

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3911

To direct the Federal Trade Commission to issue rules that establish a list of telephone numbers of consumers who do not want to receive telephone calls for telemarketing purposes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2002

Mrs. JOHNSON of Connecticut introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To direct the Federal Trade Commission to issue rules that establish a list of telephone numbers of consumers who do not want to receive telephone calls for telemarketing purposes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telemarketing Relief  
5 Act of 2002”.

1 **SEC. 2. ESTABLISHMENT OF TELEMARKETER NO-CALL LIST**  
2 **BY FEDERAL TRADE COMMISSION.**

3 Not later than 180 days after the date of the enact-  
4 ment of this Act, the Federal Trade Commission shall  
5 amend its rules under section 3(a) of the Telemarketing  
6 and Consumer Fraud and Abuse Prevention Act (15  
7 U.S.C. 6102(a)), to—

8 (1) establish a list of telephone numbers of con-  
9 sumers who have notified the Commission or a Fed-  
10 eral agency referred to in section 3 that they do not  
11 want to receive telephone calls for telemarketing  
12 purposes;

13 (2) specify the manner by which consumers  
14 shall notify the Commission for purposes of para-  
15 graph (1);

16 (3) make the list under paragraph (1) available  
17 to the public; and

18 (4) subject to section 3, prohibit, as a deceptive  
19 or abusive telemarketing act or practice, the making  
20 of any telephone call for telemarketing purposes to  
21 a telephone number included on the list under para-  
22 graph (2).

23 **SEC. 3. RULES BY OTHER FEDERAL AGENCIES.**

24 (a) IN GENERAL.—Not later than 90 days after the  
25 effective date of rules issued under section 2, and subject  
26 to subsection (c)—

1           (1) the Securities and Exchange Commission  
2 shall amend its rules under section 3(d) of the Tele-  
3 marketing and Consumer Fraud and Abuse Preven-  
4 tion Act (15 U.S.C. 6102(d)) in substantially the  
5 same manner as the Federal Trade Commission  
6 amends its rules pursuant to subsection (a) of this  
7 section, subject to the exception set forth in section  
8 3(d)(1)(B) of that Act;

9           (2) the Commodity Futures Trading Commis-  
10 sion shall amend its rules under section 6(f) of the  
11 Commodity Exchange Act (7 U.S.C. 9b), in substan-  
12 tially the same such manner, subject to the excep-  
13 tions set forth in paragraph (2) of that section; and

14           (3) the Board of Governors of the Federal Re-  
15 serve System, the Federal Home Loan Bank Board,  
16 and the National Credit Union Administration  
17 Board shall each amend its rules under section 18(f)  
18 of the Federal Trade Commission Act (15 U.S.C.  
19 57a) in substantially the same such manner, subject  
20 to the exceptions set forth in clauses (A) and (B) of  
21 paragraph (1) of that section.

22           (b) FEDERAL COMMUNICATION COMMISSION  
23 RULES.—

24           (1) PROMULGATION.—

1           (A) IN GENERAL.—Except as provided in  
2           subparagraph (B), and subject to subsection  
3           (c), not later than 90 days after the effective  
4           date of rules promulgated by the Federal Trade  
5           Commission under section 2, the Federal Com-  
6           munications Commission shall promulgate rules  
7           substantially similar to such rules to prohibit  
8           deceptive and other abusive telemarketing acts  
9           or practices by persons described in paragraph  
10          (2).

11          (B) EXCEPTION.—The Federal Commu-  
12          nications Commission is not required to promul-  
13          gate a rule under subparagraph (A) if it deter-  
14          mines that—

15               (i) rules adopted by the Federal Com-  
16               munications Commission provide protection  
17               from deceptive and other abusive tele-  
18               marketing by persons described in para-  
19               graph (2) substantially similar to that pro-  
20               vided by rules promulgated by the Federal  
21               Trade Commission under section 2; or

22               (ii) such a rule promulgated by the  
23               Federal Communications Commission is  
24               not necessary or appropriate in the public

1 interest, or for the protection of con-  
2 sumers.

3 (C) PUBLICATION OF DETERMINATION.—If  
4 the Federal Communications Commission deter-  
5 mines that an exception described in clause (i)  
6 or (ii) of subparagraph (B) applies, the Federal  
7 Communications Commission shall publish in  
8 the Federal Register its determination with the  
9 reasons for it.

10 (2) APPLICATION.—The rules promulgated by  
11 the Federal Communications Commission under  
12 paragraph (1)(A) shall apply to a provider of tele-  
13 phone exchange service or telephone toll service as  
14 defined under section 3 of the Communications Act  
15 of 1934 (47 U.S.C. 153).

16 (3) ENFORCEMENT.—Rules issued by the Fed-  
17 eral Communications Commission under this Act  
18 shall be enforced by the Federal Communications  
19 Commission in the same manner as rules issued by  
20 the Commission under the Communications Act of  
21 1934 (47 U.S.C. 151 et seq.)

22 (c) ENFORCEMENT OF NO-CALL LIST MAINTAINED  
23 BY FEDERAL TRADE COMMISSION.—Rules issued under  
24 this section shall prohibit the making of any telephone call  
25 for telemarketing purposes to a telephone number included

1 on the list established and published by the Federal Trade  
2 Commission under section 2.

3 (d) PROVISION OF LIST TO FEDERAL TRADE COM-  
4 MISSION.—Each Federal agency referred to in subsection  
5 (a) or (b) shall promptly provide to the Federal Trade  
6 Commission the list of telephone numbers established by  
7 the agency pursuant to section 2(1), and any revisions to  
8 such list.

9 **SEC. 4. EXCEPTIONS.**

10 The rules under this Act shall not prohibit use of a  
11 telephone number of a consumer for any of the following:

12 (1) Charitable, political opinion polling, or other  
13 nonprofit activities.

14 (2) Use with the consumer's prior written or  
15 verbal permission.

16 (3) Contacting a consumer in response to the  
17 consumer's visit to an establishment with a fixed lo-  
18 cation.

19 (4) Use primarily in connection with an existing  
20 debt of the consumer or contract with the consumer  
21 that has not been paid or performed, respectively.

22 (5) Communication by a person with the con-  
23 sumer regarding an existing relationship between the  
24 person and the consumer.

1           (6) Compilation, by a provider of telephone ex-  
2           change service or telephone toll service as defined  
3           under section 3 of the Communications Act of 1934  
4           (47 U.S.C. 153), of a directory of telephone num-  
5           bers of that provider.

6           (7) Use by one business to communicate with  
7           another business.

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