



October 9, 2009

E-Mail info@fsround.org
www.fsround.org

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

RE: Telemarketing Sales Rule - Debt Relief Amendments, R411001

To Whom It May Concern:

The Financial Services Roundtable¹ (“Roundtable”) appreciates this opportunity to comment on the Federal Trade Commission’s (“FTC”) proposal to amend the Telemarketing Sales Rule to address the sale of debt relief services (“Proposal”). We agree that certain practices within the “debt relief services” industry are harmful to consumers and support the FTC’s effort to curb abusive practices by expanding the Telemarketing Sales Rule. However, the Roundtable is concerned about the potential unintended consequences caused by the breadth of the proposed rule’s definition of “debt relief services.”

The proposed rule defines “debt relief services” as “any service represented, directly, or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of debt between a consumer and one or more unsecured creditors or unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a consumer to an unsecured creditor or debt collector.”² The proposed rule makes the telemarketing of such services subject to the Telemarketing Sales Rule, imposing certain regulatory requirements.

The proposed definition of “debt relief services” is so broad as to cover both legitimate and abusive business practices. Absent clarification, the proposed rule will create disincentives for financial institutions to promote programs to assist customers who are experiencing financial difficulties.

The final rule should clarify that the proposal’s intent is to address abusive practices in the for-profit credit counseling and repair industry and **not** to include the legitimate

¹ The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Roundtable member companies provide fuel for America's economic engine, accounting directly for \$84.7 trillion in managed assets, \$948 billion in revenue, and 2.3 million jobs.

² Telemarketing Sales Rule, 74 Fed. Reg. 42017 (2009) (to be codified at 16 C.F.R. 310.2(m)) (proposed Aug. 19, 2009).

activities of servicers seeking collection on loans they own or service for others pursuant to *bona fide* servicing relationships.

For example, creditors or their *bona fide* servicers (“creditors” hereinafter) commonly contact their customers, directly or through third-party debt collectors, to offer programs that may assist customers who are experiencing financial difficulties. In exchange for the customer’s agreement to make a payment on preexisting debt, creditors will offer customers services such as: fee waivers, interest rate reductions, debt forgiveness, settlements, restructuring of fees under existing customer agreements, or workout programs. These services are examples of initiatives by the industry to assist customers who may be experiencing temporary financial difficulty or hardship. Such programs are consistent with Congressional and regulatory interests to develop flexible arrangements to assist consumers during the economic downturn.

These legitimate types of services provided by financial institutions and third-party debt collectors (negotiating on behalf of financial institutions) are not the type of abusive activity that is intended to be regulated by the proposed rule. Nevertheless, a creditor (or its third-party contractor) that contacts its customer to service its own account in ways described above arguably falls within the proposed rule’s definition of “debt relief services.” This raises unintended and negative consequences for both financial services companies and consumers.

Consequently, **we recommend that the FTC specify that these institutions and their third-party contractors that are servicing their own customers’ portfolios through legitimate and customary practices be excluded under this proposal. The FTC should also clarify that services offered without a fee would not be included within the definition of “debt relief services” and would not be construed as either the sale of “debt relief services” or the “sale of goods and services.”**

Thank you again for the opportunity to share our views with you on this subject. If you have any questions, please feel free to contact me or Melissa Netram at 202-289-4322.

Sincerely,

▲

▼

Richard Whiting
Executive Director and General Counsel