

Third Party Verification, Inc.  
Public Comment related to  
TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification,  
Project No. R411001

---

In the FTC's TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification, Project No. R411001 one of the central issues is that of obtaining a consumer's express written consent to be contacted by a company and/or telemarketer. While our company agrees that obtaining a consumer's express consent to be contacted is a necessary element to insure that consumers are not being contacted against their wishes, we have three comments regarding the obtainment of express consent.

- 1) In the documents related to the FTCs TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification, Project No. R411001 it is made clear that express consent must be given in writing. This presumably would mean a traditional hand-signed, in-person signature. However, in today's business environment there are many ways to obtain a hand-written signature. For example, our company offers a product which allows a consumer to hand sign documents electronically using a mouse, touchpad, or other input device. This is not dissimilar from the electronic signature capture devices used at many large stores such as Home Depot and Sears.

Such products allow the consumer to sign a document the same way they would using a pen, simply from a remote location. The end result is a legally binding, forensically identifiable hand-written (not just a typed name) signature that is specific to the document that was signed. ESIGN and other regulations allow for the use of electronic signatures in financial and government transactions. The same option should be available when obtaining express written consent for telemarketing purposes.

- 2) Such written consent, to be truly valid, should be obtained by a disinterested third party to prevent coercion, fraud or other questionable actions on the part of over zealous telemarketing agencies. The use of third party verification services in the telecommunications industry as mandated by the Telecommunications Act of 1996 has been one of the most successful government regulations in recent memory; resulting in the near elimination of slamming, cramming and other less than honest activities that plagued consumers prior to 1996. The same success would likely result if these rules were applied to express consent, written or otherwise, of consumers with regard to telemarketing services.
- 3) Following on the comment above, voice third party verification has been a recognized and successful way of obtaining consumer consent for over a decade in telecommunications and many other government regulated areas. Most recently voice third party verification was used to obtain the express consent of consumers regarding the way their E911 service worked on their VOIP telephones. If voice third party verifications were acceptable in the case of E911, where the safety of consumer's and their families was at stake, then voice third party verifications should be acceptable for purpose of gathering express consent from consumers with regard to telemarketing services.

Voice third party verifications have also been used in areas where there were financial implications. For example, in the telecommunications industry where if the consumer's consent was not obtained or obtained fraudulently the consumer could find themselves subscribed to higher priced services without their knowledge. If voice third party verification was acceptable for situations with financial implications then voice third party verification should be acceptable in the scenarios addressed by TSR Prerecorded Call

Prohibition and Call Abandonment Standard Modification, Project No. R411001 where there are no obvious financial implications to the consumer's consent.

Third Party Verification, Inc. has been protecting consumers for over six years and applauds the TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification, Project No. R411001 and other initiatives by the FTC designed to protect consumers.