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Comment: Federal Trade Commission
16 CFR Part **310**
Telemarketing Sales Rule
Billing Code 6750-01-P
"Use of Prisoners as Telemarketers"

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Citizens United for Rehabilitation of Inmates (CURE), a grass-roots organization representing the rights and responsibilities of inmates and their families, encourages successful labor force participation, legal employment, and financial responsibility by persons while they are incarcerated. **Absent demonstrated differences in performance, FTC should make no telemarketing rule distinguishing incarcerated employees from others. CURE recommends that FTC rules not discriminate against inmates as a class or impose any condition on general inmate participation in telemarketing not justified by significant empirical evidence.** Further, CURE recommends that FTC rules not discriminate against inmates by requiring disclosure, except when consumers ask. CURE does not oppose, and indeed supports, sanctions against individuals and firms whose telemarketing violates the law, invades privacy, or insults normal sensibilities, and we support sensible measures screening all telemarketing applicants, monitoring, using best available control and function-separation technologies, and remedial actions or outright bans for individuals or specific firms found from their actual behavior to endanger the public. At the same time, CURE opposes banning any individual or group, including inmates, solely on the basis of fears, isolated events, anecdotes, or instances not shown characteristic of the group. We particularly object to inmate employment bans in telemarketing when failure and fraud rates by inmates are both absolutely unknown and not shown to be higher, lower, or more or less severe than civilian rates. Unless reasonable reviews of evidence much more clearly show greater rates of fraud, banning inmates from telemarketing would be unjustified, discriminatory, and potentially harmful to the public as well as to inmates and their families.

We are all repelled by crime, and our sympathies go to victims of crime and their families. But experience teaches that crime and the harms we fear are increased by needlessly expelling people from legitimate legal opportunities and leaving them and their families to poverty, despair, and to desperate, illegal acts. We also know that responsible actions increasing legal employment increase economic growth, serve taxpayers and consumers, strengthen families and communities, and reduce poverty, inequality, and crime. In the long run, we know that all Americans are best protected when people have legal opportunities, hope, and work.

With 2 million Americans unemployed during incarceration, with more than 2 million unsupported minor children of inmates (There are more unsupported minor children of inmates in America than inmates), and with more than 1 million mothers and grandmothers left to support these children, the Nation already faces an unemployment crisis in correctional institutions and in the (mostly poor) communities from which inmates come – almost equal in total to the population of one U.S. state. More than 10 percent of America's children on welfare, for example, have at least one parent unemployed by incarceration. Child support burdens for children of inmates are considered a significant contributor to elderly poverty in the United States. And the realization that the nation's jails and prisons are releasing more than 600,000 inmates each year, without jobs, education, skills, resources, or hope is cause for increasing alarm for all Americans.

Rather than further restrict opportunities for incarcerated Americans, the FTC can much better serve safety, the economy, and the public good by preserving legal work opportunities for all persons seeking legitimate work. Productivity by hard working telemarketers during incarceration can propel the American economy, repay taxpayers, compensate deserving crime victims, provide financial support to children, contribute to preserving families and communities, and reduce poverty, inequality, and crime. Sensible FTC rules will build rather than undermine these contributions.

The FTC should also resist unwarranted restrictions on inmate telemarketing because, in a time of increasing demand for secure domestic labor, prisons may offer superior domestic locations for effective, secure telemarketing services. Employee screening can be extraordinarily thorough in correctional institutions. By nature prisons monitor and control personal movement and information exchange, including of mail, telephone calls, and visits. And inmate employees face severe and certain sanctions for misbehavior (loss of rare, highly privileged jobs and immediate criminal justice penalties) – all suggesting that inmate telemarketing employees may in fact offer American consumers superior rather than inferior resources for telemarketing services. FTC rules should support legitimate provision of these services.

Hundreds of inmates and former inmates have provided American consumers valuable telemarketing services ably and honestly in the past twenty-five years. During that time they have earned legal incomes from which they have paid tens of thousands of dollars in taxes, board and room, victims compensation, child support, and for their own rehabilitation. We encourage FTC to preserve and even enhance opportunities to increase these benefits in the future. CURE welcomes responsible measures screening all telemarketing applicants, establishing and enforcing effective monitoring and control measures appropriate to all telemarketing locations, and meaningful sanctions and enforcement against persons and firms committing or facilitating telemarketing fraud. And CURE supports sensible telemarketing standards and statistically reliable information gathering on telemarketing fraud inside and outside correctional institutions.