

April 15, 2002

HAND DELIVERY

Mr. Donald S. Clark
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Room 159
Washington, DC 20580

Re: Telemarketing Rulemaking – Comment
FTC File No. R411001

Dear Mr. Clark:

This comment is submitted in response to the Federal Trade Commission's Notice of Proposed Rulemaking published on January 30, 2002 which invited public comments on the proposed amendments to the FTC's Telemarketing Sales Rule 16 CFR Part 310 ("Rule"). These comments are almost entirely limited to those provisions of the rule that apply to our members' franchise activities.

The International Franchise Association ("IFA") was organized in 1960 and is the oldest and largest association representing the franchising community. Our membership includes in excess of 2,000 franchisee members and 800 franchisor members and, collectively, represent a "who's-who" of American industry. Our members conduct business in over 75 different industry areas. The pervasive economic impact and vitality of the franchise method of doing business in the United States is extensive: the most recent figures available indicate there are at least 320 thousand franchised units in operation. They generate in excess of \$1 trillion annually in the U.S. retail sales.

In reviewing the proposed Rule amendments, IFA is pleased that the FTC continues to recognize the appropriateness of the Rule's present general exemption for businesses conducted by IFA's franchisor members, i.e., those regulated under the FTC's Franchise Trade Regulation Rule (16 CFR Part 436). That exemption made sense when the Rule became effective on December 31, 1995, and the experience of the past six years has validated the correctness of that decision. The amendments would, while maintaining the general exemption, nevertheless make franchisors

subject to four limited areas of responsibilities under the Rule which prohibit certain telemarketing activities in which no legitimate business should engage. IFA currently requires that its members conduct business in an ethical manner and with full respect for the public's privacy and integrity. As such, IFA has no reason to question or object to the proposed limited inclusion of franchisors within the scope of the Rule.

IFA does has concerns, similar to those already raised by other commentors, that the Rule needs to be better clarified with respect to what constitutes an outbound call, especially in view of its implications with respect to compliance with other portions of the Rule. We understand that the FTC already is aware of potential implications of the expanded definition of "outbound calls" to include, under certain circumstances, calls initiated by a customer, and we urge the FTC to clarify the Rule to ensure that legitimate business conduct does not inadvertently trigger a technical Rule violation.

With regards to telemarketing by franchisees to reach existing and potential customers, IFA recognizes that the Rule may have negative consequences for some of our members using the telephone as a legitimate business channel. We have concerns about the cost that will be imposed on franchisees to pay for the creation and annual maintenance of a national do not call list. There are a the number of industries who will be exempt from this rule while at the same time no exemption appears to exist for contacting existing customers. Finally, IFA notes that a patchwork of state regulations is overly burdensome and unworkable and federal preemption must be included in any new rulemaking.

In conclusion, we wish to reiterate the commitment of IFA's members to practice and support the highest standards of ethical telemarketing, and we support the FTC's efforts to ensure that its Rule continues to promote that objective.

Sincerely,

International Franchise Association

By: _____
Betsy Laird
Vice President, Government Relations