The 2012 FCC Telemarketing Rules Explained

Presented in Partnership
By
Inspire a Nation Business Mentoring &
CallFire VOIP Solutions
2012 FCC Telemarketing Rules

Disclaimer

We are a mentoring firm and a tech firm, not legal firms. We can discuss generalities and recommendations for using Inspire a Nation Business Mentoring Processes and CallFire functionality in ways that are consistent with our understanding of the laws. This webinar is not a substitute for you obtaining competent, specific legal advice on this subject.

This discussion is addressing the February 15, 2012 FCC rulings, and to some extent the September 1, 2009 FTC laws. These laws address Federal regulations regarding commercial telephone calls to consumers. In some cases there may be state laws that are also pertinent and may enhance or supersede these laws; in addition, there are other state and federal regulations that may similarly regulate commercial calling to businesses. This discussion does not address these issues – again, specific legal advice should be sought to ensure compliance in both the caller’s jurisdiction, and the recipients’ jurisdictions.
Inspire a Nation Business Mentoring
www.inspireanation.org

Presenter – Billy R. Williams, Ph.D.,

President – Inspire a Nation Business Mentoring and Williams Family Agency Investment Group

- Utilizing a comprehensive video and document library, hands on step by step instruction to its member agents, and one-on-one web mentoring meetings, Inspire a Nation helps agents reach their maximum potential

- Billy is an expert at helping insurance agents and agencies double or triple their current production using no cost conversations and processes, low cost, efficient, marketing and advertising platforms, and technology.

- Billy directly Mentors many of the top captive and independent insurance agents in the country.
Presenter – Bill Hughes

Senior Interactive Voice Response Designer – CallFire VOIP Solutions

- Designs all complex and enterprise-level IVRs, provides enterprise-level account management and technical support.

- Former special projects Manager - Ameritech
Specifically the new rules:

- Define a telemarketing call as a telephone call for the purpose of encouraging the purchase or rental of, or investment in property, goods, or services, which is transmitted to a person.

- Require telemarketers to obtain prior express written consent from a consumer before placing a pre-recorded (robo-call) call to their landline or mobile phone. While the term “written” is used, it can include an electronic or digital form of signature such as a website form, electronic signatures, text message verification, and even a telephonic digit opt-in.

- Require telemarketers to provide an automated, interactive “opt-out” mechanism during each robo-call so that consumers can immediately tell the telemarketer to stop calling, (An example would be “Press 8 at anytime during this call to end this call and opt-out of receiving future calls of this nature.”) and require telemarketers to offer a toll free automated response opt-out method if a robo-call message is left on an answering machine or voice mail.

- Eliminate the established business relationship exemption for robo-calls and telemarketing calls to a consumer’s landline and cell phone. THIS IS HUGE! In the past if you had an established business relationship with one of your customers you could send them a telemarketing robo-call or call them on their cell phone because of that relationship. As of this ruling, you now have to have written consent.
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Specifically the new rules:

- Reaffirms that robo-calls that do not contain telemarketing messages (non-telemarketing, informational calls) will NOT require any consent when made to RESIDENTIAL LINES, but will require either ORAL or WRITTEN consent if the call is made to a wireless or mobile number.

- Reaffirms that a call or text message sent to mobile phone have prior written consent.

- Strictly limits the number of abandoned or dead air calls that telemarketers can make within each calling campaign (This impacts the auto-dialer campaigns that use more than a 1-to-1 call ratio. Many use up to a 4-to-1 ratio, which means 4 calls are dialed at the same time and if two or more people pick up simultaneously they could get “dead air”)

- Reaffirms that sellers or marketing companies CAN live call any consumer that has a landline phone number that is publicly listed and not registered on the DNC registry.

- Reaffirms that sellers or marketing companies can call a consumer for up to 90 days that has voluntarily given their contact information in response to a marketing campaign, promotion, or advertisement on the phone number provided in the response.
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TELEMARKETING AUTOMATED CALLS (ROBO-CALLS)

- You must have written consent for landline and wireless calls

- Established Business Relationship – you must have consent to use a telemarketing robo-call

- If you get consent and use a robo-call it must have an interactive opt-out mechanism that is announced at the outset of the message and is available throughout the duration of the call, and immediately disconnect the call

- An answering machine message must also include a toll free number that enables the consumer to subsequently call back and connect directly to an opt-out mechanism
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NON-TELEMARKETING (ROBO-CALLS) INFORMATION ONLY

Examples: Birthday Calls, Policy Review Notices, Emergency Contact Verification, Appt. Reminders

- Any sales, savings, or discount wording changes the call from an information call into a telemarketing call

- You must have oral or written consent if placed to a wireless device

- No consent is necessary if made to the landline of a consumer number not listed on the DNC registry

- If you send a robo-call it must have an interactive opt-out mechanism that is announced at the outset of the message and is available throughout the duration of the call, and immediately disconnect the call

- An answering machine message must also include a toll free number that enables the consumer to subsequently call back and connect directly to an opt-out mechanism
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LIVE TELEMARKETING AND INFORMATION ONLY CALLS

- You can live call to any consumer’s landline that is not currently listed on a federal, state, or internal DNC registry.

- You must have oral or written consent if a call of any type is placed to a consumer’s wireless device.

- You have 90 days from the date a consumer inquired about a product or service, responded to a marketing campaign, completed an application, or attended a marketing or informational event such as a workshop, conference call, or webinar, to contact them on the contact numbers they provided to you.

- If you live call them, but leave a voice mail it is treated like a robo-call & must also include a toll free number that enables the consumer to subsequently call back and connect directly to an opt-out mechanism.
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Written Consent

Can be obtained by email, paper form, website submission

All pre-recorded telemarketing calls ("robocalls") now require “prior express written consent.”

Voice recordings can be used as “written consent.”

Keypress entries ("Press 1" or "IVR") can also be used for “written consent.”

Written consent cannot be in any way coercive or conditional.
1. Must be obtained voluntarily.
2. Cannot be a condition of purchase.
3. Cannot be the only way to obtain information or reach someone in an IVR.

Suggestions for implementing “Press 1” or “IVR” Opt-In in CallFire Campaigns
1. Ensure that it’s voluntary
2. Provide a path for the caller to complete their call without giving Opt-In consent.
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Exceptions for automated calling to a landline

- Informational calls only
- Political and other non-profit organizations
- Emergency notifications
- Debt collections
- Policy termination notifications for overdue premiums.
- The “Happy Birthday” call
- Policy review reminders (They can’t have sales or savings wording)
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Opt-Out and Do Not Call Options - Opt-out requirements are stricter

Any auto-dialed call requires the Do Not Call option be stated UPFRONT and be available throughout the call.

Opt-out method must automatically add the customer’s number to the seller’s DNC list (CallFire does this).

Answering machine message must also include an Opt-Out method.

Answering Machine opt-out must be by toll-free number and now must directly connect to an AUTOMATIC Opt-Out mechanism (an IVR would be the appropriate tool here).

New Opt-Out Rules Must Be Implemented By May 15, 2012 (Ninety Days)
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An Abandoned call is any live campaign call where the live agent is not available within 2 seconds of the person answering the call.

Abandoned calls may not exceed 3% of the total outbound live calls made by that company within a given day.

This is not really a new requirement, but it is a reaffirmation of the requirement from the 9-1-2009 FTC Law, and the FCC suggests that it will be monitored and enforced more strictly.

CallFire has chosen to recommend to certain large customers that they not even bother with higher-ratio calling (2:1 and above).

For those who do wish to use higher ratio calling, show how to monitor the Abandoned Call Rate.

Smart Drop No Longer Legal Without Full Opt-In Permission

Pre-recorded voice mail drop messages are now considered exactly the same as Voice Broadcast Calls (robocalls).

Only use Smart Drop with fully Opted-In customers.
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Using an insurance agency as an example here are how the new rules will play out:

Use a predictive dialer (Live Call) to call prospects that are not on the federal, state, or internal DNC list. The predictive dialer will be set at a 1-to-1 ratio in order to avoid any “dead air” scenarios.

- Regardless of how you acquire the prospect, you will have 90 days from the time they requested or received a quote and voluntarily gave you their contact information, to contact them.

- You can auto-dial a non-sales, information only, (i.e. birthday greeting, policy review reminder, appointment reminder) call to any of your current customer’s landlines, and leave a message, but you need to get consent before you can send it to their cell phone, and you must put an opt out number in the beginning of any message as well as provide a toll free number that allows them to automatically opt out if they call back to opt-out of future calls.

As long as I have their consent I can text message them.
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Solutions you should consider

- Create and use an online and paper copy “Permission to Contact Form”

- Use a predictive dialer (Live Call) to call prospects that are not on the federal, state, or internal DNC list

- Use more inbound based marketing campaigns such as conference calls, inbound text message campaigns, IVR call in campaigns, and group presentations. (Regardless of how you acquire the prospect, You will have 90 days from the time they requested or received a quote and voluntarily gave you their contact information, to contact them)
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IVR Solutions

1. Opt –In permission

2. Automatic Opt-Out
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