

FTC Business Alert

Federal Trade Commission ■ Bureau of Consumer Protection ■ Division of Consumer & Business Education

Reining in Robocalls

Beginning September 1, 2009, most businesses may use prerecorded telemarketing messages only when calling consumers who have given written permission to accept them.

It doesn't matter whether someone's number is on the National Do Not Call Registry, or whether the call is answered by a person or voicemail service. Nor does it matter if you have an established business relationship with a customer, or if your telemarketing campaign delivers prerecorded messages only to voicemail services or answering machines. The Telemarketing Sales Rule bars telemarketing calls that deliver recordings — with a few exceptions. If your business delivers prerecorded telemarketing messages to consumers without permission, you'll face penalties of up to \$16,000 per call.

Does this apply to my messages?

Recorded messages that are purely informational don't fall under these rules. For example, calls to let someone know a flight's been cancelled, reminders about an appointment, or messages about a delayed school opening aren't covered as long as they don't promote the sale of any goods or services. The same holds true for calls that deliver messages to collect a debt.

Does this apply to my business?

Other exceptions include calls that deliver prerecorded messages from:

- political organizations;
- health care providers covered by HIPPA; and
- banks, telephone carriers and charities that make the calls themselves.

Third-party telemarketers making calls on behalf of banks or telephone carriers must comply with the restrictions on prerecorded telemarketing messages. For-profit telemarketers working on behalf of a charity can use prerecorded messages to reach the charity's members, volunteers or prior donors, but the messages must include an automated interactive opt-out. Charitable solicitations to anyone else by for-profit telemarketers can be made only to individuals who have given the charity their written permission to receive prerecorded messages.

How do I request permission to make robocalls?

If your robocalls do not fall under these exemptions, your business may use prerecorded telemarketing messages only to contact consumers who have already given written permission for such calls. When you request permission:

- You must clearly and conspicuously disclose that you are asking for their okay to deliver prerecorded telemarketing messages.

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- The call recipient gets to choose the number to which prerecorded messages may be delivered.
 - You cannot directly or indirectly require anyone to agree to prerecorded calls as a condition for purchasing or receiving any goods or services.
 - You must get the call recipient’s signature, either through traditional writing or electronically.
 - You must identify the business that is requesting permission to deliver prerecorded telemarketing messages. An agreement that fails to specify a seller is not sufficient. Moreover, a consumers’ agreement to accept prerecorded messages from your business does not extend to messages soliciting for your affiliates, marketing partners or any other business.

Prerecorded Messages Must Allow Consumers to Opt Out

Consumers who have given permission may change their minds about getting robocalls. You must tell people how they can opt out of these calls, and provide an automated interactive opt-out mechanism that responds to a keypress or spoken request.

If the message could be delivered to a person who answers, the instructions on opting out must be at the beginning of the message, and the automated mechanism must remain available until the call is disconnected. If the message could be left on someone’s voicemail or answering machine, you must include a toll-free number at the beginning of the message that will connect them to an opt-out mechanism; they must be able to use this mechanism to opt out at any hour for the duration of the telemarketing campaign.

For more information

Still have questions? To learn more about your responsibilities under the Telemarketing Sales Rule or to see an example of an acceptable written agreement, read the “Telemarketing Calls That Deliver Prerecorded Messages” section of *Complying with the Telemarketing Sales Rule* at ftc.gov.

The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or to get free information on consumer issues, visit ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters consumer complaints into the Consumer Sentinel Network, a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

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