

STATE OF CONNECTICUT  
COMMISSIONER OF CONSUMER PROTECTION  
165 Capitol Avenue, Hartford, Connecticut 06106

JAMES T. FLEMING  
COMMISSIONER

March 11, 2002

Timothy J. Muris, Chairman  
Federal Trade Commission  
CRC-240  
Washington, D.C. 20580

Dear Chairman Muris and Commissioners:

RE: COMMENTS ON PROPOSED AMENDMENT TO THE TELEMARKETING SALES  
RULE (TSR), FEDERAL TRADE COMMISSION (FTC), 16 CFR PART 310

#### INTRODUCTION

If there is one thing all U.S. consumers can agree on, it is their universal frustration with intrusive sales calls into their homes. As a result, states like Connecticut have adopted and implemented **do not call** list programs, which have been successful and wildly popular with consumers.

In Connecticut, over 700,000 residents have signed on to the Department of Consumer Protection's **do not call** list. The key to the large numbers of consumers participating has been the availability of electronic registration. As a result of making the online option available, Connecticut consumers have responded in unprecedented numbers. And by all accounts, they are happy with the results: a significant reduction in calls to their homes.

The program that the FTC is proposing, the creation of a national "**do not call**" list, if designed the right way, would be a giant step forward in protecting consumers from unwanted telemarketing sales. It would also help the business community in two ways: one, it would help businesses identify and avoid those consumers who do not want to be solicited, and two, it would create a single,

national list, helping them avoid the peril and expense of following the telemarketing laws of many different states, each with their own do not call list.

Based on our successful experience in Connecticut, we offer the following specific suggestions for a designing a successful national do not call list program:

### 1. MAKE PARTICIPATION SIMPLE AND EASY FOR CONSUMERS.

Online registration is the option many consumers prefer. For those who are not online, registration by fax should also be available. A toll-free number is good, but must be able to accommodate a large volume of calls.

Caveat: make sure that the receivers of such requests from consumers, both in terms of staff and technology, will be able to handle a huge volume of responses, especially in the startup stage. When Connecticut started the program, the agency was unprepared for the volume of consumer responses, especially to its toll-free line. It is also important to capture the zip codes of consumers to allow for the sorting of a national do not call phone numbers by regions and states. This will allow small telemarketers the ability to utilize such lists where their client base is not national and help ensure greater compliance with the law.

### 2. LIMIT EXEMPTIONS.

For this program to be successful, the number of exemptions should be limited. Keep it simple for both the regulators and the consumers. Expectations of participating consumers are very high: they want the calls to stop. If the rule provides too many loopholes, consumers will continue to be frustrated, and will focus their anger on public officials, charities, survey takers, and other public-minded interests.

Every industry will claim there is a legitimate reason why its particular activity should be exempt from the law. Many businesses will also claim that they are not really telemarketers, just honest businesses offering "opportunities". However, to frustrated consumers, a sales call is a sales call, and they want the calls to stop. I strongly urge the Commission to review legislation submitted by Congresswoman Johnson (CT-6) and Senator Dodd (CT) to ensure that any national law is more encompassing than currently provided under the jurisdiction of the FTC. The current proposal, based on the jurisdiction of the FTC, would significantly diminish the effectiveness of the proposed national do not call program because of the many industries which would be exempted.

### 3. CONSUMER EDUCATION EQUALS EFFECTIVE ENFORCEMENT.

Enforcement of telemarketing laws is difficult because of the nature of the business – phone calls. Consumers who get calls they don't want tend to hang up immediately so they have no information to provide to authorities when they complain. As a result, the complaint is impossible to pursue.

Effective enforcement oftentimes depends on consumers who have been informed to engage such telemarketers on the phone to elicit as much information as possible. Consumers also need to be able to tell if a call is allowed under one of the exemptions. Caller ID can also be a helpful tool.

#### 4) FEDERAL PREEMPTION

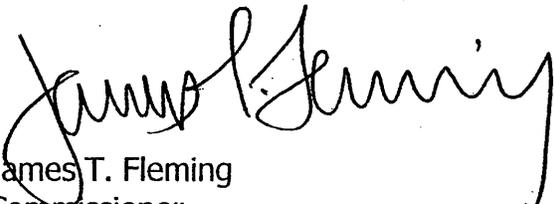
The proposal by the FTC is silent on the issue of the relationship between the 15 state laws which have already been adopted to address telemarketing do not call lists. One possible avenue to address this issue might be to allow the states enforcement authority over the federal law. This option leaves state laws in place but allows for more enforcement options when a state runs in to the inevitable problems of enforcing its law against out-of-state violators.

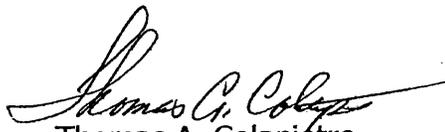
#### CONCLUSION

A national do not call list can be effective if consumers can easily sign up, if the exemptions are limited, and if consumers are educated to assist in gathering information for enforcement. If Connecticut's experience is any indication; a national list will be wildly popular with consumers. Legitimate businesses will not have to deal with potentially 50 different lists and rules, and will save time and effort not calling the homes of those who don't want to be called. A national do not call list, designed and executed properly, can and will work.

I hope this information is helpful to the Commission as you consider the creation of a national "do not call" program and other important changes to the telemarketing sales rule.

Sincerely,

  
James T. Fleming  
Commissioner  
CT Department of Consumer Protection

  
Thomas A. Colapietro  
CT State Senator  
31<sup>st</sup> District