

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
)  
**Rules and Regulations Implementing the** ) CG Docket No. 02-278  
**Telephone Consumer Protection Act of 1991** ) CC Docket No. 92-90  
)  
)

**STATE OF INDIANA'S SUPPLEMENTAL COMMENTS IN  
OPPOSITION TO THE CONSUMER BANKERS ASSOCIATION'S PETITION  
TO DECLARE INDIANA'S TELEPHONE PRIVACY LAW PREEMPTED**

In their Petition to the Federal Communications Commission (“Commission”) to declare Indiana's Telephone Privacy Law preempted by the Telephone Consumer Privacy Act (“TCPA”) and corresponding Commission Rules, the Consumer Bankers Association contends that compliance with multiple telemarketing regulatory regimes is confusing, onerous, and burdensome. The facts, however, demonstrate that nothing could be further from the truth.

Telemarketers and companies that rely on telemarketing services have had to comply with a multistate regulatory regime for nearly a decade since the passage of the TCPA and before the implementation of the Commission's Rules promulgated in 2003. In fact, the overwhelming majority of states have had laws regulating telemarketing and telephone privacy on the books prior to the promulgation of the Commission’s Rules. In this regard, state regulation of telemarketing is no different from multistate regulation of any of a number of commercial activities, such as sweepstakes and related promotions.

To facilitate compliance with this multistate regime, affordable software and services are available to telemarketers to manage both do-not-call lists and state telemarketing regulations. New York-based Call Compliance, Inc. (“Call Compliance”), for example, provides an automated screening service that blocks phone numbers registered on the federal and various

state do-not-call lists at a remarkably inexpensive rate - significantly less than one cent per call. XO Communications, Inc. ("XO Communications") and its customers, who rely heavily on telemarketing services, have used Call Compliance's services with great success. In addition to the blocking service, Call Compliance also provides several web-based tools to facilitate telemarketing compliance, including a comprehensive database of applicable state rules, searchable by state, topic, compliance and registration requirements, and by delivery method (wireline, wireless, facsimile, auto dialer). A more detailed additional description of XO Communications' use of this service is attached hereto, in the Declaration of Ms. Mervat Olds, former Product Manager for XO Communications, as Appendix I. It is important to note, as Ms. Olds' Declaration sets forth, that Call Compliance's TeleBlock® product is but one of several products and services that have been invented and brought to market to ease, if not automate, compliance with multiple state telemarketing rules for a variety of companies and industries at affordable rates.

Accordingly, the existence of these compliance services has supplied a cost-effective, straightforward tool to provide telemarketers with the easy ability to comply with the Commission's Rules, the Federal Trade Commission's Rules, and the various state rules governing telephone solicitations. Furthermore, as the attached Declaration of Ms. Olds demonstrates, the technology available to telemarketers for complying with the various state and federal Do-Not-Call laws and rules is remarkably inexpensive, as well as highly effective. Hence, the petitioners' claims that compliance with a multistate telemarketing regime is somehow burdensome or expensive are both unsubstantiated and absurd.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing State Of Indiana's Supplemental Comments In Opposition To The Consumer Bankers Association's Petition To Declare Indiana's Telephone Privacy Law Preempted was filed electronically and served upon all counsel of record listed below, by United States Mail, first-class, postage prepaid, and email on the 29<sup>th</sup> day of July, 2005:

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## **APPENDIX I**

### **DECLARATION OF MS. MERVAT OLDS**