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December 26, 2002

To: All APTS members
From: Marilyn Mohrman-Gillis, Lonna Thompson, Andrew Cotlar, APTS
Subject: New FTC Telemarketing Rules

On December 18, the Federal Trade Commission announced a series of amendments to its Telemarketing Sales Rule to curtail most unwanted telemarketing calls to individuals at their homes. The amendments made a number of changes to reduce the incidence of "abusive" telemarketing practices, including but not limited to the following:

- Forbids unauthorized billing by telemarketers
- Imposes restrictions on the practice of "call abandonment," where a consumer answers the phone only to find "dead air" (caused by the use of predictive dialers)
- Requires telemarketers to transmit caller-ID information

Charities and/or for-profit companies that solicit on behalf of charities are not exempt from these requirements.

The FTC also created a do-not-call registry that will allow consumers to block unwanted telemarketers from calling them. Telemarketers will be required to pay for access to the names on the list and will have to "scrub" their calling lists every three months to remove any consumers' telephone numbers that are included in the new registry. (The details of the user fee, and whether there will be any exemptions, will be determined in a future proceeding.) Telemarketers that call consumers whose numbers are listed in the registry will be subject to federal fines. Consumer registration lasts for a period of five years or until the consumer changes his or her telephone number.

The FTC do-not-call list is national in scope but applies only to interstate telephone solicitations. Several states have their own do-not-call lists that apply to intra-state telephone solicitations and that may vary from the federal scheme in significant ways.

We strongly urged the FTC to exempt public television stations from the broad do-not-call rule and demonstrated the harm that a blanket prohibition could create for public television. In part due to our advocacy, the FTC created two key exemptions to its national do-not-call registry.

- **First, telemarketers calling to solicit charitable contributions are exempt from the national do-not-call list.** These telemarketers must, however, honor any request to be placed on a company-specific private do-not-call list, consistent with what we believe is established practice in our industry.

- Second, telemarketers may continue to call consumers with whom they have an "established business relationship." An established business relationship exists if (a) the consumer has purchased, leased or rented goods or services from the company with 18 months preceding the call, or (b) if the consumer has submitted an application or made an inquiry to the company within the three months preceding the call. Again, if a consumer specifically requests to be placed on a company-specific private do-not-call list, this request must be honored.

In addition, business-to-business telephone solicitations are also exempt from the reach of the national do-not-call registry.

For more detail on the FTC's new rules, including helpful consumer and business guides, you may consult the FTC's website at: www.ftc.gov/donotcall.

APTS provides this update to member stations for informational purposes and does not intend to engage in legal advice. APTS urges you to consult with your attorney before making any decisions that may potentially affect your license or carriage obligations. For further information, please contact Marilyn Mohrman-Gillis, vice president of policy and legal affairs, 202-654-4214 marilyn@aps.org, Lonna M. Thompson, associate vice president, strategic initiatives and corporate counsel, 202-654-4215, lonna@aps.org, or Andrew D. Cotlar, senior staff attorney, 202-654-4220, andrew@aps.org.