

**Before the  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580**

<p><i>In the Matter of</i></p> <p>AGENCY INFORMATION COLLECTION ACTIVITIES; PROPOSED COLLECTION; COMMENT REQUEST; EXTENSION</p> <p>[70 Fed. Reg. 28937 (May 19, 2005)]</p>	<p>FTC File No. P822108</p>
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**Paperwork Comments of T-Mobile USA, Inc.**

T-Mobile USA, Inc. (“T-Mobile”) respectfully asks the Federal Trade Commission (“Commission”) to revise and expand its information collection procedures relating to alleged violations of the do-not-call provisions of the Commission’s Telemarketing Sales Rule, 16 C.F.R. § 310.4. The current information collection procedures – which rely on inbound telephone calls and a web-based complaint form – result in many complaints that fail to contain basic information about who placed the call in question, or the purpose for which the call was placed. Consequently, fully-compliant businesses – including businesses like T-Mobile who engage in no telemarketing at all – may be named in do-not-call complaints even though the missing information would make clear that such companies have complied with the law. Moreover, the missing information would help such companies to assist government agencies in identifying whether other entities are in fact violating the Commission’s rules. Because the current staff estimate of the burden created by the do-not-call complaint procedures does not take into account the burden that is placed on fully-compliant businesses when facially insufficient complaints are accepted for investigation, the Commission should revise its complaint procedures before the approval for this information collection is extended.

T-Mobile is a nationwide commercial mobile radio service (“CMRS”) carrier that currently serves more than 18 million customers. Via its HotSpot service, T-Mobile also provides Wi-Fi (802.11b) wireless broadband Internet access in more than 5,700 convenient public locations such as Starbucks coffeehouses, airports, and airline clubs, making it the largest carrier-owned Wi-Fi network in the world.

To understand T-Mobile’s concerns about the existing information collection procedures for Do-Not-Call complaints, it is important to understand that ***T-Mobile does not conduct any outbound telemarketing to anyone other than its existing subscribers.*** Moreover, while T-Mobile does authorize its independent dealers to attract new subscribers at approximately 30,000 points of sale, ***T-Mobile specifically prohibits those dealers from any outbound telemarketing whatsoever*** and terminates dealers who violate this policy.

This policy regarding telemarketing proceeds from T-Mobile’s underlying belief that outbound telemarketing to non-customers is simply not good business. In T-Mobile’s view, such marketing alienates more potential customers than it attracts. Furthermore, T-Mobile places the highest premium on customer service and satisfaction, as evidenced by the fact that it was recently ranked first among wireless carriers, for the second year in a row, in J.D. Power and Associates’ consumer survey of overall customer care performance. Thus, independently of any regulatory considerations, T-Mobile has an extremely strong interest in ensuring that do-not-call complaints to the Federal Trade Commission contain all information necessary to determine whether a violation occurred, and if so, who is responsible. To the extent that complaints are legally and factually sufficient to show that a violation has occurred, adequate supporting documentation can enable T-Mobile to develop the legal record necessary to take action against the persons responsible. But to the extent that consumers file complaints that are incomplete, or

are based on calls that do not violate the do-not-call regulations (like debt collection calls), they can unfairly tarnish T-Mobile's hard-earned reputation for customer satisfaction – and force T-Mobile to investigate unfounded complaints without even minimally adequate documentation.

There are two main problems with the current information collection procedures. First, the current procedures invite consumers to file complaints without expressly stating what the call was about. If consumers understood the precise contours of federal do-not-call regulations, then presumably only a negligible number of complaints would be filed regarding debt collection calls, fraud prevention calls, customer service inquiries, and other calls that do not constitute “telemarketing” under the Telemarketing Sales Rule.<sup>1</sup> Experience has shown, however, that even a company that conducts *no* outbound calling campaigns that would qualify as “telemarketing” under the Telemarketing Sales Rule may receive numerous complaints that must be individually investigated in order to make certain that no violation has occurred. A direct question such as, “What goods or services did the caller try to sell you?” would presumably weed out many of these complaints.

Second, the current collection procedures place insufficient emphasis on the importance of reporting the actual phone number from which the complainant has been called. Visitors to the Commission's online complaint form are required to report *either* a company name or a company phone number, but company names may be inaccurately reported, either because of consumer error or because the name has been used without authorization. The Commission's enforcement regime suffers because in the end complaints that lack company phone numbers may be insufficient to show by a preponderance of the evidence that the call was actually placed by the named company.

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<sup>1</sup> 16 C.F.R. § 310.2(cc).

T-Mobile is aware that not all consumers enjoy access to Caller ID or comparable services, so it may not be practicable to make this information an absolute prerequisite for the filing of a do-not-call complaint. However, most if not all callers can use \*69 to get the calling party's number. Moreover, even where the customer simply does not have this information, the Commission may be able to glean additional information from the *reason* why the information is missing. For example, if the consumer lacks information because the information was blocked by the calling party, then that fact may itself be highly suggestive of fraudulent activity, and would itself violate the Federal Communications Commission's telemarketing rules.

Because of these gaps, the Commission's information collection procedures are not in fact the "least burdensome necessary," as required by the Paperwork Reduction Act. The Commission estimates the burden at 2 minutes per online complaint and 2.5 minutes per telephone complaint, and asserts that this is a "negligible" cost per respondent, particularly because participation is voluntary. But an inaccurate or poorly documented complaint may require hours and hours of investigation by an innocent business. This burden on the economy is not reflected in the staff's estimates. Accordingly, the "least burdensome" way for the Commission to collect this information would be to revise its collection procedures in the two ways suggested herein.

## CONCLUSION

For the foregoing reasons, the Commission should revise and expand its collection procedures for do-not-call complaints in the following ways:

- (1) Each complaint should require an express description of the goods or services that were offered during the alleged violation; and

- (2) The collection procedures should ask for “company phone” information *in addition* to company name information, rather than as an alternative; and wherever company phone information is unavailable the complainant should state the reason why the information is unavailable.

Respectfully submitted,

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