

## Robocalls and Your Business

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*We are not fans of "robocalls"! You know, the calls that come in within five minutes of sitting down to dinner. However certain kinds of telemarketing is legal. Here the thoughts of one FTC attorney.*

*Call me (call me) on the line.*

*Call me, call me any, anytime.*

We were big Blondie fans, but if the lyrics of "Call Me" are any indication, they're not the best source of information about complying with the Do Not Call and robocall provisions of the Telemarketing Sales Rule. So we're turning to FTC attorney Bikram Bandy to get answers to questions that businesses are asking.



**My company has a great new product and we want to do a robocall campaign to let consumers know about it. Of course, we want to comply with the law, so we're downloading the [Do Not Call Registry](#) to make sure our robocalls don't go to those numbers. No problems, right?**

**BIKRAM:** Wrong. If you're trying to sell something, you can't place robocalls to any phone number – even numbers that aren't on the Do Not Call Registry. The only exception is if the consumer has given signed written permission to receive robocalls on behalf of your company (not your affiliates, marketing partners, etc. – your company). The written permission must include the consumer's phone number and has to clearly and conspicuously explain that he or she gives your company permission to make robocalls. The bottom line: If you don't have valid written permission, you can't send robocalls. Period.

**I heard calls to businesses are exempt from Do Not Call. If I place sales calls to a business phone number, is that OK under the FTC's rules?**

**BIKRAM:** Not necessarily. It depends on what you're selling. In most cases, calls between a telemarketer and a business are exempt from the FTC's Do Not Call and Robocall Rules if the caller is trying to sell a product or service to the business. But there are two important exceptions to keep in mind. First, if the call is trying to make a sale to an employee at work – in other words, calls to business lines that solicit individual employees to buy stuff for their own use – those aren't true business-to-business solicitations and therefore must comply with the Do Not Call and Robocall Rules. Second, B2B calls trying to make a retail sale of "nondurable office or cleaning supplies" must comply with the Robocall Rules. What does that cover? Things like paper, pencils, solvents, toner and ink – in short, anything that must be replaced once it's depleted.

**A company selling leads has offered me a fantastic list of "opt-in" or "permission-based" leads they say will significantly boost my sales. The lead provider says these are phone**

**numbers of consumers who have given online consent to receive telemarketing calls. Since these consumers have given permission or “opted in” to get phone solicitations, does that mean we don’t have to worry about Do Not Call compliance?**

**BIKRAM:** Actually, you do have to concern yourself with Do Not Call compliance. You must scrub the leads against the Registry unless you’re calling consumers who have agreed in writing to get calls specifically from you. Since the leads you’ve been offered don’t specifically give your company permission to call, you can’t call those numbers without first scrubbing against the Do Not Call Registry. General permission is insufficient. What’s more, the consumer’s written permission must include the phone number that may be called, it must be signed by the consumer (an electronic signature is OK), and it must clearly and conspicuously explain that the consumer gives your company permission to call. That means no tricks, no traps – and no fine print.

**I plan to send a robocall to all customers who have bought products from my company in the last 18 months to let them know about an upcoming sale. Since I’m calling only recent customers, I don’t have anything to worry about. Right?**

**BIKRAM:** Wrong. Although there is an established business relationship exemption that applies to live telemarketing calls, there is no such exemption for robocalls. Therefore, a company can’t make robocalls, even to consumers with whom it’s recently done business, unless those consumers have given valid written consent to get robocalls from the company.

**I’m thinking about partnering with a company that does political survey calls. The plan is to add my company’s sales offer at the end of the survey call as a “thank you” to participants who took the time to complete the survey. Since the purpose of the call is to conduct a political survey and political survey calls are exempt from the Do Not Call and Robocall Rules, are those calls OK?**

**BIKRAM:** No. Although political survey calls are exempt from the Do Not Call and Robocall Rules, adding a sales component to the call eliminates the exemption. A political or survey call that also pitches goods and services must comply with the Do Not Call and Robocall Rules. A [recent FTC-State AG settlement](#) with Caribbean Cruise Line and others illustrates that point.

Bikram’s answers remind us of another Blondie song. Whether it’s [Telemarketing Sale Rule enforcement](#), [business guidance](#), [consumer education](#), or the latest Robocall Challenge, [Humanity Strikes Back](#), “one way or another” the FTC will continue the fight against Do Not Call violations.