

[To Be Submitted Electronically]

Regarding TSR Prerecorded Call Prohibition and Call Abandonment Standard Modification, Project Number R411001.

I. Background of Vontoo, LLC.

Vontoo, LLC is headquartered in Indianapolis, Indiana. We are a young company, organized in 2006, and we currently employ 8 persons on a full or part-time basis. We anticipate growing our employee populations to 13 by the end of 2006 and 25 by the end of 2007. Our web-site is www.vontoo.com.

We have developed a unique permission-based, on-demand voice messaging system. Our technology has very broad applications, but in all cases it is focused solely on providing access to persons who wish to be contacted via the telephone and who have expressly consented to those calls, and who value – and wish to receive – the information being conveyed to them via that medium. In this regard we are the polar opposite of the "phone spammers" that we believe the FTC is targeting through its proposed revisions to the TSR.

Vontoo complies with both the letter and the spirit of the current law. We do not allow calls to be made to anyone who has not either (a) expressly consented to be called or (b) conducted business with the calling party within the previous 18 months or made an inquiry within the previous three months. In addition, we permit consumers – on a no-charge basis - to be listed on our own "No Call List" – persons included on this list will never receive a call using our technology – ever. All of this can be verified at our web-site.

II. Vontoo's Use of Prerecorded Messages in the Past.

Vontoo is a young company and has only three months of operations under its belt. That being said, we believe the following real example, illustrates how our technology has been used:

Dierks Bentley is a country music recording star. Persons interested in joining his fan club can go to his website (www.dierks.com) to join. If they elect to receive calls from Dierks welcoming them to the club and apprising them of upcoming events they so indicate on the site.

Recently, members of the fan club who had given their permission to be called on the web-site were contacted (via prerecorded message from Dierks) to inform them of the release of his new album and details of his coming concert tour. Each consumer was given the choice to be removed from the call list. Of the 12,000 persons called, only 50 elected not to receive further calls.

III. Comments Regarding Proposal.

A. Requests for Clarification/Amendment. Vontoo supports the fundamental premise of the proposed rule – that only persons who have given permission to be called should receive a call, whether pre-recorded or not. However, it needs to be made clear that a consumer

can consent "in writing" through a web-based consent process or by otherwise providing an electronic signature in compliance with the federal E-SIGN law. Express consent should not be limited to paper and ink writings as many consumers prefer other means to communicate.

B. Response to General Questions. We have addressed the questions on which we feel competent to reply.

1. What is the effect (including any benefits and costs), if any, on consumers?

Consumers will lose access to messages that they deem valuable and that they wish to receive. The 11,950 Dierks Bentley fans (out of 12,000) who want the message about his latest album release and concert tour will no longer get the message. The consumers that value a reminder that their prescription is almost due will no longer get the reminder.

2. What is the impact (including any benefits and costs), if any, on individual firms that must comply with the Rule?

The impact is the most significant on companies delivering a legitimate service. The "spammers" will find another method to broadcast unwanted messages. The proposed rule simply prohibits a legitimate means of customer communication that, in our experience, customers want to receive.

4. What changes, if any, should be made to the proposed Rule to minimize any costs to industry, individual firms that must comply with the Rule, and/or consumers?

Confirm that consumers can consent to receive prerecorded consents through on-line registration.

6. How would the proposed Rule affect small business entities with respect to costs, profitability, competitiveness, and employment?

Prerecorded messages are one of the most cost-efficient means of communication. As small businesses have fewer marketing and other resources to spend, the adverse impact on them will be disproportionately severe.

C. Response to Questions on Specific Issues.

1. Should the Commission include an explicit prohibition of prerecorded telemarketing calls in the TSR?

There has been no study that prerecorded calls are inherently abusive. Our experience is to the contrary. As an example, of the 12,000 consumers recently contacted to receive information about a Dierks Bentley album and concert tour, only 50 indicated that they did not welcome the call.

- 2. Is the Commission correct in its understanding that a reasonable consumer would consider prerecorded telemarketing sales calls and prerecorded charitable solicitation calls to be coercive or abusive of his or her right to privacy?**

Absolutely not when the consumer has gone to a website and requested that form of communication.

- 3. Does a consumer's choice not to list his or her telephone number on the Do Not Call Registry indicate not only that he or she is willing to accept live telemarketing calls, but also prerecorded telemarketing calls?**

Yes, but the same exemptions apply such as express consent.

- 4. Should the Rule specify disclosures that must be made when obtaining a consumer's express written agreement to receive such calls? If so, what disclosures are needed?**

As with most FTC restrictions, the commission should not require specific language for the disclosures. Rather, the FTC should require that the express consent be clear and conspicuous and non-deceptive, but leave the specific form to businesses, and consumers, who desire to receive these types of calls.

- 7. What are the costs and benefits to consumers, if any, of allowing companies to leave prerecorded messages, as opposed to live messages, on consumers' answering machines? Do consumers incur additional costs in terms of (a) paying for storage of messages they do not want; (b) exceeding their allotted storage capacity; (c) being unable to receive messages they want or need; (d) being unable to use home telephone lines tied-up by prerecorded messages; or (e) retrieving messages? Do consumers receive additional benefits, such as lower marketing costs that are eventually passed on to them?**

There are no additional costs to consumers to receive a prerecorded message versus a live person leaving a message.

Consumers also benefit from reduced marketing costs that can be passed on to the marketplace and consistency in messaging that is difficult to achieve with live operators.

The benefits of "opt-in" and permission-based prerecorded messaging significantly outweigh any negatives and consumers notice no incremental costs to listen to, store or play these messages when compared to the cost of doing the same for a message left by a live person.

In the future, consumers may actually achieve lower costs and additional benefits by the delivery of prerecorded messages direct to their voicemail systems without necessarily having their phones ring. This could save some

wireless users airtime/minutes from being used (since some prepaid plans charge even for in-bound rings that aren't answered). Further, some carriers allow for checking of voicemail at no fee.

15. Do small businesses and other sellers have alternatives that are equally or more effective and economical than live telemarketing, such as postcard or email announcements, to notify their established customers of sales offers and to obtain orders? Would the costs of such alternatives be outweighed by benefits to consumers in avoiding additional abandoned calls to their homes?

No they do not have such alternatives which would be as timely, effective or welcomed by consumers.

IV. CONCLUSION.

The proposed rule, as drafted, is overly broad and unfairly prohibits legitimate services, such as Vontoo provides, as well as the intrusive and offensive "spamming" that the rule should address. We believe that clarifications to the proposed rule, described above, can eliminate its fatal flaws and allow good corporate citizens such as Vontoo to continue to serve the public while still prohibiting the offensive conduct on which the rule is premised. The FTC should also confirm that people who have expressly consented to calls on behalf of a certain entity in the past can still be called even if that express consent did not meet technical guidelines announced in the future.

Submitted by:

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