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Congress of the United States
House of Representatives
Washington, DC 20515-3518

FEDERAL TRADE COMMISSION
2 AUG - 7 PM 2002
NO. 0000010000

July 26, 2002

Honorable Timothy Muris
Chairman
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580

Dear Chairman Muris:

We have recently reviewed portions of the transcript of the public forum held on the proposed amendments to the telemarketing sales rule. Particularly interesting were some of the discussions about the transfer of billing information for marketing purposes. We believe that the proposed rule goes too far in eliminating the use of that type of billing practice in marketing products to consumers. It exceeds the scope of the FTC's authority and is not needed in light of existing consumer protections.

First, the rationale for the proposal really addresses a question of privacy as opposed to unfair and deceptive trade practices. The Congress dealt extensively with consumer privacy with respect to financial institutions in the Gramm-Leach-Bliley Act. Federal regulatory agencies, including the FTC, and most state insurance commissioners have all issued regulations implementing Gramm-Leach-Bliley's privacy provisions. Those regulations permit much of what would be prohibited by the FTC's proposal on transfer of billing information or so called "pre-acquired billing information". (Pre-acquired billing information is commonly used to facilitate the ability of consumers to purchase items in direct marketing channels.)

Second, there are a number of existing self-regulatory practices that provide important consumer protections against unauthorized account billing, for example:

- Private firms have adopted strict policies related to the disclosure of nonpublic personal information, including account numbers, in compliance with Gramm-Leach-Bliley and the implementing regulations. Additionally, trade associations such as the Electronic Retailing Association and individual companies have adopted best practices guidelines with respect to telemarketing.
- Credit card merchant processors impose strict charge-back limitations that provide consumers with an effective remedy in the event of improper charges.

- Many companies involved in telemarketing sales practices have very liberal "no questions asked" refund policies.

Third, it appears from the record that the staff has not properly defined what activity in this area the rule is intended to regulate. This lack of clarity and knowledge of the activities being regulated would result in many unintended consequences and could destroy an important aspect of consumer choice from direct marketing.

We understand that some of the testimony at the FTC's forum including a former FTC Chairman, Jim Miller, pointed to the significant costs to telemarketers and consumers that would result if the FTC's proposal on so called pre-acquired billing information were to be adopted. Mr. Miller's estimate of the economic effects of the proposed rule is \$1.5 billion, costs which will be passed on to consumers. Especially at a time when our economy is stressed, regulators should be doing everything they can to protect viable markets, including those associated with the direct marketing industry. For the above reasons, we urge you to drop the proposed amendment to the telemarketing sales rule related to the use of so-called "pre-acquired billing information"

Sincerely,

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Max Sandlin MAX SANDLIN

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