

including *inter alia* those who engage in telemarketing activities and those who rely on telemarketing as a method to solicit new business.

4. On December 18, 2002, the FTC released an order establishing a national do-not-call registry and making other changes to its Telemarketing Sales Rule (68 FR 4580, January 29, 2003). Congress approved funding for the FTC's do-not-call registry as part of the 2003 omnibus budget. Furthermore, the FTC has announced that it will begin to take registrations for a do-not-call registry on July 1, 2003, and that the registry will go into effect on October 1, 2003.

5. In the Do-Not-Call Act, Congress requires this Commission to issue final rules in the above-captioned proceeding by September 7, 2003. The Do-Not-Call Act provides that the FCC shall consult and coordinate with the FTC to maximize consistency with the rule promulgated by the FTC. Congress also requires the Commission to transmit a report on regulatory coordination to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation. The Commission is required to provide:

(1) An analysis of the telemarketing rules promulgated by both the Federal Trade Commission and the Federal Communications Commission;

(2) An analysis of any inconsistencies between the rules promulgated by each Commission and the effect of any such inconsistencies on consumers, and persons paying for access to the registry; and

(3) Proposals to remedy any such inconsistencies.

The Do-Not-Call Act also requires the Commission to file an annual report to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science and Transportation, which includes:

(1) An analysis of the effectiveness of the "do-not-call" registry as a national registry;

(2) The number of consumers who have placed their telephone numbers on the registry;

(3) The number of persons paying fees for access to the registry and the amount of such fees;

(4) An analysis of the progress of coordinating the operation and enforcement of the "do-not-call" registry with similar registries established and maintained by the various States;

(5) An analysis of the progress of coordinating the operation of the "do-not-call" registry with the enforcement activities of the Commission pursuant to the TCPA; and

(6) A review of the enforcement proceedings by the Commission under the TCPA.

6. As stated above, the Do-Not-Call Act requires the FCC, in the course of the above-captioned proceeding, to "maximize consistency" with the FTC's recent amendments to its Telemarketing Sales Rule. We seek comment on how the FCC can maximize consistency with the FTC's rules. We encourage commenters to review the rules promulgated by the FTC and to comment on how the FCC should consider amending its rules, given the new statutory directive. We seek comment on how the goals and principles identified in the Do-Not-Call Act should affect our implementation of the Act and how to harmonize the requirements of the Do-Not-Call Act with our statutory mandate in the TCPA. We also seek comment on how the FCC can best fulfill the reporting requirements contained in the statute. On December 20, 2002, the Consumer & Governmental Affairs Bureau issued a Public Notice (67 FR 78763, December 26, 2002) extending the reply comment period in the TCPA proceeding until January 31, 2003, to ensure that all interested parties had ample opportunity to comment on possible Commission action in light of the FTC's new rules. Parties are advised not to reiterate comments previously filed in this proceeding because any previously filed comments will be duly considered.

Procedural Issues

A. Ex Parte Presentations

7. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that presentations are disclosed as provided in the Commission's rules.

B. Filing of Comments and Reply Comments

8. We invite comment on the issues and questions set forth above. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before May 5, 2003, and reply comments on or before May 19, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings* (63 FR 24121, May 1, 1998).

9. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of

an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties also should send four (4) paper copies of their filings to Kelli Farmer, Federal Communications Commission, Room 4-C740, 445 12th Street, SW., Washington, DC 20554.

10. Accessible formats (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin of the Consumer & Governmental Affairs Bureau, at (202) 418-7426, TTY (202) 418-7365, or at bmillin@fcc.gov.