



## **Teleservices Alert**

### **Critical Checkpoints for Consumer Calling Campaigns**

*Updated March 2009*

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*In addition to complying with DMA Ethics Guidelines and the rules governing telemarketing, the DMA's Corporate & Social Responsibility (CSR) department asks all companies conducting outbound telemarketing to review this checklist before launching any new calling campaign.*

#### **1) Handling Do Not Call Requests Promptly**

If consumers ask to be put on your in-house do not call list, you are required by law to do just that. It's important that you do so promptly and courteously and you don't ever try to talk them out of it or allow your reps to hang up on the consumer.

#### **2) Proper Use of an Established Business Relationship**

Consumers decide whether or not they choose to have a relationship with your business. If a consumer doesn't perceive a relationship with you, the established business relationship (EBR) simply doesn't exist.

Because EBRs are so important, marketers can place telemarketing calls to phone numbers listed on the national Do-Not-Call Registry only if they have an EBR with the call recipient. For purposes of the national DNC Registry, an EBR exists if (1) the consumer purchased, rented, or leased goods or services offered by the seller, or engaged in a financial transaction with the seller, within the 18 months immediately preceding the telemarketing call; or (2) the consumer, within the three months immediately preceding the date of the telemarketing call, made an inquiry or submitted an application regarding a product or service offered by the seller.

#### ***Calls from Affiliates/Partners/Subsidiaries***

Be sure to take into consideration the consumers' perception. If you are a business partner, parent or subsidiary trying to convince consumers that you have a relationship with them they don't recognize you may

alienate them and could damage their relationship with the original business.

### ***Initiating Calls for Others***

Your customers may be happy to receive calls from you, but by law, your EBR cannot be transferred to any other marketer. So don't use your EBR with your own customers to place a call for a marketer that does not have its own EBR with those customers, unless you first remove any customers whose phone numbers are on the national DNC Registry and on that marketer's in-house do-not-call list. First, it would be illegal to call those numbers that are on the national DNC Registry since your EBR cannot be transferred to the other marketer. Second, you do not want to put your relationship with your own customers at risk.

### ***Offering Gifts/Prizes in Exchange for an Agreement to Receive Calls***

The consumer's acceptance of a gift does not create an EBR. Marketers may not call gift recipients who are on the national DNC list unless they have received those consumers' explicit permission in writing or via a digital signature.

### ***Conspicuous Disclosures***

The bottom line here is that consumers must understand your offer. Marketers routinely ask consumers to sign a receipt, order form or other document. It's not appropriate to fool consumers by inconspicuously including language that obligates them to receive your calls, particularly if they have put their telephone numbers on the federal Do-Not-Call list. Under federal law, marketers must obtain the express written consent of consumers who have registered their numbers on the federal Do-Not-Call list. The written agreement must evidence the consumer's consent to receive calls from the specific marketer, and must include the phone number that may be called and the consumer's signature. Your claim that they've given you permission when they're unaware of it will get you nothing but a spike in consumer distress and complaints.

## **3) Use of Prerecorded Messages**

Until September 1, 2009, marketers may send prerecorded sales calls only to consumers with whom the marketer has an established business relationship if the marketer (1) allows the phone to ring for at least 15 seconds or 4 rings before disconnecting the call; (2) plays the prerecorded message within two seconds of the called person's completed greeting; and (3) presents the call recipient an opportunity to assert a company-specific do-not-call request at the

outset of the message (as of December 1, 2008, the opt-out mechanism must be an automated interactive voice and/or keypress-activated mechanism).

Effective September 1, 2009, marketers must obtain a consumer's written consent to receive prerecorded calls before placing such calls to the consumer. The agreement must comply with the following:

- ❖ Before obtaining the consumer's written consent, the marketer must clearly and conspicuously disclose that the purpose of the agreement is to allow the marketer to make prerecorded message calls to the consumer.
- ❖ The written agreement must evidence the consumer's consent to receive prerecorded calls by or on behalf of the specific marketer.
- ❖ The marketer may not require that the consumer agree to receive prerecorded calls as a condition of purchasing any good or service.
- ❖ The agreement must include the consumer's telephone number and signature.
- ❖ Marketers may obtain the written agreement electronically in accordance with applicable laws such as the E-Sign Act.

Beginning December 1, 2008, marketers making prerecorded message calls must disclose the following in the message within two seconds after the call recipient's completed greeting:

- ❖ The identity of the seller on behalf of which the call is made;
- ❖ That the purpose of the call is to sell goods or services;
- ❖ The nature of the goods or services offered during the call; and
- ❖ If a prize promotion is offered, that no purchase or payment is necessary to win a prize or participate in a prize promotion, and that any purchase or payment will not increase the person's chances of winning.

Immediately following the initial disclosures, marketers must provide an opt-out mechanism that the call recipient can use to be placed on the company's do-not-call list. The type of mechanism depends on whether the call can be answered by a live person or by an automated device:

- ❖ If the call is answered by a live person, then the marketer should provide an automated interactive voice and/or keypress-activated opt-out mechanism that the recipient can use to make an opt-out request. The mechanism should be available for use at any time during the message.

- ❖ If the call is answered by an answering machine or voicemail system, then the prerecorded message should provide a toll-free telephone number that the recipient can call to make an opt-out request at any time during the telemarketing campaign. The telephone number provided should connect directly to an automated interactive voice and/or keypress-activated opt-out mechanism. Consumers should be able to call at any time of the day, and on any day, during the campaign.
- ❖ If the marketer is unable to determine whether a prerecorded call has been answered by a live person or an automated device, the marketer must include both of the above mechanisms in the prerecorded message.

All opt-out mechanisms must automatically add the called number to the entity's company-specific do-not-call list, and immediately disconnect the call once the opt-out request is made.

When making lawful prerecorded calls, be sure to pay careful attention to the number of recorded messages you send and don't play messages that are too long. Your customers may feel they are being treated impersonally or that you are not respectful of their time, and ultimately, that you are bothering them.

#### **4) Targeted Calling**

Calling fewer and better targeted prospects should cut down on your calling expenses and increase your response rates. Marketers should not use randomly or sequentially generated numbers in sales or marketing solicitations. You should have some reason to believe that the person you are calling may in fact be interested in the product that you are offering.

#### **5) Importance of Hiring and Training Sales Representatives**

Telephone representatives who do not speak clearly or are not well understood by call recipients need retraining and closer supervision. If response rates are decreasing and requests to be placed on your in-house do not call list are increasing, this could be part of the problem. A review of your hiring, training and coaching practices is probably in order.

#### **6) Clearly Written Scripts**

Are you using scripts or call guides that convey your offer clearly? A quick bump in sales today, based on consumer confusion or misunderstanding, is not worth the long-term cost of increased consumer dissatisfaction, complaints and the loss of trust that follows.

#### **7) Selling/Up-Selling Sensitive**

Do your scripting and training make clear when your reps should continue or does it subject the consumer to an experience that is detrimental to your long-term relationship with them? There may be circumstances in which you wish to make multiple offers to consumers. Or, after a customer places an order with you, you might want to offer other merchandise based on the initial purchase. Either of these circumstances is fine as long as consumers stay receptive. Unfortunately, some companies insist that their reps make additional offers to every single customer, and do not allow their reps any discretion, even when it is clear that the offer is not relevant or the consumer is not interested. Other companies require reps to continue to make offers until the consumer refuses a certain number of items in a row. Avoid practices like these, which can cause consumer resentment and inhibit consumers' receptivity in the future.

### **8) Calling Frequency**

Marketers must identify themselves by sending a Caller ID signal each time they call. Consumers who have Caller ID may be concerned when they see that one marketer attempted to call them multiple times a day. Therefore, DMA's Corporate & Social Responsibility (CSR) department recommends that marketers pay careful attention to consumer feedback on this issue and work hard to determine what their customers view as appropriate. Otherwise, the likely result is a drop in response rates and more do-not-call requests for your in-house and Federal do-not-call lists.

And, of course, staffing and training a customer service representative to receive customer inquiries from the Caller ID number is imperative and will yield positive long-term results.