

Federal Trade Commission
Office of Secretary
Room 159-H (Annex D)
600 Pennsylvania Avenue NW
Washington, DC 20580

Date: February 24, 2004
Subject: Telemarketing Rulemaking - Comment
Monthly Registry Access,
Project No. R411001

Greetings,

Established in May of 1988, Private Citizen, Inc. is a for-profit pro-privacy consumer organization dedicated to limiting the privacy abusive practices of the direct marketing industry. As president and founder of Private Citizen, I have consistently tracked the industry's growth and impact on the privacy rights of individuals.

Concerning the subject rulemaking, Private Citizen, Inc. offers the following comments.

Terminology

The Commission proposes to amend the Telephone Sales Rule's Do Not Call safe harbor provision, at 16 CFR 310.4(b)(3)(iv). An aspect of this amendment would substitute the phrase "thirty (30) days", for the term "monthly".

The substitution of the phrase "no more than thirty (30) days prior to the date any call is made", is more precise than language referring to "monthly." Thus the '30 days' reference is more meaningful for those telemarketers and sellers that must comply with this provision.

Discouraging subversion

Without the proposed '30 day' substitution, and if the interim was indicated by the term 'monthly', the intent of the matter at hand could be subverted. The current safe harbor provision requires telemarketers to access the do-not-call list four times per year, at quarterly intervals. The provision's change from quarterly to 'monthly' would enable telemarketers to downloading the list on (for example) July 31st and August 1st, thus acquiring two lists that would be essential duplicates.

Such a circumstance would defeat the intended increased level of privacy to be enjoyed by do-not-call listees by enabling telemarketers to avoid downloading the list during six periods of approximately 60 days throughout the year. The '30 day' substitution will insure an increase in the list's implementation currency from a possible 60-day (monthly) period to a 30-day ('30 day') period. It would thus preclude subversion of the FTC's intent that a reasonably up to date do-not-call list be used by telemarketers.

Consumer / Industry Benefit

The Telephone Sales Rule's do-not-call list is primarily intended to benefit consumer privacy. The '30-day' amendment, collateral to the currency-of-usage aspect of the do-not-call list, will promote consumer understanding of the do-not-call list's privacy benefits.

In the instant situation, a '30 day' standard relays an understanding of a month's time. On the other hand, a 'monthly' standard relays the same concept while, in effect, permitting a 2-month period. Thus, a '30-day' standard helps consumers time the implementation of their do-not-call listing/unlisting, which they may wish to be intermittent.

Since the telemarketing industry points to statistical data that (in its view) indicates that residents do not generally oppose business-to-consumer telemarketing, it would seem that the '30-day' period would benefit the industry as well. Residents could then avoid calls only during, say, a specific holiday period while allowing calls during the rest of the year by removing their telephone number from the list. An 'each-month/60-day' standard would make that process more cumbersome for residents, thus encouraging them to leave their telephone number on the do-not-call list throughout the year; maximizing the size of the do-not-call list at any given moment and perhaps unnecessarily limiting the pool of numbers available to telemarketers.

Thank you for the opportunity to submit my comments concerning the issue of monthly registry access.

Sincerely,

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