

NATIONAL DO-NOT-CALL REGISTRY:
Report On a Government Information Initiative

Final Draft

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The Initiative: National Do-Not-Call Registry

Telemarketing practices and the need for their regulation to protect citizens create a tension between individuals' right to privacy and the right to free speech that the First Amendment offers. While citizens have the right to disregard information of no interest to them, their choice to restrict the distribution of such information to their own homes could be construed as a violation of others' right to freedom of speech, if we are willing to consider telemarketing as protected under the First Amendment. Trying to achieve a balance in the implementation of both rights as they relate to telemarketing, the Federal Trade Commission (FTC) launched a National Do-Not-Call Registry (DNC Registry) on June 27, 2003. President Bush hailed its inception on that day by calling it "a tool that will ensure that telemarketers respect the privacy of our Nation's citizens" (2003a, p. 825). He emphasized that the DNC Registry is free for consumers and "comes at no expense to the taxpayers" (2003a, p. 825), except a start-up appropriation made by Congress a few months earlier in February 2003 (Dorf, 2003).

The National Do-Not-Call Registry allows people to register their phone numbers for inclusion in the Registry either online or through a toll-free phone number, so as not to receive unsolicited phone calls from telemarketers. The list of phone numbers gets its teeth, so to speak, from the legislation that specifies how telemarketers are to treat those numbers and what the rules of engagement are. Therefore, to understand the nature and effects of the Registry, we need to understand the laws that govern its creation and use.

The *Telemarketing Sales Rule* (16 C.F.R. 310), first issued by the Federal Trade Commission in 1995 and amended in 2002 to become effective in its amended version on

March 31, 2003, is the main piece of legislation governing the Registry. The *Rule* comes into existence due to the authority given to the Federal Trade Commission by the *Telemarketing and Consumer Fraud and Abuse Prevention Act* of 1994 (PL 103-297). The *Act* mandates that the FTC develop rules to prohibit deceptive and abusive telemarketing (16 C.F.R. 310, p. 4580), so the *Telemarketing Sales Rules* is the fulfillment of that mandate. It bans telemarketers from calling individual consumers whose phone numbers have been entered in the Registry, without an already “established business relationship” (16 C.F.R. 310.4(b)(1)(iii)(B)(ii)), which can be either a business transaction that gives telemarketers the right to call for up to 18 months or a consumer inquiry that gives them the right to call for up to 3 months (16 C.F.R. 310.2(n)). Even then, telemarketers can call only from 8am until 9pm based on the consumer’s local time (16 C.F.R. 310.4(c)). Telemarketing calls from one business to another are not affected by this law, while telemarketing calls from charities and political organizations are exempt from having to comply with the Registry with the qualification that they will respect consumers’ wishes not to be called by maintaining in-house do-not-call lists. When calling any consumer, telemarketers have to transmit their caller ID as of January 29, 2004 (Federal Trade Commission [FTC], 2004), meaning either the name of the company or their phone number, so consumers can register a complaint if they feel a violation has occurred, and telemarketers are liable for a fine of up to \$11,000 per violation (High court, 2004, p. 7).

Despite the enforcement of FTC’s *Telemarketing Sales Rule*, the Federal Trade Commission cannot be completely effective in stopping unsolicited calls to consumers because it does not have jurisdiction over common carriers, non-profit organizations, insurance companies, banks and credit unions (16 C.F.R. 310, p. 4679). So, the Federal

Communications Commission (FCC) has overlapping legislation to ensure broader coverage through the *Telephone Consumer Protection Act* (TCPA), and the U.S. Securities and Exchange Commission (SEC) regulates telemarketing from insurance companies through its own set of rules and do-not-call lists. The TCPA of 1991, which initially amends the *Communications Act* of 1934, has been further revised in 2003 to adopt the National Do-Not-Call Registry and to add parallel provisions that exempt charitable organizations from compliance with the Registry (Lewczak & Starr, 2003). The most active coordination of enforcement efforts seems to be occurring between the FCC and FTC, who are negotiating a “Memorandum of Understanding” on how to most effectively regulate telemarketing without much duplication of effort (Federal Communications Commission [FCC], 2004). Even though the two government agencies have promulgated separate legislation, their rules apply to the same National Do-Not-Call Registry implemented by the Federal Trade Commission.

Goals and Objectives

The explicit goal of the DNC Registry is to give citizens the ability to block unsolicited telemarketing calls to their homes, which many consider annoying and a nuisance due to their frequency and to the high rate of abandoned calls. The Registry achieves that goal by offering free access to a Web site for registration at www.donotcall.com and through a toll free number at 1-888-382-1222, which began nation-wide coverage on July 7, 2003 (Muris, 2003). The FTC increases the practical consequences of the Registry’s goal of empowering citizens by offering comprehensive access for telemarketers to citizens’ preferences, making compliance easier to achieve, albeit at a fee of \$25 per area code after free access to five area codes with a ceiling of \$7,375 per year (FCC, 2004). In addition, the Registry consolidates

various states' efforts at regulating telemarketers' calls to individual consumers by incorporating states' lists in the national one. Out of the twenty seven states' lists, which contained 20 million phone numbers when the National DNC Registry was launched, almost three quarters had arrangements to share their lists, while the rest were in the process of deciding how to proceed (Muris, 2003).

Another distinct goal of the Registry is to enable improved prevention of abusive and fraudulent telemarketing practices and better enforcement of FTC's *Telemarketing Sales Rule* (16 C.F.R. 310). This goal is achieved mainly through the availability of a complaint process online as part of the DNC web site or through a toll-free number in combination with provisions for telemarketers that oblige them to provide sufficient identification information for a complaint to be filed against them. The National DNC Registry plays a central role in the Federal Trade Commission's consumer protection mission. It is included in the FTC's list of privacy initiatives (Federal Trade Commission, 2001), and FTC Chairman Timothy Muris calls it "the commission's 'top enforcement priority'" (Peterson, 2003, p. 5).

Stakeholders & Their Interests

The two groups of stakeholders with most directly clashing interests are telemarketers and individual consumers, as well as the consumer protection groups that represent them. Telemarketers assert their right to initiate outbound calls to individuals by evoking First Amendment rights to freedom of speech. The American Telemarketers Association goes so far as to claim that the access fee for the DNC Registry constitutes "a tax on free speech" (Teinowitz, 2004, p. 18). Telemarketers' mostly commercial interests are economically threatened by the Registry and, according to Direct Marketing Association spokesman, Louis

Mastria, are costing the telemarketing industry “up to \$50 billion sales each year,” which constitutes half of the total industry business (Ho, 2003). As part of the industry, the Direct Marketing Association understandably has an alarming manner of estimating the effects of the Registry, but other telemarketers have begun to balance the initial industry scare with more realistic views, estimating that the Registry together with the overall enforcement of the *Telemarketing Sales Rule* have led to a 10% increase in labor costs mandated by a limit on the maximum allowed abandoned calls, which are the result of not having an available live operator for every number dialed by an automatic device, and additional investment in hardware to be used only for business to consumer calls to ensure transmission of caller ID (Arnold, 2004, p. 11). Interestingly, the need for compliance has spurred new developments among telemarketing companies, such as a specialization in compliance services and software, as well diversification of the companies’ business to make the most out of their increased personnel and hardware resources (Arnold, 2004, p. 11). Even though the National DNC Registry presents a unified enemy to direct industry attacks at, the telemarketers have been incurring some of the added costs before the Registry’s inception due to different states’ do-not-call lists and legislation.

Consumers, on the other end of the conflict, assert their right to privacy, their right to be let alone first recognized in *Olmstead v. U.S.* in 1928 (16 C.F.R. 310, p. 4678). Their main interests include the decrease in unsolicited phone calls, the elimination of calls at inappropriate times of the day or night, the protection of consumers from scams and repeated harassment by specific telemarketers, and the decrease in misleading or fraudulent information in telemarketing transactions. Consumers and consumer protection groups have expressed unequivocal support for the Nation DNC Registry evidenced by the submission of

60,000 supportive public comments before the Registry's launch (Bush, 2003a, p. 825).

Charitable organizations occupy a strange position in regard to the DNC Registry because of their different telemarketing practices and objectives. They might not always be trying to reach the largest number of people or to call people who are reluctant to hear their message. Rather, they often are interested in meaningful conversations that encourage donations, preferably with citizen who have previously expressed empathy for their cause. When charitable organizations either employ professional telemarketing services or use their own staff for telemarketing, they do not have to comply with the DNC Registry, but with an in-house do-not-call list instead. Maintaining such a list and records of their transactions can be costly. In addition, the different treatment and legal restrictions demand separate training for hired telemarketing personnel, who might be accustomed to commercial telemarketing. Overall, because charitable organizations are exempt from the limitations of the Registry, their interests are not in conflict with it, but their practices are generally affected by do-not-call legislation.

The two main government agencies involved in the DNC Registry – the FTC and the FCC – are in the position of having the responsibility for effectively balancing the inherent tension between the right to privacy and the right to free speech through regulation and its implementation. Their interests include the execution of a cost-effective registry with access fees for telemarketers high enough to maintain the Registry, but low enough not to discourage compliance. The initial fees are still in effect, but there is a proposal for raising them from \$25 to \$45 per area code and increasing the maximum yearly limit from \$7,375 to \$12,375 (FCC, 2004). Those proposed changes have not been implemented yet, and it is unclear what the attitude in the FCC is about introducing the fee increase. Another agency interest is to keep all

affected parties involved in the public discussions related to the process of policy development. They have been holding public forums and accepting comments online, not just as a token gesture to the process, but have used public comments as a basis for the revision of the *Rule*. For example, before the 2003 revision of the *Telemarketing Sales Rule*, the public had identified several new tendencies such as an “increased consumer concern about privacy, the development of novel payment methods, and the increased use of preacquired account telemarketing and upselling” (16 C.F.R. 310, p. 4581-2). As a result, the revised *Rule* includes both new provisions and clarifications in the language of existing ones that take into account those new tendencies, making clear the FTC’s position on how those practices should be treated under the *Rule*.

Legal Challenges

The DNC Registry’s legal status has been challenged both on statutory and on constitutional grounds early in its existence, making for a rocky start of the initiative.

As early as 23 September 2003, a United States District Judge in Oklahoma “ruled in favor of an industry challenge, holding that the FTC acted without statutory authority in creating and implementing the Registry” (Lewczak & Starr, 2003). Judge Lee West recognized that the Federal Communications Commission had the authority to launch a DNC Registry, but considered the Federal Trade Commission to be the wrong agency for that initiative because it had been given regulatory power under the *Telemarketing and Consumer Fraud and Abuse Prevention Act* of 1994 that “could not be construed to cover all telemarketing calls” (Dorf, 2003). Moreover, the judge did not recognize the power of the *Do-Not-Call Implementation Act*, enacted by Congress in March of 2003, to ratify the creation

and implementation of a DNC Registry, because the Act did not, in Judge West's words, "unequivocally grant the authority [to the FTC] to promulgate a do-not-call registry. It merely recognize[d] that the FTC ha[d] done so" (qtd. in Dorf, 2003). In response to Judge West's order, Congress acted swiftly within a week to remedy the situation by giving FTC the authority to implement the Registry with a vote of 95-0 in the Senate and 412-8 in the House (Bush, 2003b, p. 1281). In effect, PL 108-82 saved not only the federal DNC Registry, but also the twenty seven states' lists, whose existence could have been challenged in local courts subsequent to the precedent of Judge West's order, which considers regulatory power as insufficient to implement a do-not-call list.

Congress' expedient actions, however, did not secure a lasting stability for the DNC Registry. An even more serious challenge – this time on constitutional grounds – followed before the month of September was out. U.S. District Judge Edward Nottingham of Colorado "issued a ruling invalidating the no-call registry on free speech grounds" (Dorf, 2003). The basis for this ruling stemmed from the *Telemarketing Sales Rule's* classification of telemarketing calls and separate treatment for charitable organizations, resulting in what Judge Nottingham termed "content discrimination" (qtd. in Dorf, 2003), meaning that the government can bar all telemarketing calls for registered phone numbers or none of them but not make distinctions based on the nature and "content" of the calls. Given that the active agent here are citizens, not the government, Michael Dorf, a Professor of Law at Columbia University and columnist for *FindLaw*, comments that the DNC Registry constitutes a case where "the government can provide individuals with special assistance in rejecting commercial speech in particular" under the precedent of *Rowan v. United States Post Office Department* (1970), which dealt with advertising through mail.

With a constitutional challenge to the Registry, such as the one Judge Nottingham's ruling provides, Congress can resolve the issue only by passing a constitutional amendment. In this case, however, the ruling was overturned within the judicial system when the 10th U.S. Circuit Court of Appeals first stayed the court's decision on October 7, 2003 and then overturned it in March 2004 (Teinowitz, 2004, p. 18). Moreover, the Supreme Court upheld the Registry when it declined on October 4, 2004 to hear the case against the appellate court's decision (Teinowitz, 2004, p. 18).

Despite the telemarketing industry's persistence in challenging the authority of the Federal Trade Commission and the constitutionality of the DNC Registry, the FTC has overcome the obstacles and started enforcing compliance with the Registry with a case against AT&T as one of the first instances of charging telemarketers a fine for their violations. AT&T has to pay \$490,000 for repeatedly calling twenty nine phone numbers protected by the DNC Registry (AT&T, 2004, p. 4).

Policy & Registry Timeline

1991	<i>Telephone Consumer Protection Act</i> is passed.
1994	<i>Telemarketing and Consumer Fraud and Abuse Prevention Act</i> is passed and it empowers the FTC to fight fraud.
Dec. 31, 1995	<i>Telemarketing Sales Rule</i> comes into effect.
Jan. 2002	"FTC Chairman Tim Muris proposes do-not-call registry" (Teinowitz, 2004, p. 18).
Feb. 2003	Congress appropriates money for Registry start-up costs (Dorf, 2003).
March 2003	Congress enacts <i>Do-Not-Call Implementation Act</i> (15 U.S.C. 6101), which authorizes FTC to collect fees for maintaining the DNC Registry (FCC, 2004).

March 31, 2003	Amended <i>Telemarketing Sales Rule</i> comes into effect, providing for the creation and implementation of the Registry.
By June 2003 825).	60,000 public comments in support of the registry (Bush, 2003a, p.
June 27, 2003	List begins accepting registrations online nationwide and by phone for states west of Mississippi at 1-888-382-1222.
June 27, 2003	108 persons per second are registering phone numbers (Bush, 2003a, p. 826), resulting in 7 million registered numbers (Rosencrance, 2003), so FTC has to add more servers to handle the online traffic over that weekend (Rosencrance, 2003).
By July 1, 2003	Over 10 million phone numbers have been registered (Rosencrance, 2003).
July 7, 2003	Telephone registration at 1-888-382-1222 opens up nationwide (Muris, 2003).
July 2003	<i>Telephone Consumer Protection Act</i> is amended to adopt the Registry.
Sept. 23, 2003	U.S. District Judge Lee West in Oklahoma issues an order against the Registry rejecting FTC's authority to run it (Lewczak & Starr, 2003).
By Sept. 29, 2003	Over 50 million numbers have been added to the Registry (Bush, 2003b, p. 1281).
Sept. 29, 2003	Senate (vote: 95-0) and House (vote: 412-8) authorize the creation of the registry, and the President signs it into law PL No. 108-82 (Bush, 2003b, p. 1281). This action is in response to a challenge by Judge Lee R. West from Oklahoma (Do-Not-Call, 2003).
Sept. 2003	U.S. District Judge Edward Nottingham from Colorado rules against registry (Peterson, 2003, p. 5).
Oct. 1, 2003	Enforcement of registry begins (Teinowitz, 2004, p. 18), i.e. consumers can register complaints against violators (Muris, 2003).
Oct. 7, 2003	10 th U.S. Circuit Court of Appeals upholds the Registry, staying the lower-court decision (Teinowitz, 2004, p. 18).
Jan. 29, 2004	Telemarketers must transmit caller ID to be in compliance with <i>Telemarketing Sales Rule</i> (FTC, 2004A), also see <i>Telephone Consumer Protection Act</i> at 47 C.F.R. 64.1200.

March 2004	Lower-court decision is overturned and registry is declared constitutional (Teinowitz, 2004, p. 18).
By June 2004	62 million phone numbers have been added to the Registry (AT&T, 2004, p. 4).
July 2004	AT&T violation fine of \$490,000 (AT&T, 2004, p. 4).
Oct. 2004	Over 64 million phone numbers have been added to Registry (Teinowitz, 2004, p. 18).
Oct. 4, 2004	Supreme Court upholds the Registry (High Court, 2004, p. 7) by declining to hear the appeal of appellate-court case (Teinowitz, 2004, p. 18).

The Online Service: Web Site Evaluation

The Do-Not-Call Registry Web site at <http://www.donotcall.gov> accepts registrations of phone numbers to be included in the Registry, verifies the registration of already entered phone numbers, allows for filing of complaints against violators, and offers additional information about the whole initiative and the policies regulating it. The Web site offers a service only to citizens, while a separate site at <https://telemarketing.donotcall.gov> provides telemarketers with subscription-based access to the do-not-call list. As a site targeting the population at large, the DNC Registry Web site must meet usability and accessibility standards to be considered effective, in addition to many common criteria for Web site evaluation. The assessment below follows loosely the holistic approach of Sharon S. Dawes *et al.* (2004) for evaluating the successful design of Web sites for government information programs.

Users, in Dawes' view, constitute a significant site dimension to be considered in

assessing Web sites. It is against their characteristics and goals that a Web site must be evaluated for effectiveness. The target audience for the DNC Registry Web site is extremely heterogeneous because it can include people belonging to various age, ethnic, and gender groups with widely differing educations and cultural backgrounds. Such diversity creates an uncertainty in what common knowledge users bring when approaching the site, putting additional stress on the Web site to offer transparency and clear directions understandable to all. The Registry's approach to meeting the need for clarity and transparency is one of easy to understand language and lack of obscure terminology. There are brief instructions at the first page of the registration process, such as "Enter up to three phone numbers and your email address. Click Submit" that use common words in short sentences arranged in numbered lists, with a link to more detailed instructions that opens in a new window so as not to interrupt the registration process. Moreover, when an error occurs, the error statements display in red at the top of the page. The red color both attracts attention to the error statement and uses the common reference of red as a signal to stop in order to meet the needs even of users who might not have extensive experience with the use of Web sites and dealing with error messages.

Another important site dimension, according to Dawes *et al.* (2004), is "predictability of uses" (p. 9). It relates to the correspondence between the original intent and purpose of the site and the actual purpose for which users commonly access it. With most informational Web sites, one cannot rely on high predictability of use because users might be approaching the text with various needs or intentions, but with a very well-focused service such as the DNC Registry, we can be sure that the forms comprising the bulk of that site can be used only to enter phone numbers into the Registry, which is not to say that we can be at all sure about the

use of subsequent use of the data collected through the forms. Every potential use for the site corresponds to a button in the main navigation menu, e.g. “Register a Phone Number,” “Verify a Registration,” and “File a Complaint.” The button “En Español” anticipates the language needs of many citizens and demonstrates that the potential use of the site by Spanish-speaking citizens has been recognized. Less predictable uses can be associated with the text of the FTC privacy policy through the “Privacy and Security” button and the initiative related information on the FTC Web site through the “More Information” button, but both of those informative, educational, and useful areas are external to the Registry site and not central to the delivery of the online service.

The service the Registry Web site offer, in addition to being presented through a clear and brief set of forms and textual instructions, is well structured and integrated with the email follow-up. The structure of each consecutive task constitutes a stepwise process that leads users through two or three pages in a sequential manner. For example, in registering a phone number one fills out a form with up to three numbers and an email address, which has to be entered twice for security purposes. Filling out the email twice ensures that the service is being used by citizens, not by automatic agents, which could potentially register countless phone numbers without the knowledge or consent of their owners. Submitting the form is followed by a verification page, which allows users to check the accuracy of the entered information and confirm by clicking “Register.” At this point, the confirmation message that is presented to users explains that they need to check their e-mail and follow a link within 72 hours in an automatic message they receive. Following the link from the e-mail message is equally straightforward and works even after the initial completion of the registration, meaning that users can access that completion page multiple times, if they save their email

message and want at a later date to double-check on the expiration date of their registration, for instance. The whole task of registering a phone number is designed in a sequential fashion in which errors do not disturb the process.

The scope of the site, however, might not be considered sufficient to deliver the service in the best possible manner. Because of the over-simplification of the registration process, the system does not seem to verify if the person registering a phone number owns the phone line or is in any way authorized by the owner to be performing the registration, i.e. users can register any phone number they wish as long as the email address they enter is valid. Allowing for verification of who is performing the task requires complete restructuring of the system and might complicate the process significantly by requiring return visits. With the lack of this verification, one would expect at least an option to cancel a registration. Theoretically, any service online that offers a subscription or opt-in option should offer a way to undo the choice by unsubscribing or opting out. The DNC Registry does not have a cancellation procedure, so it is operating on the premise that no reasonable individuals would opt to receive unsolicited telemarketing calls or would complain if they stop receiving those calls because someone entered their phone numbers in the Registry. The wide-spread acceptance of this premise justifies the one-sidedness of the process and makes it perhaps one of the few online tasks that can be successful without offering users the option to undo their actions.

As with most government online services, the DNC Registry site is for public use, so it has to comply with accessibility standards set by the World Wide Web Consortium and enforced by Section 508 of the *Rehabilitation Act* (29 U.S.C. 794d), which ensure that people with various disabilities are not excluded from the potential users of the site and their special needs are met. Every page on the site exhibits good contrast between the black text and its

white background and sufficient white space to increase text readability. In addition, the text is flexible in size – it can be magnified through the browser functions – while retaining its logical arrangement and staying within the width of the screen even when users increase it by several levels of magnitude. All of those features enhance use for people with bad eye-sight. For individuals with more serious visual impairments, the tab index works correctly for the filling out of forms and the code contains explicit links to the forms that a Web reader would present to them. Finally, the main navigation buttons are large enough in size to be easily accessible through a mouse-click even if the user does not have extensive experience and fine motor skills.

Overall, the National DNC Registry Web site fulfills its purpose by presenting a sequential process that is compatible and clear to follow even with limited users' knowledge of and experience with the Web. It offers a minimalist approach for delivering an online service by providing three tasks and no way to undo what those tasks accomplish. Yet, one can assess its functioning as sufficient to fulfill its purpose, without any extra features or optional elements. The most serious omissions that the site makes include the lack of directions on the front page that would offer users the option to register by calling the toll-free number, if they feel uncomfortable with using the Web site. Another omission worth mentioning is the absence of a survey form or at least an email address where users can provide comments on the functioning of the Web site. Due to the expected high traffic on the DNC Registry site, it is understandable that the FTC would not want to invite much commentary from users, but it is only ethical to offer some sort of communication channel for reporting the system's malfunctions. Despite the satisfactory quality of the site, the effective delivery of this service relies largely on the enforcement of do-not-call legislation.

Implications for E-Government

Electronic government most broadly construed refers to “both current applications of information technologies to government operations, and a goal of realizing more efficient and economical performance of government functions” (Hernon et al, 2002, p. 369). When considered narrowly on the basis of current e-services, electronic government can be reduced to a number of forms online that allow citizens a one-way communication channel. Both of these extreme views arguably miss the mark because e-government “does not mean putting scores of government forms on the Internet. It is about using technology to its fullest to provide services and information that is centered around citizen groups” (“About e-gov”). The DNC Registry, with all the intricate regulations at work behind the seemingly simple forms online, illustrates the relationship between online services and the development of regulations that anticipate and use those services, as well as potential changes in the government-to-citizen interactions.

One of the most novel aspects of the combination of DNC regulations and an online service that implements them is the requirement of active citizen participation. Instead of passing regulations that change the status quo for everyone, the Federal Trade Commission and the Federal Communications Commission have implemented regulations that can be applied selectively based on directly expressed citizen preferences. That is, only individuals who wish to be covered by the DNC regulations will be affected after they register their phone numbers. The ability to maintain a comprehensive and centralized list of each phone number covered by the regulations allows for much more citizen decision-making into how

governmental actions can influence their daily activities. The government-to-citizen communication can be streamlined and facilitated by more such electronic services that support direct statement of opinions by citizens.

Meanwhile, the same technological capability of maintaining a comprehensive record of citizen choices can be taken to extremes by promulgating very specialized laws to apply to small groups of citizens. The successful implementation of other government services similar to the DNC Registry relies to an extent on funding without the use of tax dollars. Since the DNC Registry involves an industry that can be the source of maintenance funding through fees, the selectivity of the regulations does not raise extensive controversy. One might expect stronger challenges against selective regulations when they utilize tax dollars to protect limited groups of citizens. The opposite scenario in participation, however, can constructively utilize the registry approach by allowing citizens to state their preferences when they wish to be excluded from a regulation that otherwise applies to everyone without the need for active registration. No matter how government agencies use similar strategies to implement their regulations in the future, the DNC Registry illustrates the potential for “subscription” coverage by laws, which at once makes the social contract visible and introduces the ability of individual citizens to negotiate its terms.

The very need for citizen participation to be covered under the regulations, while offering the freedom of directly expressing one’s preferences, has the potential to limit the laws’ usefulness to citizens who are either unaware of the available new electronic services, or lack access to the technology needed to articulate their choices. In the case of the DNC Registry, for instance, the burden of protecting customers’ privacy shifts from the government to individual citizens. The new alignment of roles limits government agencies by potentially

redefining their responsibilities, so they no longer need to act in the name of consumers, but just facilitate consumers' ability to act in their own name through the use of e-services. At the same time, the burden is greater on consumers to be constantly informed about latest developments in government regulations and about the consequences of the various choices available to them. The manner in which the DNC Registry informs citizens of the significance and consequences of their choices represents a pertinent example of this shift in responsibilities. Visiting the DNC Registry Web site, for example, not only highlights how a citizen can register a phone number, but also offers more details on what registration entails through the "More Information" link, where one can find explanations of the regulations in layman's terms in a question-and-answer format. Knowing about the existence of the DNC Registry Web site, however, remains largely dependent on word of mouth or the popular media, both of which cannot be considered reliable methods of informing the public about e-government services. If regulation-related services are to be developed further, government agencies would need to find reliable means of informing the public about new regulations in a timely and effective manner.

Beyond the interface of e-government services and the information that citizens have about their availability, the DNC Registry alerts us to potential implications for e-government when it comes to the collected data as well. The effective use of e-services for government-to-citizen communication relies heavily on establishing trust, which has been described as "the most critical issue facing the adoption of eGovernment" (Hernon et al, 2002, p. 372). The DNC Registry does not collect sensitive private information, such as credit card numbers, but the questions of how consumer privacy is maintained in relation to phone numbers and email addresses is at the core of establishing public trust in the service. One of the significant steps

the Federal Trade Commission has taken towards building trust is the prominent link to their privacy policy through the “Privacy and Security” button on the DNC Web site. The text of the privacy policy discusses both the types of information collected and the ways it is being used. In addition, the FTC uses “secure socket layer (SSL) encryption” for the Registry forms and stores the email addresses separately from the phone numbers (FTC, 2004b), so telemarketers do not gain access to emails for citizens who enter their phone numbers into the do-not-call list. Even though citizens can always question the accuracy of statements from the privacy policy, the prominence of this information on the site signals that transparency is among the FTC priorities when it comes to protecting citizens’ privacy. As e-services become more widespread, one can expect that rigorously maintained consumer privacy in the electronic environment can contribute significantly to public trust in those services.

Even though the DNC Registry constitutes an effort that concerns mainly government-to-citizen communication, it represents some potential implications for government-to-government collaboration as well. The technological capability to maintain a national do-not-call list has been utilized to merge state lists into it. In effect, the existence of a centralized Registry might reduce the duplication of effort in various states to perform the same service locally. The same centralization approach can be used to more effectively store and share information that is often needed across state boundaries, bringing different state governments and the federal government in a closer collaboration for utilizing personnel and resources. If combined with transparent and demonstrable privacy protection of the data, centralization can increase the effectiveness of storage, archiving and sharing of information beyond the common national databases related to law enforcement information.

Overall, the DNC Registry offers a glimpse at future opportunities for e-government

because it relates closely to the implementation of regulations and goes beyond offering an online equivalent to a previously face-to-face service as is the case with driver's license renewals, for instance. It represents a service that is centralized and designed to support direct citizen involvement in stating whether they want to be covered by the regulations in place. Combining expectations of privacy in electronic submission of data with the novelty of selective regulation coverage by voluntary participation, the DNC Registry can be seen as only a first step towards flexible government interactions with individual citizens. The success or failure of such services, however, depends primarily on the level of public trust in electronic government transactions and the awareness of their availability.

References

- About e-gov: E-gov background. (n.d.). *E_Gov: Powering America's future with technology*. Retrieved on March 12th, 2005, from <http://www.whitehouse.gov/omb/egov/g-1-background.html>.
- Arnold, C. (2004, February). Law gives industry a buzz; Do-not-call spurs ideas. *Marketing News TM*, 11.
- AT&T to pay \$490,000 for do-not-call violations. (2004, July 10). *The New York Times*, 4.
- Bush, G. W. (2003a). Remarks on the Creation of the National Do Not Call Registry. *Weekly Compilation of Presidential Documents*, 39(29), 825-826.
- Bush, G. W. (2003b). Remarks on signing legislation to ratify the authority of the Federal Trade Commission to establish a do not call registry. *Weekly Compilation of Presidential Documents*, 39(40), 1280-1281.
- Dawes, S. S., Pardo, T. A., & Cresswell, A. M. (2004). Designing electronic government information access programs: A holistic approach. *Government Information Quarterly*, 21, 3-23.
- Do-not-call registry faces tougher challenge: Second judge blocks list, citing free speech concerns. (2003). *CNN.com inside politics*. Retrieved on January 5th, 2005, from <http://www.cnn.com/2003/ALLPOLITICS/09/25/congress.no.call/>.
- Dorf, M. (2003). Legal status of the do-not-call registry. *CNN.com law center*. Retrieved on January 5th, 2005, from <http://www.cnn.com/2003/LAW/10/02/findlaw.analysis.dorf.dont.call/>.
- Federal Communications Commission. (2004). Annual report on the national do-not-call registry. *Federal Communications Commission*. Retrieved on January 6th, 2005 from http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-04-3890A1.pdf.
- Federal Trade Commission. (2001). Privacy agenda. *Federal Trade Commission*. Retrieved on January 5th, 2005, from <http://www.ftc.gov/opa/2001/10/privacyagenda.htm>.
- Federal Trade Commission. (2004a, January 28). Telemarketers to start transmitting caller ID information. *States News Service*.
- Federal Trade Commission. (2004b, April 22). *Federal Trade Commission Privacy Policy*. Retrieved on March 5th, 2005, from <http://www.ftc.gov/ftc/privacy.htm>.
- Heron, P., Relyea, H. C., Dugan, R. E., & Chevrle, J. F. (2002). *United States government information*. Westport, CT: Libraries Unlimited.

- High court lets 'do not call' stand. (2004, October 4). *Congress Daily*, 7.
- Ho, D. (2003). 'Do-not-call' still a big hit. *CBSNews.com*. Retrieved on January 5th, from <http://www.cbsnews.com/stories/2003/03/11/politics/main543573.shtml>.
- Lewczak, J.J., & Starr, I. (2003). Do not call stumbles, recovers. *FindLaw for legal professionals*. Retrieved on January 4th, 2005, from http://library.lp.findlaw.com/articles/file/01009/009208/title/Subject/topic/Communications_Federal%20Communications%20Commission/filename/communications_1_272
- Muris, T. (2003). FTC chairman Tim Muris hosts 'ask the White House'. *The White House: President George W. Bush*. Retrieved on January 4th, 2005, from <http://www.whitehouse.gov/ask/20030627.html>.
- Peterson, M. M. (2003, October 8). FTC, FCC energized by 'do not call' list appellate ruling. *Congress Daily*, 5-6.
- Rosencrance, L. (2003). Do-not-call web site bombarded: Sign-up to block telemarketers draws overwhelming response. *PC World*. Retrieved on January 6th, 2005, from <http://www.pcworld.com/news/article/0,aid,111407,00.asp>.
- Teinowitz, I. (2004). Court ruling means do-not-call list here to stay. *Advertising Age*, 75(41), 18.
- Telemarketing Sales Rule. 16 C.F.R. 310. January 29, 2003.