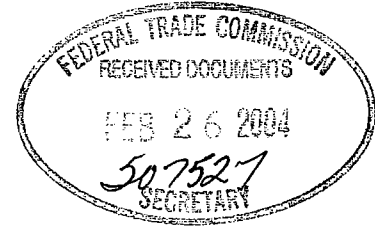




Member FDIC

ORIGINAL

February 25, 2004



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

RE: Monthly Registry Access, Project No. R411001  
Telemarketing Sales Rule

Dear Sir or Madam:

I am writing in regards to the above referenced project and proposal concerning the recently proposed changes to the **Telemarketing Sales Rule and the Do Not Call Provisions** as listed in the February 13, 2004, Federal Register, Vol. 69, No. 30 on pages 7330 through 7333.

National Penn Bancshares, Inc. ("National Penn") is currently a \$3.5 billion financial services company headquartered in Boyertown, Pennsylvania. National Penn currently operates 66 community offices in southeastern Pennsylvania, with over 900 employees, through National Penn Bank and its FirstService and HomeTowne Heritage Bank divisions. Trust and investment management services are provided through Investors Trust Company and FirstService Capital; brokerage services are provided through Penn Securities, Inc.; mortgage banking activities are provided through Penn 1<sup>st</sup> Financial Services, Inc.; insurance services are provided through FirstService Insurance agency; and equipment leasing services are provided through National Penn Leasing Company.

### Specific Issues for Comment

The proposed rule lists several questions for comment, which we have paraphrased and responded to below:

1. *Is the term "30 days" more precise than the term "monthly"?*

In our opinion, the term monthly would be more appropriate, because many of our processes are performed on a monthly basis, usually the last business day of the month. It would make it easier to build into the system process. However, we do understand that ones subjective interpretations of this term may not have the precise result desired.

**2. Will the term "30 days" prevent sellers and telemarketers from subverting the intention of the regulation?**

If someone has the desire to be dishonest, a slight wording of 30 days versus monthly may not deter that individual from his or her actions.

**3. Does the use of a precise standard of 30 days make the requisite interval clear?.....**

See our previous comments.

**4. What, if any differences exist in the compliance burdens on industry resulting from the use of 30 days rather than monthly? Why? What if any differences exist in the benefits for consumers.....? Why?**

As mentioned earlier, using the monthly term, if becomes part of a process, the last business day of the month.

By making it every 30 days, the actual date can vary by a few days. For example if you start with January 30, 2004 and work every 30 days, and compare this to the last business day of the month the interval ranges as early as the 27<sup>th</sup> of the month to as late as the 1<sup>st</sup> of the following month. By using a 30-day interval, it makes it more of a manual process to remember the date. The consumers this would impact the most are those that would have registered very recently for the Do Not Call List.

**5. What should be the effective date of the proposed amendment? Why?.....What are the relative costs and benefits for industry and consumers?**

We believe one year after the Amended Rule to be an acceptable time frame to implement this action. Consumers have an overwhelming desire to stop telemarketing calls, as indicated by the massive size of the National Do Not Call List. The cost of maintaining the list, and retrieving the list each month will be borne by industry, and ultimately passed on to the consumer, in the form of higher costs. One has to wonder at what point there are sufficient numbers of individuals who are not on the Do Not Call List. In addition, the short-term impact for the consumer is that other avenues of marketing, including mass mailing distributions will become the norm.

**6. Please describe what effect the proposed rule will have on small entities that engage in outbound telemarketing and are not exempt from the National Do Not Call Registry provision of the TSR.**

For small entities, the cost may outweigh the benefits of obtaining and scrubbing a Do Not Call List. In addition, some may not be aware that such a rule exists, until they are actually involved and have broken the law.

**7. Please describe what costs will be incurred by small entities to "implement and comply" with the rule, including expenditures of time and money for any employee training; .....and relevant materials.**

Small entities, just like large entities will most likely need to synchronize and centralize their marketing and compliance efforts in order to comply with this rule. Just as with any new or changed regulation, training is important; we do not feel however that the cost would exceed any of the recent regulatory changes; for instance the CIP (Customer Identification Program) changes last October 2003.

By making the verification of the Do Not Call List a monthly (or 30 day process), the process is no sooner started, completed, and it's time to start the process all over again.

**8. Are there ways the proposed rule could be modified to reduce the costs or burdens for small entities while still being consistent with the mandate of the Appropriations Act?**

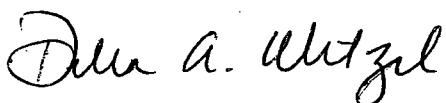
No, not without reducing the frequency of verification of the Do Not Call List.

**9. Please identify any relevant Federal, State or local statutes or rules that may duplicate, overlap or conflict with the proposed rule.**

Regarding State Do Not Call Lists that have been adopted, we strongly encourage the use of a single national Do Not Call DataBase, not the use of multiple databases. In other words, we would hope that the Federal Trade Commission will preempt any state Do Not Call List, once the National List and its provisions is in force.

In conclusion, the net effect of the FCC/FTC action is that banks must comply with the National Do Not Call List regulations. While we respect our customer's wishes under the Fair Credit Reporting Act, and the Privacy Provisions (GLBA), we do feel the Telemarketing Rule and Do Not Call Registry adds another layer of monitoring and costs. In this letter, I have outlined some areas where I feel clarification or specific guidance may be warranted. I appreciate your consideration of my comments. Should anyone have questions concerning the comments, I may be reached during business hours at (610) 369-6185.

Sincerely,



Debra A. Wetzel, MBA, CIA, CRCM, CRP  
Vice President and Compliance Officer

CC: [jbyrne@aba.com](mailto:jbyrne@aba.com)

DAW:dkm