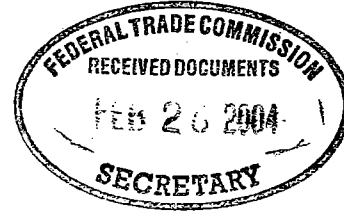




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February 25, 2004



Mr. Don Clark  
Office of the Secretary  
Federal Trade Commission  
Room 159  
6<sup>th</sup> Street and Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

**RE: Telemarketing Sales Rule -- Comment. 16 CFR Part 310**

Dear Mr. Clark:

AARP appreciates this opportunity to comment on the Federal Trade Commission's (FTC) Notice of Proposed Rulemaking to amend the Telemarketing Sales Rule (the Rule). AARP's interest in the Telemarketing Sales Rule and concerns about telemarketing abuses are long-standing. Eight years ago we were active participants in the original rulemaking proceeding. Since the adoption of the Rule in 1995, AARP has dedicated significant resources to educating consumers about telemarketing fraud and to working with federal, state and local law enforcement agencies to combat it. We have also worked with state legislatures to enact state telemarketing legislation. The existing Rule has helped to support these efforts while the adoption of the national Do Not Call registry (Registry) has been enthusiastically embraced by consumers and has greatly reduced reported calls.

Today our brief comments will focus on the statutory change requiring the period in which telemarketers have to access the Registry to be reduced from "quarterly" to "monthly." Attendant to this we will also offer our support for the Commission's recommendation that the term "monthly" be changed to "thirty days."

### **Statutory Change**

AARP has been an ardent supporter of the national Do Not Call registry. Our views on this issue are well documented within the Commission by virtue of our filed comments and participation in FTC-led workshops and hearings on the Telemarketing Sales Rule and its various subparts. Our efforts have extended into advocacy on Capitol Hill, an amicus filing in support of the Commission before the 10<sup>th</sup> Circuit and a variety of education and awareness campaigns.

Clearly, the collective efforts of the Commission's, AARP and other consumer advocates have been worthwhile because consumers have taken advantage of the Registry in mind-boggling numbers. Most importantly, the Registry seems to be working. The volume of telemarketing calls has decreased for consumers on the Registry and when violations occur, consumers have actively reported the violators to the Commission, aiding in enforcement. In fact, one of the only concerns that AARP had with the Registry, the lag in time between registration and impact, was addressed by Congress in the Consolidated Appropriations Act of 2004 (the Act).

As originally implemented, telemarketers were required to update their lists with that of the registry on a quarterly basis -- meaning that some consumers would have to wait up to four months from the date they placed their number on the registry before experiencing a reduction in calls. However, the recently enacted Act mandates that telemarketers obtain the FTC's list once a month, significantly reducing the amount of time consumers will have to wait for their benefit.

AARP commends Congress for making this adjustment and we look forward to working with the Commission to make consumers aware of this change.

### **Monthly vs. 30 Days**

AARP also supports the Commission's recommendation that the timeframe within which telemarketers are to access the Registry be defined as thirty (30) days rather than the one-month designation offered in the statute. While this change may seem to be a matter of semantics, in reality it will alleviate two problems that could develop over time.

First, defining the period within which telemarketers access the Registry as 30 days will provide industry, government and consumers with clearly defined parameters for updating. Therefore, instead of having to guess whether a list was updated in January, all interested parties will know that if a list was last updated on December 31, it will have to be updated again on January 30, March 1 and so on.

This leads into AARP's second concern with the phrase "monthly." We are troubled by the fact that under the existing terminology, a telemarketer could access the Registry on January 1 and February 29 and claim to have followed the letter of the law. The telemarketer could follow that up with a "scrub" the next day, March 1, and not get to it again until April 30. This is clearly not the intent of the legislation but a potential by-product of the terminology that should be eliminated with the change to a 30-day requirement.

### **Conclusion**

The Federal Trade Commission is to be applauded for its work in adopting and implementing the national Do Not Call registry. The Registry's existence has been a tangible and identifiable benefit to consumers who have welcomed it with open arms. The recent change adopted by Congress and the recommended clarification sought by the Commission are moves that AARP supports.

We look forward to continuing our work with Commission staff and others in the ensuing months. If you have any questions, please feel free to contact me or call Jo Reed of the Federal Affairs staff at 202/434-3800. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Certner". The signature is written in black ink and is positioned above the typed name.

David Certner  
Director  
Federal Affairs