

specific lists. This finding is consistent with that of the FTC.

65. We agree with those commenters that contend that the company-specific do-not-call approach has not proven ideal as a stand-alone method to protect consumer privacy. In particular, the increase in telemarketing calls over the last decade now places an extraordinary burden on consumers that do not wish to receive telephone solicitations. These consumers must respond on a case-by-case basis to request that they not be called. The record in this proceeding is replete with examples of consumers that receive numerous unwanted telemarketing calls each day. In addition, the widespread use of predictive dialers now results in many "dead air" or hang-up calls in which consumers do not even have the opportunity to make a do-not-call request. Such calls are particularly burdensome for the elderly and disabled consumers. We believe, however, that the measures adopted in this order will enhance the effectiveness of the company-specific list. For example, the adoption of a national do-not-call registry alleviates the concerns of those consumers, including elderly and disabled consumers that may find a case-by-case do-not-call option particularly burdensome. In addition, restrictions on abandoned calls will reduce the number of "dead air" calls. Caller ID requirements will improve the ability of consumers to identify and enforce do-not-call rights against telemarketers. We also note that although many commenters question the effectiveness of the company-specific approach, there is little support in the record to eliminate those rules based on the adoption of the national do-not-call list. We retain the option for consumers to request on a case-by-case basis whether they desire to receive telephone solicitations.

#### *Amendments to the Company-Specific Rules*

66. We agree with several industry commenters that the retention period for records of those consumers requesting not to be called should be reduced from the current ten-year requirement to five years. As many commenters note, telephone numbers change hands over time and a shorter retention period will help ensure that only those consumers who have requested not to be called are retained on the list. Both telemarketers and consumers will benefit from a list that more accurately reflects those consumers who have requested not to be called. The FTC has concluded and several commenters in this proceeding agree that five years is a more

reasonable period to retain consumer do-not-call requests. We believe a five-year retention period reasonably balances any administrative burden imposed on consumers in requesting not to be called with the interests of telemarketers in contacting consumers. As noted, a shorter retention period increases the accuracy of the database while the national do-not-call option mitigates the burden on those consumers who may believe more frequent company-specific do-not-call requests are overly burdensome. We believe any shorter retention period, as suggested by a few industry commenters, would unduly increase the burdens on consumers who would be forced to make more frequent renewals of their company-specific do-not-call requests without substantially improving the accuracy of the database. We therefore amend our rules to require that a do-not-call request be honored for five years from the time the request is made.

67. We decline at this time to require telemarketers to make available a toll-free number or Web site that would allow consumers to register company-specific do-not-call requests or verify that such a request was made with the marketer. We also decline to require telemarketers to provide a means of confirmation so that consumers may verify their requests have been processed at a later date. Telemarketers should, however, confirm that any such request will be recorded at the time the request is made by the consumer. In addition, consumers calling to register do-not-call requests in response to prerecorded messages should be processed in a timely manner without being placed on hold for unreasonable periods of time. Although we believe the additional measures discussed above would improve the ability of consumers, including consumers with disabilities, to register do-not-call requests, we agree with those commenters that contend that such requirements would be unduly costly to businesses. In particular, we are concerned with the costs imposed on small businesses. The Commission will, however, continue to monitor compliance with our company-specific do-not-call rules and take further action as necessary.

68. We conclude that telemarketers must honor a company-specific do-not-call request within a reasonable time of such request. We disagree, however, with commenters that suggest that periods of up to 90 days are a reasonable time required to process do-not-call requests. Although some administrative time may be necessary to process such

requests, this process is now largely automated. As a result, such requests can often be honored within a few days or weeks. Taking into consideration both the large databases of such requests maintained by some entities and the limitations on certain small businesses, we conclude that a reasonable time to honor such requests must not exceed thirty days from the date such a request is made. Consistent with our existing rules, such request applies to all telemarketing campaigns of the seller and any affiliated entities that the consumer reasonably would expect to be included given the identification of the caller and the product being advertised. 47 CFR 64.1200(e)(2)(v). We note that the Commission's rules require that entities must record company-specific do-not-call requests and place the subscriber's telephone number on the do-not-call list at the time the request is made. 47 CFR 64.1200(e)(2)(iii). Therefore, telemarketers with the capability to honor such company-specific do-not-call requests in less than thirty days must do so. We believe this determination adequately balances the privacy interests of those consumers that have requested not to be called with the interests of the telemarketing industry. Consumers expect their requests not to be called to be honored in a timely manner, and thirty days should be the maximum administrative time necessary for telemarketers to process that request.

69. In addition, we decline to extend the company-specific do-not-call rules to entities that solicit contributions on behalf of tax-exempt nonprofit organizations. The TCPA excludes calls or messages by tax-exempt nonprofit organizations from the definition of telephone solicitation. *See* 47 U.S.C. 227(a)(3)(C). The Commission has clarified that telemarketers who solicit on behalf of tax-exempt nonprofit organizations are not subject to the rules governing telephone solicitations. In the 2002 Notice, the Commission declined to seek further comment on this issue. We acknowledge that this determination creates an inconsistency with the FTC's conclusion to extend its company-specific requirements to entities that solicit contributions on behalf of tax-exempt nonprofit organizations. The Commission, however, derives its authority to regulate telemarketing from the TCPA, which excludes tax-exempt nonprofit organizations from the definition of telephone solicitation. We therefore decline to extend the company-specific requirements to entities that solicit on behalf of tax-