

THE LAW

What is the law surrounding robocalls?
How is it enforced? What are the limitations and challenges? What does this mean for consumers?

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The Telemarketing Sales Rule: Three Protections

- **Do Not Call (National)**: generally speaking, businesses can't make sales calls to consumers whose phone numbers are on the National Do Not Call Registry.
- **Do Not Call (Entity-Specific)**: generally speaking, businesses and for-profit fundraisers can't make sales or solicitation calls to consumers who have previously requested not to receive calls from that company.
- **Robocalls**: generally speaking, businesses can't make sales calls to consumers. These calls are prohibited even if the consumer's phone number is not on the Do Not Call Registry. The only exception: if the consumer has provided the business with written permission to robocall them.

The Telemarketing Sales Rule: What Calls Are **Not** Covered?

- Most business to businesses telemarketing
- Debt collection calls
- Customer service or customer satisfaction calls
- Market research/survey calls (*only if no sales pitch*)
- Polling/political calls (get out the vote, contribution requests)
- Calls made by companies subject to special federal /state regulation (banks, phone companies, insurance companies)
- Robocalls delivering a healthcare message made by or for a covered entity, as defined by the HIPAA Privacy Rule

The Telemarketing Sales Rule: What Calls *Are* Covered?

- ✓ Calls that are *part* of a campaign or plan to get consumers to purchase a product or service.
- ✓ Charitable solicitation calls by for-profit fundraisers.
- ✓ Hybrid Calls, that is, “survey” calls that include a sales pitch for a good or service.
- ✓ Even companies with which you have an established business relationship cannot robocall you with a sales message.
- ✓ Companies that assist or facilitate those that place illegal calls are also subject to liability.

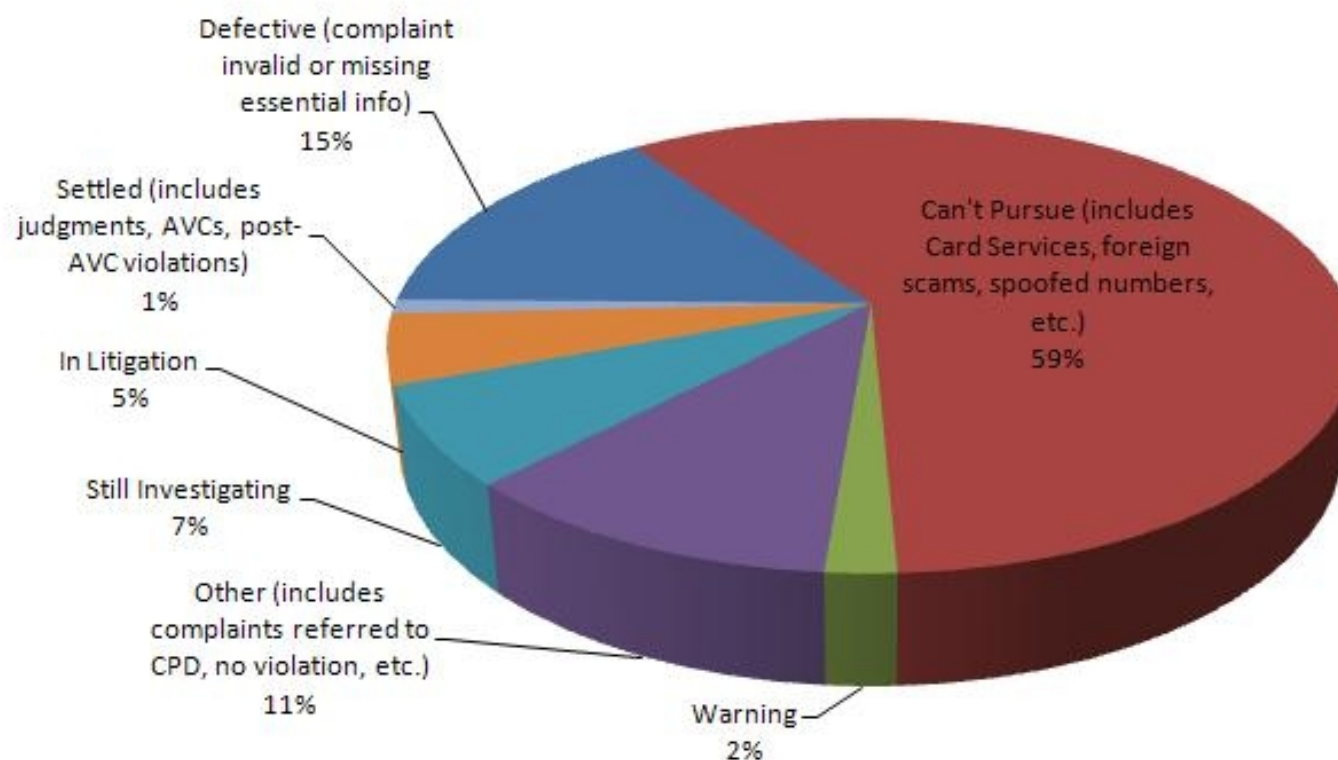
The Telemarketing Sales Rule: Robocalls

- **The Rule** For covered sales calls, the TSR **prohibits** initiating a call that delivers a **prerecorded message** to consumers.
- **The Permission Exception** Robocalls are permitted if the seller receives **written** permission from the consumer.
 - The permission may be obtained only after a **clear** and **conspicuous** disclosure by the seller that the purpose of the agreement is to authorize the seller to place prerecorded calls;
 - Must show consumer's willingness to receive calls delivering prerecorded messages by or on behalf of the **specific** seller;
 - May not be required as a condition of purchase; and
 - Must include the consumer's **telephone number** and **signature**.

Greg Zoeller

Indiana Attorney General

Do Not Call/Autodialer Complaints-2012 (Approx. 17,000 New Complaints Received Jan. 1-Sept. 30)



Breakdown of 2012 Telephone-Related Complaints

