

call lists. In 1992, it was estimated by some commenters that the cost of establishing such a list in the first year could be as high as \$80 million. Congress has recently reviewed and approved the FTC's request for \$18.1 million to fund the national do-not-call list. We believe that the advent of more efficient technologies and the experience acquired in dealing with similar databases at the state level is responsible for this substantial reduction in cost.

9. Similarly, we believe that technology has become more proficient in ensuring the accuracy of a national database. The FTC indicates that to guard against the possibility of including disconnected or reassigned telephone numbers, technology will be employed on a monthly basis to check all registered telephone numbers against national databases, and remove those numbers that have been disconnected or reassigned. The length of time that registrations remain valid also directly affects the accuracy of the registry as telephone numbers change hands over time. We conclude that the retention period for both the national and company-specific do-not-call requests will be five years. *See FTC Order*, 68 FR 4580 at 4640 (January 29, 2003). Our rules previously required a company-specific do-not-call request to be honored for ten years. *See* 47 CFR 64.1200(e)(2)(vi). Five years is consistent with the FTC's determination and our own record that reveals that the current ten-year retention period for company-specific requests is too long given changes in telephone numbers. Consumers must also register their do-not-call requests from either the telephone number of the phone that they wish to register or via the Internet. The FTC will confirm the accuracy of such registrations through the use of automatic number identification (ANI) and other technologies. The term "ANI" refers to the delivery of the calling party's billing number by a local exchange carrier to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users. 47 CFR 64.1600(b). We believe that a five-year registration period coupled with a monthly purging of disconnected telephone numbers adequately balances the need to maintain accuracy in the national registry with any burden imposed on consumers to re-register periodically their telephone numbers.

10. We conclude that appropriate action has been taken to ensure the privacy of those registering on the national list. Specifically, the only consumer information telemarketers and

sellers will receive from the national registry is the registrant's telephone number. This is the minimum amount of information that can be provided to implement the national registry. We note that the majority of telephone numbers are publicly available through telephone directories. To the extent that consumers have an unlisted number, the consumer will have to make a choice as to whether they prefer to register on a national do-not-call list or maintain complete anonymity. We reiterate, however, that the only information that will be provided to the telemarketer is the telephone number of the consumer. The "seller" and "telemarketer" may be the same entity or separate entities. Each entity on whose behalf the telephone call is being made must purchase access to the do-not-call database. No corresponding name or address information will be provided. We believe that this approach reduces the privacy concerns of such consumers to the greatest extent possible. As an additional safeguard, we find that restrictions should be imposed on the use of the national list. Consistent with the FTC's determination and 47 U.S.C. 227(c)(3)(K), we conclude that no person or entity may sell, rent, lease, purchase, or use the national do-not-call database for any purpose except compliance with section 227 and any such state or federal law to prevent telephone solicitations to telephone numbers on such list. *See* 47 U.S.C. 227(c)(3)(K). *See also* 16 CFR 310.4(b)(2). We conclude that these safeguards adequately protect the privacy rights of those consumers who choose to register on the national do-not-call list.

11. We conclude that the national database should allow for the registration of wireless telephone numbers, and that such action will better further the objectives of the TCPA and the Do-Not-Call Act. In so doing, we agree with the FTC and several commenters that wireless subscribers should not be excluded from the protections of the TCPA, particularly the option to register on a national do-not-call list. Congress has indicated its intent to provide significant protections under the TCPA to wireless users. 47 U.S.C. 227(b)(1)(iii). Allowing wireless subscribers to register on a national do-not-call list furthers the objectives of the TCPA, including protection for wireless subscribers from unwanted telephone solicitations for which they are charged.

12. Nextel Communications, Inc. (Nextel) argues, however, that, because the "TCPA only authorizes the Commission to regulate solicitations to 'residential telephone subscribers,'" "

wireless subscribers may not participate in the do-not-call list. Nextel Comments at 19. Nextel states we should define "residential subscribers" to mean "telephone service used primarily for communications in the subscriber's residence." However, Nextel's application would result in "[a]t most, the Commission [having the] authority to regulate solicitations to wireless subscribers in those circumstances where wireless service actually has displaced a residential land line, and functions as a consumer's primary residential telephone service." Nextel Comments at 21.

13. Nextel's definition of "residential subscribers" is far too restrictive and inconsistent with the intent of section 227. Specifically, there is nothing in section 227 to suggest that only a customer's "primary residential telephone service" was all that Congress sought to protect through the TCPA. In addition, had Congress intended to exclude wireless subscribers from the benefits of the TCPA, it knew how to address wireless services or consumers explicitly. For example, in section 227(b)(1), Congress specifically prohibited calls using automatic telephone dialing systems or artificial or prerecorded voice to telephone numbers assigned to "paging service [or] cellular telephone service \* \* \*." Moreover, under Nextel's definition, even consumers who use their wireless telephone service in their homes to supplement their residential wireline service, such as by using their wireless telephone service to make long distance phone calls to avoid wireline toll charges, would be excluded from the protections of the TCPA. Such an interpretation is at odds even with Nextel's own reasoning for its definition—that the TCPA's goal is "to curb the 'pervasive' use of telemarketing 'to market goods and services to the home'." Nextel Comments at 20. It is well established that wireless subscribers often use their wireless phones in the same manner in which they use their residential wireline phones. Indeed, as even Nextel recognizes, there is a growing number of consumers who no longer maintain wireline phone service, and rely only on their wireless telephone service. Thus, we are not persuaded by Nextel's arguments.

14. Moreover, we believe it is more consistent with the overall intent of the TCPA to allow wireless subscribers to benefit from the full range of TCPA protections. Congress afforded wireless subscribers particular protections in the context of autodialers and prerecorded calls. 47 U.S.C. 227(b)(1)(A)(iii). In