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**To:** FTC.SERIOUS("tsr@ftc.gov")  
**Date:** 4/15/02 3:52PM  
**Subject:** Telemarketing Rulemaking Comment. FTC File No. R411001

1. I am the founder of possibleNOW.com, Inc. of Norcross, Georgia and architect of DNCSolution.com, a comprehensive web-based solution for telemarketers who wish to comply with State and Federal Do Not Call rules, including the Telephone Sales Rule and Telephone Consumer Protection Act. However, the comments in this message are from me personally and do not necessarily reflect the opinions of possibleNOW.com, Inc., its officers, employees or shareholders.

2. The proposed national Do Not Call list is unnecessary. The decision to mandate a Do Not Call list should be left to individual states. The decision to implement a Do Not Call list should be carefully determined as it restrains trade and only provide the minor benefit of reducing one particular source of consumer annoyance. States can better decide how to finely balance the interests of their consumers against the interests of businesses selling goods and services by telephone.

3. By allowing individual States to determine the best way to balance consumer vs. business interests, the needs of the local economy are taken into account much more precisely than if a single national list was created. Some States, such as Kentucky have recently decided to modify their Do Not Call law to make it more beneficial to consumers. Will any single national set of Do Not Call rules be able to effectively and accurately represent each state's differing needs to promote vs. restrain commerce? Allowing states to have this "local flexibility" is surely much more effective than a "one size fits all" national list.

4. There are no barriers to State that wish to create Do Not Call lists, so it is unnecessary for a national list to be created. In fact, twenty states have successfully enacted Do Not Call legislation and/or Do Not Call lists. Most of the remaining states have proposed bills to create Do Not Call lists from time to time; these are either in consideration now or were voted down by the resident's elected representatives.

5. It is easy to demonstrate that consumers in different states have differing levels of sensitivity to the Do Not Call issue and therefore differing rules

are appropriate on a State-by-State basis. Both the Tennessee and Florida Do Not Call lists have been in existence for some time. As of April, 2002 there are 705,905 unique residential telephone numbers registered on the State of Tennessee's Do Not Call List. Based on the 2000 U.S. Census, there are 2,232,905 households in the State of Tennessee. Therefore, approx. 32% of Tennessee households have expressed their preference to be on the DNC list and are protected from telemarketing calls by Tennessee law. In contrast, the Florida Do Not Call list currently contains 171,324 unique residential telephone numbers. Based on the 2000 U.S. Census, there are approx. 6,337,929 households in Florida. Therefore, only 2.7% of individuals in Florida have chosen to add their name to the list. Based on this information, it is reasonable to believe that consumers in Florida are much less sensitive to being called by telemarketers, while consumers in Tennessee are very sensitive. It is reasonable for a different set of rules to be applied in Tennessee vs. Florida given the wide variance demonstrated.

6. It is argued that a national list would provide consumers with the benefit of a single telephone number to call to get on the list. Consumers in the twenty states with DNC List legislation already have "one number to call". Adding a national Do Not Call list does not automatically improve access by consumers to such a service.

7. I would agree that telemarketing calls could be an annoyance to many consumers; however one person's annoyance is another person's solution. Consider the extensive number of successful sales of products and services across most sectors of the economy that occurs because of telemarketing. Is it really the job of the national government, FTC or FCC to prevent any form of consumer "annoyance"? Aren't there much more significant issues to expend resources on such as identity theft, consumer "scams" etc.?

Sincerely,

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