

These comments are in response to the solicitation of comments regarding a proposed amendment to 16 CFR Part 310 listed in the Federal Register, Vol. 71, No. 192. Specifically, I provide answers to several of the “Questions on Specific Issues” listed on VIII (B) of the Federal Register, Vol. 71, No. 192 that I, as a consumer, could answer constructively.

1. Should the Commission include an explicit prohibition of prerecorded telemarketing calls in the TSR?

Yes, the Commission should include an explicit prohibition. As the Commission recognized repeatedly in its discussion and analysis of several proposed amendments to 16 CFR Part 301, telemarketing calls are annoying and invasive. Prerecorded calls exacerbate the negative aspects of telemarketing calls and allow companies to spread their message in a more efficient and cost effective way, thus invading the lives of even more Americans who simply do not want to be bothered, least of all by a machine.

I believe the prohibition should include an exception that allows charities to make prerecorded calls due to their general lack of resources and the necessity of these calls in order to effectuate their charitable goals. I also believe prerecorded call that an individual has either solicited or agreed to should be allowed.

2. Is the Commission correct in its understanding that a reasonable consumer would consider prerecorded telemarketing sales calls and

prerecorded charitable solicitation calls to be coercive or abusive of his or her right to privacy?

I think in general the Commission is correct in its understanding that prerecorded telemarketing calls of all sorts are coercive and abuse an individual's right to privacy. However, I believe the average consumer would be willing to put up with the invasion of privacy caused by prerecorded charitable solicitations because they recognize the necessity of these calls for the financial support of the charity.

3. Does a consumer's choice not to list his or her telephone number on the Do Not Call Registry indicate not only that he or she is willing to accept live telemarketing calls, but also prerecorded telemarketing calls?

A consumer's choice not to list his or her telephone number on the Do Not Call Registry should not be interpreted in any way as an indication that he or she is willing to accept telemarketing calls of any sort. In almost every case, a consumer's "choice" does not reflect actual analysis or thought on the issue, but rather shows a lack of knowledge of the Do Not Call Registry, ignorance of how to list his or her telephone number, or apathy. In no way should the fact an individual is not on the Registry be interpreted as a willingness to accept telemarketing calls.

4. Should the Rules specify disclosures that must be made when obtaining a consumer's express written agreement to receive such calls? If so, what disclosures are needed?

The Rules should specify only that a consumer has no obligation to give his or her agreement to receive such calls in order to receive a good or service from the soliciting company. I am afraid that any other disclosures would simply be ignored or lumped into all the other "fine print" consumers are required to sift through on a daily basis.

6. Are prerecorded messages left on answering machines less intrusive than prerecorded messages answered by a person?

I believe prerecorded messages left on an answering machine are actually more intrusive than those answered by a person. When I receive a message, it signifies to me that the caller actually had something important to tell me that must be conveyed. This is not the case with a message left by a prerecorded message. Also, prerecorded messages frequently cannot properly be left on many answering machines (the message starts too early or too late, does not start at all, leaves only static, is garbled beyond recognition, etc.) increasing the frustration and inconvenience they cause.

15. Do small businesses and other sellers have alternatives that are equally or more effective and economical than live telemarketing, such as postcard or email announcements, to notify their established customers of sales

offers and to obtain orders? Would the cost of such alternatives be outweighed by the benefits to consumers in avoiding additional abandoned calls to their homes?

I believe small business have many different options available to contact their established customers. Email announcements in particular are essentially free to disseminate and can be sent to a huge number of consumers all at once. This method of contact consumers will only continue to grow in importance due to the explosion of e-commerce and the increasing prevalence of computers and e-mail in all segments of society.

I do not know if the cost of such alternatives currently outweigh the benefits to consumers. That requires a very complex weighing of many factors that I do not have available. I do know, however, that I as a consumer would be willing to put up with a little inconvenience and would allow my privacy to be invaded in a minor way if it was absolutely necessary to allow businesses to operate efficiently and profitably.