Project Number R411001
TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification

Outbound Call Abandonment

The two different outbound call abandonment standards, the FCC's 3% per campaign per month and the FTC's 3% per campaign per day, present serious and costly vulnerability trying to comply with these inconsistent standards. Companies regulated by the FCC must comply with the FCC standard; while on the other hand companies regulated by the FTC must comply with the FTC standard. A teleservices company that is regulated by the FTC and doing business with a telecommunications company that is regulated by the FCC should not be faced with the dilemma of determining which of the two different standards it must comply with for the same activity. Compliance is more difficult than it should be because of the two different call abandonment standards. Companies trying to comply with the abandonment requirement should find it easy to do so; and there should be only one abandonment standard.

The "harmonization" of the inconsistencies between FCC and FCC standards in the TSR did not occur. But now is the proper time to do so. Since the FCC's long standing abandonment rate standard was implemented via the TCPA of 1991, we opine that it is appropriate for the FTC's 3% per campaign per day to be harmonized and made to be consistent with the FCC's standard of 3% per campaign per month. We further recommend that for consistency of understanding, the "per month" terminology be defined as the "total number of calendar days in any given month", and not a specified 30 or 31 days. For example, the month of January has 31 days, whereas February typically has 28 days. Therefore, when measuring "monthly" abandonment percentages for January the period would be 31 days, whereas the period for February would be typically 28 days, notwithstanding leap year.

We therefore encourage the FTC to change the outbound call abandonment calculation standard to 3% per campaign per month; and that "month" be defined as "the total number of days in the month".

Prerecorded Message Call Prohibition

The FCC allows prerecorded message telemarketing sales calls to persons with whom the business has an established business relationship at the time the call is made. The FTC amendment to the TSR allowing such calls was consistent and it harmonized with the FCC. However, the FTC's recent decision to remove the established business relationship exemption is in disharmony with the FCC and creates an inconsistency rather than eliminating it. Federal regulations should seek to protect consumers from unlawful business practices, yet ensure that the free enterprise system is not unduly hampered by inconsistent regulations among agencies that impede business and economic growth which is good for America. We opine that the established business relationship exemption for such calls does not create any harm to consumers. On the other hand denial of the exemption does negatively impact business revenue and costs because such automated calls which were cost effective and productive may well be outsourced to foreign countries to be done as cheap labor live-operator calling campaigns which will result in lost revenue to domestic teleservices companies that could have continued to do them cost effectively. American workers have already felt the pain of job losses to offshore entities. It is time to save jobs for American workers; not sell them out.