



March 28, 2002

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

**RE: Telemarketing Rulemaking--Comment  
FTC File No. R411001**

MidFirst and its affiliates thank the Federal Trade Commission (the "FTC") for the opportunity to comment on the proposed Telemarketing Sales Rule. MidFirst agrees that customer privacy and the elimination of abusive and deceptive practices are important public policy goals. MidFirst concurs with the FTC statement on page 4524 of the January 30, 2002, *Federal Register* relating to the importance of maximizing consumer protection while avoiding unnecessary industry burdens. MidFirst also believes the best solutions will be achieved by a coordinated effort between all interested parties including the government, businesses, and the general public so that risks, benefits, and costs are appropriately balanced.

MidFirst requests that before mandating a national "do not call" ("DNC") registry, the FTC must carefully consider the costs, burdens, and impaired product and service availability that a DNC would produce. If the objective of a DNC registry is to reduce abusive and deceptive telemarketing practices, then the implementation of such a DNC registry should only proceed if a) the objective of reducing deceptive and abusive practices would be realized and b) if the societal benefits of the objective would exceed the costs of implementing and complying with a national DNC registry. It is unclear at this point whether a DNC registry as proposed would achieve the objective or would do so in a manner where the benefits exceed the costs.

MidFirst requests that consideration be given to potential negative consequences on the availability of products and services generally marketed via methods covered by the definition of telemarketing in the proposed rule. Specifically, MidFirst is concerned that the burden and cost of comparing a target customer list with a national registry of "do not calls" will be a significant barrier to the reasonable marketing of products and services that are beneficial to the consumer. The result will be that the general public will not have the opportunity to be made aware of products and services that may be valuable to them. It appears likely that if the proposed rule is fully adopted as written, the incentive will be for telemarketing firms to significantly reduce operations rather than incur the costs of complying with the DNC registry with one possible result being that telemarketing ceases to be a channel of communication to the general public; if this is the case, the public will ultimately be harmed.

Finally, if the cost of implementing the DNC registry program (including governmental costs to monitor and enforce; business costs to develop systems, employ personnel, train staff, etc.; and societal costs of reduced availability of product and service information) exceeds the benefits, then the DNC registry concept should be reconsidered.

Although MidFirst is not aware of any evidence suggesting the objective of reduced deceptive and abusive practices would be achieved under the rule as proposed, prior to implementing the rule, MidFirst strongly encourages the FTC to consider the following to reduce burdens and costs to business which in turn will avoid increased costs to the consumer:

- Requiring businesses to review the national DNC Registry less frequently than monthly – perhaps no more frequently than annually.
- Allowing the exemption for an individual business to extend to third party telemarketers working on the business' behalf and under contract.
- Allowing a firm to telemarket to its existing customer base without written customer authorization.

In conclusion, MidFirst believes a national DNC registry as outlined in the proposed rule does not achieve the goals and is not cost effective.

Sincerely,

Charles R. Lee  
Vice President and  
Director of Bank Administration