

April 15, 2002

Federal Trade Commission
Office of the Secretary
Room 159
600 Pennsylvania Ave., NW
Washington, DC 20580

Dear Mr. Secretary:

On behalf of the Council for Advancement and Support of Education (“CASE”) and the other higher education associations listed below, I submit the following comments on the proposed Federal Trade Commission (“FTC”) regulations FTC File No. R411001.

We specifically ask the FTC to include in the proposed changes to the Telemarketing Sales Rule (“TSR”) a specific exemption for telemarketing campaigns conducted on behalf of educational organizations that are primarily directed at such organizations’ alumni.

In addition, we support adding an exemption for calls to individuals with whom the institution has an established business relationship. We specifically request that “alumni” and “donors or other individuals with whom the institution has previously communicated” be included in the category of persons with an established business relationship.

Although the FTC has made it clear that the proposed changes are not intended to regulate charitable organizations, if implemented as they are currently written, the regulations would have a dramatic effect on the ability of colleges and universities to solicit charitable contributions. There are two main points to take into consideration.

1. The proposed Do Not Call Registry will significantly impair the ability of colleges, universities, and schools to solicit charitable donations.

Many colleges, universities, and independent schools that lack the facilities and/or staffing to create their own phonathons on campus typically contract with third-party, for-profit companies for this purpose. These companies handle everything from general solicitations to special event calling. For-profit companies allow the schools to save valuable resources and dollars, which can then be used

to increase and enhance other campus services. If the Do Not
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Call Registry were to go into effect as proposed, the institutions' ability to employ third-party companies would be significantly undermined.

Under the current proposal, colleges, universities, and independent schools would be exempt from participating in the national list, but third-party contractors would not. Allowing volunteers or staff to call alumni, but requiring for-profit telemarketers to adhere to the Do Not Call Registry seems both inconsistent and unnecessary. This requirement is likely to cause confusion among key donors and impose greater expense on institutions that use outside vendors.

2. Imposing the provisions of the USA PATRIOT Act on for-profit companies calling on behalf of education institutions will be costly and burdensome for educational institutions, with no apparent benefit.

Alumni telephone campaigns are an integral part of university fundraising. According to a survey conducted by the Council of Independent Colleges, phonathons are the third most effective activity for raising funds at CIC institutions.¹ Colleges and universities raised more than 10 billion dollars in individual alumni support during the 2000 fiscal year,² through a combination of techniques including phonathons. Limiting access to alumni through the creation of a Do Not Call Registry could have a significantly adverse impact on the quality and access to educational services these institutions provide.

Highly significant to advancing the cause of education, phone solicitations from colleges and universities are more than just about asking for donations. They are also useful in maintaining alumni records and informing the alumni about the status of the institution. Forcing third-party callers to immediately state that the call is in reference to a potential gift ignores the other aspects of the call and

1 Willmer, Wesley (ed). Advancing Small Colleges, 2001, Council for Advancement and Support of Education, p. 108.

2 2000 Voluntary Support of Education, 2001, Council for Aid to Education.

may harm the institution's relationship with alumni.

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Our nation's colleges, universities, and schools have a long tradition of integrity and ethical behavior in seeking donations. As the professional organization for university fundraisers, CASE has a strict code of ethics and donors bill of rights that have helped reinforce that tradition. The proposed regulations would do little good in this environment and could do serious harm.

Proposed Changes

Given the importance of alumni fundraising campaigns to colleges, universities, and schools we respectfully request that the FTC include an exemption in the final regulations relating to the TSR changes and the proposed Do Not Call Registry for "telemarketing campaigns conducted on behalf of educational organizations that are primarily directed at such organizations' alumni." We also urge that "alumni" and "donors or other individuals with whom the institution has previously communicated" be included in the category of persons with an established business relationship.

We appreciate the opportunity to comment on the proposed rule, and respectfully request that you give serious consideration to our recommendations.

Sincerely,

Vance T. Peterson, Ph.D.
President

On behalf of:

National Association of Independent Schools