Industry Council for Tangible Assets (ICTA)
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FTC TELEMARKETING RULEMAKING COMMENTS
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The Industry Council for Tangible Assets (ICTA) is the national trade association for precious metals, rare coin, and currency dealers. ICTA was one of the original TSR conference participants in Chicago in April, 1995. Approximately 85% of ICTA's members are small business people, operating shops that employ fewer than 5 employees. We appreciate the opportunity to respond to the FTC's Notice of Proposed Rulemaking.

ICTA members would favor a national DNC list that would supercede the individual states' lists. ICTA agrees with those who found that attempting to comply with many individual states' DNC lists is not only burdensome and expensive, but a virtual mine field of potential liability. The lack of uniformity of definitions (For example: What constitutes a previous business relationship/existing customer?) can be confusing and can easily lead to unintentional violations.

It has long been recognized that because of the uniqueness of rare coin and currency products, buying and selling is a nation-wide activity. A collector or investor who needs a certain coin for his collection or portfolio can only purchase it from someone who owns that particular item. Many customers have "want lists" on file with their favorite dealers. Those firms who market their products via a telemarketing program of outbound phone calls will need to have a national DNC list.

We agree with the organizations representing small business that a high cost for a national DNC list and the requisite scrubbing would be burdensome. The proposed maximum of $3,000 per year for the national DNC list would be at the upper limit of affordability for many of our member firms. We support the purchase-by-area-code option but suggest that, due to the rapidly expanding number of area codes, the number of area codes that could be acquired without paying a fee be increased from the proposed 1-5 to 1-10, with a charge of $10 per additional area code purchased. We also suggest that consumers who wish to be included on the national DNC list pay $1.00 and that their names be renewed every 5 years for an additional $1.00 "service charge." A national DNC sign-up card included with monthly telephone bills would 1) reach the appropriate person, i.e., the person responsible for paying the telephone bill and 2) be especially effective for reaching senior citizens who are less likely to register online.

We would strongly favor a 24-month definition of existing business relationship. Precious metals and rare coins are often purchased as investments. In fact, many of these products are qualified investments for IRAs and other individually-directed retirement plans as well as certain pension and profit sharing plans. Customers have come to expect that their precious metals/rare coin company will contact them sometime before the deadline for making contributions to these plans because often these clients will only make purchases once a year as tax-time deadlines approach. If a customer decides not make any purchases for one year, the dealer may be prevented from calling to remind the client the *next year* if the client is on the national DNC list.

If the FTC believes that 24 months is too long a period for an existing business relationship definition, we would point out that investment products already have extra requirements in place from the original FTC TSR. Having a different time frame for certain products could be a workable solution. “Existing” customers who prefer can still opt to be placed on a company’s own DNC list.

Although the proposed changes to the TSR have not focused on any element that would impede quick completion of a transaction, we remind the FTC that the nature of our precious metals products—gold, silver, platinum and palladium bars and coins—*requires* that a transaction price be “locked in” *immediately*. Market prices are based on the “spot” price determined by the commodity exchanges, so prices of these precious metals coins and bars can fluctuate from minute to minute and may change many times during the course of one business day. Both dealer *and* customer **must** be able to lock in the price at which they are selling and buying. Prompt payment is another **required** element of these transactions, both for the dealer and the customer.

Similarly, prices for rare coins change daily or weekly, which is why the industry relies on several national electronic trading networks. Unlike most other products offered by a telephone contact, rare coin products are unique—one 1924 $20 gold coin is *not* identical to another of the same date and type. Therefore, as a customer purchases a specific coin, the dealer must remove it from his inventory immediately. Existing requirements in the

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TSR regarding timeliness are fair to both consumers and rare coin/precious metals dealers.

When the original FTC TSR went into effect, ICTA created a kit for its members that explained the impact of the Rule, both for those who sell primarily collector items and those who may focus on or do incidental investment transactions. As part of that kit, we provided a “crib sheet” card, to be kept by the telephone, which outlines the responsibilities required for telephone transactions (inbound and outbound.) Many of our members were essentially already conducting their telephone business in the prescribed manner, but this reference card has served as a quick check list for them to be certain they have not forgotten any of the elements required in the TSR. The use of the card and guidelines has optimized compliance and minimized consumer complaints. A copy of ICTA’s card and the entire Telemarketing Information Kit are available to the FTC by contacting ICTA at the address above.

Thank you for considering ICTA’s comments. Please contact us of we can be of assistance or provide additional information.

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