

That account number will be used in future visits to the website, to shorten the time needed to gain access. On subsequent visits to the website, telemarketers and sellers will be able to download either an entire updated list of numbers from their selected area codes, or a more limited list, consisting only of additions to or deletions from the registry that have occurred since the company's last download. This would limit the amount of data that a company needs to download during each visit. Telemarketers and sellers will be permitted to access the registry as often as they wish for no additional cost, once the annual fee has been paid. As indicated in the discussion of Section 310.4(b)(3)(iv), however, the Rule requires a seller or a telemarketer to employ a version of the "do-not-call" registry obtained from the Commission no more than three months prior to the date any telemarketing call is made.

*Law enforcement access to the registry.* Any law enforcement agency that has responsibility to enforce either the Rule or any state do-not-call statute or regulation will be permitted to access appropriate information in the national registry. This information will be provided through a secure Internet website, with access obtained through the Commission's existing Consumer Sentinel® system. Law enforcers will be able to query the registry to determine if and when a particular telephone number was registered by a consumer. They will also be able to query if and when a particular telemarketer or seller accessed the registry, and the information accessed by that telemarketer or seller. Such law enforcement access to data in the national registry is critical to enable state Attorneys General and other appropriate law enforcement officials to gather evidence to support enforcement actions under the Telemarketing and Consumer Fraud and Abuse Prevention Act,<sup>717</sup> and, as discussed below, once harmonization between the national registry and state do-not-call programs has been completed, to support law enforcement action under state law as well.

*Harmonization of various do-not-call registries.* As discussed above, the Commission is working with the states to develop a single, national "do-not-call" registry. The Commission envisions allowing consumers throughout the United States to register their preference not to receive telemarketing calls in a single transaction with one governmental agency. In addition, the Commission

anticipates allowing telemarketers and sellers to access that consumer registration information through one visit to a national website, developed for that purpose.

To further those goals, the Commission will allow all states, and the DMA if it so desires, to download into the national registry—at no cost to the states or the DMA—the telephone numbers of consumers who have registered with them their preference not to receive telemarketing calls. Telemarketers and sellers will be allowed to access that data through the national registry as the information is received.

It will take some time to achieve these goals completely, however. Some states will be able to transfer their state "do-not-call" registration information, and will cease requiring telemarketers to access the state registries, by the time telemarketers first gain access to the national registry. For other states, it may take from 12 to 18 months to achieve those results. At least one state, Indiana, may need up to three years before it can become part of the national system. In any event, the Commission will continue to work diligently with the states in an effort to harmonize these different systems.

*Implementation time line.* As stated above, the Commission has issued an RFQ to vendors to develop and operate a national "do-not-call" registry. The implementation time line for the registry begins on the date the contract is awarded to a vendor in response to that RFQ. The Commission anticipates awarding the contract as soon as the agency receives appropriate authority and funding from Congress to begin building the national registry.

Consumers will be allowed to begin to register their preference not to receive telemarketing calls approximately four months after a contract for the national "do-not-call" registry is awarded. To avoid an unmanageable surge of calls when the national registry is initially opened, the Commission anticipates phasing in registry availability to consumers one geographic region at a time throughout the United States over a period of approximately two months. Telemarketers and sellers will be given access to the telephone numbers in the national registry approximately six months after the contract is awarded. The effective date for the "do-not-call" provisions of the amended Rule will be approximately seven months after the date the contract to develop and implement the system is awarded. Thus, to comply with the amended Rule, telemarketers will need to obtain the list of registered telephone numbers during

the sixth month after the contract is awarded, allowing themselves sufficient time to scrub their calling lists before placing outbound telemarketing calls in the seventh month after the date the contract is awarded.

As stated below in the Effective Date section, in the future the Commission will announce the date by which full compliance with the national "do-not-call" registry provisions of the amended Rule will be required. As noted elsewhere in this document, full compliance with all other provisions of the amended Rule—with the exception of the Caller ID provision (§ 310.4(a)(7))—will be required by the date on which the amended Rule is effective, March 31, 2003. Full compliance with the Caller ID provisions will be required by January 29, 2004.

*§ 310.4(b)(1)(iv) — Abandoned calls & § 310.4(b)(4) — Safe harbor for abandoned calls*

In the NPRM, the Commission explained that "abandoned calls" violate § 310.4(d) of the original Rule because such calls failed to provide the requisite prompt disclosures.<sup>718</sup> In providing this explanation, the Commission noted that "abandoned calls" include two distinguishable scenarios: "hang up" calls, in which telemarketers hang up on consumers whom they have called without speaking to them; and "dead air" calls, in which there is a prolonged period of silence between the consumer's answering a call and the connection of that call to a sales representative.<sup>719</sup> The record shows that both types of abandoned calls arise from the use of predictive dialers, which promote telemarketers' efficiency by calling multiple consumers for every available sales representative.<sup>720</sup> Doing so maximizes the amount of time representatives spend speaking with consumers and minimizes the amount of time representatives spend waiting to reach a prospective customer.<sup>721</sup> An inevitable "side effect" of predictive dialers' functionality is that the dialer will reach more consumers than can be connected to available sales

<sup>718</sup> 67 FR at 4524.

<sup>719</sup> 67 FR at 4522.

<sup>720</sup> ABA-NPRM at 12; ATA-NPRM at 32; CADM-NPRM at 3; DialAmerica-NPRM at 22; Pelland-NPRM at 2; Sytel-NPRM at 3; Miller Study at 13; <http://www.predictive-dialers.com/home/faq.html>.

<sup>721</sup> ATA-NPRM at 31; ERA-NPRM at 41; MPA-NPRM at 31; NAA-NPRM at 14; Private Citizen-NPRM at 3; PMA-NPRM at 30; TeleDirect-NPRM at 2.

<sup>717</sup> 15 U.S.C. 6101 *et seq.*