

Compliance Checklist for Online Lead Generation

In order to maintain compliance with the TCPA and TSR, as well as more restrictive state laws, the following marketing compliance checklist for online lead generation will help reduce the risk of litigation and minimize consumer complaints.

Ensure Advertising is Not Misleading.

Websites that advertise products and services with the intent to obtain contact information from consumers are required to disclose the underlying purpose of the follow up contact.

- o *Example:* For lead generation in the insurance industry, websites should clearly advertise insurance products and services, not auto-loans.

Use Clear and Conspicuous Disclosures.

Language used to gain consent from consumers for the purpose of lead generation needs to be clearly distinguishable from other forms of agreement on the website, and cannot be embedded within terms and conditions or other contractual language.

Obtain Valid Consent. In order to place calls or send text messages for sales and marketing purpose, the online disclosure must contain the following elements for compliant consent:

- o Identify the seller (or sellers) to whom consent is provided.
- o Identify the number at which the person consents to receive calls/texts.
- o Disclose that calls/texts will be placed using an automated system, if applicable.
- o Disclose the purpose of the calls/texts.
- o State that consent is not required to purchase products or services.

- o *Consent example:* By checking this box, you are providing consent for COMPANY to contact you with calls and texts made with an automated system regarding PURPOSE. Consent is not required to purchase from us.

Include an Affirmative Action. The consumer must be required to take affirmative action to submit the online form and indicate their consent, such as signing their name, clicking a submit button, or activating a checkbox. If a checkbox is used to indicate consent, the checkbox must not be pre-checked.

Keep Records to Show Compliance. Be sure to document the date, time, and method the consumer provided consent. Records should be retained according to FTC and FCC rules (5 years) in order to prove valid consent was obtained. Consent records can include call recordings, website URLs, time/date stamps, paper forms, etc.

Scrub Do-Not-Call (DNC) Lists When Required. Without compliant consent to contact consumers for a sales-related purpose, companies are often required to scrub leads against the National DNC Registry, State DNC Lists, and Wireless Identification lists prior to placing calls or sending text messages.

Monitor Compliance. Companies need to monitor their compliance activities as well as activities of lead generation providers and third parties acting on their behalf.