



**S H A R E**

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March 27, 2002

To: Federal Trade Commission

From: Dennis McCarthy

President, Share Group, Inc.

Re: Proposed Teleservices Rule FTC, File No. R4 11002 – Comments

After reviewing the proposed rules my **firm** would like to submit our comments;

First, let me tell you who Share Group is and who we serve as clients.

Share Group, Inc. was founded over eleven years ago with a handful of people wanting to serve small grassroots non-profits that might benefit from utilizing tele-fundraising to communicate their mission and to raise needed funds. These organizations had almost non-existent budgets, no United Way, foundation or corporate monies, they needed to communicate and ask for assistance from friends, supporters and the public. In the beginning there was no auto-dialer, little state regulation, and no Telephone Preference Service.

Since then Share Group has grown to over 100 clients and almost 400 staff who are serving our clients; Over the year the breadth of clients changed. However, we still serve small charities like Community Servings, Center for Victims of Torture, Food and Friends; along with the Smithsonian Institution, University of Michigan, and the Museum of Fine Arts in Boston, Massachusetts. And for the last eight or so years we have used predictive dialers to assist in making telephone calls. We are registered and bonded where necessary and today spend almost \$150,000 per year on local and state regulatory compliance. And since 2000, we have had to pass along these expenses to our clients.

As an aside the only times Share Group has had difficulty with the state regulators has been over late reports. We file over 300 forms to each of the 40 odd states, so over 1,200 forms total, never with a claim of any fraud or deceptive fundraising. Just higher levels of regulation and more expenses for charities the states are supposed to protect. In fact to my knowledge none of the tele-fundraising firms in the DMA has ever even been accused of fraudulent or deceptive fundraising.

How do we do business now? Each of Share's clients is required by contract to inform us of where they are registered to solicit, We then file solicitation notices along with contracts and in some states collateral materials related to the campaign. The client sends us those of their members they wish us to solicit on their behalf. Prior to making one telephone call we secure telephone numbers for the charity's members. If we discover that a person has asked that the charity not contact this member by telephone to ask for Support, then that person is not contacted by us. Neither the charity nor Share wishes to contact someone who does not wish to be contacted.

When the campaign begins the predictive dialer dials a number and if after a pre-determined number of rings there is no answer at that supporter's household then the call is ended.

Once a call begins we disclose who we are, who we are representing and only then begin the conversation with the donor. The FTC must know that we already make state mandated disclosures in all client scripts for charities. These disclosures go far beyond what is required by the proposed Rule. However, these current disclosures have a significant chilling impact on the speech/conversation that follows. These specific disclosures impact the charities, yet Share Group cannot afford to go to court to fight what are state regulations that harm the charity's ability communicate their message to both their members and the public.

After a call has been completed, if a person requests to not to be contacted further, we record that information, retain it for the client at Share and send this data back to the client. The donor's wish is respected.

This is how we have always conducted our business.

The proposed Rules by the FTC would severely harm my firm's ability to function as a business, create enormous harm to our financial well being, hinder our ability to serve Share's client's and perhaps more importantly the charities ability to communicate their message to their donors and the public.

The National Do ~~Not~~ Call List will not allow my client's the Constitutional right to free speech as given to them by the First Amendment and reaffirmed by the US Supreme Court.

For example, a person who receives an unasked telephone sales call solicitation by a bank for a credit card may cause the person to place themselves on the National Do Not Call List and ask that they not be contacted ever again. The problem is that does not exempt them from the said bank's contact. The contact that offended them is exempt in your Rule! That same person may have given one or two gifts a year via a telephone solicitation to the local zoo, their YMCA, their library. Yet further solicitations from organizations that the member has and would support are now prohibited.

And the idea that a person will call and give their consent is a huge barrier to soliciting a donor.

Does that seem as unjust and silly to you as it does to me? You have prohibited an act that is 100% not deceptive, not abusive.

You propose to not regulate political fundraising, banks and telephone offers to the public, yet this Rule would stop my clients from speaking with the same public. Why two standards?

As proposed the Rule's impact on my firm and my clients would be as follows:

- a) The National Do Not Call List would reduce the number of available members to contact. No one knows the likely number, but let's say it is 15%. That would be a fair approximation, that from my one small firm is over \$3,000,000 less in gifts to those organizations. That is not an insignificant amount of money.
- b) Share Group would likely close one call center and lay off eight to ten salaried staff. The closing of the call center would mean about

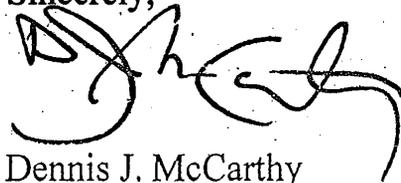
90 people would lose their jobs. The overall job loss would be approximately 100 people. To one small company this is huge.

- c) Small telefundraising firms would go out of business. Not a one of them did anything wrong, just the loss of the amount of business would close their doors.
- d) The turning of dialers into preview mode from predictive would not stop abandonment. Instead the loss of dialer productivity will mean Share and other firms will raise prices to non-profits by, I would estimate, 20%.

The overall impact of this proposed Rule will be that people will lose their jobs, charities will get hit with a double whammy of fewer people to call and less revenue and of those able to be called greater expense. And, the public will still get called by the telephone companies, the banks and politicians, but not ~~the~~ food banks, the relief organizations, children's hospitals and other deserving charities.

I ask you to please rescind this proposed Rule. It is unconstitutional, beyond the intent of Congress in the USA Patriot Act, harmful on many levels to charities, deceptive to the American public, and achieves no public good. Again, please reconsider and withdraw this Rule. Thank you for your consideration in this important matter.

Sincerely,



Dennis J. McCarthy  
President