(Delivered Via Electronic Mail)

June 28, 2002

Federal Trade Commission
Office of the Secretary
Washington, D.C. 20580

Re: Telemarketing Rulemaking–User Fee Comment
FTC File No. R411001

Ladies and Gentlemen:

Wells Fargo & Company ("Wells Fargo") welcomes the opportunity to comment on the notice of proposed rulemaking by the Federal Trade Commission (the "Commission" or "FTC") to amend the Telemarketing Sales Rule (the "Rule") with respect to user fees, 16 CFR Part 310.9 (the "fee proposal"). Wells Fargo is a diversified financial holding company with over 30 subsidiary banks and over 100 additional subsidiaries that provide financial products and services to consumers. While our banking subsidiaries are not directly covered by the Rule, the proposed extension to telemarketing contractors would affect our banks, and some non-banking subsidiaries would be directly affected.

As noted in our earlier comments to the proposed substantive amendments to the Rule, we believe that, while the concept of establishing a truly national "do not call" list has considerable merit, there are some fundamental flaws in the Commission's proposal. The fee proposal highlights some of these same issues.

1. <u>The Fee Proposal Must Accommodate Small Volume Users</u>

While the bulk of telemarketing calls are made as part of large, organized campaigns, many businesses make telemarketing calls in small numbers or even on a one-off basis. Some of these businesses do not engange in any large scale telemarketing. The proposed do not call rules would be equally applicable to these small volume callers, but neither the substantive poposals with respect to subscriptions to the do not call list nor the fee proposals provide a practical and affordable method for such businesses to achieve the fundamental aim of the proposal: Preventing telemarketing calls to consumers who do not wish to receive such calls.

At least one state (Indiana) has addressed this issue by putting its do not call list on a web site configured so that visitors can check only one number at a time. This permits small-volume and one-off callers to observe the do not call list without permitting large-scale telemarketers to avoid paying subscription fees.

The problem of small-volume and one-off callers is exacerbated by the fact that the Commission's substantive proposal does not provide an exception for calls to existing customers. As noted in our earlier comments, the reason for an exisitng customer exception is not so that businesses can annoy current customers with unwelcome telemarketing calls. However, businesses do need to be able to call their customers regarding legitimate account servicing issues without having to worry that the conversation will evolve into a discussion of a possible product purchase, or that a call that was clearly for servicing or collection purposes would nevertheless be reported as a violation of the do not call rules. Since calls to existing customers are likely to be made on a one-off basis, the combination of a fee structure gearred soley for large-scale telemarketing and the lack of an existing customer exception creates an untenable situation.

2. Affiliated Companies Should Not Be Required to Purchase Separate Subscriptions.

The rationale for treating distinct divisions of the same legal entity as separate sellers for the anti-fraud provisions of the Rule does not apply to the subscription and fee proposals. If anything, the primary goal of encouraging compliance would militate that one member of a corporate family be allowed to purchase a single copy of the do not call list for the purpose of maintaining a centralized scrub service that would be available to its affiliates. While this may reduce revenues somewhat, ti would greatly increase compliance.

Conclusion

We believe a truly national "do not call" list, applicable to all interstate telemarketing calls, would benefit businesses and consumers alike, provided it did not interfere with our ability to service the needs of our existing customers. We believe that the subscription procedures and fees associated with such a list should be structured primarily to facilitate compliance, and only secondarily to raise revenue.

Please feel free to contact the undersigned at (415) 396-0940 or by email at "mccorkpl@wellsfargo.com" if you have any questions regarding the foregoing comments.

Very truly yours,

/s/ PETER L. MCCORKELL

Peter L. McCorkell
Senior Counsel

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