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March 28, 2002

Office of the Secretary
Room 159
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington DC 20580

Re: Telemarketing Rulemaking - Comment. FTC File No. R411001

Dear Committee Members:

Assurant Group respectfully submits these comments to the Commission's proposed revisions to the Telemarketing Sales Rule ("Rule"). Assurant Group is a servicemark for numerous companies operating under the financial services company Fortis, Inc. Assurant Group provides specialty insurance, membership and extended service programs through its insurance and specialty services member companies. As product developers and underwriters, we market these programs on a wholesale basis through strategic marketing partnerships with major financial institutions, retailers, manufactured housing and automobile dealers, utility companies and other entities which provide consumer financing as part of their business. Assurant Group companies also market life, health and property & casualty programs through partnerships with agents and managing general agents.

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Assurant Group relies heavily on inbound and outbound telemarketing as a means to notify consumers of our products, and to effectuate sales transactions. Assurant Group contracts outbound telemarketing service providers to contact consumers on our behalf. We strive to select high-quality outbound service providers, which will provide all customers with the appropriate levels of respect, courtesy, and professionalism. In support of that goal, Assurant Group has created a *Non-Negotiable Standards of Excellence* handbook, the contents of which all contracted agencies must follow. This document clearly specifies the expected behavior of all Telemarketing Sales Representatives ("TSRs") who call on behalf of Assurant Group, and deviations from these guidelines are not accepted. Additionally, we have invested in internal management teams and quality assurance functions to monitor and audit the activities of our telemarketing efforts at these outsourced agencies.

It is with this background that Assurant Group respectfully submits the following comments.

Executive Summary

The proposed Rule must be modified significantly. The proposed Rule: (1) places restrictions on outbound telemarketing that would significantly damage our ability to function as an organization without a corresponding benefit to consumers; and (2) could conceivably increase the potential for consumer fraud by encouraging customers to provide account information to unknown entities.

Specific Provisions of the Proposed Rule

A. Scope:

The scope of the proposed Rule extends far beyond the authority given to the Federal Trade Commission ("FTC") by Congress in the Consumer Fraud and Protection Act ("the Act"). In the Act, Congress specifically granted the FTC the authority to "…prescribe rules prohibiting deceptive telemarketing acts or practices and other abusive telemarketing acts or practices." (15 U.S.C. § 6102). The clear intent of Congress was to identify and regulate illegitimate, unscrupulous telemarketing practices that intended to deceive consumers or were clearly abusive. This is a commendable goal, and Assurant Group fully supports the original Telemarketing Sales Rule, and other measures taken to protect consumes from truly abusive, fraudulent, or deceptive practices. However, the proposed Rule would include legitimate telemarketing practices in the definition of deceptive or abusive practices.

B. Definitions

Billing Information: The definition of "billing information" as defined in the proposed Rule is far too broad. Encrypting or otherwise protecting account information should be exempt from the prohibition on using preacquired account information. Furthermore, certain types of consumer accounts (e.g. utility account numbers) are generally reference numbers, not a true billing mechanism by which charges can be posted to a consumer's account. The ability to transfer such information to sellers or telemarketers allows the correct customer to be billed, with little error. Without this information, account numbers can be mis-keyed, or customers can use false or misleading information to make a purchase. If consumers were asked to provide account information, or if telemarketers were asked to confirm specific account numbers, individual TSRs would have access to sensitive account information. This is not currently the case using preacquired account information, which is generally encrypted and shielded from the TSRs. Finally, from a practical standpoint, consumers do not generally have all of their account numbers in a central location to quickly reference a particular account number.

Clearly, consumers should understand the terms of the offer, the associated price, and which account would be billed prior to making a final buying decision over the telephone. A method to ensure consumer acceptance is to secure another piece of information unknown to the telemarketer, but known to the consumer (e.g. date of birth, place of birth, etc.).

Outbound Telephone Call: The definition for an outbound telephone call should not be expanded to include inbound telephone calls transferred from one seller to another, or where multiple products are sold during the course of a single telephone call. It would be extremely difficult for telemarketers to apply outbound telemarketing rules to these situations. During inbound calls, representatives often have limited information about the consumer, so they are unable to make the same qualified decisions that an outbound representative could make. In order to best serve the consumer representatives must identify their needs during the course of a single telephone call and to advise consumers of products that are better suited to fit the consumer's lifestyle and financial needs. Proper disclosure of price, term, and product information, along with consumer acceptance should be sufficient to protect consumers from deceptive practices. . Moreover, placing additional restrictions on cross selling or call transfers would likely increase the volume of calls a consumer receives. Instead of offering two products during a telephone call, companies could conceivably be required to place two telephone calls to consumers in order to offer the same two products, if marketing expense did not prohibit this practice. The increase in call volume is not a likely intent of the proposed Rule, but could be an effect.

Abusive Telemarketing Acts or Practices: To expand on our earlier comments, requiring customers to disclose credit card or other account numbers to callers opens the doors for unscrupulous fraud artists offering false products in exchange for consumers willingly parting with their credit card numbers. Preacquired account numbers often separate the legitimate businesses from the illegitimate ones. Few consumers are willing to give their credit card numbers over the telephone to an unknown (or known) caller, and we would encourage that consumers continue to be warned about giving this information to any caller. Instead, allowing consumers to make a purchase without giving sensitive information protects the consumer, the telemarketer, and the seller against fraud.

It is clear that the abuse the FTC seeks to prevent is the use of preacquired account information to charge consumers for products without making clear to the consumer that he/she is actually making a purchase. Rather than remedy this abuse by requiring that consumers clearly be informed that the account will be charged, this proposal places significant barriers on telemarketers and requires significant extra effort from consumers who want to buy these products. (E.g. Putting down the telephone, finding a purse or wallet, returning to the telephone, and providing such information.)

It is Assurant Group's position that Gramm-Leach-Bliley sufficiently protects consumers, and that the proposed Rule would provide additional restrictions that are overly broad and onerous for all concerned: the telemarketers, the sellers, and the consumers.

Caller ID Information: In general, Assurant Group does not oppose displaying Caller ID information, particularly information about the seller. The challenge, as we understand it, is the real technical limitations imposed by T-1 lines. As a result, we feel establishing a date to comply with Caller ID requirements is premature. Additional study should be done relative to technology and the related costs of bringing this technology in line. We are pleased that Caller ID information could be modified to include the seller's name or other information of more use to consumers. However, if changes to the displayed information on Caller ID units is permitted, we fear illegitimate businesses are likely to misuse this technological capability to lure customers into a false sense of security when they see the name of a trusted financial institution on their Caller ID unit. We would like to see stronger language designed to prevent the misapplication of this technology, perhaps by requiring proof of written consent by the displayed party when telephone companies modify the displayed information.

Denying or interfering with DNC requests: We agree with the spirit of the comments in the proposed Rule, and require that our outbound telemarketing partners follow these rules today. As a point of clarification, when a customer requests to be placed on a "Do Not Call" list, they are placed on the DNC lists for the telemarketer or seller, and do not take further action with that customer's information. Consumers must still take affirmative action to place themselves on applicable state or other lists if desired. The comments in the proposed Rule are vague as to whether a telemarketer is expected to forward this information into a national DNC database, which would be cumbersome and would circumvent the protection that only line subscribers should be allowed to place themselves on a DNC list.

Do Not Call Registry: The Do Not Call registry is unnecessary and onerous as drafted. Customers already have a national do not call list – the DMA's Telephone Preference Survey. Additionally, individual states have enacted DNC laws. This list would provide unnecessary duplication and expense to the process.

Telemarketing is a way to market valuable products not economically feasible through normal marketing channels. Popular opinion of telemarketing may be lacking, yet many consumers find telemarketing calls beneficial as evidenced by the continued volume of purchases made through this medium. Due to the expense of a telemarketing call, companies cannot afford to blindly call consumers, nor can they afford to call customers who specifically indicated that they do not want calls. However, many customers who would place themselves on a national do not call list currently enjoy products they purchased via that channel.

In theory, everyone on a Do Not Call list expressly does not want to receive telephone solicitations. However, many of these customers would not identify a renewal of magazine subscriptions, a call from their local insurance agent to increase life insurance coverage or renew a policy that is about to lapse, or many other calls as express solicitations. Likewise, customers receive benefits from purchasing telemarketed products. When the utility industry was deregulated, telemarketing served a dual purpose: to inform customers of their new options, and to sell less expensive product options. By significantly reducing the primary medium for selling telemarketed products, the proposed Rule risks eliminating various products, and reducing the overall breadth of market choices available to consumers.

We envision the prospective costs of a National DNC registry to be quite large, but the FTC has not provided enough information about prospective costs or procedures to allow industry to accurately forecast the impact.

If implemented, a DNC registry must be self-sustaining. Customers should be required to pay a small fee to support the infrastructure on such system, instead of shifting the burden to taxpayers that elect not to add their telephone number to the registry, or to industry. Phone numbers must be removed from the list immediately if the phone number is reassigned, and customers who have changed telephone numbers must reregister. The approach of requiring a fee from the consumer (adopted by many states) has worked generally well, assuming the fees charged to the consumer for this service is neither overly expensive nor free. Only the line subscriber should be allowed to add his or her own number(s) to the registry.

Consumers should be required to re-register once every two years, as lifestyle changes and buying habits change over time, and consumer needs may change accordingly.

Third parties should <u>not</u> be allowed to collect and forward requests on behalf of consumers, because it adds an unnecessary layer of information, with the potential for fraud and/or information that does not get forwarded to the registry in a timely or accurate manner. Allowing consumers to specify times of day or days that they allow telemarketing calls adds too many logistic difficulties to be workable. Current technology does not allow such distinctions to be made at the individual consumer level. If a registry was implemented, sellers and charitable contributions should be treated in an equitable fashion.

<u>Predictive Dialers</u>: The elimination of abandoned calls would remove all efficiencies of predictive dialing equipment. A three to five percent maximum abandonment rate could be established, and this standard is consistent with general industry guidelines. This maximum is auditable, using reports generated by predictive dialing systems.

The option to play a recorded message in lieu of disconnecting the telephone is available in most of today's technology. Most sellers and telemarketers have opted to hang up rather than play a recorded message, with the understanding that a recorded message would be more of an annoyance to consumers than the hang-up.

Assurant Group thanks the committee for the opportunity to comment on the proposed Rule. We appreciate your consideration of our concerns.

Sincerely,

David Dufek
Director, Consumer Contact Management
Assurant Group