

Calendar No. 539

110TH CONGRESS }
1st Session }

SENATE

{ REPORT
110-246

DO-NOT-CALL IMPROVEMENT ACT OF 2007

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2096



DECEMBER 12, 2007.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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DECEMBER 12, 2007.—Ordered to be printed

Mr. INOUE, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 2096]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2096) to amend the Do-Not-Call Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal “do-not-call” registry, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

S. 2096, as amended, would prevent the Federal Trade Commission (FTC) from removing telephone numbers for the Do-Not-Call (DNC) Registry that have been on the DNC Registry for 5 years, an action that would have forced consumers who placed those numbers on the DNC Registry to re-register. Under the Telemarketing Sales Rule adopted by the FTC, telephone number registrations remain valid for 5 years. Consequently, unless altered by legislation, the DNC telephone numbers registered in the summer of 2003 will begin to expire during the summer of 2008. In anticipation of the first expirations, FTC staff has indicated that they intend to manage an education campaign dedicated to disseminating re-registration information to consumers, during the spring of 2008.

In order to avoid confusion, and to protect consumers from receiving unwanted telemarketing calls upon the expiration of their registrations, S. 2096 would forestall the FTC from automatically expiring numbers and removing them from the registry.

BACKGROUND AND NEEDS

On March 11, 2003, President George W. Bush signed the Do-Not-Call Implementation Act (DNC Act) into law. The DNC Act makes it illegal for telemarketers to call consumers with whom they do not have a prior business relationship. It also limits the times of day when telemarketers can call, the use of auto-dialing technology, and the area codes accessible to telemarketers. The enforcement provisions of the DNC Act include severe fines for calling numbers on the DNC Registry, and the Act requires telemarketers to keep their own in-house call lists up-to-date with the DNC Registry.

The FTC opened the DNC Registry on June 27, 2003, and telemarketers were required to comply by October 1, 2003. Nearly 5,000 telemarketers purchased all or parts of the list and removed the phone numbers on the DNC Registry.

A telemarketer who ignores the DNC list is subject to an \$11,000 fine for each call to a phone number on the DNC Registry. The fine is levied by the FTC; no private right of action is available to individual consumers or State attorneys general. The law requires telemarketers to search the registry and synchronize their call lists on a regular basis. The registry has logged more than 144 million telephone numbers since its inception.

In its Annual Report to Congress for FY 2006, the FTC stated that the DNC Registry was effectively serving its fundamental purpose by maintaining high registration volumes and reducing unwanted phone calls from telemarketers. The FTC also concluded that the registry was successfully recording consumer complaints and consumer preferences to avoid telemarketing phone calls, permitting businesses to access the registry, and sharing information and tools with State and Federal law enforcement personnel so that they could conduct investigations into complaints and take appropriate action. In short, the FTC affirmed in its report to Congress that the DNC Registry constitutes an effective consumer protection program.

The Report underscored other issues reflecting the program's efficacy. Concerning agency harmonization, in 2006, the FTC coordinated closely with the Federal Communications Commission (FCC) to share enforcement priorities and avoid duplicative action. Regarding consolidation and efficiency, the FTC worked with States to advance its objective of forming a single registry to provide businesses and consumers with a single point of contact. Finally, concerning enforcement, while compliance with the DNC Registry was high, the FTC continued to prosecute violators of the DNC Act and worked closely with the Department of Justice, the FCC, and the individual States. Under the Telemarketing Sales Rule adopted by the FTC, telephone number registrations remain valid for 5 years. The DNC telephone numbers registered in the summer of 2003 will begin to expire during the summer of 2008. Without Congressional authorization, the telephone numbers that were placed on the Registry and have not been re-registered within the 5-year period will be deleted.

SUMMARY OF PROVISIONS

S. 2096 would mandate that a telephone number on the DNC Registry would not expire at the end of any specified period. The bill would reinstate any number removed from the DNC Registry before the date of enactment due to the 5-year expiration policy set forth in the Telemarketing Sales Rule. The FTC would be required to check telephone numbers against national databases, and remove numbers that have been both disconnected and reassigned. The Committee encourages the FTC to develop new methods to ensure the accuracy of the Registry.

LEGISLATIVE HISTORY

On September 26, 2007, Senator Dorgan introduced S. 2096, which was referred to the Committee on Commerce, Science, and Transportation (Committee). Several members of the Committee co-sponsored the measure, including Vice Chairman Stevens and Senators Kerry, Nelson, Snowe, and Ensign. On April 10, 2007, all five FTC Commissioners testified before the Committee on several issues as part of general oversight of the FTC, and included testimony on the DNC Registry. On July 31, 2007, the Committee held a hearing on telemarketing practices and received testimony on the number expiration issue.

On October 30, 2007, the Committee met in open executive session to consider an amendment in the nature of a substitute offered by Senator Dorgan that made several substantive changes to the bill as introduced. The Committee adopted the Dorgan substitute amendment to the bill by voice vote and ordered the bill reported favorably with the amendment in the nature of a substitute.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

NOVEMBER 26, 2007.

Hon. DANIEL K. INOUE, *Chairman,*
Committee on Commerce, Science, and Transportation, U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2096, the Do-Not-Call Improvement Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 2096—Do-Not-Call Improvement Act of 2007

S. 2096 would prohibit the Federal Trade Commission (FTC) from removing phone numbers from its “do-not-call” registry at the end of specific time periods. The “do-not-call” registry contains a list of consumers whom telemarketers are prohibited from calling. When the registry was created in 2003, the FTC developed rules

that required consumers to register their phone numbers every five years and required the FTC to remove disconnected phone numbers periodically.

S. 2096 would prohibit the FTC from removing numbers from the registry at the end of this five-year period or any other specified period. The bill also would authorize the FTC to continue to purge the registry of disconnected and reassigned phone numbers. Based on information from FTC, CBO estimates that implementing the bill would have no significant impact on the federal budget because the commission is already complying with the bill's provisions.

S. 2096 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susan Willie. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The legislation would apply to all American consumers who have placed or choose to place their telephone numbers on the DNC Registry.

ECONOMIC IMPACT

S. 2096 is not expected to change the economic impact of the DNC Registry on the telemarketing industry, in that the FTC would still be obligated to remove disconnected and reassigned telephone numbers from the DNC Registry.

PRIVACY

S. 2096 would increase the privacy of consumers by assuring the continuation of the protections of DNC Registry to the consumers that elected to place their numbers onto the Registry.

PAPERWORK

It is expected that the legislation would not increase the paperwork requirements beyond what is currently required to comply with the DNC Registry.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section would provide that the Act may be cited as the "Do-Not-Call Improvement Act of 2007."

Section 2. Prohibition of expiration date for registered telephone numbers.

This section would mandate that the registration of a telephone number on the DNC Registry of the Telemarketing Sales Rule may not expire at the end of any specified time period.

Reinstatement.—The bill would reinstate any number removed from the DNC Registry before the date of enactment due to the 5-year expiration policy set forth in the Telemarketing Sales Rule.

Registry Maintenance.—The FTC would be authorized to check telephone numbers against national databases, and remove numbers that have been both disconnected and reassigned.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

