

## Federal Trade Commission (FTC) Telemarketing Sales Rules

On August 19, 2008, the FTC issued new rules for telemarketers. Below is a summary of our interpretation of those rules: \*

**Effective October 1, 2008 for Predictive Dialers calling live:** The rate of permissible abandoned (dropped) calls where no agent is available to speak to the person who has answered the phone remains at 3%, but now may be calculated over a one month period, rather than on a daily basis.

**Effective December 1, 2008 for Auto Dialers calling with pre-recorded messages:** In the beginning of the message, an automated key press must be available so that consumers can opt out of the call as easily as they can from a live telemarketing call. If a message is left on an answering machine or voice mail, a toll free number must be provided for the recipient to call to opt out of any future calls.

**Effective September 1, 2009 (note that this is 2009, not 2008) for Auto Dialers calling with pre-recorded messages:** Sellers and telemarketers are prohibited from leaving pre-recorded messages in which they are selling any goods or services without prior written (or electronic) permission from the recipient of the call, regardless of whether it is answered live or by an answering machine or voice mail. Having a previous business relationship will no longer be sufficient.

### Exemptions from written permission of pre-recorded auto dialer calls:

- 1) Informational calls not attempting to sell any goods or services  
Examples: medical reminders, closings or cancellations, service appointment reminders, meeting notifications, emergency alerts, etc.
- 2) Healthcare-related calls that are subject to HIPPA
- 3) Businesses regulated by Federal agencies
- 4) Charitable solicitation calls
- 5) Political calls

### Miscellaneous Notes: .

- 1) The telephone must ring for at least 15 seconds or 4 rings before hanging up as a "No Answer".
- 2) The pre-recorded message must begin within 2 seconds after the greeting of the person who answers the call.
- 3) Monthly "scrubbing" of calling lists against Do Not Call Registry lists will continue to be required for live calls if selling goods or services not exempt from the DNC.

**The FTC press release:** <http://www.ftc.gov/opa/2008/08/tsr.shtm>

\* Notes: We are not attorneys; therefore, you should not rely on our interpretation of these rules and you should consult an attorney regarding these issues. Also, rules and laws change from time to time and may vary from state to state.