



NATIONAL AUTOMOBILE DEALERS ASSOCIATION
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Legal & Regulatory Group

June 1, 2004

Via E-Mail

Federal Trade Commission
Office of the Secretary
Room H-159 (Annex K)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Re: TSR Fee Rule, Project No. P034305

Dear Sir/Madam:

The National Automobile Dealers Association (“NADA”) submits the following comments in response to the Federal Trade Commission’s (“FTC” or “Commission”) Notice of Proposed Rulemaking requesting comment on its proposal to amend the Telemarketing Sales Rule (“TSR”) to revise the fees charged to entities that access the National Do Not Call (“DNC”) Registry. 69 Fed. Reg. 23,701 – 23,705 (Apr. 30, 2004).

NADA represents approximately 20,000 franchised automobile and truck dealers who sell new and used vehicles and engage in service, repair and parts sales. Our members employ more than 1.1 million people nationwide. A significant number of our members are small businesses as defined by the Small Business Administration. Accordingly, NADA is particularly focused on regulatory changes that may increase the current regulatory burden that exists for small businesses.

We submit these comments to briefly express our support for the Commission’s proposal to “continue allowing all entities accessing the national registry to obtain the first five area codes of data for free.” 69 Fed. Reg. 23,703. For the reasons noted by the Commission, it is essential that it retain the exemption to “limit the burden placed on small businesses that only require access to a small portion of the registry.” *Id.*

Removing the exemption would have a significant impact on our members and many other small and medium size businesses. Approximately 18,700 of our members sell automobiles or light duty trucks. Most of these businesses engage in telemarketing calls to consumers: (i) that are located in five or fewer area codes, or (ii) with whom they have an established business relationship or have obtained prior express permission to call. These businesses already have assumed significant training, systems and other compliance costs associated with the National DNC rules and other federal and state telemarketing restrictions, the CAN-SPAM Act restrictions applicable to

commercial e-mail messages, the Federal Communications Commission's rules increasing the restrictions on fax advertisements, and several additional regulatory requirements unrelated to marketing. Imposing a fee for accessing the first five area codes would impose a disproportionate burden on small entities that already are struggling to comply with the ever-expanding list of federal requirements affecting their businesses.

We thank you for the opportunity to comment on this matter.

Sincerely,

Paul D. Metrey
Director, Regulatory Affairs