Press Release

- ## Attorney General Kane urges FTC to expand consumer protections for telemarketing

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HARRISBURG - Attorney General Kathleen G. Kane, along with Florida's Attorney General, led the Attorneys General of 36 other states and territories in submitting comments today to the Federal Trade Commission (FTC), urging the Commission to expand the consumer protections of the federal Telemarketing Sales Rule.

The Attorneys General urge the FTC to address areas of frequent consumer complaints, including protecting consumer information from being passed on to third parties; expanding restrictions on negative option marketing and sales; improving requirements for record keeping; and banning or restricting non-traditional payment methods, such as wire transfers.

The Telemarketing Sales Rule was first disseminated in 1995 pursuant to the 1994 Telemarketing and Consumer Fraud and Abuse Prevention Act. The Rule has been amended several times, most recently in 2010, and defines and prohibits deceptive and abusive telemarketing practices.

In August, the FTC published a notice seeking public comments on the effectiveness of the rule, and its potential expansion or modification to address changes in the marketplace. In their comments, the Attorneys General emphasized the continued need for the rule and highlighted areas in which it should be strengthened.

The comments urge the FTC to prohibit the use of pre-acquired account telemarketing, where a company passes a consumer's payment information to a third party, who, in turn, offers a product or service to the consumer. Consumers are often unaware that a third party has their financial information, and may agree to accept a "free trial," only to later learn that the third party vendor has billed the consumer for the product or service.

Negative options often go hand-in-hand with this kind of data pass and involve transactions where a consumer continually receives and is charged for products or services unless affirmative steps are taken to opt-out of the purchase. Consumers often are enrolled in negative option plans without fully understanding or consenting to the recurring charges, and may find it difficult if not impossible to stop them.

The Attorneys General also suggested that telemarketers should be required to create and maintain records of calls they place, which would enhance the ability of law enforcement agencies, including the Attorneys General, to identify and stop deceptive or abusive telemarketing practices.

Finally, the Attorneys General urged the FTC to restrict or prohibit certain novel payment methods in telemarketing transactions. As consumer protections have been enhanced for traditional payment methods, such as credit or debit cards, fraudulent telemarketers have turned to other payment methods with fewer consumer protections and virtually no oversight.

One example is wire transfers, which often targeted for fraudulent transactions because they allow entities to take consumer's money without fear of being caught, and with no ability for the consumer to rescind the transaction.

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