



NATIONAL ASSOCIATION  
OF REALTORS®

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*The Voice for Real Estate®*

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Office of the Secretary  
Federal Trade Commission  
Room 159  
600 Pennsylvania Ave, N.W.  
Washington, D.C. 20580

**RE: Notice of Proposed Rulemaking – Telemarketing Sales Rule User Fees,  
16 C.F.R. Part 310**

Ladies and Gentlemen:

The National Association of REALTORS® (NAR), appreciates this opportunity to comment on the Federal Trade Commission's proposed amendments to the Telemarketing Sales Rule (TSR), 15 CFR Part 310 with respect to User Fees. The NAR represents over 800,000 members that are engaged in all aspects of the residential and commercial real estate business and therefore have a significant interest in the outcome of this rulemaking process.

As we indicated in our March 29, 2002 comments in response to the proposed changes to the Telemarketing Sales Rule (TSR) to create a national Do-Not-Call registry, NAR respects the Commission's obligations and efforts to protect consumers from telemarketing fraud and abuse. However, we feel strongly that the proposed changes to curb these abuses go beyond the intent of Congress in the legislation underlying the TSR, and will result in penalizing business owners, such as real estate professionals from engaging in legitimate telephone communications with consumers.

With respect to this most recent proposal to impose user fees on individuals to defray the costs of developing and administering the National Registry, we would like to express our opposition. To comment on who should pay and how much would presume the Commission has already made a determination to move forward with the proposed amendments to the TSR. Our primary objection to the proposed amendments to the TSR focuses on the removal of the exemption for "calls in which the sale is not completed until after a face to face presentation is made". Most telephone practices of real estate professionals currently meet the requirements for this exemption and the Commission has shown no evidence to demonstrate a need to remove



this exemption as it relates to the do-not-call registry, since the calls of a real estate professional do not generally involve sales over the telephone or "abusive" sales activity. Elimination of the exemption will have a potentially dramatic impact on real estate professionals, particularly to the many modest sized real estate brokerage firms among our membership. Therefore, we further object to this additional proposal to impose fees on people who up until now have been carved out of the law, such as real estate professionals. This is an inappropriate interpretation of the law. These firms engage in a variety of marketing practices designed to acquaint consumers with the services they offer and promote among consumers an awareness of and familiarity with their real estate firms. These promotional efforts by real estate professionals are intended not only to identify consumers seeking real estate brokerage services at that particular point in time, but also equally to cultivate personal relationships with consumers so that at a future time when they require real estate brokerage services consumers will look to them for those services.

I would like to direct your attention to comments submitted by a number of State Attorneys General as well as the state activity with respect to exemptions. The State Attorneys General recommended §310.6(c) be narrowed to exempt only high dollar transactions (e.g. over \$25,000) such as would be involved in the sale of real estate. Several state laws have either expressly exempted real estate licensees or included exemptions similar to the current federal exemption for face-to-face sales presentations. This is further evidence that the types of calls made by real estate professionals were never the targets of the Act and therefore the current exemption should be maintained.

NAR objects to the exclusion of the application of §310.6(c) to the do-not-call provisions because it exceeds the scope of the Commission's authority to regulate, as defined by the clear Congressional intent set forth in the underlying statute. Furthermore, to impose user fees on those folks who are currently exempt would be a further misinterpretation of legislative intent.

We hope the Commission will rethink the proposal to limit the scope of 16 C.F.R. § 310.6(c) and instead continue to target those practices that are deceptive, abusive and fraudulent. We appreciate the opportunity to offer these comments and look forward to participating in further deliberations on this matter.

I thank you for your consideration.

Sincerely,



Martin Edwards, Jr., CCIM  
President

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