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November 29,2006

Via Hand Delivery

Mr. Donald S. Clark, Secretary
Federal Trade Commission
Room H- 1 3 5

600 Pennsylvania Avenue, N. W.
Washington, D.C. 20580

Re: TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification Project Number: R4

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Commission's non-enforcement policy began. Retaining the current policy until the rulemaking is complete would also not require businesses to undertake significant costs and operational difficulties until the Commission has fully considered the comments to its proposed rule. By contrast, if the Commission initiates enforcement actions before completion of the proceeding, this effectively prejudges the outcome of the proceeding, thereby limiting the purpose of the Notice and Comment process.

DMA believes that the record in this proceeding, which will close on December 18,2006, will demonstrate that the longstanding practice of allowing businesses to use recorded messages to call those with whom they have an established business relationship ("EBR') is a valid business practice that is beneficial to consumers. DMA and its members also will demonstrate that consumers in fact in many instances ma

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In addition, while probably unintended, we believe that the FTC's rescinding of the "non-enforcement policy" could be interpreted to prohibit companies fkom using prerecorded messages even if written consent of the type proposed in the rule is obtained. Neither section
3 10.4(b)(l)(iv) nor 3 10.4@)(4) of the Commission's rules governing abandoned calls contains exceptions for calls made with express consent, and these will be the provisions in effect pending the outcome of the proposed rule. Thus, even if written consent is obtained as proposed, until a final rule is issued, prerecorded calls made with express written consent could be entirely prohibited effective in January.

Finally, extension of the non-enforcement policy will not result in any change to the status
quo for recipients of calls. Since telemarketing was first regulated at the national level

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is these useful calls that make up the vast majority of the EBR calls made using prerecorded messages.

In addition, DMA's members will submit evidence showing that consumers prefer, or are at least neutral to, receiving prerecorded messages as opposed to