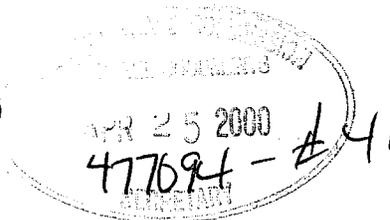


April 25, 2000



Office of the Secretary
Federal Trade Commission
Room 159
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Telemarketing Review – Comment
FTC File No. P994414

Dear Mr. Clark:

These comments are submitted for the record pursuant to the Notice of Review of the Telemarketing Sales Rule and Request for Public Comment as published by the Commission on February 23, 2000. The International Cemetery and Funeral Association (ICFA) is a national trade association founded in 1887 representing over 6,000 members including for profit, nonprofit, religious, and municipal cemeteries, as well as funeral homes, monument retailers and crematories.

The ICFA supports the FTC Telemarketing Sales Rule as an effective regulation that protects the public from abusive and fraudulent telemarketers without imposing unreasonable burdens on legitimate businesses. We believe that the existing Rule achieves an appropriate balance between enabling consumers to avoid unwelcomed calls while safeguarding the constitutional rights of commercial free speech to businesses.

Our comments are specifically addressed to §310.6(c) of the Rule that exempts "Telephone calls in which the sale of goods or services is not completed and payment or authorization of payment is not required, until after a face-to-face sales presentation by the seller." The ICFA advocated this exemption during the original 1995 rulemaking proceeding and we believe that it has worked well for the following reasons.

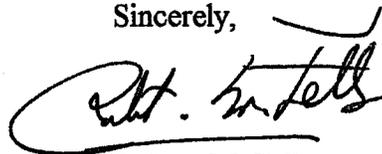
Typically, members of the funeral home and cemetery profession do not sell property, merchandise or services over the phone. Telemarketing is used to determine the level of interest by consumers in making prearranged funeral and burial plans, then establishing appointments with prospective customers at a mutually agreeable time in order to make an in-person or face-to-face "preneed" sales presentation.

The FTC Request for Public Comments specifically asks, "Is the exemption for 'face-to-face' transactions still appropriate? If not, why not, and how should this exemption be changed?" The ICFA is not aware of abuses to the §310.6(c) exemption by funeral-related sellers and the required "face-to-face" component of the exemption is a significant safeguard to prevent potential abuses. Industry members know from experience that it is difficult, if not impossible, to sell various types of merchandise such as caskets, monuments, vaults, cemetery lots or mausoleum crypts sight unseen by telephone. In the absence of a personal examination of these items or through viewing representations such as models, photographs or drawings, during a face-to-face presentation, a purchase decision will not be made by consumers.

The ICFA urges the Commission to retain the §310.6(c) exemption as a common sense method of applying the Telemarketing Sales Rule only to those entities that actually attempt to sell goods and services over the telephone. Application of the Rule to businesses that solely make appointments with prospective purchasers is unreasonable and unduly burdensome, offering no additional level of consumer protection. Furthermore, consumers are protected from potential fraudulent or high-pressure sales tactics of face-to-face presentations through the FTC Three-Day Cooling Off Rule and other federal and state laws.

For these reasons, the ICFA strongly recommends the retention of the §310.6(c) exemption and appreciates this opportunity to comment on the FTC review of the Telemarketing Sales Rule. Please contact us should you wish to explore this issue further or require additional information. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "R. M. Fells", written over a horizontal line.

Robert M. Fells
General Counsel