I write to support the first proposed amendment, and to express concerns about the second. The first finds overwhelming support in the record and promises to preserve the balance between competing privacy and communication interests, but the second finds only mild support in the record and could very well upset that balance.

A. The "Pattern of Calls" Amendment

In regards to the first proposed amendment, I agree with most of the Commission's findings. An express prohibition against unsolicited prerecorded telemarketing calls is fully warranted, and, in my opinion, long overdue. Additional observations are as follows:

(1) Prerecorded telemarketing calls *are* more intrusive than live telemarketing calls, and, in the sense that person called has no way of interacting with who or what is on the other end of the telephone line, more like "dead air" than live telemarketing calls.

(2) Industry comments that note prerecorded messages avoid the harms associated with abandoned calls fail to address two of the most harmful aspects of this practice – invasion of privacy and additional costs to consumers.

(3) The "established business relationship" requirement is as formulated much too broad, and, as the Commission correctly notes, provides little incentive for industry to self-regulate the number of prerecorded messages sent to consumers.

(4) As an alternative to the interactive opt-out mechanism disfavored by both industry (as costly and impracticable) and consumers (as burdensome and ineffective), the Commission may want to consider for future situations requiring telemarketers to automatically consider "customers" who hang up within 30 seconds of picking up as having exercised their company-specific Do Not Call rights. Such a practice would be inexpensive to implement, easy on consumers, and, if properly executed, fully effective. Mistakes might happen, but would be uncommon – most telemarketing hang-ups are not accidental.

(5) It is disingenuous for industry to posit that consumers are interested in receiving prerecorded messages, then support this assertion with examples of informational messages not covered by the TSR. Consumers can be expected to misinterpret complex regulations, but sophisticated business entities should know the difference.

B. The "Per Day Per Campaign" Amendment

While the first proposed amendment seems like an easy call, it's a bit harder to know what to make of the second. Industry's assertions that the "per day per campaign" standard (1) essentially nullifies economic efficiencies associated with predictive dialing and (2) increases compliance burdens of small businesses using segmented lists are certainly plausible, but little empirical evidence is offered to support them.

In addition, there's tension between its claim that the current standard makes it more likely that consumers will receive offers in which they have little interest in (because business cannot as easily use small, segmented lists), and the inference that companies are telemarketing less now (because it is more costly) than they would under the proposed standard. Given consumer response to prior NPRMs, it seems safe to say that very few telemarketing offers reach interested consumers. And if this is the case, then it seems like the most effective way to cut down on the number of offers consumers receive but have little

interest in would be to reduce the total number of telemarketing calls, not enable telemarketers to more easily use small, segmented lists.

Moreover, as the Commission notes, industry does not even pretend that implementing the proposed standard will not lead to telemarketers targeting disfavored groups of consumers with a disproportionate share of abandoned calls – the very evil that the Commission sought to avoid in crafting the "per day per campaign" standard.

In sum, the proposed standard presents a very real threat to consumers in the form of increasing the regularity abusive telemarketing practices, yet industry has not demonstrated a clear and convincing need for it. Perhaps if more hard evidence had been offered to support its claims a different conclusion could be reached, but, based on the current record, it seems to me that the scales tip against implementing the proposed amendment.