

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a). This action arises under 15 U.S.C. § 45(a).
3. Venue is proper in the United States District Court for the Eastern District of Pennsylvania under 28 U.S.C. §§ 1391(b-c) and 1395(a) and 15 U.S.C. § 53(b).

DEFENDANT

4. Defendant Comcast Corporation, a Pennsylvania corporation, (“Comcast”) has its principal place of business located within the Eastern District of Pennsylvania at One Comcast Center, 1701 JFK Boulevard, Philadelphia, PA 19103. Comcast is a seller of goods or services to consumers that has called or has caused telemarketers to call consumers to induce the purchase of its goods or services. At all times relevant to this Complaint, Comcast transacts or has transacted business in the Eastern District of Pennsylvania.

**THE DO NOT CALL PROVISIONS OF
THE TELEMARKETING SALES RULE**

5. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108, in 1994. On August 16, 1995, the FTC adopted the Telemarketing Sales Rule (the “Original TSR”), 16 C.F.R. Part 310, which became effective on December 31, 1995. On January 29, 2003, the FTC amended the TSR by issuing a Statement of Basis and Purpose (“SBP”) and the final amended TSR (the “Amended TSR”),

68 Fed. Reg. 4580, 4669. Since December 31, 1995, sellers and telemarketers have been prohibited from initiating an outbound telephone call to any person who previously has stated that he or she does not wish to receive an outbound telephone call made by or on behalf of the seller whose goods or services are being offered. 16 C.F.R.

§ 310.4(b)(1)(iii)(A). A telephone call is an “outbound telephone call” under the Amended TSR if the telephone call is initiated by a telemarketer to induce the purchase of goods or services, or to solicit a charitable contribution. 16 C.F.R. § 310.2(u).

6. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

DEFENDANT’S BUSINESS ACTIVITIES

7. Comcast is a “seller” or “telemarketer” engaged in “telemarketing,” as defined by the Amended TSR, 16 C.F.R. § 310.2.
8. Comcast is a seller of entertainment and communication goods and services, including cable television, Internet, and Voice over Internet Protocol (“VoIP”) telephone services, to consumers. Comcast is also a telemarketer. Comcast has called or caused other telemarketers to call consumers in the United States to induce the purchase of its goods or services.
9. Comcast has engaged in telemarketing by plans, programs, or campaigns conducted to induce the purchase of goods or services by use of one or more telephones and which involve more than one interstate telephone call.

10. After January 1, 2005, Comcast caused its internal call centers and third-party telemarketing vendors to initiate outbound telephone calls to telemarket its goods or services, including Comcast's cable television, Internet, and VoIP telephone services.
11. Comcast has written policies and procedures regarding compliance by its internal call centers and third-party telemarketing vendors with the TSR's requirement that sellers and telemarketers not call any consumers who have previously stated that they do not wish to receive outbound telemarketing calls made by or on behalf of Comcast.
12. Notwithstanding Comcast's policies and procedures, some of Comcast's internal call centers and third-party telemarketing vendors did not comply with the TSR's entity-specific Do Not Call provision, and together made more than 900,000 outbound telephone calls to consumers on Comcast's behalf after those consumers specifically requested that Comcast stop calling them. Thus, Comcast failed to implement a TSR-compliant Do Not Call program which would have identified problems at internal call centers and third-party telemarketing vendors and rectified those problems in a timely manner.
13. At all times relevant to this Complaint, Comcast has maintained a substantial course of trade or business in the offering for sale and sale of goods or services via the telephone, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

