

SCHWARTZ & BALLEN LLP
1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3465

(202) 776-0700

FACSIMILE
(202) 776-0720

www.schwartzandballen.com

M E M O R A N D U M

May 3, 2004

To Our Clients and Friends

Re: Proposed Rule Amending the Fee Structure for the National Do Not Call Registry

The Federal Trade Commission (“FTC”) has issued a Notice of Proposed Rulemaking to amend the Telemarketing Sales Rule. The proposed rule would revise the annual fee structure charged to entities accessing the National Do Not Call Registry (the “Registry”), beginning September 2004. Comments on the proposed rule are due by June 1, 2004.

PROPOSED FEE RULE

Currently, the annual fee for accessing the Registry is \$25 for each area code, up to a maximum fee of \$7,375. There is no charge for the first five area codes. It appears, however, that the current fee structure does not cover all of the costs of administering the Registry. Accordingly, the FTC is proposing to revise the annual fee structure as follows:

- The FTC would continue to provide the first five area codes without charge, as well as to continue to allow free access to the Registry to “exempt” organizations.¹
- To obtain access to additional area codes in the Registry during the first six months of the annual period,² the fee would be revised from \$25 per area code to \$45 to access additional area codes.

¹ An “exempt” organization includes entities that engage in outbound calls to consumers for charitable contributions, political fund raising, conducting surveys and for entities that engage solely in calls to persons who have an established business relationship with the entity.

² The annual period is the twelve month period following the first day of the month in which the person paid the fee to access the Registry.

SCHWARTZ & BALLEN LLP

- To obtain access to the Registry in the second six months of the annual period, the fee would be revised from \$15 per area code to \$25 to access additional area codes, and would remain at this fee for the rest of the annual period.
- The maximum charge to access all 280 area codes would be \$12,375 annually.

The proposed rule can be found at http://www.schwartzandballen.com/whats_new.html.

If you have any questions concerning the proposed rule, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.