

VMBC respectfully requests the FTC to re-evaluate the ruling prohibiting unsolicited prerecorded telemarketing calls answered by a consumer without the consumer's prior written agreement, and allow exceptions based upon a few important key parameters.

We understand that the spirit of this amendment is to ultimately protect the consumer from unwanted, intrusive and irrelevant solicitation calls. We feel that this amendment succeeds in meeting the intended objectives, however in the process, also now prohibits the types of calls that consumers have shown an interest, and benefit, in receiving.

Contrary to popular belief, not all marketing (and in this case, pre-recorded telemarketing calls) are unwanted or intrusive. What must be considered is the relevancy and timeliness of the messages. For instance, notification of a new update to a service which a consumer currently has with a service provider is a type of message that consumers have shown interest in receiving. We know this to be true by 1) the very low amount of opt-out requests from past messages, and 2) the exceptional success of our campaigns, indicating that consumers are taking advantage of the information being transmitted to them in a positive manner.

VMBC supports the FTC's objectives of protecting consumers. In fact, we feel that our best practices not only support this, but take it to the next level to actually give the consumers a preference. Under the VMBC best practices, the messages delivered are:

- 1) Never sent to random people. Anyone receiving a voice message broadcast from us on behalf of a particular merchant must have an Existing Business Relationship (<18 months).
- 2) Not random messages. The messages delivered to call recipients are relevant in that there has been business conducted between the consumer and the merchant, and the merchant's offer or message is in response to the consumers' action (a previous purchase or service agreement).
- 3) Never delivered outside of designated call times. All calls are delivered in compliance with all state and local regulations.
- 4) Not going to bombard consumers with unwanted calls. VMBC messages always contain an easy opt-out feature at the beginning of the message, and those choosing to opt-out are put on the company-specific Do Not Call list for all future campaigns. This methodology allows for self-regulation as the lists are continuously being cleaned with each new campaign.

To further illustrate the consumers' preferences, a recent Forrester survey (NACTAS Q3 2006 Omnibus Online Survey) concluded that consumers prefer to receive a pre-recorded voice message over a live representative, on average at a rate of two to one, across different age, income, geographic, and technological groups. The percentages of those who preferred a pre-recorded voice message ranged from a high of 71% to a low of 57%, with an average of 63% across all groups.

We understand that the basis for this ruling was fueled by the comments posted to the FTC website, in which over 13,000 were in opposition to the amendment – however their opposition was not based on the premise of having the prompt opt-out capability. We

believe that this represents a certain segment, but certainly not a fair representation of the full scope of all consumers. Please consider the fact that VMBC has transmitted over 2.5 million messages in a recent 3 month time frame containing an easy opt-out feature at the beginning of every call, and only received a 3.1% opt-out rate. The balance of those call recipients chose not to opt-out and we have not received any complaints from call recipients. Additionally, the success of the campaigns we have run illustrates the fact that consumers are utilizing the messages we are transmitting in a positive manner. A major entertainment retailer realized a 6% response to their direct mail offer, and when enhancing the program with a voice message campaign to their customers, realized an 11.5% response. These consumers received the voice message campaigns and acted upon them because they had an interest in the message and received a benefit from the call.

The impact of the FTC's ruling would now prohibit these desired, beneficial calls to these consumers who 1) already have an existing business relationship with the company, 2) already provided the company with their contact information, 3) have chosen not to opt-out of receiving the call, and 4) can choose to opt-out of all future calls at any time. In order to receive these notifications again, these consumers would now be required to take an additional, and in some cases inconvenient and costly, step.

In light of this information, we are requesting an exception to the rule to allow companies to continue contacting their customers with pre-recorded telemarketing calls if 1) there is an Existing Business Relationship with the consumer in the past 18 months, 2) the customer has already provided the company with their contact information, and 3) if there is always an easy opt-out functionally offered at the beginning of every call and the consumer chooses not to utilize it. We believe this more accurately represents the consumers' preference.

If no exceptions shall be made to the ruling, we would like to request a 6 to 8 month extension of time for companies to obtain express consent, and allow for verbal consent from consumers by means of telephone opt-in.