



March 29, 2002

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

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

Dear Sir or Madam:

American Rivers, Inc. (“American Rivers”) is a national river conservation organization established as a non-profit corporation under the laws of the District of Columbia.

American Rivers opposes the Commission’s proposal in the above-referenced rulemaking (“NPRM”) to amend section 310.4(b)(1)(iii) of its Telemarketing Sales Rule, 16 CFR Part 310 *et seq.*, to implement a national “do not call” registry maintained by the Federal Trade Commission (“the Commission”) covering both telemarketing calls by sellers of goods and services and by for-profit firms soliciting contributions to charitable organizations. NPRM, pp. 68 – 69.

To support its work on national river conservation issues, American Rivers has historically relied on telemarketing using for-profit firms to raise an important component of its annual revenues. American Rivers has always maintained very high standards in conducting its telemarketing activities. Yet under the proposed rule, American Rivers would be prohibited from using a for-profit firm to make calls to any individual who elected to go on the Commission’s proposed “do not call” list because of a single bad experience with some other telemarketer, and likely one that was not even soliciting on behalf of a charitable organization. This is a tremendous and totally unwarranted “stretch” from the Commission’s current company-specific “do not call” rule, with which we take no issue. We believe the practices of the Direct Marketing Association in this regard are sufficient to prevent abuses in the sector of telemarketing by and on behalf of charitable organizations, and we observe all “do not call” mandates and practices of this organization. The federal government’s proposed intrusion into the “do not call” arena is very likely to have a serious adverse effect on all sorts of worthy charitable organizations,

and reduce their ability to provide needed public services. We oppose this unwarranted intrusion by the Commission.

Furthermore, the stated rationale upon which the Commission bases this proposal, “consumer frustration over unwanted telephone solicitations,” as discussed at NPRM pp. 69 – 73, does not differentiate in any way between telemarketers of goods and services, on the one hand, and telemarketers soliciting contributions for charitable organizations on the other. Indeed, the legislation which now subjects telemarketers soliciting contributions for charitable organizations to the same regulations as telemarketers of goods and services is barely five months old! Thus no suitable foundation has been laid for including charitable organizations in this sweeping “do not call” regimen, and the Commission has not engaged in reasoned rulemaking in this regard, as required under the Administrative Procedures Act.

The Commission justifies its proposed action in part as an attempt “to effectuate the USA Patriot Act” (the Uniting and Strengthening American by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No.107-56 (Oct. 25, 2001)). NPRM, p. 68. We can find no such policy and no such requirement in the USA Patriot Act, which is much more limited in scope. As best we can determine, the USA Patriot Act only brings solicitations by for-profit firms for charitable organizations into the Commission’s rules regarding telemarketing and consumer fraud and abuse prevention, and adds certain disclosure requirements for such telemarketing calls. It does not call for completely changing current practices regarding “do not call” mechanisms.

The Commission should rethink its proposed “do not call” proposal and either abandon it altogether or remove from its coverage all for-profit firms soliciting contributions for charitable organizations.

Sincerely,

Patricia Cornell
Vice President for Resource Development