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

RE: Telemarketing Rulemaking Comment
FTC File No. R411001

I am a principal in Tate & Associates, a public affairs company that represents several small companies doing business throughout the twelve (12) Western States of the United States of America. Several of these businesses rely almost entirely on the telephone to market to potential customers and set appointments for their field sales personnel. Therefore, while we applaud the Commission's decision to retain the exemptions as set out in Section 310.6 (c) there are a few concerns we would like to voice through the questions that were asked in the "Notice of Proposed Rulemaking".

On Page 117, General Comments:

(a) What is the effect on consumers?

Cost being thrust on to businesses will directly effect consumers in price increases.

(b) What is the impact on individual firms that must comply with the Rule?

In California, as an example, the State Attorney General has been given the task of implementing SB 771, which in many respects mirrors the TSA. How are small businesses (Federal definition) to continue in business unless the Federal TSA and the individual states, of which there are now 22, that have their own "TSA" present a unified package to businesses? The financial impact to any small business to have to integrate both the federal and state DO Not Call Lists on a monthly basis into their business would be cost prohibitive, i.e.:

1. Purchase the list from the Federal Government; (cost unknown)
2. Purchase the list from the State Government; (cost unknown)
3. Purchase an integration system or develop one; (\$5,000 to \$25,000)
4. Dedicate a computer system to integrate these files; (\$5,000 approximate)
5. Dedicate a full-time computer operator; (\$5,000 to \$8,000 a month)
6. Once the files are integrated, eliminate duplicates;
7. Integrate cleaned files into existing files;
8. Dedicate a full-time office worker to package, disseminate and track (\$3,000 to \$5,000 a month);
9. Dedicate a computer to assist office worker in dissemination of files; (\$3,000)
10. Disseminate to offices and staff (\$1,000 to \$5,000 per month)
11. Staff attorney, familiar with both State and Federal laws to be sure you are compliant with both State and Federal regulations as they are renewed, changed and implemented (\$5,000 to \$10,000 per month).
12. Trial Attorney, that has ability to represent businesses in both State and Federal Court as "professional call recipients" exploit the growing cottage industry of taking small businesses to court with claims of telemarketing harassment and winning settlements in excess of \$7,500 per court appearance. (Cost to the taxpayers, the court's time, and the businesses are incalculable.)

(d) What changes should be made to the proposed Rule to minimize any cost to industry or consumers?

The over zealous attempt to avoid possibly annoying a consumer will, in the long run, negatively impact them as costs for products will increase as businesses try to cope with this regulation. The Federal and State governments need to avoid overkill legislation that unduly and unnecessarily penalizes business for being "in business". Are we next going to pass federal laws prohibiting every activity that could possibly annoy someone?

Is the government overstepping its bounds when it interferes with a business's right to simply tell people about their products and services? If a poll were taken asking consumers if billboards that litter our highways were an annoying blight and they said, 'yes', would the government try to enact legislation remove all the billboards? Isn't the right to tell people about your business protected by the constitution?

Commercials are intrusive and annoying when I watch television. But no one is seriously trying to remove the commercials off the air because consumers have the choice to turn to another channel or turn off the television no matter how annoying the commercials or how intrusive they may be.

We have been asking our young people to "Just Say No" to drugs and alcohol for over 20 years, why can't consumers "Just Say No" to telemarketers if they make the choice to not listen to their calls. If a consumer wants to avoid hearing about a product on the telephone, every telephone company in the United States has the ability to offer caller identification so a consumer never has to answer the call, or the consumer can "Just Say No" to any telephone caller of their choice, or simply let their answering machine take the call. Is it necessary to pass a federal law that prohibits companies from communicating on the phone?

Small businesses don't have the money to advertise on television or billboards. They use the telephone. Not to complete a sale, but just to tell people about what they do. This proposed law unfairly restrains their ability to conduct their business and, I feel, unconstitutionally prohibits their right to tell people about what they do.

Finally, the proposed changes requiring exempt companies to comply with Section 310.4(a)(1) and (6) and 310.4(b) and (c) should be eliminated.

Sincerely,

TATE & ASSOCIATES

Deanne Tate