

**BEFORE THE  
FEDERAL TRADE COMMISSION  
WASHINGTON, DC 20554**

**Regarding: FTC File No. P104405**

**COMMENTS OF INFOCISION MANAGEMENT CORPORATION ON  
ADVANCE NOTICE OF RULEMAKING CONCERNING CALLER  
IDENTIFICATION**

**I. Introduction**

The Federal Trade Commission has solicited comments on an Advanced Notice of Proposed Rulemaking regarding the Telemarketing Sale Rule (TSR) and its rules regarding Caller ID. 75 Fed. Reg. 78179 (Dec. 15, 2011).

InfoCision is a leading provider of call center solutions specializing in Christian and nonprofit fundraising, sales, and customer care. InfoCision focuses on meeting the highest standards of quality and regulatory compliance. It has provided these services to some of the world's leading organizations for 25 years and employs nearly 4,000 employees in 32 call centers.

InfoCision and its clients have spent millions of dollars designing and implementing dialing systems which comply with applicable laws, including Caller ID.

**II. InfoCision's Current Business Practices**

InfoCision currently complies with all applicable Caller ID rules. InfoCision's current Caller ID Policy is attached below and incorporated herein by reference. InfoCision attaches a Caller ID telemarketing telephone number along with InfoCision's name or the name of InfoCision's client to every campaign.

At all times, the Caller ID information attached is truthful and accurate, and the telephone number transmitted is answered by a live operator or IVR during regular business hours, allowing consumers the opportunity to opt-out of future calls from that client or InfoCision.

The FTC has tools at its disposal to prevent and punish abuse, e.g. 16 C.F.R. 310.3(a)(4) and laws prohibiting unfair trade practices, and has done so with regard to Caller ID transmission. Transmission of false information is already illegal- InfoCision urges the Commission to prosecute such use, but not to impose a more rigid scheme on compliant companies and charities. The current rules allowing our clients to choose to use their name and number or ours best serves charities, allowing them to devote

employees to program services, thus leaving telephone service to us, and consumers, allowing them to quickly get needed information or make a “do-not-call” request from skilled professionals.

### **III. Responses to Specific Questions**

(1) What services exist to assist consumers in identifying the source of deceptive or abusive calls in which the telemarketer does not truthfully disclose the name of the telemarketer, seller, or charitable organization at the outset of the call or abandons a call without identifying the source of the call? Are these services dependent on reliable transmission of CPN or equivalent information? How much does it cost consumers to use these services?

RESPONSE: Services exist both pre-solicitation and post-solicitation to assist consumers in ensuring calls received and donations made are not fraudulent or abusive. InfoCision always confirms donations using a different supervisory employee to ensure that the recipient of the call understood the organization and presentation. Additionally, InfoCision confirms each donation via U.S. Mail.

Current Caller ID services are used by the vast majority of U.S. consumers.

(2) How widespread is consumer use of Caller ID services to screen unwanted calls? Do consumers use other services that rely on transmission of CPN, such as call-blocking equipment, to avoid or block unwelcome telemarketing calls?

RESPONSE: Caller ID screening is widely used to protect consumer privacy. Requiring transmission of Caller ID benefits these consumers, and InfoCision urges the FTC maintain the current regime strengthened by requiring number and name be transmitted.

(3) Would changes to the TSR improve the ability of Caller ID services to accurately disclose to consumers the source of telemarketing calls, or improve the ability of service providers to block calls in which information on the source of the call is not available or has been spoofed? If so, what specific amendments should be made to the TSR?

RESPONSE: No. Current rules allow charities and their agents to flexibly disclose accurate and truthful information to best meet the consumer’s need to respond to the caller. This flexibility should be maintained. Caller ID “spoofing” is already illegal under the TSR- imposing additional restrictions on legitimate charities would not prevent such fraud but enforcing current rules would.

(4) Should the Commission amend the Caller ID provisions of the TSR to recognize or anticipate specific developments in telecommunications technologies relating to the

transmission and use of Caller ID information? If so, what specific amendments should the Commission make?

RESPONSE: Telephone service providers nearly uniformly can transmit the Caller ID information required by the Telemarketing Sales Rule. The current “substantial assistance” provisions of the TSR adequately protect consumers from any potential abuse by service providers with regard to this issue.

The Commission should amend the Caller ID provision to specify that CPN be transmitted with all telemarketing calls. Given changes in technology, it is likely that any legitimate telemarketer would have access to telecommunication systems capable of transmitting such information.

(5) What role do telephone service providers (including those that are not common carriers) play in providing services, equipment or software that allows telemarketers, sellers and charitable organizations to manipulate the caller number and name information in telemarketing calls? The TSR provides that it is a violation of the Rule for a person to provide substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act or practice that violates enumerated provisions of the Rule. Is this provision adequate to regulate service providers that assist telemarketers and sellers in manipulating caller number and name information?

RESPONSE: Caller ID name display is a service provide by the local telephone service provider (LTSP) of the person being called. The LTSP uses the originating telephone number information that is transmitted by the carriers handling the call to look up a name in a centralized database. The LTSP uses that retrieved name and passes it to the called party’s telephone where it is displayed along with the originating telephone number. So the LTSP is providing a service that relies on the information passed to it.

The call originator, in this case a telemarketer, seller or charitable organization, can obtain a telephone number and associate an appropriate name for that telephone number. This number and associated name is placed in the centralized database that the LTSP uses to determine the name of the calling party. The telephone network and modern telephone systems allow for passing that number with the call to be used as the identifier of the caller to the LTSP and the called party.

LTSPs, then, do nothing but use the information provided to display a name associated with a particular number. If “telephone service provider” refers to the carrier who initially handles the call, the carrier accepts a number to be used as an identifier for the call and passes it along to the LTSP. When InfoCision chooses a number to be used for caller ID, the information about the origination of that number is available to the LTSP

or, ultimately, the Commission. The LTSP should be able to identify the source of the call regardless of the number. Further, when we obtain a number to be used for caller ID purposes, we are the “owner” of that number, even if the name is not “InfoCision Management Corporation”. If there are complaints regarding a given campaign, the carrier can trace those calls even if the name or number is “spoofed”. Someone who is spoofing may be circumventing the trace back, especially if they steal someone’s number for the spoof.

InfoCision believes the data exists to trace and prevent spoofing in the current Caller ID system, and additional restrictions on legitimate companies like InfoCision would not benefit consumers or charities.

(6) When the Commission adopted the Caller ID provisions of the TSR in 2003, it acknowledged the possibility that a small number of telemarketers may not have access to telecommunications systems capable of transmitting calling number information. Do all telemarketers now have access to technology that allows them to transmit or arrange for the transmission of such information? Should the Commission amend the Caller ID provisions of the TSR to specify that telemarketers, sellers, and charitable organizations must use technology that causes the CPN to be transmitted with all telemarketing calls? Commenters should address whether there are currently areas that are served only by telephone companies that are not capable of transmitting Caller ID information or, more specifically, not capable of transmitting CPN. If services that transmit CPN are available to a telemarketer, is there any justification for giving such a telemarketer the option of using technology that does not transmit CPN, but transmits ANI or some other identifier? Specifically, is it more expensive to use a service that transmits CPN than one that does not? If so, how much more expensive?

RESPONSE: The FTC should amend the rule to require transmission of name and number for all telemarketing calls.

(7) Should the Commission amend the Caller ID provisions of the TSR to require, without qualification, that telemarketers use technologies or subscribe to services that provide caller name identification to recipients who use enhanced Caller ID services? Are there any telemarketers that do not have access to services that cause caller name information to be transmitted to Caller ID services? What portion of consumers receive caller name information through Caller ID services? Would requiring telemarketers to use technologies or services that provide caller name information increase telemarketers’ costs? If so, how much does it cost to use these technologies or services?

RESPONSE: Yes. All legitimate telemarketers should be able to transmit name and number through Caller ID services.

(8) Should the Commission amend the Caller ID provisions of the TSR to further harmonize the TSR with the regulations promulgated by the FCC pursuant to the TCPA?

Have differences in the language in 16 CFR 310.4(a)(7) and 47 CFR 64.1601(e) caused problems in industry compliance?

RESPONSE: These differences have not caused problems with industry compliance. Any change in the TSR to impose specific rather than flexible Caller ID provisions would likely cause such a problem, however.

(9) Should the Commission amend the Caller ID provisions of the TSR to further specify the characteristics of the telephone number transmitted to any Caller ID service? For example, should the TSR require that the telephone number transmitted be:

- (a) a number that is listed in publicly available directories as the telephone number of the telemarketer, seller, or charitable organization?
- (b) a number with an area code and prefix that are associated with the physical location or principal place of business of the telemarketer or the seller?
- (c) a number that is answered by live representatives or automated services that identify the telemarketer, seller, or charitable organization by name?
- (d) a number that provides for prompt and easy communication with the live representatives of the telemarketer, seller, or charitable organization? Or
- (e) a number that is the same as the telephone number that is listed in direct mail solicitations or other advertising (such as Internet or broadcast media) as the telephone number for the telemarketer, seller, or charitable organization?

RESPONSE: No. The number should be answered at normal business hours and permit consumers to make a “do-not-call” request as well as other actions the charity feels necessary for such number. However, the Rule should not specify which number the charity chooses to use as different campaigns could use different numbers for testing, purporting and recordkeeping purposes. Similarly, sellers and telemarketers can have different locations, departments and campaigns that do not necessarily correspond with the principal place of business of that entity and should have the choice to use non deceptive numbers which serve consumer needs regardless of the principal location of the business.

Businesses should have the choice of using live or automated responses so long as the number can be used to opt-out of future calls.

(10) Should the Commission amend the Caller ID provisions of the TSR to permit a seller or telemarketer to use trade names or product names, rather than the actual name of the seller or telemarketer, in the caller name provided to Caller ID services? Should the Commission allow the use of acronyms or abbreviations? If so, are there circumstances

in which the use of an acronym, abbreviation, trade name or product name should be prohibited?

RESPONSE: Given the limited characters associated with Caller ID, sellers or telemarketers should be able to use trade names rather than their legal name in Caller ID so long as the trade name is not deceptive or abusive. This change would benefit consumers who know some groups trade names or d/b/a's but are not familiar with those groups' legal names.

(11) Do consumers benefit from provisions in the TSR that give calling parties the option of substituting the number and name of the seller or charitable organization for the number and name of the telemarketer? Should the Commission amend the Caller ID provisions of the TSR to require that the name provided to Caller ID services be the name of the seller or charitable organization on behalf of which a telemarketing call is placed? Should the Commission amend the TSR to allow telemarketers to cause Caller ID services to display the number of the telemarketer, but display the name of the seller?

RESPONSE: Consumers benefit from such provisions as do the charities which may choose to use more efficient third parties to manage campaigns than they could internally just devoting more resources toward their program services. We provide professional telephone services to our clients which consumers can use more effectively in some cases than the same services provided by our charitable clients.

(12) In general, what benefits has the Rule provided to consumers, telemarketers, sellers, and charitable organizations? What evidence supports the asserted benefits?

RESPONSE: We believe the Caller ID rules help our clients because consumers recognize calls from their favorite charities. This makes their calls more efficient, resulting in lower cost of fundraising and more money being able to be applied to program service.

(13) Could the benefits that the Rule has provided to consumers, telemarketers, sellers, and charitable organizations be achieved through less burdensome or less restrictive means?

RESPONSE: We support the current version of the Rule, with the addition of allowing the charity to use a d/b/a or trade name instead of legal name if it so chooses. The FTC has tools at its disposal to prevent and punish abuse, including "spoofing" and therefore should not impose more restrictive rules on legitimate groups.

(14) In considering amendments to 16 CFR 310.4(a)(7), should the Commission also consider amendments to 16 CFR 310.4(d) and (e), which describe the oral disclosures that must be made to identify the seller or charitable organization at the outset of an

outbound telephone call or upsell?

RESPONSE: No. The current disclosures are sufficient to identify the charity and the purpose of the call. Additional disclosures would disrupt the speech of the charities with little additional consumer benefit.

#### **IV. Conclusion**

InfoCision has an unblemished record of compliance with state and federal caller identification rules and always has disclosed this information and other relevant information to consumers truthfully, promptly, and accurately. InfoCision urges the Commission, on behalf of InfoCision's many nonprofit clients, to retain the flexibility offered under the current Rule allowing use of different, but truthful and accurate, numbers to allow the charity and its representative to best respond to consumer calls to that number. Sometimes it is best to use the number of the charity's agent, but some charities want to handle the calls themselves and this ability to be flexible should be retained.

The Commission should also allow charities to use their trade names, if they choose, in Caller ID. As set forth above, some charities' legal names differ from the names commonly associated with them, and this change would help consumers understand the origin of calls from those groups.

The Commission should amend the rule to require transmission of name and number for all telemarketing calls as all legitimate groups should now have this technological capability.

The Commission should continue to vigorously enforce its existing rules banning deceptive or fraudulent Caller ID transmission, but it should not change those rules to burden compliant companies with little or no accompanying consumer benefit.

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Steve Brubaker  
InfoCision Management Corp.

## Caller ID Policy

Document Owner: Regulatory Compliance  
Date Composed: August 24, 2005  
Date Effective: August 25, 2005  
Date Last Reviewed: August 13, 2010

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### **General Description:**

The policy of InfoCision Management Corporation is to transmit Caller ID (using an accurate name and telephone number) for all campaigns, unless exempt.

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### **Regulations:**

Federal law requires telemarketers to transmit their telephone number, and if possible, their name, to consumers' Caller ID service. To comply with this requirement, a telemarketer may transmit its own name and number to consumers' Caller ID service, or substitute the name and telephone number of the seller (or charitable organization) on whose behalf it is calling. The number that is transmitted must be answered by a live operator during regular business hours or connect to an IVR which gives customers an opportunity to opt-out of future telemarketing calls from the seller (or charitable organization). Data transmitted for caller ID must be truthful and accurate.

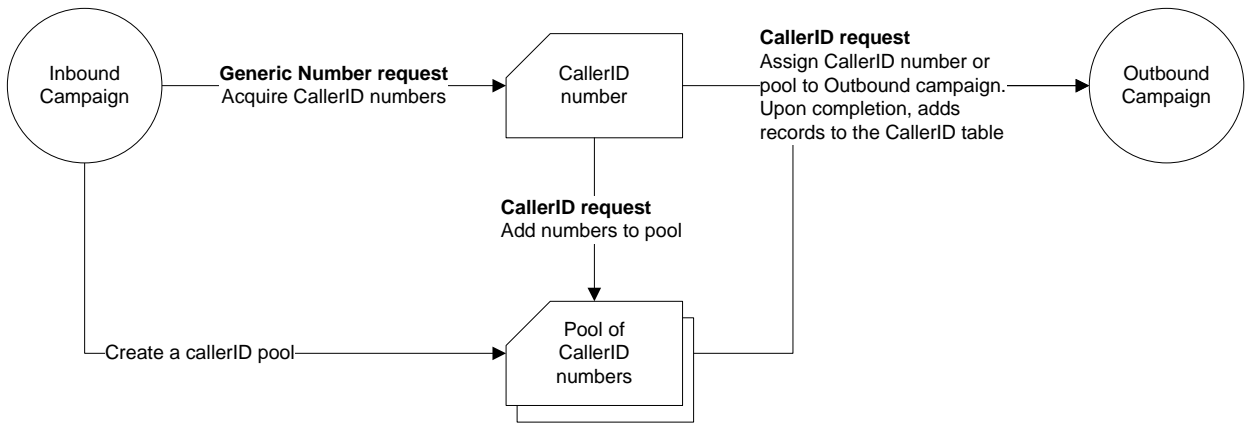
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### **Procedures:**

Every time a new campaign is created, Concerto triggers an email notification to the Regulatory Compliance team. Subsequently, the account staff will send a request through Concerto to attach a Caller ID number to a campaign. If a campaign is running without a Caller ID number attached, the system sends an additional email alert notifying the compliance team that the campaign should have a Caller ID number attached and that it should be displayed if required. This ensures that the Regulatory Compliance team is aware of all new campaigns.

## Caller ID Process Flow





**Policy Review:** Annually

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