

ment and enforce a national do-not-call registry.

(b) Ratification

The do-not-call registry provision of the Telemarketing Sales Rule (16 C.F.R. 310.4(b)(1)(iii)), which was promulgated by the Federal Trade Commission, effective March 31, 2003, is ratified. (Pub. L. 108-82, §1, Sept. 29, 2003, 117 Stat. 1006.)

CODIFICATION

Section was formerly set out as a note under section 6102 of this title.

Section was enacted as part of Pub. L. 108-82, and not as part of the Do-Not-Call Implementation Act which comprises this chapter.

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-188, §1, Feb. 15, 2008, 122 Stat. 635, provided that: “This Act [amending sections 6152 and 6154 of this title and enacting provisions set out as a note under section 6152 of this title] may be cited as the ‘Do-Not-Call Registry Fee Extension Act of 2007.’”

Pub. L. 110-187, §1, Feb. 15, 2008, 122 Stat. 633, provided that: “This Act [enacting section 6155 of this title] may be cited as the ‘Do-Not-Call Improvement Act of 2007.’”

SHORT TITLE

Pub. L. 108-10, §1, Mar. 11, 2003, 117 Stat. 557, provided that: “This Act [enacting this chapter] may be cited as the ‘Do-Not-Call Implementation Act.’”

§ 6152. Telemarketing Sales Rule; do-not-call registry fees

(a) In general

The Federal Trade Commission shall assess and collect an annual fee pursuant to this section in order to implement and enforce the “do-not-call” registry as provided for in section 310.4(b)(1)(iii) of title 16, Code of Federal Regulations, or any other regulation issued by the Commission under section 6102 of this title.

(b) Annual fees

(1) In general

The Commission shall charge each person who accesses the “do-not-call” registry an annual fee that is equal to the lesser of—

- (A) \$54 for each area code of data accessed from the registry; or
- (B) \$14,850 for access to every area code of data contained in the registry.

(2) Exception

The Commission shall not charge a fee to any person—

- (A) for accessing the first 5 area codes of data; or
- (B) for accessing area codes of data in the registry if the person is permitted to access, but is not required to access, the “do-not-call” registry under section¹ 310 of title 16, Code of Federal Regulations, section 64.1200 of title 47, Code of Federal Regulations, or any other Federal regulation or law.

(3) Duration of access

(A) In general

The Commission shall allow each person who pays the annual fee described in para-

graph (1), each person excepted under paragraph (2) from paying the annual fee, and each person excepted from paying an annual fee under section 310.4(b)(1)(iii)(B) of title 16, Code of Federal Regulations, to access the area codes of data in the “do-not-call” registry for which the person has paid during that person’s annual period.

(B) Annual period

In this paragraph, the term “annual period” means the 12-month period beginning on the first day of the month in which a person pays the fee described in paragraph (1).

(c) Additional fees

(1) In general

The Commission shall charge a person required to pay an annual fee under subsection (b) an additional fee for each additional area code of data the person wishes to access during that person’s annual period.

(2) Rates

For each additional area code of data to be accessed during the person’s annual period, the Commission shall charge—

- (A) \$54 for access to such data if access to the area code of data is first requested during the first 6 months of the person’s annual period; or
- (B) \$27 for access to such data if access to the area code of data is first requested after the first 6 months of the person’s annual period.

(d) Adjustment of fees

(1) In general

(A) Fiscal year 2009

The dollar amount described in subsection (b) or (c) is the amount to be charged for fiscal year 2009.

(B) Fiscal years after 2009

For each fiscal year beginning after fiscal year 2009, each dollar amount in subsection (b)(1) and (c)(2) shall be increased by an amount equal to—

- (i) the dollar amount in paragraph (b)(1) or (c)(2), whichever is applicable, multiplied by
- (ii) the percentage (if any) by which the CPI for the most recently ended 12-month period ending on June 30 exceeds the baseline CPI.

(2) Rounding

Any increase under subparagraph (B) shall be rounded to the nearest dollar.

(3) Changes less than 1 percent

The Commission shall not adjust the fees under this section if the change in the CPI is less than 1 percent.

(4) Publication

Not later than September 1 of each year the Commission shall publish in the Federal Register the adjustments to the applicable fees, if any, made under this subsection.

(5) Definitions

In this subsection:

¹ So in original. Probably should be “part”.

(A) CPI

The term “CPI” means the average of the monthly consumer price index (for all urban consumers published by the Department of Labor).

(B) Baseline CPI

The term “baseline CPI” means the CPI for the 12-month period ending June 30, 2008.

(e) Prohibition against fee sharing

No person may enter into or participate in an arrangement (as such term is used in section 310.8(c) of the Commission’s regulations (16 C.F.R. 310.8(c))) to share any fee required by subsection (b) or (c), including any arrangement to divide the costs to access the registry among various clients of a telemarketer or service provider.

(f) Handling of fees**(1) In general**

The Commission shall deposit and credit as offsetting collections any fee collected under this section in the account “Federal Trade Commission—Salaries and Expenses”, and such sums shall remain available until expended.

(2) Limitation

No amount shall be collected as a fee under this section for any fiscal year except to the extent provided in advance by appropriations Acts.

(Pub. L. 108–10, §2, Mar. 11, 2003, 117 Stat. 557; Pub. L. 110–188, §2, Feb. 15, 2008, 122 Stat. 635.)

AMENDMENTS

2008—Pub. L. 110–188 amended section generally. Prior to amendment, text read as follows: “The Federal Trade Commission may promulgate regulations establishing fees sufficient to implement and enforce the provisions relating to the ‘do-not-call’ registry of the Telemarketing Sales Rule (16 CFR 310.4(b)(1)(iii)), promulgated under the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.). Such regulations shall be promulgated in accordance with section 553 of title 5, United States Code. Fees may be collected pursuant to this section for fiscal years 2003 through 2007, and shall be deposited and credited as offsetting collections to the account, Federal Trade Commission—Salaries and Expenses, and shall remain available until expended. No amounts shall be collected as fees pursuant to this section for such fiscal years except to the extent provided in advance in appropriations Acts. Such amounts shall be available for expenditure only to offset the costs of activities and services related to the implementation and enforcement of the Telemarketing Sales Rule, and other activities resulting from such implementation and enforcement.”

RULEMAKING

Pub. L. 110–188, §4, Feb. 15, 2008, 122 Stat. 637, provided that: “The Federal Trade Commission may issue rules, in accordance with section 553 of title 5, United States Code, as necessary and appropriate to carry out the amendments to the Do-Not-Call Implementation Act (15 U.S.C. 6101 note) [now this chapter] made by this Act [amending this section and section 6154 of this title].”

§ 6153. Federal Communications Commission do-not-call regulations

Not later than 180 days after March 11, 2003, the Federal Communications Commission shall

issue a final rule pursuant to the rulemaking proceeding that it began on September 18, 2002, under the Telephone Consumer Protection Act (47 U.S.C. 227 et seq.). In issuing such rule, the Federal Communications Commission shall consult and coordinate with the Federal Trade Commission to maximize consistency with the rule promulgated by the Federal Trade Commission (16 CFR 310.4(b)).

(Pub. L. 108–10, §3, Mar. 11, 2003, 117 Stat. 557.)

REFERENCES IN TEXT

The Telephone Consumer Protection Act, referred to in text, probably means the Telephone Consumer Protection Act of 1991, Pub. L. 102–243, Dec. 20, 1991, 105 Stat. 2394, which enacted section 227 of Title 47, Telecommunications, amended sections 152 and 331 of Title 47, and enacted provisions set out as notes under sections 227 and 609 of Title 47. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 609 of Title 47 and Tables.

§ 6154. Reporting requirements**(a) Biennial reports**

Not later than December 31, 2009, and biennially thereafter, the Federal Trade Commission, in consultation with the Federal Communications Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce that includes—

- (1) the number of consumers who have placed their telephone numbers on the registry;
- (2) the number of persons paying fees for access to the registry and the amount of such fees;
- (3) the impact on the “do-not-call” registry of—
 - (A) the 5-year reregistration requirement;
 - (B) new telecommunications technology; and
 - (C) number portability and abandoned telephone numbers; and
- (4) the impact of the established business relationship exception on businesses and consumers.

(b) Additional report

Not later than December 31, 2009, the Federal Trade Commission, in consultation with the Federal Communications Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce that includes—

- (1) the effectiveness of do-not-call outreach and enforcement efforts with regard to senior citizens and immigrant communities;
- (2) the impact of the exceptions to the do-not-call registry on businesses and consumers, including an analysis of the effectiveness of the registry and consumer perceptions of the registry’s effectiveness; and
- (3) the impact of abandoned calls made by predictive dialing devices on do-not-call enforcement.

(Pub. L. 108–10, §4, Mar. 11, 2003, 117 Stat. 557; Pub. L. 110–188, §3, Feb. 15, 2008, 122 Stat. 637.)