

June 28, 2002

Mr. David S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: Telemarketing Rulemaking – FTC File No. R411001

Dear Secretary Clark:

The Newspaper Association of America respectfully submits the following comments with respect to three issues that were raised and discussed at the Federal Trade Commission's forum on June 5-7 regarding the proposed changes to the Telemarketing Sales Rule. NAA participated in the three-day forum in addition to filing comments during the initial comment period.

As NAA expressed in its earlier comments, it is imperative to newspaper telemarketing efforts that, at a minimum, the FTC adopt an exemption to the national do-not-call list that will allow newspapers to contact individuals with whom they have an "established business relationship." NAA supports the definition of an established business relationship that has been put forth by the Direct Marketing Association, the Magazine Publishers of America, the Promotion Marketing Association, the National Retail Federation and the Electronic Retailing Association (hereinafter the Associations).

The Associations offer the following as a definition of "established business relationship:"

An "established or prior business relationship" shall exist between a seller and a consumer when, within the 36-month period prior to the outbound telephone call, there has been:

1. a purchase transaction;
2. a transaction involving the provision, free of charge, of information, goods or services requested by the consumer;

3. the acceptance of an incentive by the consumer; or
4. the participation in a promotion by the consumer.

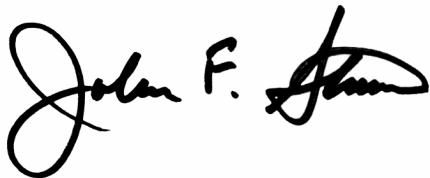
Calls to individuals where such a relationship exists would be exempt from any do-not-call list.

NAA also agrees with the Associations' position with respect to predictive dialers. If the Commission decides that an abandoned call rate is necessary, it should be no less than 5 percent. An abandoned call rate that is less than 5 percent will cause significant hardship on newspapers, especially smaller newspapers. For example, California newspapers, both large and small, are struggling to comply with California's 3 percent rate, which goes into effect on July 1, 2002, and are still assessing the financial impact of such a rate, but they believe that it will be negative.

Finally, NAA is troubled conceptually with the idea of harmonizing state and national do-not-call lists. The discussion at the forum did not fully vet how it would work or what impact such harmonization would have on intrastate telemarketing, which is outside the jurisdiction of the Federal Trade Commission. The vast majority of newspapers do not conduct national telemarketing campaigns but rather focus their efforts on their local communities, whether it be intrastate or across a state line. If the Commission and the states do agree to some type of harmonization, we strongly urge that state exemptions that have been granted, or will be granted, for intrastate telemarketing remain in place. State legislatures or the appropriate regulatory agency have granted newspapers in eight states exemptions from do-not-call rules and regulations or telemarketing laws in general. We believe the Federal Trade Commission efforts should not undermine those states that have recognized the importance of newspapers to local communities.

Thank you in advance for your consideration of NAA's views.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. [unclear]". The signature is written in a cursive style with a large, looping initial "J".