



NATIONAL ASSOCIATION OF REALTORS®

*The Voice For Real Estate®*

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October 22, 2007

U.S. House of Representatives  
Committee on Energy & Commerce  
Subcommittee on Commerce, Trade & Consumer Protection  
Washington, DC 20515

Dear Representative:

On Tuesday, October 23, 2007, the Commerce, Trade, and Consumer Protection Subcommittee of the House Energy and Commerce Committee will hold a hearing on H.R.2601, a bill to extend the authority of the Federal Trade Commission (FTC) to collect fees to administer and enforce the provisions relating to the National Do Not Call Registry of the Telemarketing Sales Rule (TSR). On behalf of the 1.3 million members of the National Association of REALTORS® who must comply with the TSR, I ask you to consider the economic and compliance burden that the do not call (DNC) rules impose and urge you to exempt very small businesses from the Registry access fees for more than five area codes.

Since its inception, five or fewer area codes have been provided to businesses of all sizes free of charge. At the same time, the cost of each additional area code above five has increased each year, going from \$25 in 2003 to \$62 per area code in 2006.

To date, the FTC has argued that allowing such free access “limit[s] the burden placed on small businesses that only require access to a small portion of the national registry.”<sup>1</sup> This pricing structure, however, *assumes a direct relationship* between the number of area codes required and the number of calls made to each area code. In today’s increasingly interconnected world, this is not always the case. Today, a business may be small in size (number of employees, receipts, assets, etc.) but not be limited to a small geographic market area.

Consequently, many small businesses, including real estate professionals, often have the need to call a limited number of consumers who reside in a variety of states and/or area codes beyond the five area codes of their local calling region. This is especially the case for very small realty businesses in resort communities. It is common for these small businesses, the majority of which are sole proprietorships, to find themselves forced to pay for access to a number of additional area codes in order to research a single phone number in each area code. At the same time, a large company that relies heavily on telemarketing, and makes thousands of calls to consumers but limits these calls to within the five-code area, does not have to pay a fee.

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<sup>1</sup> 68 *Federal Register* 147, 45140 (July 31, 2003).



In 2003, the Small Business Administration's Office of Advocacy (Advocacy) recommended to the FTC that research is needed to help determine whether five is an appropriate number for free area codes. Specifically, Advocacy stated in their June 2002 comments to the Commission regarding its notice of proposed rulemaking on TSR user fees:

“Advocacy recommends that the FTC contact small telemarketers and inquire how many area codes they commonly access in a give year during the course of the business. The information gleaned through this outreach effort can be used to support the agency's decision-making and final regulatory flexibility analysis.”

As a result, NAR respectfully requests that Congress consider exempting very small businesses as defined by the Small Business Act<sup>2</sup> until the Commission gathers information from small businesses that make telemarketing calls; demonstrates that these businesses only require access to a small portion of the Registry; are not adversely impacted by the fee increase; and/or determines that a more equitable fee structure is not feasible.

Sincerely,

A handwritten signature in black ink that reads "Pat V. Combs". The signature is written in a cursive, flowing style.

Pat V. Combs, ABR, CRS, GRI, PMN  
2007 President, National Association of REALTORS®

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<sup>2</sup> 15 U.S.C. 631 *et seq.*