

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Andrew N. Ferguson, Chair**
 Mark R. Meador

**ORDER DENYING THE PETITION OF MATT LIISTRO AND 124 OTHER
INDIVIDUALS FOR A RULEMAKING TO REPEAL SECTION 310.4(A)(2) OF THE
TELEMARKETING SALES RULE**

October 20, 2026

This Order resolves a Petition that Matt Liistro and 124 Other Individuals (“Petitioners”) filed with the Federal Trade Commission on May 6, 2023. The Petitioners request that the Commission expedite its ten-year review of the Telemarketing Sales Rule and repeal 16 C.F.R. § 310.4(a)(2), which establishes timeframes for requesting or receiving payment for goods or services represented to remove derogatory information from, or improve, a person’s credit history, record, or rating.¹ On June 14, 2023, the Commission published a Notice in the *Federal Register* requesting comments on this Petition.² The Commission received ninety-four comments in response to its request. Having reviewed the contents of the Petition and the comments, the Commission, for the reasons that follow, hereby denies the Petition.

¹ § 310.4(a)(2) reads as follows:

“(a) Abusive conduct generally. It is an abusive telemarketing act or practice and a violation of this part for any seller or telemarketer to engage in the following conduct:

...

(2) Requesting or receiving payment of any fee or consideration for goods or services represented to remove derogatory information from, or improve, a person's credit history, credit record, or credit rating until:

(i) The time frame in which the seller has represented all of the goods or services will be provided to that person has expired; and

(ii) The seller has provided the person with documentation in the form of a consumer report from a consumer reporting agency demonstrating that the promised results have been achieved, such report having been issued more than six months after the results were achieved. Nothing in this part should be construed to affect the requirement in the Fair Credit Reporting Act, 15 U.S.C. 1681, that a consumer report may only be obtained for a specified permissible purpose.”

² See Fed. Trade Comm’n, Pet. for Rulemaking of Matt Liistro and 124 Other Individuals, 88 Fed. Reg. 38765, <https://www.regulations.gov/docket/FTC-2023-0036/document>.

I. Background

A. Legal Authorities

1. The Telemarketing and Consumer Fraud and Abuse Prevention Act

Enacted in 1994, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”) targets deceptive and abusive telemarketing practices and directed the Commission to adopt a rule with anti-fraud and privacy protections for consumers receiving telephone solicitations to purchase goods or services.³ Specifically, the Telemarketing Act directed the Commission to issue a rule defining and prohibiting deceptive and abusive telemarketing acts or practices.⁴ In addition, the Telemarketing Act mandated that the FTC promulgate regulations addressing some specific practices, which it designated as “abusive.”⁵

2. The Telemarketing Sales Rule

Pursuant to the Telemarketing Act’s directive, the Commission promulgated the original TSR (16 C.F.R. part 310), including § 310.4(a)(2), in 1995.⁶ In 2010, the Commission revised the Rule to address the telemarketing of debt-relief services.⁷ The 2010 final rule defined debt-relief services, prohibited debt-relief providers from collecting fees until after services have been provided, required specific disclosures of material information about offered debt-relief services, prohibited specific misrepresentations about material aspects of debt-relief services, and extended the TSR’s coverage to include inbound calls made to debt-relief companies in response to general media advertisements.⁸ In this final rule, the Commission stated that these

³ 15 U.S.C. §§ 6101-6108. Subsequently, the USA PATRIOT Act, Pub. L. No. 107–56, 115 Stat. 272 (Oct. 26, 2001), expanded the Telemarketing Act’s definition of “telemarketing” to encompass calls soliciting charitable contributions, donations, or gifts of money or any other thing of value.

⁴ 15 U.S.C. § 6102(a).

⁵ *Id.* § 6102(a)(3).

⁶ Fed. Trade Comm’n, Telemarketing Sales Rule; Final Rule, 60 Fed. Reg. 43842 (Aug. 23, 1995).

⁷ Fed. Trade Comm’n, Telemarketing Sales Rule; Final Rule, 75 Fed. Reg. 48458 (Aug. 10, 2010).

⁸ *Id.*

amendments were necessary to protect consumers from deceptive or abusive practices in the telemarketing of debt-relief services.⁹

3. The Credit Repair Organizations Act

Enacted in 1996, the Credit Repair Organizations Act (“CROA”) prohibits untrue or misleading representations and requires certain affirmative disclosures in the offering or sale of “credit repair” services.¹⁰ It bars companies offering credit-repair services from demanding advance payment, requires that credit-repair contracts be in writing, and gives consumers certain contract cancellation rights.¹¹

B. Rule Review of the TSR

Since 1992, the Commission has conducted a regular, systematic review of all its rules and guides on a rotating basis.¹² The Commission places each of its rules and guides on a 10-year review calendar.¹³ In 2014, the Commission began a review of the TSR.¹⁴ During this review, the Commission amended the TSR to prohibit the use of certain payment methods in covered telemarketing transactions, expand the scope of the advance-fee ban for recovery services, and clarify certain provisions of the rule.¹⁵

On June 3, 2022, the Commission issued a Notice of Proposed Rulemaking seeking public comment on proposed amendments raised in the Rule review that would require telemarketers and sellers to maintain additional records of their telemarketing transactions,

⁹ *Id.*

¹⁰ 15 U.S.C. §§ 1679, 1679a–1679j.

¹¹ *Id.*

¹² <https://www.ftc.gov/enforcement/rulemaking/retrospective-review-ftc-rules-guides>. On November 30, 2023, the Commission published its updated ten-year regulatory review schedule. Fed. Trade Comm’n, Rule; Regulatory Review Schedule, 88 Fed. Reg. 83499 (Nov. 30, 2023).

¹³ *Id.*

¹⁴ Fed. Trade Comm’n, Telemarketing Sales Rule; Rule review and request for public comments, 79 Fed. Reg. 46732 (Aug. 11, 2014).

¹⁵ Fed. Trade Comm’n, Telemarketing Sales Rule; Final Rule, 80 Fed. Reg. 77520 (Dec. 14, 2015).

prohibit material misrepresentations and false or misleading statements in business-to-business (B2B) telemarketing transactions, and add a new definition for the term “previous donor.”¹⁶ This NPRM was adopted with modifications on April 16, 2024.¹⁷

As part of the 2014 Rule review, the Commission also issued an Advance Notice of Proposed Rulemaking on June 3, 2022, seeking public comment on whether the Rule should continue to exempt telemarketing calls to businesses, whether the Rule should require a notice and cancellation mechanism with negative-option sales, and whether to extend the Rule to apply to telemarketing calls that consumers initiate to a telemarketer (i.e., inbound telemarketing calls) regarding computer technical support services.¹⁸ In December 2024, the Commission concluded its 2014 Rule review of the TSR when it adopted a Final Rule extending the TSR’s applicability to inbound telemarketing calls in response to an advertisement through any medium or direct mail solicitation in which technical support products or services are offered for sale.¹⁹

II. Contents of Petition

The Petitioners request that the Commission expedite its ten-year review of the Telemarketing Sales Rule (“TSR”)²⁰ and repeal § 310.4(a)(2) of the Rule.²¹ In support of their

¹⁶ Fed. Trade Comm’n, Telemarketing Sales Rule; Notice of Proposed Rulemaking, 87 Fed. Reg. 33677 (June 3, 2022).

¹⁷ Fed. Trade Comm’n, Telemarketing Sales Rule; Final Rule, 89 Fed. Reg. 26760 (Apr. 16, 2024).

¹⁸ Fed. Trade Comm’n, Telemarketing Sales Rule; Advance Notice of Proposed Rulemaking, 87 Fed. Reg. 33662 (June 3, 2022); Fed. Trade Comm’n, Telemarketing Sales Rule; Notice of Proposed Rulemaking, 89 Fed. Reg. 26798 (Apr. 16, 2024).

¹⁹ Fed. Trade Comm’n, Telemarketing Sales Rule; Final Rule, 89 Fed. Reg. 99069 (Dec. 10, 2024).

²⁰ The Commission notes that the Petitioners filed their Petition in May 2023. In the Petition, they state that the most recent Rule review of the TSR began in 2014 and assume that a new TSR Rule review would begin in 2024. The Petitioners ask that this new “2024” Rule review be expedited in order to repeal § 310.4(a)(2).

²¹ Petition for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals, <https://www.regulations.gov/document/FTC-2023-0036-0002> [hereinafter “Petition”]. The names of the 124 additional petitioners can be found at pages 4 to 16 of the Petition. The Petition requests review of its proposals under Executive Order 13,563 (“Improving Regulation and Regulatory Review,” 76 Fed. Reg. 3821, Jan. 21, 2011) and the FTC’s Regulatory Reform Program. In October 2021, the Commission added 16 C.F.R. § 1.31 (“Procedures for addressing petitions”) to 16 C.F.R. part 1. *See* Fed. Trade Comm’n, Procedures for Responding to Petitions for Rulemaking, 86 Fed. Reg. 59851 (Oct. 29, 2021). This section sets out the Commission’s procedures for processing and responding to petitions for rulemaking. Because this Petition was submitted after this regulation was promulgated, this Petition is being processed according to the procedures set out in § 1.31.

request to expedite review of the TSR, the Petitioners reference the FTC’s 2011 prepared statement to Congress²² to demonstrate that the Commission has accelerated other Rule reviews.²³ To support their proposal to repeal a provision of the TSR, the Petitioners use the questions set forth on the FTC’s *Retrospective Review of FTC Rules and Guides* page²⁴ as a template for explaining why they believe § 310.4(a)(2) should be repealed.²⁵

The Petitioners argue that § 310.4(a)(2) is no longer necessary because the industry is complying with the Credit Repair Organizations Act (“CROA”).²⁶ The Petitioners add that because the “TSR was for the most part not enforced for the first 20 years, the credit repair industry assumed it was ‘replaced’ by [the] CROA.”²⁷

Additionally, the Petitioners contend that current enforcement of the TSR has created confusion in the marketplace.²⁸ They maintain that the TSR limits interactions between industry and consumers, and that consumers are thereby less informed about services Credit-Repair Organizations (“CROs”) provide.²⁹ The Petitioners argue that regulators charged with enforcing

²² See Prepared Statement of the Federal Trade Commission on the FTC’s Regulatory Reform Program, Twenty Years of Systematic Retrospective Rule Review & New Prospective Initiatives to Increase Public Participation and Reduce Burdens on Business at 1 (July 7, 2011), https://www.ftc.gov/sites/default/files/documents/public_statements/prepared-statement-federal-trade-commission-ftcs-regulatory-reform-program-twenty-years-systematic/110707regreview.pdf. This statement says, “the Commission does not wait ten years to review a rule or guide if there is reason to believe that changes may be appropriate.”

²³ Petition at 2.

²⁴ See <https://www.ftc.gov/enforcement/rulemaking/retrospective-review-ftc-rules-guides>. This page notes that when a rule comes under review, the Commission asks questions to help it determine if “it is time to update a rule or guide, leave it as is, or even rescind it.”

²⁵ See <https://www.ftc.gov/enforcement/rulemaking/retrospective-review-ftc-rules-guides>. These questions ask for information regarding the economic impact of the rule or guide; the continuing need for the rule or guide; if there are possible conflicts between the rule and other laws or regulations; and if there are technological, economic, or other industry changes that may have affected the rule.

²⁶ 15 U.S.C. §§ 1679, 1679a –1679j; Petition at 2.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* The Petition uses the term “Credit Service Organization (“CSO”).” *Id.* The Commission notes there is some ambiguity with the phrase “credit service” (i.e., that it could relate to the extension of credit or to credit monitoring or counseling services). Because of this ambiguity, this Order uses the term Credit-Repair Organization instead of Credit-Service Organization.

§ 310.4(a)(2) are unsure how it applies to enhanced communication modalities in the marketplace.³⁰

Additionally, the Petitioners claim that the requirements of § 310.4(a)(2) create unreasonable burdens on CROs that could “effectively end an entire industry.”³¹ The Petitioners argue requiring businesses to wait a full year³² after the end of their contract with consumers to collect payment creates a burden for the businesses and is an unsustainable business model.³³ They also assert that the requirement to obtain a client’s credit report creates another “impossible burden” on CROs.³⁴

Finally, the Petitioners contend that this provision was written at a time when the credit-bureau dispute process involved using paper forms mailed to the credit bureaus.³⁵ According to the Petitioners, delays during the mailing process sometimes caused information that had been removed from a consumer’s credit report to reappear (i.e., be “re-inserted”) into the report.³⁶ The Petitioners argue that advancements in technology since this provision was codified have made this issue “extremely rare.”³⁷ Petitioners argue that because this “regulation was aimed at protecting consumers from these later re-insertions, the purpose of the law is no longer applicable”³⁸ and therefore § 310.4(a)(2) should be repealed.

³⁰ *Id.* at 3.

³¹ *Id.* at 2.

³² The Commission notes that the TSR does not require a full year delay; § 310.4(a)(2) says regulated entities can seek payment once they demonstrate promised credit repair via a credit report “issued more than six months after the results were achieved.”

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 3.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

III. Substance of Comments

The Commission received 94 comments relating to this Petition.³⁹ Two comments do not address the merits of the Petition.⁴⁰ The remaining comments express support for the Petition and are mostly short.⁴¹ Many are two- or three-sentence statements explaining why the commenter supports the Petition.⁴² None of the comments reference studies or other empirical evidence to support the Petition.

Many comments suggest that the TSR harms consumers.⁴³ More specifically, several commenters state that this provision of the TSR harms consumers by limiting the ways CROs can communicate with potential clients and provide general education to consumers regarding credit reports and their rights.⁴⁴ Some suggest that this in turn harms consumers and the economy because consumers struggle to obtain better financing terms and employment opportunities.⁴⁵

Other comments focus on claimed harms to industry. One commenter states that the TSR's restrictions make it hard for companies to grow and provide quality services to

³⁹ See Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals. <https://www.regulations.gov/document/FTC-2023-0036-0001/comment>. The Commission notes that there are 95 comments in the public docket because FTC-2023-0036-0003 was inadvertently posted to this docket. It has since been withdrawn from the public docket.

⁴⁰ Comments FTC-2023-0036-0051 and FTC-2023-0036-0085 address issues beyond the scope of the petition. FTC-2023-0036-0051 appears to comment on a national credit card, and FTC-2023-0036-0085 comments on the Microsoft ABK merger.

⁴¹ See, e.g., Anonymous, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0004>.

⁴² See, e.g., Anonymous, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0013>.

⁴³ See, e.g., Brian Diez, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0005>.

⁴⁴ See, e.g., Brian Del Terzo, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0074> [hereinafter "Del Terzo Cmt."]

⁴⁵ See, e.g., Nationwide Credit Solutions, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (July 12, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0066>.

consumers.⁴⁶ Multiple commenters allege that the regulation’s delayed-payment provision is unfair to CROs and forces CROs to adopt an unsustainable business model.⁴⁷ Another commenter states that the industry has grown over the past several years so that now “many jobs and economic activities depend on this industry.”⁴⁸ Another argues that the TSR “may restrict innovation and hinder the ability of legitimate CROs to adapt to changing market dynamics.”⁴⁹ This commenter contends “[a] more flexible framework would enable responsible CROs to provide effective and efficient services while maintaining compliance.”⁵⁰

Several commenters argue the TSR is obsolete.⁵¹ Some of these commenters assert evolving technology,⁵² inflexibility of the provision, and incomplete oversight⁵³ have rendered this provision out-of-date. Other commenters suggest that the TSR was superseded by the CROA.⁵⁴ Others argue that the TSR is no longer necessary because the industry is complying with the CROA.⁵⁵

⁴⁶ Del Terzo Cmt.

⁴⁷ See, e.g., Ramsey Coulter, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0006>.

⁴⁸ Shapiro Hurst & Associates LLC., Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (July 12, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0064>. [hereinafter “Shapiro Cmt.”]

⁴⁹ Anonymous, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0016>. [hereinafter “Anonymous No. 16 Cmt.”]

⁵⁰ *Id.*

⁵¹ See, e.g., John McCall, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (July 13, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0009>.

⁵² See, e.g., NA, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0078>.

⁵³ See, e.g., Anonymous No. 16 Cmt.

⁵⁴ See, e.g., Marie Lecrivain, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 26, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0033>.

⁵⁵ See, e.g., Helping Others Progress Economically, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0024>.

Relatedly, several commenters claim that the CROA and TSR conflict, which creates confusion and harms the marketplace.⁵⁶ Some of these comments suggest that the conflict makes it impossible to comply with both requirements, thereby injuring legitimate businesses.⁵⁷ One commenter states that the commenter closed a business because of the TSR.⁵⁸

Some commenters offer alternatives to the TSR that are not addressed in the Petition. A few comments suggest that the Commission establish and more vigorously enforce educational⁵⁹ or licensing requirements for CROs and their staff.⁶⁰ For example, one commenter suggests establishing an ethics requirement.⁶¹ Another commenter suggests that the Commission revise the TSR to be more flexible and adaptable, such as by: allowing expedited payment cycles so that businesses receive compensation “in a reasonable timeframe”; allowing the industry to adapt telemarketing practices to emerging technologies; allowing for proportional penalties;⁶² and establishing more frequent Rule review cycles.⁶³ Other comments suggest that the Commission

⁵⁶ See, e.g., Chris Hartman, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0007>.

⁵⁷ See, e.g., ShowME Credit Solutions, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0020>.

⁵⁸ Nicholas Proffer, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 26, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0043> [hereinafter “Proffer Cmt.”] (“This rule needs to be changed, this has affected and impacted my business catastrophically [sic], making me shut down my business. Please amend this.”).

⁵⁹ Kathleen Bavart, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0018> and Anonymous, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 26, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0036>. [hereinafter “Anonymous No. 36 Cmt.”]

⁶⁰ Kyle Frasier, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 23, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0021>. [hereinafter “Frasier Cmt.”]

⁶¹ Anonymous No. 36 Cmt.

⁶² The Commission may seek civil penalties under the FTC Act for knowing violations of the Telemarketing Sales Rule, see 15 U.S.C. §§ 45(m)(1), 6102(c). In assessing such civil penalties, courts “shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.” See 15 U.S.C. § 45(m)(1)(C).

⁶³ Anonymous, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (Nov. 1, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0095>.

investigate or enforce rules against businesses in related industries, such as credit bureaus,⁶⁴ law firms,⁶⁵ and software providers and payment processors.⁶⁶

IV. The Commission's Resolution of the Petition

The Petitioners and commenters raise several arguments that § 310.4(a)(2) should be repealed. First, the Petitioners argue that the industry is complying with the CROA and therefore this provision of the TSR is no longer necessary.⁶⁷ They also claim that the purportedly limited enforcement of this provision since it was first promulgated supports their view that § 310.4(a)(2) is outdated and should be repealed.⁶⁸ The Commission's experience, however, contradicts both such contentions. Contrary to the Petitioners' claim, the Commission has brought several law enforcement actions against CROs and their principals for alleged violations of the CROA and the TSR,⁶⁹ and § 310.4(a)(2) of the TSR has been enforced against CROs since the early years following its enactment.⁷⁰ In addition, the Commission receives thousands of complaints each year pertaining to advance payment for credit-repair services, which is prohibited both by the TSR and the CROA.⁷¹

The Petitioners also assert that § 310.4(a)(2)'s requirement that CROs obtain a client's

⁶⁴ See, e.g., Steven Mays, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (June 26, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0035>.

⁶⁵ Brandy Jones, Cmt. on Pet. for Rulemaking to Repeal Section 310.4(a)(2) of the Telemarketing Sales Rule by Matt Liistro and 124 other individuals (July 11, 2023); <https://www.regulations.gov/document/FTC-2023-0036-0060>.

⁶⁶ Frasier Cmt.

⁶⁷ Petition at 2.

⁶⁸ *Id.*

⁶⁹ See, e.g., Complaint, *FTC v. Fin. Edu. Servs., Inc.*, No. 2:22-cv-11120-BAF-APP (E.D. Mich. May 23, 2022) (alleging seven counts of CROA violations and four counts of TSR violations); *FTC v. Michael Rando et al., d/b/a The Credit Game*, No. 3:22-cv-00487-TJC-MCR (M.D. Fla. May 2, 2022) (same); Complaint, *United States v. Turbo Sols. Inc.*, No. 4:22-mc-369 (S.D. Tex. Mar. 1, 2022) (alleging, by authorization of the Federal Trade Commission to the Attorney General, seven counts of CROA violations and two counts of TSR violations).

⁷⁰ See, e.g., *In re Nat'l Credit Mgmt. Grp.*, 21 F. Supp. 2d 424 (D.N.J. 1998); *Tenn. v. Lexington Law Firms*, No. 3:96-cv-0344, 1997 WL 367409 (M.D. Tenn. May 14, 1997).

⁷¹ See, e.g., Fed. Trade Comm'n, "Consumer Sentinel Network Data Book 2024" app. B2 at 85 (Mar. 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/csn-annual-data-book-2024.pdf (describing such consumer reports in 2022, 2023, and 2024).

credit report creates an “impossible burden” on CROs.⁷² However, under the Fair Credit Reporting Act (“FCRA”), a consumer reporting agency can provide a CRO with a consumer’s credit report if the CRO will use it for a permissible purpose under the FCRA.⁷³ It is common for companies to obtain consumer reports when they have a permissible purpose, and moreover, the cost to companies to obtain such reports is minimal and not overly burdensome.⁷⁴ The Petitioners also contend that the TSR limits interactions between CROs and consumers, which results in consumers being less informed about CRO services. However, the challenged provision—§ 310.4(a)(2)—only establishes timeframes for requesting or receiving payment for goods or services;⁷⁵ that provision does not regulate what CROs can say to consumers about their services.⁷⁶

Additionally, the Petitioners and several commenters argue that the CROA has “replaced”⁷⁷ or repealed § 310.4(a)(2) of the TSR. However, the CROA does not, by its terms, specifically repeal or replace any portion of the Telemarketing Act or its mandated regulation—the TSR. Furthermore, the CROA does not create any irreconcilable conflict and is capable of co-existing with the Telemarketing Act and the TSR.⁷⁸ Under § 310.4(a)(2), a telemarketer of credit-repair services may not request or receive payment until at least six months after promised results have been achieved. The CROA provides that “[n]o credit repair organization may charge or receive any money or other valuable consideration for the performance of any service which

⁷² Petition at 2.

⁷³ 15 U.S.C. § 1681b(a).

⁷⁴ See e.g., Tim Maxwell, *Everything You Need to Know About Mortgage Fees*, Experian (July 18, 2023), <https://www.experian.com/blogs/ask-experian/everything-you-need-to-know-about-mortgage-fees/> (“The credit report fee, which typically costs around \$35, is a fee lenders charge to pull your credit report from at least two credit bureaus.”).

⁷⁵ 16 C.F.R. § 310.4(a)(2).

⁷⁶ Note that other provisions of the TSR do regulate communications made in the course of telemarketing debt-relief services. See, e.g., 16 C.F.R. § 310.3(a)(1)(viii), (a)(2)(x).

⁷⁷ Petition at 2.

⁷⁸ *Radzanower v. Touche Ross & Co.*, 426 U.S. 148, 154-55 (1976).

the credit repair organization has agreed to perform for any consumer before such service is fully performed.”⁷⁹ If a credit-repair organization complies with the timeline of the advance-fee provision of the TSR, it will necessarily also comply with the corresponding provision of the CROA. “The TSR simply adds a precondition to requesting payment, namely that the organization provide proof that the services were rendered more than six months after performance.”⁸⁰ Because the TSR and CROA are capable of mutual coexistence—the relevant provisions may be complied with concurrently—there is no irreconcilable conflict.⁸¹

Moreover, there are good reasons for the two separate prohibitions on advance payments to exist side-by-side. The risk of deceptive or abusive practices, especially in the credit-repair service industry, increases significantly when those services are offered through telemarketing. Under those circumstances, consumers typically would have less of an opportunity to scrutinize and verify any representations made over the phone before they are induced to agree to purchasing those services. The TSR provides additional protection for consumers of credit-repair services when those services are *telemarketed*: i.e., that payment must await not only the rendering of those services, but also evidence that the consumer’s credit was in fact repaired.

Neither the Petitioners nor the commenters have provided evidence or studies supporting their statements regarding the negative impact of the TSR on the CROs. While one commenter stated that the commenter closed a business because of the TSR, this statement provides no details explaining how the Rule affected the commenter’s business or that the business closed

⁷⁹ 15 U.S.C. § 1679b(b).

⁸⁰ *CFPB v. Commonwealth Equity Grp., LLC*, 554 F. Supp. 3d 202, 207 (D. Mass. 2021).

⁸¹ *Id.*; see also *CFPB v. Prime Mktg. Holdings, LLC*, 16-cv-7111, 2016 WL 10516097, at *9 (C.D. Cal. Nov. 15, 2016).

because of it.⁸² Therefore, the Commission finds that no evidence was provided to suggest the need to revisit this provision.

Overall, Petitioners cite no evidence to support their contention that the costs of complying with 16 C.F.R. § 310.4(a)(2) are overly burdensome; the Commission's enforcement experience demonstrates that there is substantial continuing need for its protections; and there is no irreconcilable conflict between this provision and the CROA or the FCRA. For these reasons, the Commission declines Petitioners' request to initiate a rulemaking proceeding to repeal 16 C.F.R. § 310.4(a)(2), either separately or in the context of a new Rule review of the TSR.

For the foregoing reasons, the Petition is DENIED.

By the Commission.

April J. Tabor
Secretary

SEAL
ISSUED: October 20, 2026

⁸² Proffer Cmt.