

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In The Matter Of Telemarketing Rulemaking -

FTC File No. R411001

**COMMENTS OF INTERACTIVE TELESERVICES
CORPORATION ON THE PROPOSED REVISIONS TO THE
TELEMARKETING SALES RULE**

I. INTRODUCTION

1. Interactive Teleservices Corporation (“ITC”) is a service bureau providing teleservices on an outsourced basis to Fortune 500 companies, primarily in the banking and insurance fields. Our company is based in Columbus, Ohio and operates telemarketing centers in Ohio (3), Nebraska (1) and Wyoming (1), with scheduled openings of two new centers in Illinois (1) and Kentucky (1). We currently employ over 2,000 people, many of whom are single mothers, members of minority groups and former welfare recipients. We will employ over 500 additional people when our new offices open. We have offices in three states, soon to be five states, and locate those offices in high unemployment areas. We create good jobs quickly, with little drain on a community’s infrastructure and resources and, therefore, are a sought-after employer in these high unemployment areas. This desirability is reflected in State economic development incentives received from the States of Ohio, Wyoming, Illinois and Kentucky.

2. The products our company markets for our clients tend to be directed to low to moderate income people and small businesses. We make low-cost products and services available by telephone to people and businesses whose needs involve products that are not high priced enough and/or high volume enough to justify more costly sales efforts such as person-to-person direct sales and media advertising. These products and services include low-cost life and health and property and casualty insurance, access to credit for people who are not wealthy enough or do not have credit ratings high enough to otherwise obtain credit,

- business products for small businesses that are not big enough to be the target of high cost marketing from suppliers, etc., and are bought in large quantities by customers over the telephone because they find the products and services useful and/or helpful, they enjoy the convenience and cost-effectiveness of telephone purchases and they may not have known of the existence of the product or service had they not received the telemarketing call.
3. We are writing to offer our comments concerning the proposed revisions to the Telemarketing Sales Rule.
 4. ITC is a highly professional, ethical organization. We welcome and encourage reasonable regulation that will help eliminate abuses in our industry. In that regard, we support the recent efforts of the FTC to investigate and eliminate fraud in the industry and we support the Telemarketing Sales Rule as drafted.
 5. ITC fears, however, the very substantial and sometimes unintended negative consequences of over-regulation, no matter how well-meaning the original intent. These consequences can destroy the economics of an industry, cost hundreds of thousands of jobs and result in increased prices to consumers. Therefore, we cannot support the revisions proposed by the Commission in this proceeding.
 6. The proposed revisions place many burdensome restrictions on the thousands of companies like ours that have ethically used the telephone as a legitimate sales and marketing tool. For the reasons set forth below, we are concerned that the FTC's attempts will do nothing to curtail the abusive and deceptive telemarketing practices of a few bad actors, but will penalize the businesses of reputable companies with good business practices and will, specifically, have a disastrous impact on our company's ability to continue to conduct ethical and legal telemarketing programs and to continue to employ our over 2,000 employees. Simply put, we feel these regulations will not only halt our growth, but will put us out of business for no good reason.
 7. We recognize that it is easy to malign telemarketing and complain about the annoyance of receiving telephone calls at home. However, the number of calls has increased simply because of the cost-effectiveness of this method of bringing products and services to customers. If people did not want to buy over the telephone, the industry would not exist. The fact is that the demand is there and is growing and we are satisfying the demand.
 8. Nor does it suffice to say that, when asked the overly simplistic and inherently slanted question of whether they would like to avoid receiving telemarketing calls at home, people tend to reply in the positive. If people were to be asked the simplistic question of whether they would want to avoid going to the dentist, paying taxes, going to school or going to work, without mentioning the downside of these choices, the answers would likewise be overwhelming

positive, but I doubt anyone would argue that that response made not engaging in these activities good for the individual or for our society. Ask instead whether people have ever been presented a product or service over the telephone to which they might not otherwise have been exposed or been able to purchase, which product they are now happy they purchased, and the answer will also be overwhelmingly positive.

9. For every story about the petty annoyance of an unwanted call (and, remember, you can always just say no), there is a story like the man and woman, both working, with three children, who are barely able to pay their bills, whose bank alerts them by a telemarketing call to the availability of affordable disability insurance with premiums of a few dollars a month paid through their credit card. They would never know this insurance existed without the call because this is the primary cost-effective way to market these low cost products to low income people, and it is because of the call they buy it. If the husband or wife is in an auto accident the next day and cannot work for six months, the insurance kicks in and instead of a family financially humiliated, in bankruptcy and on the public dole, we have a family that proudly gets through this difficult time with the help of the insurance they purchased as the result of a telemarketing call. This is not just a hypothetical case. For instance, one of our insurance company clients paid millions of dollars in claims to victims of the World Trade Center disaster who purchased the insurance through a telemarketing call.

II. SPECIFIC PROVISIONS OPPOSED

In particular, ITC opposes the following provisions proposed by the FTC:

1. Creation of a National Do-Not-Call Registry :

- A.) It is unnecessary and duplicative of current efforts of the Direct Marketing Association and certain States to offer do-not-call options, which we support (we don't want to call people who really don't want to talk to us because we can't sell them anything anyway and are wasting our time and money).
- B.) Federal law already provides an easy and efficient means for consumers to remove their names from telemarketers' Do-Not-Call ("DNC") lists. But in contrast to the proposed FTC registry, the existing DNC system empowers consumers to make their own decisions. Consumers and consumers alone are now given the authority to determine which calls they will accept and which they will block. While the FTC contends that it will offer consumers a similar program through the ability to list companies they will accept calls from, that is clearly an unrealistic option and will cost the FTC too much money to administer. There is an overwhelming bias in the proposed registry towards the default

option of no calls at all. The suggestion that subscribers to the list could specify times of day to be called is likewise unmanageable. As a practical and financial matter, this would be impossible for companies like ours to implement.

- C.) The industry has also attempted to provide consumers with a one-stop service to remove their names from all calling lists. The DMA's Telephone Preference Service offers consumers an easy, free, nationwide Do-Not-Call system that has already been created and will not require additional money to be expended by the FTC.
- D.) The states have already moved to address any perceived loopholes in the existing Do-Not-Call framework. Many states have DNC lists and more are being added as we speak. The states, which are in the best position to offer solutions to the concerns raised by their citizens, have looked at this situation and acted in a way that is appropriate for their constituents. The FTC's list is another waste of taxpayer money to provide a service that is already offered to more than 60% of American citizens.
- E.) The surface appeal of a national do-not-call registry masks the fact that it will result in many, many individuals, primarily in the low and moderate income range, who are underserved by other marketing methods, unwittingly being deprived of access to products and services and/or suffering increased prices because of higher marketing costs.
- F.) The list would have a disastrous effect on the number of people that our company employs. Our business exists because consumers use telemarketing. While many may complain about the business of telemarketing, there is no denying the numbers generated. We carefully follow the appropriate state and federal laws, we honor consumer do-not-call requests and our business has not suffered. If the national DNC registry is established it is likely that we will see as many as 1,300 employees laid off immediately, but ultimately our company could not survive and over 2,000 jobs would be lost.

2. Predictive Dialers

- A.) Predictive dialing devices are essential to the economic viability of telemarketing as a low cost method of bringing products and services to consumers. They are used by ITC and many telemarketing companies to make operation of our businesses much more cost effective by increasing productivity. Increased efficiency in marketing products and services over the phone through the use of predictive dialers helps to reduce costs and ultimately saves consumers money. Any regulation that would render this technology unusable would result in significant and unacceptable cost increases to business and, ultimately, the

consumer. While few technological advances are without any downsides, banning or unreasonably restricting the predictive dialer would be to the telemarketing industry what banning the assembly line, which created many significant problems and had many adverse effects on workers, would be to the auto industry. We could support reasonable regulation that would limit abusive practices, but still permit predictive dialers to function effectively (such as setting a reasonable upward limit on abandonment rates, but not require abandonment to be so low or non-existent that the predictive dialers cease to function).

3. **Blocking of Caller ID**

- A.) While we support the concept of a prohibition on blocking Caller-Id, it must be clear that the prohibited practice is the deliberate manipulation of the caller-Id signal. As long as no overt actions are taken to deliberately disrupt the information, there is no violation.

4. **Use of Preacquired Account Information**

- A.) There is nothing inherently fraudulent or deceptive about the use of preacquired account information in any sales and marketing program, much less telemarketing. It is a widely used practice that provides consumers with easy access to goods and services. While there are certainly instances where it can be misused, those potential problems do not support a rule that prohibits the use of such information. As long as a marketer has obtained the express consent of a consumer to use the same information, the practice should be considered legal and ethical. We support the guidelines established by the ERA for the use of preacquired account information.

5. **Payment Issues**

- A.) As long as the consumer has a clear understanding that they will be billed for a product or service, and that they will be billed to a particular credit card, debit card, bank account, utility bill, etc, the transaction should be valid and enforceable. There is nothing inherently fraudulent, abusive or problematic with the written confirmation prior to submission method of obtaining such authorization, and this method should be retained in the Rule.

ITC appreciates the time the Commission has invested in studying these issues and its commitment to continue modifying these proposals. We urge the Commission to look at the overall negative impact that these proposals will have on jobs, our community and the economy as a whole. Thank you for your consideration and we would be happy to assist the Commission in the future.

Dated: March 28, 2002



Andrew C. Jacobs
President