

March 28, 2002

Office of the Secretary, Room 150
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Telemarketing Rulemaking – Comment
FTC File No. R411001

Submitted via electronic mail to tsr@ftc.gov

On behalf of ACUTA: Association for Telecommunications Professionals in Higher Education and ACUHO-I, the Association of College and University Housing Officers-International (the Higher Education Associations), we respectfully submit comments to the Commission on the proposed changes to the FTC's Telemarketing Sales Rule, 16 CFR Part 310.

1. ACUTA: The Association for Telecommunications Professionals in Higher Education is a non-profit association whose members include over 870 colleges and universities throughout the United States, Canada and other countries. ACUTA members include both large and small non-profit institutions of higher education, ranging from colleges with several hundred students to major research and teaching institutions with 25,000 students or more.
2. ACUTA member representatives are responsible for managing telecommunications services on college and university campuses. In this capacity, ACUTA members facilitate the provision of telecommunications services on telephone lines owned by colleges and universities, to students in their residence halls and other campus-owned housing. Because of our role in providing telecommunications services to students, ACUTA members are concerned for the welfare of students residing in campus housing, and we support any efforts to protect our students from fraudulent, deceptive or abusive telemarketing practices.
3. ACUHO-I: The Association of College and University Housing Officers – International is a non-profit association whose members include over 900 colleges and universities throughout the United States in addition to a number of international members. Its members include non-profit institutions of higher education with on-campus housing capacities ranging from under 100 to over 17,000. ACUHO-I member institutions house over 1.8 million students.
4. ACUHO-I members are responsible for providing quality residential living experiences at colleges, universities, and other post-secondary institutions. They are responsible for ensuring the safety and welfare of campus housing residents, and for

ensuring that the campus living experience is positive and educational. They strive to provide campus housing that creates and supports a learning experience for students.

5. The Higher Education Associations commend the Commission for seeking to enhance the protections against fraudulent, deceptive and abusive telemarketing practices that are afforded consumers under the Telemarketing Sales Rule (TSR). We believe that the proposed changes are necessary and appropriate to respond to changes in communications technologies and changes in the methods and practices of telemarketers.

6. The Higher Education Associations support the creation of a national “do not call registry” as specified in Section 310.4 (b)(1)(iii)(B) of the proposed amendment to the TSR. We believe that this Registry would provide a centralized method of recording the preferences of consumers who do not wish to receive outbound telemarketing calls. In addition to benefiting consumers, this Registry could also benefit telemarketing firms by providing a centralized database of consumers who have expressed this preference.

7. We also support the provision in Section 310.4(a)(6), which prohibits telemarketers from blocking, circumventing, or altering transmission of calling party identification information. Many campuses have implemented caller ID capabilities for their students, where the telecommunications technology in use on the campus is capable of providing such services. We believe that students, like any other consumers, have the right to obtain calling party identification if they have subscribed to caller ID service.

8. In addition, as young people who are often inexperienced in business transactions, college students can be particularly vulnerable to deceptive, abusive, or fraudulent telemarketing practices. Therefore, the proposed rules pertaining to express verifiable authorization for billing (Section 310.3(a)(3)) and prohibited acts in the solicitation of charitable contributions (Section 310.3(d)) would be especially useful as protections for students.

9. However, we are very concerned that the rules as currently written might not extend the protection of the “do not call” registry and other provisions of the TSR to the more than 2.5 million students who reside in campus housing at colleges and universities throughout the United States. The typical arrangement for providing residential phone service to students in campus housing is through telephone lines that are owned by the college or university. In all but a handful of cases, these lines are considered business lines under state and Federal (FCC) rules, and subject to the applicable rules for business lines. Therefore, our interpretation of the TSR is that the “business to business” exemption under Section 310.6(g) of the TSR may apply to student residence lines, excluding the exceptions specifically stated in the proposed rules.

10. The application of the “business to business” exemption in this situation places an unfair burden upon students who reside in campus housing. The number assigned to a student by a college or university is that student’s primary residential number for the

school year, which can range from eight to twelve months of the year, depending upon the student's schedule. We strongly believe that students who live in campus housing deserve the same protections of the TSR that residents in other housing receive. They deserve the right to maintain their place of residence as an environment for study, learning, and other aspects of campus living, free of telemarketing abuse.

11. In addition, with the proliferation of telemarketing schemes that seek to bill for various goods and services on the telephone bill, another problem arises that makes application of the TSR rules in campus housing necessary. Although we recognize that the FTC does not have jurisdiction over common carriers, there are various types of non-telecommunications goods and services (such as information services, clubs, psychic hot lines, Internet access accounts, etc.) that can be billed to telephone accounts. As stated in ACUTA's comments to the Commission in your "Pay per Call" proceeding¹, because students are not the "owners" of telephone lines to their campus housing, they do not have the authority to make purchases that are billed to their telephone lines. Authorization for such purchases must come from the institution, which is the owner of the lines. However, such charges are often erroneously billed to telephone lines, appearing on the university's telephone bills without obtaining proper authorization. Extension of the TSR rules to telephone lines in student housing would help to reduce the number of these unauthorized charges, by allowing institutions to place these numbers on the "do not call" registry. This would be consistent with similar rules that restrict the ability to order telecommunications services billed to a number, such as a change of long distance carrier, to the actual owner of the line---the university.

12. In Section IX, Questions for Comment on the Proposed Rule, paragraph D. 5. e., the Commission asks who should be permitted to request that a telephone number be placed on the "do not call" registry. For the reasons stated in paragraph 11 above, the Higher Education Associations' response to this question is that the line subscriber---the owner of the telephone line---should be the only individual who is authorized to place a number on the registry.

13. Recognizing that a change in the law would be necessary in order to extend the jurisdiction of the FTC to include telemarketing fraud and abuse by common carriers, we believe there would be merit in exploring the feasibility of such a change. A significant percentage of the telemarketing that takes place in student residences, as in any other residence, is for telecommunications services provided by a common carrier. However, the regulations for telemarketing by common carriers are currently inconsistent with those for other types of businesses, and many of the protections afforded consumers under the TSR rule are not applicable to these telecommunications companies. We believe that consumers would benefit from consistency in these rules, and suggest closer

¹ See Comments of ACUTA: Association for Telecommunications Professionals in Higher Education FTC Pay Per Call Proceeding FTC File No. R611016, March 10, 1999; and Further Comments of ACUTA: The Association for Telecommunications Professionals in Higher Education, June 1, 1999.

coordination between the FTC and FCC rules, and/or extension of jurisdiction of the TSR to include common carriers.

14. Because of the issues outlined in paragraphs 10 and 11 above, we urge the Commission to design the “do not call” registry in a manner that allows ranges of telephone numbers, not just individual telephone numbers, to be placed on the Registry. Most colleges and universities have a range of hundreds or thousands of numbers assigned to student housing. We need the ability to extend the protection of the TSR to all of our student residents, and it would be impractical to enter these numbers individually. In addition, because students may change rooms and therefore change telephone numbers during a given year, it would be far more feasible and accurate to enter a range of numbers than hundreds to thousands of individual numbers per institution.

15. In Section IX, Questions for Comment on the Proposed Rule, paragraph D. 5. d., the Commission asks how long a telephone number should remain on the “do not call” registry. Due to the many issues involved in maintaining such a potentially large database, we recommend that the number remain in the database until the owner of the number requests its removal, or the number is disconnected. Requiring periodic renewals would create an unnecessary burden for those charged with maintaining the database, an inconvenience for consumers who would be required to re-list their numbers, and an opportunity for confusion and misunderstandings on the part of consumers, telemarketers, and enforcement personnel.

16. In summary, The Higher Education Associations respectfully urge the Commission to take the opportunity provided by this rulemaking proceeding to extend the protections of the Telemarketing Sales Rule to students residing in college and university housing. Our college students deserve the right to expect that they will be protected in their places of residence from fraudulent, deceptive or abusive telemarketing practices as defined in the TSR.

Respectfully submitted,

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