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Federal Trade Commission/Office of the Secretary
Room H-159 (Annex K)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

RE: TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification
 Project No. R411001

Dear Secretary:

Countrywide Home Loans, Inc. (“Countrywide”) is pleased to submit comments on behalf of the companies in the Countrywide Financial Corporation family in connection with the Commission’s Notice of Proposed Rule Making (“NPRM”) regarding prerecorded calls. Through its family of companies, Countrywide provides mortgage banking and diversified financial services in domestic and international markets and in the course of providing those services to its customers, utilizes telephonic messages to communicate important information and offers.

On October 4, 2006, the Commission released its NPRM and requested comment on a number of proposed changes to the Telemarketing Sales Rule (the “Rule”). Of particular interest to Countrywide were the proposed rule changes prohibiting prerecorded solicitation messages to existing customers left on voice mail or answering machines, which Countrywide opposes for the reasons that follow; and the proposed change in the manner in which the 3% “abandonment rate” is calculated for purposes of the “safe harbor” provision of the Rule, which Countrywide fully supports.

Countrywide appreciates this opportunity to comment on the Commission’s proposed changes to the Telemarketing Sales Rule. Countrywide is concerned about the proposed prohibition on prerecorded messages to customers and the possibility of losing an important method of communication with Countrywide customers. Prerecorded messages can serve an important function when utilized appropriately and directed to existing customers.

Countrywide believes there is little risk of consumer irritation or the many issues that rightly motivated the Commission to promulgate its rules with respect to do-not-call registries and the other provisions of the “safe harbor”, when messages are left on an existing customer’s voice mail or answering machine. In fact, in 2006, Countrywide conducted 39 individual calling campaigns to existing customers utilizing prerecorded messages that were left on voice mail and answering machines. These calls can provide customers with timely information about favorable changes in interest rates or other opportunities to educate customers about available financial products and services. Out of over 3 million calls placed, a total of only 20,677 customers elected to opt of future calls from Countrywide. That means less than 1% of customers contacted by Countrywide exercise their option to opt out of future, similar calls. Countrywide’s experience does not support the position suggested by the Commission that prerecorded messages are a significant source of consumer irritation and complaints and suggests that many customers expect timely information from their financial services companies.

As the Commission notes in its NPRM, this rule interpretation will create sharp differences in the compliance environment for telemarketers, depending upon how they are structured. The Federal Communication Commission’s (FCC) rules allow companies to telemarket using prerecorded messages to existing customers, even where the customer “live answers” the call. With this rule making, the FTC is placing banks and certain other entities that are regulated by the FCC in a position of competitive advantage with regard to their competitors who are regulated by the FTC. Countrywide supports laws and regulations that create an even field for competition and makes this comment in spite of the recent public announcement of its intent to convert some of its operations to a thrift regulated by the Office of Thrift Supervision.

Countrywide would also like to take this opportunity to request clarification from the Commission as to what constitutes “express written consent”. Countrywide believes that express written consent can be obtained in all of the ways contemplated by the Federal E-SIGN legislation (Electronic Signatures in Global and National Commerce act), which allows any electronic signature to serve as a signature, notwithstanding any other provision of federal law. An “Electronic signature” is defined as “an electronic sound, symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.”. Countrywide requests that the Commission confirm that telemarketers can obtain express written consent by, among other means, using an Integrated Voice Response system to present a customer with an opportunity to “Press One to consent to receiving (or to continue receiving) prerecorded telemarketing messages from Countrywide.”

Countrywide also requests that the Commission provide additional guidance as to what constitutes “compliant, valuable, informative live-answer messages.” It is important that telemarketers have clear guidelines to ensure they deliver informational messages that will be compliant with the requirements of the Commission’s Rule.

Countrywide appreciates the Commission’s recognition that the original formula for calculating the abandonment rate did not, in practice, reflect an appropriate balance between the legitimate concerns of consumers and the needs of businesses that utilize telemarketing to reach a target audience. The proposed formula of no more than 3% of calls “abandoned” within a 30 day period, per campaign is a sensible approach that balances the interests of consumer and

businesses alike. Countrywide urges the Commission to make this proposed rule change final without any additional amendment.

Finally, Countrywide requests that the Commission extend its forbearance policy with regard to prosecution of alleged violations of provisions of the Rule regarding prerecorded messages beyond the announced date of January 2, 2007. Clearly, the Commission's NPRM has generated substantial industry response and discussion, evidencing the wide-spread belief within industry that prerecorded messages to existing customers was consistent with compliance with the Rule. An additional three months to bring marketing programs into full compliance with this newly stated interpretation would assist companies in remaining compliant with the Commission's Rule.

Thank you for this opportunity to comment. If there are any questions about this comment letter, please contact the undersigned at your convenience.

Sincerely,

Christopher Weinstock