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Office of the Secretary
Federal Trade Commission
Room 159
600 Pennsylvania Avenue, NW
Washington, DC 20580

By email: feerule@ftc.gov

Re: Telemarketing Rulemaking - Revised Fee NPRM Comment; FTC File No. R411001

The Verizon companies[1] ("Verizon") submit these comments in response to the Commission's request for public comment concerning its revised proposal concerning fees for access the Commission's do-not-call ("DNC") registry. The Commission's approach is generally fair and reasonable. However, it should not adopt the proposal to "to treat each separate division, subsidiary, or affiliate of a corporation as a separate seller" that would have to pay separately for access to the DNC list.[2] That proposal would penalize firms which for a variety of reasons run their businesses through separate divisions or corporations.

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1 The Verizon companies ("Verizon") include local exchange carriers, long distance companies, Internet services, directory and other companies all sharing the Verizon name.

2 Telemarketing Sales Rule Fees, 68 Fed. Reg. 16238, 16241 (April 3, 2003) ("Revised NPRM").

Verizon includes roughly two dozen separate corporations which engage in telemarketing. As a practical matter, Verizon needs only one copy of the national list, at a cost of $7250 proposed by the Commission. Verizon would divide the list geographically among some of its business units and make it available in full to others.

Under the Commission's proposal, however, Verizon would have to pay for multiple copies of the list. Some Verizon units (such as Verizon Maryland and Verizon Virginia) do business only in well-defined, limited geographic areas and would buy the lists only for the area codes they need. Other Verizon units do business on a broader scope. For example, Verizon Long Distance, Verizon Select Services and Verizon Enterprise Solutions all provide long distance service throughout the United States, Verizon Online provides Internet access service in more than 24 states and the District of Columbia, and Verizon Information Services sells Yellow Pages advertising in some 47 jurisdictions. Under the Commission's proposal, each one of these companies would be a separate seller which would have to buy and separately pay for access to the DNC list.

But the Commission's proposal does not stop there. It would also apparently require each "separate division" within a Verizon corporate entity to pay for its own lists. The Notice does not indicate just how the Commission would define a "separate division" for these purposes, but any definition would presumably further multiply the fees Verizon would have to pay for access to the same list. A Verizon telephone company might, for example, have separate departments to sell to different market segments, such as residential customers, large businesses and other businesses. These companies also have departments to sell specialized telecommunications services, such as payphones and broadband data services. It is unclear from the Notice whether the Commission is proposing that each of these units pay for lists of its own, and the Commission should make clear that this would not be required.

In the Notice, the Commission repeatedly says, "The Commission does not intend to charge the same company multiple times for access to the national registry."[3] It also makes specific proposals "[t]o avoid billing entities twice for the same information"[4] and "[i]n a further effort to avoid requiring an entity to pay twice for access to the same information."[5] These assurances ring hollow when the rules the Commission is proposing will make Verizon pay over and over and over again for access to the same information.

The Commission says that it "is concerned that [not separately charging] corporate divisions, subsidiaries, or affiliates could greatly diminish the number of entities that will pay for access to the national registry, provide an unfair advantage to larger, multi-divisional corporations, and potentially increase the fees required to be paid by smaller, less complex corporate entities."[6] Even if it were true that it would "greatly diminish" the number of entities paying for access — an assumption that is not factually supported — this concern is misplaced, as small businesses that engage in telemarketing will not be overburdened if Verizon is not required to pay several times over. Many of these business — the gardening company and chimney sweep, for example — operate in a single state, make only intrastate telemarketing calls and are not covered by the Commission's rules. Others operate in only a limited geographic area and will need only a few area codes of information. Under the Commission's

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3 Revised NPRM at 16239.

4 Revised NPRM at 16239.

5 Revised NPRM at 16240.

6 Revised NPRM at 16241.

proposal, sellers could get the list for up to five area codes at no charge at all.[7] A single area code can contain up to almost 8,000,000 telephone numbers,[8] and five area codes can cover multiple states or large metropolitan areas. For sellers that need more than five codes, the Commission's $29 per-code price is eminently affordable, and even if that price increased because the Commission decided not to make Verizon and others pay multiple times for the same list, it would still not overburden even the small seller.

For these reasons, Verizon urges the Commission not to "treat each separate division, subsidiary, or affiliate of a corporation as a separate seller" which must separately pay for access to the Commission's DNC registry.

Respectfully submitted,

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[7] Revised NPRM at 16243.

[8] Under current industry telephone number assignment practices, there are 792 assignable blocks of 10,000 numbers in each are code, or 7,920,000 numbers in all.