110th CONGRESS 1st Session

## **S. 781**

### AN ACT

- To extend the authority of the Federal Trade Commission to collect Do-Not-Call Registry fees to fiscal years after fiscal year 2007.
- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Do-Not-Call Registry
- 5 Fee Extension Act of 2007".

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#### 1 SEC. 2. FEES FOR ACCESS TO REGISTRY.

2 Section 2, of the Do-Not-Call Implementation Act
3 (15 U.S.C. 6101 note) is amended to read as follows:

## 4 "SEC. 2. TELEMARKETING SALES RULE; DO-NOT-CALL REG5 ISTRY FEES.

6 "(a) IN GENERAL.—The Federal Trade Commission 7 shall assess and collect an annual fee pursuant to this section in order to implement and enforce the 'do-not-call' 8 9 registry as provided for in section 310.4(b)(1)(iii) of title 10 16, Code of Federal Regulations, or any other regulation 11 issued by the Commission under section 3 of the Tele-12 marketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102). 13

| 14 "(b) Annual Fees.– |
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15 "(1) IN GENERAL.—The Commission shall
16 charge each person who accesses the 'do-not-call'
17 registry an annual fee that is equal to the lesser
18 of—

19 "(A) \$54 for each area code of data20 accessed from the registry; or

21 "(B) \$14,850 for access to every area code
22 of data contained in the registry.

23 "(2) EXCEPTION.—The Commission shall not
24 charge a fee to any person—

25 "(A) for accessing the first 5 area codes of
26 data; or

"(B) for accessing area codes of data in the registry if the person is permitted to access, but is not required to access, the 'do-not-call' registry under section 310 of title 16, Code of Federal Regulations, section 64.1200 of title 47, Code of Federal Regulations, or any other Federal regulation or law.

"(3) DURATION OF ACCESS.—

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9 "(A) IN GENERAL.—The Commission shall 10 allow each person who pays the annual fee de-11 scribed in paragraph (1), each person excepted 12 under paragraph (2) from paying the annual 13 fee, and each person excepted from paying an 14 annual fee under section 310.4(b)(1)(iii)(B) of 15 title 16, Code of Federal Regulations, to access 16 the area codes of data in the 'do-not-call' reg-17 istry for which the person has paid during that 18 person's annual period.

19 "(B) ANNUAL PERIOD.—In this para20 graph, the term 'annual period' means the 1221 month period beginning on the first day of the
22 month in which a person pays the fee described
23 in paragraph (1).

24 "(c) Additional Fees.—

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| 1  | "(1) IN GENERAL.—The Commission shall                |
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| 2  | charge a person required to pay an annual fee under  |
| 3  | subsection (b) an additional fee for each additional |
| 4  | area code of data the person wishes to access during |
| 5  | that person's annual period.                         |
| 6  | "(2) Rates.—For each additional area code of         |
| 7  | data to be accessed during the person's annual pe-   |
| 8  | riod, the Commission shall charge—                   |
| 9  | "(A) \$54 for access to such data if access          |
| 10 | to the area code of data is first requested dur-     |
| 11 | ing the first 6 months of the person's annual        |
| 12 | period; or   |
| 13 | "(B) \$27 for access to such data if access          |
| 14 | to the area code of data is first requested after    |
| 15 | the first 6 months of the person's annual pe-        |
| 16 | riod.  |
| 17 | "(d) Adjustment of Fees.—                            |
| 18 | "(1) IN GENERAL.—                                    |
| 19 | "(A) FISCAL YEAR 2009.—The dollar                    |
| 20 | amount described in subsection (b) or (c) is the     |
| 21 | amount to be charged for fiscal year 2009.           |
| 22 | "(B) FISCAL YEARS AFTER 2009.—For                    |
| 23 | each fiscal year beginning after fiscal year         |
| 24 | 2009, each dollar amount in subsection $(b)(1)$      |

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| 1  | and $(c)(2)$ shall be increased by an amount          |
| 2  | equal to—   |
| 3  | "(i) the dollar amount in paragraph                   |
| 4  | (b)(1) or (c)(2), whichever is applicable,            |
| 5  | multiplied by   |
| 6  | "(ii) the percentage (if any) by which                |
| 7  | the CPI for the most recently ended 12-               |
| 8  | month period ending on June 30 exceeds                |
| 9  | the baseline CPI.                                     |
| 10 | "(2) ROUNDING.—Any increase under subpara-            |
| 11 | graph (B) shall be rounded to the nearest dollar.     |
| 12 | "(3) Changes less than 1 percent.—The                 |
| 13 | Commission shall not adjust the fees under this sec-  |
| 14 | tion if the change in the CPI is less than 1 percent. |
| 15 | "(4) PUBLICATION.—Not later than September            |
| 16 | 1 of each year the Commission shall publish in the    |
| 17 | Federal Register the adjustments to the applicable    |
| 18 | fees, if any, made under this subsection.             |
| 19 | "(5) DEFINITIONS.—In this subsection:                 |
| 20 | "(A) CPI.—The term 'CPI' means the av-                |
| 21 | erage of the monthly consumer price index (for        |
| 22 | all urban consumers published by the Depart-          |
| 23 | ment of Labor).                                       |

| 1 | "(B) BASELINE CPI.—The term 'baseline      |
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| 2 | CPI' means the CPI for the 12-month period |
| 3 | ending June 30, 2008.                      |

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4 "(e) PROHIBITION AGAINST FEE SHARING.—No per-5 son may enter into or participate in an arrangement (as 6 such term is used in section 310.8(c) of the Commission's 7 regulations (16 C.F.R. 310.8(c))) to share any fee re-8 quired by subsection (b) or (c), including any arrangement 9 to divide the costs to access the registry among various 10 clients of a telemarketer or service provider.

#### 11 "(f) HANDLING OF FEES.—

"(1) IN GENERAL.—The commission shall deposit and credit as offsetting collections any fee collected under this section in the account 'Federal
Trade Commission—Salaries and Expenses', and
such sums shall remain available until expended.

17 "(2) LIMITATION.—No amount shall be collected as a fee under this section for any fiscal year
19 except to the extent provided in advance by appropriations Acts.".

#### 21 SEC. 3. REPORT.

Section 4 of the Do-Not-Call Implementation Act (15
U.S.C. 6101 note) is amended to read as follows:

**†S 781 ES** 

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**"SEC. 4. REPORTING REQUIREMENTS.** 

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#### 2 "(a) BIENNIAL REPORTS.—Not later than December 3 31, 2009, and biennially thereafter, the Federal Trade 4 Commission, in consultation with the Federal Communica-5 tions Commission, shall transmit a report to the Senate 6 Committee on Commerce, Science, and Transportation 7 and the House of Representatives Committee on Energy 8 and Commerce that includes— 9 "(1) the number of consumers who have placed 10 their telephone numbers on the registry; 11 "(2) the number of persons paying fees for ac-12 cess to the registry and the amount of such fees; "(3) the impact on the 'do-not-call' registry 13 of— 14 "(A) the 5-year reregistration requirement; 15

16 "(B) new telecommunications technology;17 and

18 "(C) number portability and abandoned19 telephone numbers; and

20 "(4) the impact of the established business rela21 tionship exception on businesses and consumers.

"(b) ADDITIONAL REPORT.—Not later than December 31, 2009, the Federal Trade Commission, in consultation with the Federal Communications Commission, shall
transmit a report to the Senate Committee on Commerce,
Science, and Transportation and the House of Represent†S 781 ES

atives Committee on Energy and Commerce that
 includes—

3 "(1) the effectiveness of do-not-call outreach
4 and enforcement efforts with regard to senior citi5 zens and immigrant communities;

6 "(2) the impact of the exceptions to the do-not-7 call registry on businesses and consumers, including 8 an analysis of the effectiveness of the registry and 9 consumer perceptions of the registry's effectiveness; 10 and

"(3) the impact of abandoned calls made by
predictive dialing devices on do-not-call
enforcment.".

#### 14 SEC. 4. RULEMAKING.

The Federal Trade Commission may issue rules, in
accordance with section 553 of title 5, United States Code,
as necessary and appropriate to carry out the amendments
to the Do-Not-Call Implementation Act (15 U.S.C. 6101
note) made by this Act.

Passed the Senate December 17, 2007. Attest:

Secretary.

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