



THE CHAIRMAN

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

August 9, 2011

The Honorable Mary L. Landrieu
Chairwoman
Committee on Small Business & Entrepreneurship
United States Senate
428A Russell Senate Office Building
Washington, D.C. 20515

Dear Chairwoman Landrieu:

This fourth annual report is made in accordance with Section 212(a)(6) of the amended Small Business Regulatory Enforcement Fairness Act ("SBREFA"). SBREFA requires agencies to publish guides to assist small entities in complying with rules that significantly affect them. The Federal Trade Commission ("Commission" or "FTC") has a longstanding and effective business education program,¹ and only a small fraction of our business compliance library is discussed in this report.

Since we submitted our third annual SBREFA report on June 30, 2010, the FTC has issued one rule subject to Section 212 of SBREFA:²

Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310: After prior notice and comment and a public forum on November 4, 2009, the Commission announced rule amendments on July 29, 2010. The TSR amendments prohibit providers of debt relief services from collecting fees until after services have been provided, require specific disclosures of material information about offered debt relief services, prohibit specific misrepresentations about material aspects of debt relief services, and extend the TSR's coverage to include inbound calls made to debt relief companies in response to general media advertisements. 75 Fed. Reg. 48458 (August 10, 2010). With the exception of the advance fee ban amendments effective October 27, 2010, the rules became effective on September 27, 2010.³ The Commission prepared "[Debt Relief Services & the Telemarketing Sales Rule: A](#)

¹ From FY2002 - FY2009, the FTC's "Compliance Assistance" under SBREFA was rated an "A" by the Small Business Administration's National Ombudsman. We anticipate the same grade when the National Ombudsman submits their FY2010 SBREFA Report for all agencies.

² Section 212 requires agencies to publish a "small entity compliance guide" for any new rule for which an agency is required to prepare a final regulatory flexibility analysis under section 3(a) of the Regulatory Flexibility Act, which is codified at 5 U.S.C. § 604.

³ On October 27, 2010, the Commission issued a policy statement staying enforcement of the debt relief provisions of the TSR against companies offering tax relief services, i.e., services offered to renegotiate,

[Guide for Business](#),” which we have enclosed.

In the past year, the Commission has also certified to the Small Business Administration that certain other final regulations issued will not have a significant economic impact on a substantial number of small business entities. Nonetheless, the Commission published a Final Regulatory Flexibility Act Analysis along with these final regulations. We have either made available or are preparing updated compliance materials for each of these rulemakings although not required to do so by SBREFA. A few examples include:

- **Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (“Appliance Labeling Rule”), 16 C.F.R. Part 305:** Section 321 of the Energy Independence and Security Act of 2007 required that the Commission conduct a rulemaking to consider the effectiveness of current energy labeling for lamps (i.e., “light bulbs”). After notice and comment, on June 18, 2010, the Commission announced final amendments to the light bulb labeling requirements which will emphasize the bulbs’ brightness as measured in lumens, rather than a measurement of watts. The new front-of-package labels also will include the estimated yearly energy cost for the particular type of bulb. 75 Fed. Reg. 41,696 (July 19, 2010). The new labeling requirements become effective on January 1, 2012. 76 Fed. Reg. 20,233 (April 12, 2011). The Commission has posted [“Labeling Your Light Bulbs with ‘Lighting Facts’: Questions and Answers for Manufacturers”](#) at the agency website. A copy is enclosed.
- **Mortgage Assistance Relief Services (MARS), 16 C.F.R. Part 322:** After notice and comment, the Commission announced a final MARS rule on November 19, 2010. 75 Fed. Reg. 75092 (December 1, 2010). The rule, among other things, prohibits providers of mortgage assistance services from making false or misleading claims, mandates that providers disclose certain information about these services, bars the collection of advance fees for these services, prohibits persons from providing substantial assistance or support to an entity they know or consciously avoid knowing is engaged in a violation of these rules, and imposes record keeping and compliance requirements. This final rule was effective on December 29, 2010, except for § 322.5 relating to the prohibition on collection of advance fees and related disclosures, which becomes effective on January 31, 2011. The Commission has posted [“Mortgage Assistance Relief Services Rule: A Compliance Guide for Business”](#) at the agency website. A copy is enclosed.

BCP Business Center: Your Link to the Law

Although not required by Section 212, it is worthy of mention that the Commission debuted a new and improved Business Center website at <http://business.ftc.gov>, a comprehensive portal for small businesses packed with practical guidance on advertising, marketing, credit, data security, and other topics of interests to entrepreneurs. In addition to easy access to statutes, rules, and guides enforced by the FTC, this upgrade features plain-language brochures on complying with the

settle, or alter the terms of obligation between a consumer and a taxing entity.

law, how-to videos and podcasts that companies can incorporate into their own in-house training,⁴ and articles that business owners can “drop in” to newsletters or websites. The new Business Center website also features a blog written with small business owners in mind. Emphasizing two-way communication, the blog offers insights on FTC topics of interest to businesses and encourages comments from readers. It also showcases practical tips on what small businesses can do to protect themselves from business-to-business fraud.

For many years, the FTC has had a highly effective program providing compliance assistance to small businesses.⁵ We plan to continue to refine and improve these efforts. If you have any questions, please contact Christian S. White, the Deputy General Counsel for Legal Counsel and Small Business Coordinator at the Commission, at (202) 326-2476.

Respectfully,

/signed/
Jon Leibowitz
Chairman

Enclosures

cc: The Honorable Sam Graves
Chairman, Committee on Small Business
U.S. House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515

⁴ Among other short videos and podcasts, there are selections to assist businesses with “Peer-to-Peer File Sharing,” “Complying With Do Not Call,” “The Endorsement Guides,” “Protecting Personal Information: A Guide for Business,” and “Debt Collection.”

⁵ The Commission complements its compliance assistance efforts with consideration of the particular circumstances of a case when enforcing business obligations. As you know, Section 223 of SBREFA (1996) required that agencies establish policies to reduce or waive penalties for small entities in appropriate circumstances. In 1997, the Commission issued a small business leniency policy statement that describes factors that may result in reduction or waiver of penalties. See 62 Fed. Reg. 16,809 (Apr. 8, 1997) (issuing policy); 62 Fed. Reg. 46,363 (Sept. 2, 1997) (responding to comment received). As such cases arise, the Commission considers these leniency factors whenever a civil penalty may be assessed against a small business.

In addition, and beyond SBREFA requirements, the Commission established corporate leniency policies for violations of the Textile and Wool Rules, 67 Fed. Reg. 71,566 (Dec. 2, 2002), the Funeral Rule (through the Funeral Rule Offender Program), and the Franchise Rule (through the Franchise Rule Alternative Law Enforcement Program) that have helped in fostering a more cooperative, less threatening regulatory environment for small entities. These policies have helped increase overall compliance with the rules while minimizing the burden on business of correcting certain minor or inadvertent errors that are not likely to injure consumers.



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August 8, 2011

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Committee on Small Business
U.S. House of Representatives
2361 Rayburn House Office Building
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