

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON D.C. 20554

In the Matter of:	)	
	)	
Implementation of the Middle Class Tax Relief and Job Creation Act of 2012	)	CG Docket No. <b>12-129</b>
	)	
Establishment of a Public Safety Answering Point Do-Not-Call Registry	)	
_____	)	

**COMMENTS OF THE  
MICHIGAN PUBLIC SERVICE COMMISSION**

Pursuant to the Federal Communications Commission’s (FCC or Commission) procedural schedule established in the above-referenced docket, the Michigan Public Service Commission (MPSC) hereby submits its comments to the Notice of Proposed Rulemaking (NPRM) released May 22, 2012 regarding the Implementation of the Middle Class Tax Relief and Job Creation Act of 2012 and the Establishment of a Public Safety Answering Point Do-Not-Call Registry. See CG Docket No. 12-129, FCC 12-56. In this NPRM, the FCC requested comments regarding proposed rules for establishing a Do-Not-Call registry for public safety answering points (PSAP) as required by the Middle Class Tax Relief and Job Creation Act of 2012. The FCC’s proposed rules create a registry that allows PSAPs to register telephone numbers on a Do-Not-Call list and prohibit the use of automatic dialing or robocall equipment to contact those numbers.

The MPSC submits the following comments on specific questions and concepts discussed in the NPRM. The MPSC’s comments are formatted to coincide

with the numbered paragraphs in the NPRM, and the MPSC reserves the right to discuss additional questions and topics from the NPRM not addressed herein during the reply comment period.

## INTRODUCTION

On December 20, 2002, Michigan Governor John Engler signed into law 2002 PA 612 (Act 612), which amended the Michigan Home Solicitation Sales Act. MCL 445.111 *et seq.* Act 612 regulates certain telephone solicitations, prescribed penalties and remedies for violations, and directs the Michigan Public Service Commission to establish a state Do-Not-Call list. This law became effective March 31, 2003. Additionally, in December 2002, 2002 PA 613 was signed into legislation, giving the Michigan Office of the Attorney General the authority to enforce Michigan's Do-Not-Call list law and permitting Michigan consumers to file complaints with the Federal Trade Commission (FTC) and the FCC.

Act 612 provided that within 120 days after its effective date, or by July 29, 2003, the MPSC establish a state Do-Not-Call list or designate a vendor to maintain such a list. Beginning 90 days after the state Do-Not-Call list was created, telephone solicitors would be prohibited from making telephone solicitations to residential telephone customers whose names and numbers were on the list.

Act 612 also stated that if a federal government agency established a federal Do-Not-Call list, within 120 days after the establishment of that list, the MPSC must designate the federal list as the state Do-Not-Call list. With the amendments to the TSR, the FTC established a national Do-Not-Call registry. When the FTC's

registry development process was well underway and there was ample reason to believe that the list would be available in the near future, the FTC contracted with a vendor for the Do-Not-Call registry, received approval for over \$18 million in funding for the registry, and announced the implementation timeline.

Internet and telephone registration for the federal list was scheduled to begin in July 2003. Telemarketers and other sellers would be able to access the registry beginning in September 2003, and enforcement of the federal Do-Not-Call provisions was to commence in October 2003.

Under the Telephone Consumer Protection Act, the FCC was working on rules that would establish a federal Do-Not-Call list. On March 11, 2003, President Bush signed into law the Do-Not-Call Implementation Act<sup>1</sup>, which required the FCC to issue its final rules by September 7, 2003 and to coordinate with the FTC to maximize consistency between the agencies' rules.

The MPSC believed that adopting the national Do-Not-Call registry as the Michigan Do-Not-Call list would promote government efficiency by reducing the unnecessary duplication of resources. Additionally, with only one registry, customers would receive the benefit of protection against both intrastate and interstate telephone solicitations. As a result, on April 17, 2003, the MPSC issued an Order, in MPSC Case No. U-13753, adopting the FTC's federal Do-Not-Call registry as the Michigan Do-Not-Call list. MPSC Case No. U-13753, Order, April 17, 2003.

On May 22, 2012, the FCC released an NPRM regarding a Do-Not-Call registry for public safety answering points (PSAP) as required by the Middle Class Tax Relief and Job Creation Act of 2012. The NPRM requests comments regarding proposed rules to establish a registry that allows PSAPs to register telephone numbers on a Do-Not-Call list and prohibit the use of automatic dialing or robocall equipment to contact those numbers. A Notice was published in the Federal Register on June 21, 2012, establishing a comment date of July 23, 2012 and a reply comment date of August 6, 2012. See 77 FR 37362.

## DISCUSSION

Below, the MPSC provides comments to specific questions presented in the NPRM as published in the Federal Register.

4. The MPSC supports the Commission's proposal to give PSAPs substantial discretion to designate which numbers to include on the PSAP Do-Not-Call registry and to permit secondary PSAPs to place numbers on the registry.

6. The MPSC believes that, with almost a decade of experience, the FTC's Do-Not-Call list has proven itself as an effective and efficient mechanism to reduce the number of unsolicited telephone calls to telephone numbers on the registry. The MPSC believes that the Commission should attempt to coordinate the Do-Not-Call registry for PSAPs with the FTC's national Do-Not-Call list.

The list administrator will need to be able to separate PSAP numbers from the other numbers on the list in order to provide the PSAP telephone numbers only

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<sup>1</sup> Do-Not-Call Implementation Act, Pub. L. No. 108-10, 117 Stat. 557 (2003).

to operators of automatic dialing equipment (including political organizations, charitable organizations, etc.) if the exemptions that apply to the telephone numbers on the FTC's Do-Not-Call registry (political calls, charitable organizations, etc.) do not apply to calls to the PSAP telephone numbers.

9. The MPSC agrees with the Commission's proposal to require that any entity that accesses the PSAP registry certify, under penalty of law, that it is accessing the registry solely to determine whether any telephone numbers it intends to place autodialed calls are listed on such registry for the purpose of complying with Section 6507 of the Tax Relief Act. The MPSC believes it is reasonable to require each operator of automatic dialing equipment, upon accessing the registry for the first time, to provide identifying information about its organization. Identifying information should include the operator's name and all alternative names under which the registrant operates, a business address, a contact person, the contact person's telephone number, an email address, and a list of all outbound telephone numbers used for autodialing. The MPSC also agrees that the operators of automatic dialing equipment should update any changes in this information within 30 days of the date on which a change occurs. Further, the MPSC concurs with the Commission's proposal that every operator of automatic dialing equipment with access to the PSAP registry be given a unique identification number that would be 1) submitted each time the secure database is accessed and 2) used to grant and track access to the secure database of PSAP numbers.

10. The MPSC maintains that the FTC's Do-Not-Call registry provides a useful model as to how registered telephone numbers should be made accessible to

operators of automatic dialing equipment. As with the national list, operators of automatic dialing equipment should be required to update their calling lists every month.

11. The MPSC believes it is reasonable to require operators of automatic dialing equipment to certify, under penalty of law, that they are accessing the registry solely to prevent autodialed calls to numbers on the registry.

13. The MPSC agrees that voice or text message calls to numbers on the PSAP registry constitutes a prohibited contacts under Section 6507(b)(5) of the Tax Relief Act.

14. For consistency, the MPSC maintains that the Commission should use the definitions for “automatic dialing” and “robocall” equipment as defined in the Telephone Consumer Protection Act for purposes of defining these terms in the Tax Relief Act.

## **CONCLUSION**

In conclusion, the MPSC believes that, with almost a decade of experience, the FTC's Do-Not-Call list has proven itself as an effective and efficient mechanism to reduce the number of unsolicited telephone calls to telephone numbers on the national registry. The MPSC believes that the Commission should attempt to coordinate the Do-Not-Call registry for PSAPs with the FTC's Do-Not-Call list to the extent possible.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION**

Anne M. Uitvlugt (P71641)  
Assistant Attorney General  
Public Service Division  
6545 Mercantile Way, Suite 15  
Lansing, MI 48911  
Telephone: (517) 241-6680

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