



December 18, 2006

**Russell W. Schrader**  
Senior Vice President  
Assistant General Counsel

***By Electronic Delivery***

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex K)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

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

Ladies and Gentlemen:

This comment letter is submitted on behalf of Visa U.S.A. Inc. in response to the proposed rule issued by the Federal Trade Commission ("FTC") amending the Telemarketing Sales Rule ("TSR") to expressly prohibit unsolicited prerecorded telemarketing calls without the consumer's prior written agreement. Visa appreciates the opportunity to comment on this important issue.

The Visa Payment System, of which Visa U.S.A.<sup>1</sup> is a part, is the largest consumer payment system, and the leading consumer e-commerce payment system, in the world, with more volume than all other major payment cards combined. Visa plays a pivotal role in advancing new payment products and technologies, including technology initiatives for protecting personal information and preventing identity theft and other fraud, for the benefit of Visa's member financial institutions and their hundreds of millions of cardholders.

Financial institutions may use telemarketing firms to conduct prerecorded message campaigns to persons with whom the financial institution has an existing business relationship. In these circumstances, the desire to maintain the business relationship provides an adequate incentive for financial institutions to police themselves. Visa is concerned about the impact the proposed rule could have on financial institutions that are expressly exempted from the FTC's enforcement jurisdiction. In particular, the FTC's position with respect to telemarketing firms functioning on the financial institution's behalf is problematic. While the FTC has acknowledged that its telemarketing regulations do not apply to businesses that are outside of its jurisdiction, the FTC has maintained that it will enforce its rules against telemarketing firms that provide services on behalf of businesses outside of its jurisdiction, including financial institutions, even if the business has an existing business relationship with the consumer. Thus,

---

<sup>1</sup> Visa U.S.A. is a membership organization comprised of U.S. financial institutions licensed to use the Visa service marks in connection with payment systems.

under the proposed rule, financial institutions would run the risk that their service providers could be charged with violating the TSR. As a result, the proposed rule would significantly limit a financial institution's ability to use a telemarketing firm to conduct a prerecorded message campaign. Most banks are not staffed or otherwise equipped with resources to use in-house telemarketing personnel to provide prerecorded message campaigns.

Thus, the proposed rule is over-inclusive and should be revised so that the rule does not negatively impact financial institutions. Accordingly, in the event the FTC decides to go forward with this rulemaking, Visa strongly urges the FTC to make clear that it will not enforce its rule against telemarketing firms that conduct specific campaigns on behalf of financial institutions that are exempt from the FTC's jurisdiction.

Once again, we appreciate the opportunity to comment on this important matter. If you have any questions concerning these comments or if we may otherwise be of assistance in connection with this matter, please do not hesitate to contact me, at (415) 932-2178.

Sincerely,

Russell W. Schrader  
Senior Vice President and  
Assistant General Counsel