposed Rule conflicts with customer expectations in the telecommunications industry. In SBC's experience, where customers already have a business relationship with a company, they expect the company to process the call quickly and professionally. This expectation extends to offers made on behalf of affiliates, as well. The repetitive disclosures the Proposed Rule requires are the antithesis of such efficient and customer-friendly call handling, and, under the circumstances, are unnecessary.

21. Thus, the Proposed Rule potentially could raise consumer costs significantly by decreasing the efficiency of established methods and procedures for selling basic telephone service and common ancillary products and services. To avoid such a result and avoid treading on the jurisdiction of the FCC, the Commission should clarify that all activities of common carriers and their affiliates, and the activities of third party agents on behalf of those common carriers, are exempt from the TSR and are under the FCC's jurisdiction.

111. THE COMMISSION MUST RECONSIDER THE PROPOSED "DO NOT CALL" LIST BECAUSE IT WOULD ENCUMBER TELEMARKETING TO A BUSINESS' CUSTOMERS AND FACE SIGNIFICANT CHALLENGES TO ITS WORKABILITY.

22. In the NPRM, the Commission proposes to manage a national "do not call" ("DNC") list of individuals who have opted-out from telemarketing by supplying the Commission their "names *and/or* telephone numbers."[20] The Commission would then require telemarketers falling under FTC jurisdiction to "scrub" these individuals' names or phone numbers from their contact lists on a monthly basis.[21]

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[20] NPRM, ***supra*** note **1**, at 4520 (emphasis added).

[21] *Id.* at 4543 (presenting the Commission's proposed rule, **16** C.F.R. § 310.4(b)(1)(iii)).

23. SBC supports existing telemarketing regulations enforced by both the FCC and the FTC to protect consumer privacy. But the Commission's DNC proposal is significantly flawed. In addition to causing significant confusion among consumers – who would likely not understand that registration on the FTC's DNC list would not limit intrastate, common carrier or financial service telemarketing – the Commission may not have adequately considered the uneconomic burdens the DNC proposal would impose on businesses subject to FTC jurisdiction that use telemarketing responsibly to contact individuals with whom they have an established business relationship. In addition, SBC believes, based on its extensive experience in managing telephone number databases, that the Commission has underestimated the technical and managerial challenges in administering large databases of consumer information. In light of these considerations, the Commission must re-examine the national DNC scheme.

A. The "Do Not Call" proposal would impose significant costs on law-abiding businesses that telemarket to their customers.

24. Existing federal and state obligations already provide consumers with the ability to stop undesired telemarketing calls. Twenty states already maintain "do not call" lists and several states are considering such legislation.[22] In addition, the Commission must consider that current FCC regulation (as well as the current TSR) already requires telemarketers to respect customer requests to opt-out from telemarketing through placement on a business' internal "do not call" list.[23] Thus, the Commission's proposed DNC list would merely compound administrative burdens on SBC telemarketers subject to the TSR. These SBC entities generally use telemarketing to contact their existing and prior customers – individuals who have had the opportunity to opt-out from SBC telemarketing but have chosen not to do so. Should the FTC's DNC proposal be implemented, telemarketers subject to the TSR will bear the wholly unnecessary but substantial administrative burden of continually "scrubbing" contact lists against a multitude of state DNC lists plus the FTC's federal DNC list, as well as storing outdated

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[22] *See **supra*** note 7.

[23] *See* 47 C.F.R. § 64.1200.

contact lists in order to demonstrate compliance with state and federal telemarketing requirements.[24]

25. The Commission should reconsider implementing the national DNC proposal until the agency has fully assessed its negative impact on telemarketers that contact their existing and prior customers. The benefits to consumer privacy motivating the Commission's DNC proposal could be far outweighed by the substantial but unnecessary burden on such legitimate business activities.

B. The national DNC faces significant challenges to its workability.

26. As a manager of multiple databases containing the information of millions of individuals, SBC is well-positioned to comment on the Commission's proposed national DNC list. The creation of such a DNC list would face considerable technical challenges, will likely require significant outlays by the agency, and is highly susceptible to unauthorized registrations.

27. First, the FTC must fully consider the significant cost of simply running a registry for consumer information. As noted by the FCC in its consideration of a national "do not call" registry in 1992, the costs of creating and maintaining such a registry are large.[25] For example, as the FCC found, approximately 20% of phone numbers change hands every year.[26] To keep its "scrubbing" list current and accurate, the Commission must be prepared to accept a data stream from every local exchange carrier in the country on a daily basis. SBC can attest that creating, maintaining and securing such databases is extraordinarily costly, requiring millions of dollars annually. The task is simply not as easy as the NPRM appears to assume. On the contrary, administering the national DNC

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[24] *See, **e.g.,*** NPRM, ***supra*** note 1, at 4542 (defming the Commission's proposed "safe harbor" for companies subject to the proposed national DNC rule).

[25] In the Matter of the Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, ***Report and Order,*** 7 FCC Rcd. 8752, 8758 (1992) ("Estimates to start and operate a national database in the first year ranged from $20 million to $80 million, with commenters agreeing that operation would cost as much as $20 million annually in succeeding years.").

[26] ***Id.*** at 8759.

list will be complex and a constant drain on the Commission's financial and human resources.

28. The Commission cannot avoid these costs by simply refraining from active management of the database. Indeed, the DNC would be a restriction on commercial speech, and would thus be subject to the careful constitutional limits imposed on such restrictions by the Supreme Court under the *Central Hudson* test.[27] Thus, the burden is on the government to develop careful and limited rules. For example, it would seem clear that under *Central Hudson* the FTC cannot adopt a rule that effectively disables calls to many willing recipients, as would be an inevitable result of the current proposal. When a phone number registered on the national DNC list is reassigned to another person, the burden should not fall on that person or on telemarketers to remove the number from the national DNC list. Thus, the Commission may have to engage in expensive updating of "scrubbing" lists to avoid unconstitutional restraints on commercial speech.

IV. THE COMMISSION MUST RECONSIDER THE PROPOSED EXTENSION OF THE TELEMARKETING SALES RULE TO BUSINESS TO BUSINESS TELEMARKETING OF INTERNET AND WEB SERVICES.

29. The Commission proposes to remove the telemarketing of Internet and web services from the business-to-business ("B2B") exemption to the TSR.[28] Thus, SBC subsidiaries subject to the TSR that provide Internet access, webhosting, website design, online Yellow Page advertising and other web-based services would be subject to a range of telemarketing, database management, and recordkeeping restrictions. They will also be exposed to state attorney general and private suits for violations of the TSR.

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[27] *See Central Hudson Gas & Electric Company* v. *Public Service Commission of New York*, 447 U.S. 557 (1980).

[28] *See* NPRM, *supra* note 1, at 4544 (presenting the Commission's proposed 16 C.F.R. § 310.6(g)).

30. SBC supports the Commission's and law enforcement agencies' efforts to fight fraudulent offerings of online services. But eliminating the B2B exemption is a blunt instrument that will hurt legitimate B2B telemarketers without substantially reducing the risk of fraud on small businesses, whom the Commission asserts are the principle victims of such offerings.[29] These small businesses are an important consumer base for SBC's Internet and web services offerings, and thus, SBC has a substantial interest in any proposed rule that would encumber its ability to reach these potential customers. The Commission's proposed rule could reduce the ability of small businesses to expand into cyberspace if the prices of online products rise due to: (a) restrictions on telemarketing; and (b) a risk premium, as the TSR increases the risk of liability for online service vendors.

A. The Commission has yet to show substantial evidence that extending the Telemarketing Sales Rule to B2B telemarketing of online services will prevent fraud.

31. The Commission asserts that eliminating the B2B exemption for Internet and web services "will strengthen the tools available to law enforcement to stop these [fraudulent] schemes from proliferating."[30] But the agency offers no argument or evidence to support this assertion. Before extending the TSR as part of an anti-fraud initiative, the Commission must present substantial evidence that law enforcement's existing authority to regulate against fraud, which exists in every U.S. jurisdiction, is insufficient. The agency must then show that the proposed extension of the TSR to online service providers will address the insufficiency in a cost-effective manner. Subjecting all interstate Internet and web service telemarketers to the TSR on the mere assertion that doing so will reduce fraud could well be arbitrary and capricious.

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[29] *See* NPRM, ***supra*** note 1, at 4532.

[30] *Id.*

B. The Commission's proposed rule change will impose significant burdens on legitimate telemarketers of Internet and web services.

32. Though the prospective benefits of removing the B2B exemption for Internet and web services are doubtful, the Commission's proposed change would impose significant burdens on SBC providers of online services whose offerings are legitimate. This change would materially increase the costs of developing and offering Internet services. The FTC must reconsider a proposal that would result in substantial burdens on law-abiding businesses in a nascent market without providing a commensurate protection against fraud.

C. Public-private partnerships are already working to combat fraud on small business.

33. The Commission also appears to ignore the significant progress being made in the private sector to combat fraud. Online service providers that deal extensively with small businesses are already taking steps to reduce fraud. Companies that offer online and offline advertising to small businesses, including SBC affiliates, are working diligently with the Commission, the U.S. Postal Service, local chapters of the Better Business Bureau, state attorneys general, local district attorneys, and numerous business organizations to ferret out bogus billing operations. Educational efforts co-sponsored by the industry and government agencies have made small businesses more sophisticated in their dealings with marketers. Yellow Page publishers like SBC have a direct economic interest in these collaborative efforts, as they depend on the continuing trust of small businesses for their financial well-being as they expand their offerings to include online products. Certainly, some online and offline fraud remains. But removal of the B2B exemption to the TSR is more likely to harm the growth of online services than eliminate fraud.

D. The Commission's proposed changes could delay the adoption of valuable Internet-era business tools and e-commerce opportunities.

34. The Commission should also consider that offers of online services provide substantial value to small businesses, which often have neither the technical knowledge or technology budget to operate web services in-house. For example, advertising on

online Yellow Pages such as SBC's SMARTpages.comprovides small businesses a relatively inexpensive outlet to attract new customers via the Internet. Few other advertising outlets can reach as wide an audience for the same price. Many small businesses, having a relationship of trust with SBC's Yellow Page publishers, have successfully expanded their marketing efforts into cyberspace. SBC online products provide a wide range of opportunities to small businesses, including advertising to markets far outside a businesses' local area, operation of e-commerce, inventory management, and much more. The Commission must weigh these substantial benefits that vendors like SBC can provide against the risk of fraud faced by small businesses.

35. The Commission must reconsider the proposed amendment to the B2B exemption, as it could ultimately limit the ability of small enterprises to afford the wide range of Internet and web-based products that could grow their businesses. For example, SBC and other online Yellow Page vendors can offer an affordable advertising outlet to small businesses due to a cost structure that depends on a large volume of small advertisers. Average customer revenue from online products is smaller than from print products, and with a commensurate reduction in margin, telemarketing to potential customers is critical to maintaining a viable cost structure. Consequently, the price of a Yellow Pages ad will rise if the cost of sustaining advertising volume through telemarketing rises due to TSR obligations. Exposing vendors like SBC to TSR regulations will raise their costs, and subsequently, the prices faced by small businesses. The Commission must consider the potential ramifications of its proposed amendment to the B2B exemption, especially as it could adversely change market conditions for the very small businesses the agency intends to protect.

V. CONCLUSION

36. For the foregoing reasons, SBC urges the Commission to reassess the amendments to the TSR proposed in the NPRM. In general, the Commission should focus its efforts on enforcing against "abusive" and "deceptive" telemarketing, not extending regulations on law-abiding businesses.

Respectfully submitted,

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Paul Mancini
Vice President and
Assistant General Counsel
Cynthia J. Mahowald
Vice President and General Counsel
Gary Phillips
General Attorney and
Assistant General Counsel

SBC Communications Inc.
1401 Eye Street, N.W. Suite 400
Washington, D.C. 20005
(202) 326-8910

Counsel:

John F. Kamp
William B. Baker
Amy E. Worlton

Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

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