

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

*In The Matter Of Telemarketing Rulemaking -*

**FTC File No. R411001**

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**COMMENTS OF NOBLE SYSTEMS ON THE  
PROPOSED REVISIONS TO THE  
TELEMARKETING SALES RULE**

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**INTRODUCTION**

Noble Systems is a company based in Atlanta, GA who provides total technology solutions for outbound and inbound call centers. More than 500 client installations, primarily based in the US, conduct business from feature-rich Noble Systems workstations.

Over 2 million customer calls are managed every day through our full spectrum of ACD, Predictive Dialing, Blended Call Processing, Digital Recording and CRM systems. With corporate headquarters in Atlanta, Noble Systems also has offices in the United Kingdom, France, Australia, Canada, and India to manage the rapidly growing international demand for our unique solutions. We will generate more than \$18 million in direct sales revenue this year.

In the US we provide employment to more than 110 people that design, develop, manage, market, support, and deliver our technology to call centers. About 13,000 people are employed in the US as call center agents that use our systems as a means for making their living in supporting customer telephone calls.

We are writing to offer comments concerning the proposed revisions to the Telemarketing Sales Rule.

We support the recent efforts of the FTC to investigate and eliminate fraud in the industry and support the Telemarketing Sales Rule as drafted. However, we cannot

support the revisions proposed by the Commission in this proceeding. The proposed revisions place many burdensome restrictions on companies like ours that provide technology solutions to legitimate sales and marketing organizations. For the reasons set forth below we are concerned that the FTC's attempts will do nothing to curtail the abusive and deceptive telemarketing practices of a few bad actors, but will penalize the business practices of reputable companies and will have a disastrous impact on our company's ability to continue to market call center technology systems.

In particular we oppose the following provisions proposed by the FTC:

(1) **Creation of a National Do-Not-Call Registry:**

- A.) Federal law already provides an efficient means for consumers to remove their names from telemarketer's lists via the Do-Not-Call lists. In contrast to the proposed FTC registry, the existing DNC system empowers consumers to make their own decisions. Consumers and consumers alone are given the authority to determine which calls they will accept and which they will block. While the FTC contends that it will offer consumers a similar program through the ability to list companies they will accept calls from, that is clearly an unrealistic option that will cost the FTC too much money to operate. Operating an FTC Registry will not only cost the FTC money, it will add cost to consumer purchase prices by adding cost to corporations working strictly in the Registry. It will also add a heavier burden on the unemployment costs on the Federal and State levels even if some of the jobs get transferred to call centers that we serve.
- B.) The industry has also attempted to provide consumers with a one-stop service to remove their names from all calling lists. The DMA's Telephone Preference Service offers consumers an easy, free, nationwide Do-Not-Call system that has already been created and will not require additional money to be expended by the FTC. In our view, it would be much more effective and less costly to expand and promote the DNC system already in place than try and invent a new system.
- C.) The states have already moved to address the perceived loopholes in the existing Do-Not-Call framework. Twenty states currently have DNC lists and more are being added as we speak. The states, which are in the best position to offer solutions to the concerns raised by their citizens, have looked at this situation and acted in a way that is appropriate for their constituents. An FTC list would be a waste of taxpayer money to provide a service that is already offered to more than 60% of America's citizens.

- D.) The impact of such a list would negatively impact the number of people we employ. If the national DNC registry is established it is likely that we will see a portion of our 110 employees laid off. The laid off employees would more than likely not transfer into other jobs and would be a Burden to the State, the federal Government and the consumers in that State, in Unemployment cost and higher taxing dollars and higher consumer prices.
- E.) Operating an FTC Registry will not only cost the FTC money, it will add cost to consumer purchase prices by adding cost to corporations working strictly in the Registry, it will add a heavier burden on the Unemployment costs on the Federal and State levels even if some of the jobs get transferred to the companies that we service.

(2) **Use of Preacquired Account Information**

- A.) There is nothing inherently fraudulent or deceptive about the use of preacquired account information in any sales and marketing programs, much less telemarketing. It is a widely used practice that provides consumers with easy access to goods and services. While there are certainly instances where it can be misused, those potential problems do not support a rule that prohibits the use of such information. As long as a marketer has obtained the express consent of a consumer to use the same information, the practice should be considered legal and ethical. We support the guidelines established by the ERA for the use of preacquired account information.

(3) **Definition of Outbound Call**

- A.) There is no reason to redefine an outbound call simply because the call may include the offer of products or services from more than one seller. Requiring telemarketers to repeat certain disclosures, especially the fact that the call is to sell goods or services is a waste of time that will result in increased costs for marketers with no value to consumers. In nearly every case, whether an inbound or outbound call the additional disclosures are unnecessary. In an inbound call, the consumer knows the company who they are calling, and knows the call is about the consumer purchasing goods or services. Repeating that for additional products or services makes no sense and will likely prove to be very annoying to consumers.

With an outbound call, the consumer has already been informed that the call is to sell goods or services. They are clearly aware of the

nature of the call. Requiring these same disclosures to be repeated will again cause consumer annoyance and increased costs for business.

(4) **Blocking of Caller ID**

- A.) While we support the concept of a prohibition on blocking Caller-ID, it must be clear that the prohibited practice is the deliberate manipulation of the caller-ID signal. As long as no overt actions are taken to disrupt the information, there is no violation.

(5) **Payment Issues**

- A.) When determining what constituted “express verifiable authorization” under the original rule, the Commission noted three distinct methods for obtaining this authorization using demand drafts. The reasoning at the time was that consumers were not used to these novel payment methods and needed additional disclosures so that they understood that they were being charged for goods or services. Why then are other “new” or “novel” payment methods being treated with a higher standard of scrutiny. As long as the consumer has a clear understanding that they will be billed for a product or service, and that they will be billed to a particular credit card, debit card, bank account, utility bill, etc, the transaction should be valid and enforceable. There is nothing inherently fraudulent, abusive or problematic with the written confirmation prior to submission method of obtaining such authorization, and this method should be retained in the Rule.

(6) **Charitable Solicitations**

- A.) The Commission should not treat calls made on behalf of charitable organizations the same as calls made for a commercial purpose.

(7) **Predictive Dialers**

- A.) Predictive dialing devices are used by many telemarketing companies and make operation of such businesses much more cost effective by increasing productivity. Increased efficiency in marketing products and services over the phone through the use of predictive dialers helps to reduce costs and ultimately saves consumers money. Any regulation that would render this technology unusable would result in significant, perhaps unacceptable, cost increases to business and, ultimately, the consumer. Predictive dialers can typically increase productivity by over 30%. Predictive dialers make it possible to efficiently call during daytime hours when the percent of no answers and calling machines are higher. Predictive dialers contribute to efficient sales channels. Rather than render this tool useless we can all

profit from working together to establish reasonable guidelines for managing Predicative dialers, which can be enforced throughout the industry.

We respect the time the Commission has invested in studying these issues and its commitment to continue modifying these proposals. There must be balance between public safety and security and the legitimate needs of businesses to conduct interstate commerce in legal and efficient ways.

We urge the Commission take a balanced approach, which safeguards individual citizens and the overall business community, which employs the telephone to reach its customers, distribute products and provide services. To do otherwise will have a very negative impact on jobs and the economy as a whole. Destroying an industry because of a few bad operators is counterproductive.

Thank you for your consideration and we would be happy to assist the Commission in the future.

Randy Ourt  
Vice President  
Noble Systems  
March 27, 2002