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“Do Not Call” Registry Lives On

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The national Do-Not-Call Registry (Registry) was opened in June, 2003, pursuant to the Telephone Consumer Protection Act of 1991. Commercial telemarketing calls are forbidden to residential numbers entered into the Registry by consumers. The initial regulations required telemarketers not to call any number in the Registry for five years after that number was registered. That meant that each number would have to be re-registered every five years, some as early as June, 2008, to avoid resumption of telemarketing calls.

With over 157 million numbers registered, Congress anticipated the public discontent that would arise from the chore of re-registering or the onslaught of telemarketing calls after failure to re-register. Congress thus enacted the Do-Not-Call Improvement Act of 2007, which became law in February, 2008, prohibiting the automatic removal of registered numbers. The FCC has now responded with implementing regulations, extending the life of registrations indefinitely. Numbers that have been registered will remain on the list until they are cancelled by the consumer or removed by the database administrator because they have been disconnected or reassigned to a new customer.

The 2008 law requires the Federal Trade Commission to check telephone numbers on the Registry periodically against national or other appropriate databases and to remove numbers that have been disconnected or reassigned. Local Exchange Carriers are encouraged to report disconnections and reassignments to the FTC on a timely and accurate basis. The database administrator currently compares the Registry to national number databases monthly. A customer to whom a number is reassigned may, of course, re-enter that number in the Registry.

The do-not-call obligation does not apply to surveys, market research, and political and religious speech calls. It also does not apply to: calls on behalf of tax-exempt nonprofit organizations; calls to persons with whom a seller or telemarketer has an established business relationship or where the person called has made an inquiry about a product or service; and calls to persons with whom a marketer has a personal relationship. The

calling restriction is also limited to registered residential numbers. Calls are forbidden to all wireless numbers without any need to register. Calls to business lines are not restricted. Some wireless and business numbers have been entered into the Registry. The FCC declined to require such numbers to be removed, indicating that inclusion of a wireless number is harmless, and calls to business numbers are permitted even if those numbers are in the Registry.

The FCC is currently considering the relationship between federal and state telemarketing rules and whether to modify a separate rule that forbids any specific entity from making telemarketing calls to a number after the telephone subscriber explicitly requests that calls stop. Those issues will be addressed in separate future orders. So at least for now, your home and cellphone numbers are safe, but your business number remains open for target practice.