

American Council on Education



Office of the President

April 12, 2002

Federal Trade Commission
Office of the Secretary
Room 1.59
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Mr. Secretary:

On behalf of the higher education associations listed below, I am submitting the following comments in response to the Federal Trade Commission's ("FTC's") Notice of Proposed Rulemaking relating to the Telemarketing Sales Rule ("TSR"), which was published in the Federal Register on January 30, 2002.

As currently drafted, the regulations are not intended to apply to the fundraising activities of legitimate charitable organizations. This interpretation is clearly consistent with the legislative history of the USA Patriot Act and we appreciate the FTC's recognition of congressional intent. However, we believe that the regulations need to be modified to recognize and clarify that colleges and universities may use third-party firms to assist in their charitable activities.

As currently drafted, the TSR regulations would apply to professional fundraisers or telemarketers who are working for a college or university. In many cases, higher education institutions - especially small colleges - lack the facilities, equipment, and professional expertise to conduct "phonathons" themselves. In these situations, third-party organizations often provide necessary assistance. Subjecting such organizations to all of the proposed requirements of the TSR, in particular the national do-not-call rule, would complicate the institutions' fundraising efforts and sharply increase the cost of alumni fundraising efforts.

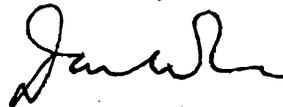
We do not believe that Congress or the FTC seeks this outcome. Indeed, if Congress had intended to apply all of the requirements of the TSR to telephone solicitations made on behalf of charities, it could easily have done so. However, Congress extended only the disclosure requirement to telemarketing calls from charitable organizations. Therefore, we urge the FTC to add a specific exemption

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under Sec. 310.6 of the proposed TSR regulation that clarifies that solicitation calls from charitable organizations made with the assistance of a third-party organization are subject only to the disclosure requirement.

We appreciate the opportunity to comment on the proposed guidelines and thank you for your consideration of these recommendations.

Sincerely,



David Ward
President

DW/cms

On behalf of:

American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
Association of Jesuit Colleges and Universities
Association of Community College Trustees
United States Student Association
National Association of Independent Colleges and Universities
National Association of State Universities and Land-Grant Colleges
National Association for Equal Opportunity in Higher Education