

FEDERAL TRADE COMMISSION

16 CFR Part 310

RIN: 3084-0098

Telemarketing Sales Rule

AGENCY: Federal Trade Commission

ACTION: Extension of period to submit comments in response to proposed amendments to the Telemarketing Sales Rule (“TSR”).

SUMMARY: In a Federal Register notice published on October 4, 2006, 71 FR 58716, the FTC requested comment on two proposed amendments to the TSR. The Notice stated that comments must be submitted on or before November 6, 2006. In response to a request for an extension of the comment period received on October 30, 2006, the Commission has extended the comment period for an additional 40 days.

DATES: Comments addressing the proposed TSR amendments must be submitted on or before December 18, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to “TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification, Project No. R411001” to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex K), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments containing confidential material,

however, must be filed in paper form, must be clearly labeled “Confidential,” and must comply with Commission Rule 4.9(c), which requires that the comment be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

Comments filed in electronic form should be submitted by visiting the Web site at <https://secure.commentworks.com/ftc-tsr> and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the <https://secure.commentworks.com/ftc-tsr> Web site. You may also visit www.regulations.gov, to read the proposed amendments and file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy, at <http://www.ftc.gov/ftc/Privacy.htm>.

FOR FURTHER INFORMATION CONTACT: Craig Tregillus, (202) 326-2970, Division of Marketing Practices, Bureau of Consumer Protection, Room H-288, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION

On October 4, 2006, the Commission published a notice in the Federal Register that, among other things, announced two proposals to amend the Telemarketing Sales Rule (“TSR”) by (1) making explicit the prohibition, currently implied in the TSR’s “call abandonment” provisions, against the use of prerecorded messages in telemarketing calls answered by a person without that person’s prior consent to receive such calls; and (2) modifying the method for measuring the maximum allowable call abandonment rate in the TSR’s call abandonment safe harbor. The notice set forth the text of the proposed amendments and posed a series of questions designed to elicit public comment. The notice provided for a 30-day comment period, which will end on November 6, 2006.

On October 30, 2006, the Commission received a request from the Direct Marketing Association (“DMA”) seeking a 40-day extension of the comment period, which would expire on December 18, 2006. In support of its extension request, DMA argued that the proposed amendments “represent a departure from [the Commission’s] prior proposal to allow the types of calls it now proposes to prohibit,” and that DMA needs the additional time to “compile information from its members to submit into the record that is essential to the Commission’s proposals.”

The Commission believes that the request for a 40-day extension of the deadline for receipt of public comments is reasonable. Moreover, as the request notes, “there will be no change to the status quo with an extension” because “consumers will receive the same protections they have received since the Commission’s prior proposal.”¹ Accordingly, the Commission has determined

¹ The requested extension will not alter the expiration on January 2, 2007, of the Commission’s policy of forbearing to bring enforcement actions against sellers and telemarketers using prerecorded messages that violate the TSR.

to extend the comment period for an additional 40 days. The Commission therefore will accept comments received on or before Monday, December 18, 2006.

By direction of the Commission.

Donald S. Clark
Secretary