



Direct Drop Voicemail & Telemarketing Restrictions

Important Note:

This document is a layman's guide to how Direct Drop Voicemail can fit into your customer communications program within the context of governmental rules and regulations. This document is not a substitute for legal counsel, so for specific advice regarding your particular communication program or campaign, you will need to seek legal advice.

It's OK to Admit it...

The first thing you thought about when you heard about Direct Drop Voicemail was using it for Telemarketing, right? Well, it's OK to admit it. In fact, it's not all that surprising given the experiences we've all had of getting those unsolicited phone calls during dinner.

But *Thankfully*, those days are over due to new Federal and State laws that have been put in place. However, there are a whole host of other reasons that you may want to communicate with a customer, a group of people, your membership or others without trying to sell them something. Those calls are called Informational Calls and they are definitely still allowed and even encouraged.

In fact, Information Calls are not just allowed, they are viewed as legitimate, useful and valuable communications tools in the government's own comments regarding the new calling rules.

In this document we'll discuss the current rules and regulations around outbound calls, we'll outline the 2 categories of calls and cover the special case of pre-recorded calls like Direct Drop Voicemail. We're going to focus on just the highlights of the rules and regulations, so if you want to get into the details you'll need to seek legal advice.

Tell me Something About the Rules & Regulations Around Outbound Calling.

In 1991, Congress passed the Telephone Consumer Protection Act (TCPA). Two Federal agencies, the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC) are charged with establishing and insuring compliance with the rules and regulations of the TCPA law. There are also state level regulations that apply in many states.

Two Types of Calls...

The TCPA (and most state regulations) are primarily focused on telephone based Solicitations or 'Telemarketing' calls. However, a call is exempt from the TCPA if it:

- Is not made for a commercial purpose (ie. it is an "Information Only" call)
- Does not include an unsolicited advertisement, even if the call is made for a commercial purpose
- Is made by or on behalf of a tax-exempt nonprofit organization
- Is made by or on behalf of a political campaign
- Is made by or on behalf of a healthcare provider

To summarize, the regulations basically define *two types of calls*, those that are Telemarketing and those that are Information Calls. Information Calls are informational if they do not contain commercial solicitations, if they are placed by or on behalf of an exempted group or if they are related to healthcare.

But what about using Direct Drop Voicemail for Telemarketing?

As rule of thumb, the use of Direct Drop Voicemail for Telemarketing purposes is limited to recipients who have provided their prior permission to receive Telemarketing calls from you, and even those are subject to strict regulations.

Telemarketing calls are subject to TCPA Rules & Regulations, Informational calls are not.

Unless...



Direct Drop Voicemail.
The only voice service in the 130
year history of telephony designed
NOT to 'call' you.

*More on
Telemarketing...*

Your Pre-Recorded Content Matters

The Special Case of Pre-Recorded Calls...

While Direct Drop Voicemails may be either Informational or Telemarketing in nature (based on their content or origin), Direct Drop Voicemails are always subject to the FCC, FTC and state level regulations that deal with pre-recorded messages. Those rules generally include:

- Stating the identity of the company responsible for initiating the message at the beginning of the message and giving the address and phone number of the company during the message
- For Telemarketing calls, the calling company must also maintain a "Do Not Call list" and honor any request to not be called again.

Additionally, there are a few items that are generally considered 'Best Practices' during any outbound campaign such as having a clear policy on telemarketing and training people involved with writing scripts.

"Content is King"...

As you can see, these regulations really revolve around the content of the call. The content of the message makes it either a Telemarketing call or an Information Only call. In either case, if the message is pre-recorded, there are a few pieces of additional content that must be included (company name, number, etc.).

In practice, there is often a tendency to want to stray from an informational call towards a telephone solicitation. Here is an example straight from the FTC's comments to illustrate the difference:
The FTC's comments point out how a call reminding you that's time for your 50,000 mile automobile service check-up is OK, but if the call offers a \$10 off coupon, it's a solicitation.

So as you can tell, it's a fine line between a telephone solicitation and an informational call – you don't want to cross it!

Now for What Does Not Apply to Direct Drop Voicemail...

The following parts of the FCC, FTC and state level regulations under the TCPA **Do Not Apply to Direct Drop Voicemail:**

- The ban on artificial or prerecorded voice message calls to pagers or cellular phones, or other calls for which a charge is made to the called party
- The prohibition against the use of artificial or prerecorded voice message calls to a residence except in cases of emergency or if the caller has received prior express consent

These aspects of the regulations do not apply to Direct Drop Voicemail primarily because Direct Drop Voicemails are just that, they are not calls to a residence or to a pager or cellular phone, they are pre-recorded messages dropped into the recipient's voicemail box at no charge to the recipient.

That's why it's so special and innovative!

The Bottom Line:

It really comes down to the Content of your Direct Drop Voicemail message. The intent of the legislation was to avoid 'voice blasting' prerecorded messages to people's home phone and to eliminate the risk of mobile subscribers burning up their plan minutes with calls they had to pay for that probably turned out to be Telemarketing calls anyway. When a Direct Drop Voicemail has the proper content (ie. it is an information call, is from an exempted group or when complies with the recent, stricter rules around Telemarketing calls) it is a valid and valuable and even an encouraged vehicle for contacting your audience.

But What if I Really *WANT* to Use Direct Drop Voicemail for Telemarketing?

Contact Information

David A. King
313-473-7671

david.king@voapps.com
www.voapps.com

While the use of Direct Drop Voicemail for Telemarketing purposes is strictly regulated and well enforced, it does not mean that you can't use it for telemarketing at all – you just have to follow the rules. Today, the Telemarketing industry is waking up to a new way of doing business – providing customers with advertisements and solicitations that they actually want to hear about! It's often called Permission Based or Opt-in marketing. Such programs are designed to inform people about specials, deals and offers that they want to know about.

I mean, we all have favorite companies we like so much that we want to know what they are doing. You may be a Facebook 'fan' of Macy's or Ford or you might follow the tweets of Apple or Dell and want to hear about the sale, special event or new product announcement they have. If so, no problem, the rules and regulations allow those companies to use tools like Direct Drop Voicemail to communicate those opportunities to you. You will, however, need to opt-in and give your permission to receive those messages.