

March 28, 2002

Secretary
Federal Trade Commission
CRC-240
Room 159
600 Pennsylvania Avenue, NW
Washington, DC 20580

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

The co-sponsors of the ConsumerPrivacyGuide (www.consumerprivacyguide.org) congratulate the Federal Trade Commission on its proposal to institute a national “Do-Not-Call” list. We endorse this initiative as an important resource to address the longstanding and deeply felt need on the part of consumers to avoid invasive telemarketing calls to their homes. The initiative would help consumers limit the number of these unwanted calls. We strongly urge the adoption of the national “Do-Not-Call” list.

The ConsumerPrivacyGuide is an online resource for Internet users that provides information and practical advice about what consumers can do to take control of their privacy and the use of their personally identifiable information. ConsumerPrivacyGuide is co-sponsored by Call For Action, Consumer Action, the Center for Democracy and Technology, Privacy Rights Clearinghouse, Common Cause and the National Consumers League.

The mission of informing consumers is challenging today because the sector-by-sector privacy protection regime currently in place in the United States means that consumers’ rights and responsibilities in their personal information vary depending upon the nature of the data. Consumer education must help consumers navigate this legal environment, but also anticipate further developments in technologies, business practices and laws that affect privacy.

ConsumerPrivacyGuide helps consumers by organizing privacy information and making it available in one place. It saves the consumer the trouble of searching out information from a range of resources and interpreting it against a backdrop of marketing jargon or legal language. It presents information and resources to consumers in straightforward, consumer-friendly language, identifies where consumers may have the benefit of legal protection, and clarifies where and how consumers must take practical steps to protect their privacy. Using the unique capabilities of the Internet, the site can be updated to highlight new consumer privacy issues as they arise and to keep consumers apprised of the most recent developments in law and technology.

The “Do-Not-Call” resource proposed by the Federal Trade Commission in its notice of proposed rulemaking is the kind of consumer privacy-enhancing tool that the Consumer Privacy Guide supports and to which it seeks to direct consumers. The ConsumerPrivacyGuide endorses the FTC initiative, and submits the following comments:

1. The national “Do-Not-Call” list would address a real and long-felt consumer need to stop the unwelcome invasion of unwanted telemarketing calls to the home.

As noted in the FTC’s Notice of Proposed Rulemaking (“NPRM”), unwanted telemarketing calls to the home have long been a source of anger and frustration for consumers. Individuals have contacted the co-sponsors of the ConsumerPrivacyGuide expressing frustration with the manner in which their personal information is used by telemarketers, citing the invasive and annoying practice of telemarketing calls to the home. They have requested information from the co-sponsors of ConsumerPrivacyGuide about how to limit unwanted telemarketing solicitations.

As noted in the NPRM, state governments recognize this problem and some have taken steps to protect consumers through extensive state-sponsored do-not-call lists.

The telecommunications industry has also recognized the aggravation experienced by consumers, and has responded by creating products and services to address this annoying invasion of private time at home.¹ Telephone companies and manufacturers rely on consumer objections to telemarketing as a selling point for enhanced telephone services. Caller ID is often promoted as a privacy protection and a way to avoid unwanted calls. Verizon, for example, offers a service under the name *Call Intercept*. In its marketing promotion to customers, Verizon says:

Caller ID with Call Intercept screens unidentified calls and lets you handle them the way you want. Fewer unwanted calls mean more peace and quiet for you at home.

Another product expressly and exclusively aimed at telemarketers is *EZ Hangup* by Zenith. This telephone accessory allows the user to hang up on an unwanted sales call and press a button to play a recording rejecting the call from a calling list.²

¹ Robert Gellman, “Privacy, Consumers and Costs: How the Lack of Privacy Costs Consumers and Why Business Studies of Privacy Costs are Biased and Incomplete” p. (www.cdt.org/)

² These services, and others like them, are not without significant cost. Verizon’s *Call Intercept* is priced at \$5.00 per month. Caller ID with Name costs an additional \$7.50 per month. The *EZ Hangup* equipment costs \$25.00. Ibid.

The extensive development and public adoption of services and products that help consumers avoid telemarketing highlight the need for a national service such as the proposed “Do-Not-Call” list. And while after the institution of the FTC initiative the market for these services will continue to exist to address other consumer concerns, the “Do-Not-Call” list should be available to all consumers, regardless of their financial means, as a first line of defense against unwanted telemarketing calls.

2. The national “Do-Not-Call” list would create an easier, simplified, way for consumers to remove their names from telemarketing call lists.

Recognizing the desire of consumers to limit the ability of telemarketers to contact them at home, private sector organizations have taken steps to enable consumers to remove their names from telemarketing call lists. The Direct Marketing Association, for example, has instituted a do-not-call list. However, it charges a \$5.00 fee, paid by credit card, to exercise this option online. Signing up for the DMA’s do-not-call list by mail is free, however, registration by mail means that it will take more time before the individual is placed on the list. States have also passed laws implementing do-not-call lists.

Institution of a national “Do-Not-Call” list by the FTC would provide the consumer with a straightforward, easy-to-exercise mechanism to remove their name from telemarketing lists. Currently, consumers must take one of several different approaches to remove their names from telemarketing lists. They must (1) sign up for the Direct Marketing Association’s do-not-call list; (2) enlist the help of some or all of twenty different state laws that include do-not-call provisions; and/or (3) contact individual companies to direct them to place them on a company-based do-not-call list. When consumers contact our organizations, they must be guided through this complex maze of options.

The FTC initiative would lift the burden from consumers who must either use the DMA service or a state do-not-call request on a company-by-company basis. However, the FTC’s “Do-Not-Call” initiative should not dilute or undercut the protections afforded consumers by the states against invasive telemarketing. Further, it is critical that consumers are not charged a fee to be placed on the “Do-Not-Call” list, as the co-sponsors of the ConsumerPrivacyGuide believe that consumers’ ability to protect the privacy of their personal information should not be contingent upon their ability to pay a fee.

3. We urge that the national “Do-Not-Call” list be well-publicized and easy for American consumers to locate and use.

Consumer education will be key to the success of the national “Do-Not-Call” list. For the national “Do-Not-Call” list to accomplish the goals set out in the NPRM, it will be critical that consumers are aware of the service, that it is easy to locate and easy to use.

We urge that, when the “Do-Not-Call” list is instituted, the FTC undertake a wide-reaching consumer education campaign to raise consumer awareness of this important service. To assist in attaining this goal, the ConsumerPrivacyGuide will create a page on its Web site to provide consumers with information about how the “Do-Not-Call” list works, how one can place their name on the list, and how signing up for the service will help consumers. Our site will link directly to any information or “Do-Not-Call” list enrollment capability the FTC provides online.

We hope that the FTC will work with us to make the “Do-Not-Call” list as easy as possible for consumers to use while still practical for the FTC to administer.

The national “Do-Not-Call” list will serve as an important tool for consumers who wish to take some control over the use of their information and avoid unwanted telemarketing calls. As co-sponsors of the ConsumerPrivacyGuide, we urge its implementation of this resource, and look forward to providing consumers with the information they need to take full advantage of this important resource.

Respectfully submitted,

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