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January 12, 2000

Hon. Bill Lockyer  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Diane Calkins  
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative cited as the "Initiative to Ban Unsolicited Telemarketing Calls and Junk Email" (File No. SA 1999 RF 0068, Amendment No. 1-NS). As Section 9005 directs, our review addresses the potential effects of the measure on state and local government costs and revenues.

**Proposal**

This measure prohibits unsolicited telemarketing calls and unsolicited electronic mail (E-mail) advertisements to consumers in California. The measure requires the Public Utilities Commission (PUC) to establish and maintain a list of individuals who want to receive telemarketing calls. These individuals could specify whether they wish to receive calls only from charitable organizations or from all businesses.

The measure allows an individual to sue for civil damages if he or she receives unsolicited telemarketing calls or E-mail advertisements. In these cases, a court could award

the actual monetary loss suffered or \$500 for each violation, whichever is greater. If the court finds that the violation was willful, the award could be tripled.

The measure also specifies that sending unsolicited E-mail advertisements is a violation of an E-mail service provider's policy on advertisements. Pursuant to current law, a provider can sue for such violations and could be awarded the actual monetary loss or \$50 for each E-mail message up to \$25,000 per day, whichever is greater.

### **Fiscal Effect**

*Court Costs.* There would be some additional state court costs because of the civil suits that could be filed by individuals and E-mail service providers. These costs, which would depend on the number of suits filed, are unknown but probably not significant in the context of total court costs.

*Telephone List.* Based on information provided by PUC, there would be minor state costs to establish and maintain the list of individuals who want to receive telemarketing calls. Under the measure, PUC would recover these costs by charging telemarketers a fee for access to the list.

*Fiscal Summary.* The measure would result in an unknown, but probably not significant, increase in annual state court costs and administrative expenses.

Sincerely,

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Elizabeth G. Hill  
Legislative Analyst

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B. Timothy Gage  
Director of Finance