



PUBLISHERS CLEARING HOUSE

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**16 C.F.R. Part 310: Telemarketing Sales Rule: Advanced Notice of Proposed Rulemaking;
Request for Public Comments Concerning Caller Identification Services and Disclosure of
the Identity of the Seller or Telemarketer Responsible for Telemarketing Calls**

**Public Comments Submitted by Publishers Clearing House
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Submitted by:

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I. Background

This comment is submitted by Publishers Clearing House (“PCH”) in response to the published request by the Federal Trade Commission (“FTC”) that interested persons submit written comments on provisions of the FTC’s Telemarketing Sales Rule (“TSR”) concerning caller identification services and disclosure of the identity of the seller or telemarketer responsible for telemarketing calls.

Since 1953, Publishers Clearing House has been a well known household name to consumers offering value based consumer products and magazine offerings through on-line and direct mail promotions. Starting in 1967, PCH promotions have featured the famous free-by-mail sweepstakes that has become part of Americana. PCH has awarded over \$225 Million in major prizes to consumers in the United States, Canada and the United Kingdom. From the beginning, the hallmark of the Publishers Clearing House sweepstakes has been that no purchase, fee, cost or payment is ever necessary to enter or win. This message appears repeatedly in our promotions and is featured for all those who visit our web sites or call our automated toll free customer service line.

Over the years, Publishers Clearing House has received reports from consumers and consumer protection authorities regarding illegal and fraudulent offers posing as legitimate sweepstakes and seeking some form of payment from consumers to collect a non-existent prize. These reports include scams by phone, e-mail or direct mail. In many cases, the Publishers Clearing House name or sound-alike name is illegally used. We share these reports directly with law enforcement and consumer protection authorities and maintain a comprehensive database of such reports to assist in such enforcement efforts.

II. The Rise of Caller Identification Spoofing and Abuse

Recently, consumers have reported to us that in some of the scam contacts they have received the PCH name, or some version thereof, has falsely appeared on the consumer’s Caller ID. Such misrepresentation by scam artists is done in the hope that consumers will believe the call is from the real PCH. Once such trust is established, scam artists will use one of many false premises seeking to have the consumer send or wire money to collect a non-existent prize. In 2010, it is estimated that Publishers Clearing House received over 100 contacts from consumers reporting that the PCH name or soundalike had falsely appeared on their caller ID.

It is our understanding that current technology allows individuals to falsify information that appears on an individual’s Caller ID. This is commonly known as “spoofing”. It is clear that “spoofing” makes it increasingly difficult for consumers to make informed decisions in response to such fraudulent calls. Such misrepresentations on a Caller ID increases the risk that vulnerable consumers - often senior citizens or those least able to sustain financial loss - may be conned into sending money in response to the subsequent scam pitch.

It is our experience that the manipulation of Caller ID information has undermined the ability of consumers and law enforcement to identify the entities responsible for the scam calls they have received. Moreover, false or misleading Caller ID information frustrates law enforcement investigations seeking to hold telemarketers responsible for illegal conduct, and in the reports we have received, harms the reputation of Publishers Clearing House who has no connection with these unlawful telephone calls. For every consumer who contacts us about these calls knowing it is a scam, we know there are others who believe the call was from the real PCH.

III. Suggested Efforts to Address

Given the increased reports Publishers Clearing House has received of our name fraudulently appearing on a Caller ID and the resulting potential harm to consumers and our own business, we strongly support all reasonable efforts to curtail any such fraudulent and deceptive use of Caller ID. We also support efforts to insure that Caller ID information is associated with the actual caller or designated agent.

We believe the Truth in Caller ID Act of 2009 signed into law by President Obama in December 2010 was a strong step in strengthening the penalties, both civil and criminal, for those who might choose to deceive through falsified Caller ID. We would suggest that enforcement of the law be increased and focused.

We note that a current online search under search terms such as “Fake Caller ID” or “Bogus Caller ID” brings up a large number of sites that offer the visitor the ability to mask Caller ID and create a completely new Caller ID of your choosing. We would urge the Commission to review such sites and determine if they are operating under the current law or may need to be restricted in some manner.

While enforcement of existing law is encouraged, Publishers Clearing House would also suggest the study and implementation of improved technology that would make it harder to misrepresent through Caller ID information. Effective regulation of Caller ID spoofing through the development of technology that prevents the ability for scam artists to utilize spoofing would be in the interest of both industry and consumers. Any changes made to the Telemarketing Sales Rule should reflect the current use and capabilities of Caller ID technologies. The current TSR is no longer beneficial to the consumer or industry when an individual with this technology can misrepresent who he or she is.

Finally, PCH believes that the FTC should establish rules (probably in conjunction with the Federal Communications Commission) to require Caller ID service providers to be able to trace calls and to reveal the calling party in the case of fraudulent use of Caller ID. One of the parties to whom the information should be provided is the victimized company whose identity was stolen. Such a rule would significantly increase the resources available to locate and penalize the fraudulent individuals since victims of corporate identity theft have a significant incentive to stop the fraud.

We thank the Commission for soliciting information on this important matter in an effort to increase the important consumer protections provided to consumers.