



August 8, 2013

Federal Trade Commission
Office of the Secretary
Room H-113 (Annex B)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Telemarketing Sales Rule, 16 CFR Part 310, Project No. R411001

To Whom It May Concern:

Green Dot Corporation (“Green Dot”)¹ respectfully submits the following comments in response to the Notice of Proposed Rulemaking published in the Federal Register on July 9, 2013, at 78 Fed. Reg. 41200-41225 (“NPRM”), which seeks public comment on proposed amendments to the Telemarketing Sales Rule (“Rule”) which would, among other things, bar sellers and telemarketers from accepting “cash reload mechanisms” (as defined in the NPRM) as payment in inbound or outbound telemarketing transactions. Green Dot, as a significant provider of cash reload mechanisms, supports the Federal Trade Commission’s (“Commission”) effort to further protect consumers by limiting the use of novel payment methods in telemarketing transactions. Green Dot appreciates this opportunity to comment on the proposed amendments.

Green Dot’s cash reload mechanism, the MoneyPak, is a product that can be utilized by consumers to reload GPR Cards (both those branded with the Green Dot name and certain GPR Cards issued by other banks and entities), facilitate payments to billers authorized to accept MoneyPak and add funds to certain payment intermediary accounts (such as PayPal). The MoneyPak is sold through retailers across the United States that carry Green Dot products. The MoneyPak is an effective way for consumers to convert cash into a form that can be easily used in these ways and is a product that has benefited countless consumers.

Definition of “Cash Reload Mechanism”

Green Dot shares the Commission’s concern about the misuse of cash reload mechanisms in telemarketing transactions and more broadly Green Dot has concerns about the MoneyPak being used for any improper purpose. Therefore, Green Dot is supportive of the Commission’s proposal to bar the use of cash reload mechanisms in telemarketing transactions so long as the Rule does not prohibit the use of cash reload mechanisms to make payments or transfer money in legitimate transactions. As an example, the Commission specifically notes in the NPRM that the

¹ Green Dot is a publicly traded (NYSE:GDOT) bank holding company regulated by the Board of Governors of the Federal Reserve System. The Company provides widely distributed, low-cost banking and payment solutions to a broad base of United States consumers.

MoneyPak can be used by consumers to make payments to certain billers who are authorized to accept MoneyPak authorization codes directly from consumers as a method of payment. This illustrates one of the appropriate uses for the MoneyPak and Green Dot feels strongly that the Rule should not preclude the use of cash reload mechanisms in legitimate transactions including those with these authorized billing partners. In order to clearly accomplish this goal, Green Dot suggests “cash reload mechanism” be narrowly defined in the Rule to include only those payment mechanisms that permit reloading of GPR Cards, but exempt similar payment mechanisms that facilitate bill payment and other money transmission activity so long as the payment mechanism cannot be used to add funds to a GPR Card. In Green Dot’s extensive experience, the use of cash reload mechanisms to load GPR Cards is the primary means by which the fraud targeted by the proposed amendments is accomplished. Based on this experience, and the relative novelty of using cash reload mechanisms in telemarketing fraud, Green Dot believes the inclusion of anything other than the reload of GPR Cards in the definition is unnecessary at this time and may lead to confusion and potential restrictions on the legitimate uses of cash reload mechanisms.

Providing “Substantial Assistance”

Green Dot also has concerns with the implementation of the proposed amendments in conjunction with the Rule’s existing prohibition on third parties “provid[ing] substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act or practice that violates §§ 310.3(a), (c) or (d), or § 310.4.” In particular, it is difficult to foresee how “knows or consciously avoids knowing” would be interpreted as it relates to the providers of cash reload mechanisms. Unlike other payment methods, cash reload mechanisms are not necessarily utilized in a closed universe where the provider has access to all information associated with the use of that cash reload mechanism in order to assess whether the payment is for a legitimate purpose or transaction. Because multiple parties are involved in a transaction that uses a cash reload mechanism, no single party (including the provider of that cash reload mechanism) has full visibility into the transaction from beginning to end. As a result, Green Dot and other cash reload mechanism providers must, by necessity, rely on the procedures put in place by other parties to the transaction. It is unclear if this reliance could possibly be interpreted as the cash reload mechanism provider “consciously avoid[ing] knowing” if a seller or telemarketer is inappropriately accepting a cash reload mechanism for payment in violation of the proposed Rule.

Green Dot respectfully requests that, at least initially, the substantial assistance provision of the Rule be specifically made inapplicable to providers of cash reload mechanisms in any final amendments to the Rule. Doing so will still allow the Commission to take enforcement action against the telemarketers or sellers who are inappropriately accepting cash reload mechanisms without subjecting others to additional enforcement at this stage. If, at some future point, the Commission concludes the substantial assistance provision should apply to persons other than telemarketers and sellers, Green Dot suggests the Commission consider implementing a safe harbor for parties that are behaving in a responsible manner in their provision of the cash reload mechanism. For instance, the Commission might consider exempting from the provision parties with fraud monitoring in place which is reasonable in the context of cash reload mechanisms.

Green Dot respectfully requests the Commission to consider its comments and suggestions. If you have any questions, or would like to discuss any of the matters addressed in this letter, please do not hesitate to contact me at (626) 775-3485.

Very truly yours,



John C. Ricci
General Counsel