

would significantly increase the complexity of the system, both in terms of accessing and delivering the data. The Commission believes the increase in the complexity weighs against such an approach. Thus, the Commission continues to propose that access to five or fewer area codes of data in the national registry be provided for free.

#### D. Fees for Access

As previously discussed, both the Appropriations Act and the Implementation Act authorize the Commission to raise fees sufficient to cover the costs of implementing and enforcing the do-not-call provisions of the Amended TSR, estimated at \$18.1 million for fiscal year 2003. The Commission anticipates that it will need to raise the entire estimated \$18.1 million authorized to cover the costs associated with those efforts in this fiscal year. Costs fall primarily in three broad categories. First are the actual estimated contract costs along with associated agency costs to develop and operate the do-not-call registry. These cover things like the registration procedures and handling of complaints, the transfer of registration information from state lists to the registry, telemarketer access to the registration information, and the management and operation of law enforcement access to appropriate information. The second category of costs relates to enforcement efforts. These costs will include law enforcement initiatives, both domestic and international, to identify targets and challenge alleged violators. Enforcement costs also include consumer and business education, which are critical complements to enforcement in securing compliance with the do-not-call provisions. The third category of costs covers agency infrastructure and administration costs, including information technology structural supports. In particular, the Consumer Sentinel system (the agency's repository for all consumer fraud-related complaints) and its attendant infrastructure must be upgraded to handle the anticipated increased demand from state law enforcers for access to do-not-call complaints. Further, the Consumer Sentinel system will require substantial changes so that it may handle the significant additional volume of complaints that are expected.

In order to raise \$18.1 million this fiscal year, and assuming that 7,500 firms will pay for that access, the Commission proposes charging an annual fee of \$29 for each area code of

data accessed.<sup>55</sup> There would be no fee charged for access to five or fewer area codes of data. In addition, the Commission continues to propose placing a cap on the maximum annual fee that would be charged an entity that wants access to the entire national database. That maximum fee would be \$7,250, which would be charged for using 250 area codes of data or more. As a result of this revised proposed fee schedule, there would be no charge for obtaining only five area codes of data; six area codes of data would cost \$174; twenty-five area codes would cost \$725; two hundred area codes would cost \$5,800; and access to the data from all area codes would be capped at \$7,250 annually.

As stated above, these proposed fees are based on certain assumptions and estimates.<sup>56</sup> The Commission anticipates that whatever fees may be adopted would be reexamined periodically and would likely need to be adjusted, in future rulemaking proceedings, to reflect actual experience with operating the registry.

#### IV. Operation of the National Registry for the Telemarketing Industry

The Commission is developing a fully-automated, secure Web site dedicated to providing members of the telemarketing industry with access to the registry's list of telephone numbers, sorted by area code. The first time a company accesses the system, it will be asked to provide certain limited identifying information, such as company name and address, company contact person, and the contact person's telephone number and e-mail address. If an entity is accessing the registry on behalf of a client-seller, the entity will also need to identify that client.

The only consumer information that companies will receive from the national registry is a registrant's telephone number.<sup>57</sup> Those telephone

numbers will be sorted and available by area code. Companies will be able to access as many area codes as desired, by selecting, for example, all area codes within a certain state. Of course, companies will also be able to access the entire national registry, if desired. In addition, after providing the required identifying information and paying the appropriate fee, if any, companies will be allowed to check, via interactive Internet pages, a small number of telephone numbers (less than ten) at a time to permit small volume callers to observe the do-not-call requirements of the TSR without having to download a potentially large list of all telephone numbers within a particular area.

When a seller first submits an application to access registry information, the company will be asked to specify the area codes that it wants to access. As discussed above, each seller accessing the registry data will be required to pay an annual fee for that access, based on the number of area codes of data the seller accesses. Fees will be payable via credit card (which will permit the real-time transfer of data) or electronic funds transfer (which will require the seller to wait approximately one day for the funds to clear before data access will be provided). A seller must pay these fees prior to gaining access to the registry.

Sellers will be able to access data as often as they like during the course of one year (defined as their "annual period") for those area codes that are selected with the payment of the related annual fee.<sup>58</sup> If, during the course of the year, sellers need to access data from more area codes than those initially selected, they would be required to pay for access to those additional area codes. For purposes of these additional payments, the annual period is divided into two semi-annual periods of six-months each. Obtaining additional data from the registry during the first semi-annual, six-month period will require a payment of \$29 for each new area code. During the second semi-annual, six-month period, the charge of obtaining data from each new area code requested during that six-month period is \$15. These payments for additional data would provide sellers access to those additional areas of data for the remainder of their initial annual term.

After payment is processed, the seller will be given a unique account number and permitted access to the appropriate portions of the registry. That account number will be used in future visits to

<sup>55</sup> Only two commenters responded to questions in the User Fee NPRM as to whether an annual or a monthly fee would be a more preferable, efficient, and appropriate method of fee collection. Both supported the use of an annual fee, as opposed to monthly one. See Household-User Fee at 4; MBNA-User Fee at 4.

<sup>56</sup> In addition to the assumptions set forth in Section III.A, above, concerning the number of firms that will access the national registry, the Commission continues to assume that, on average, sellers will pay to obtain information from 83 area codes in the national registry. See User Fee NPRM at 37368, question 5.

<sup>57</sup> In fact, that is the only personal identifying information submitted by consumers that will be maintained in the national registry. The registry will also maintain other information about the registration for law enforcement purposes, such as the date and method of registration, but that information will not be available to companies accessing the registry.

<sup>58</sup> To protect system integrity, a company will be permitted to download the entire national registry only once in any 24-hour period.