

TCPA POLICY

Company

This policy shall apply to Vizcaya Services Inc. which shall collectively be referenced to as the “Company”)

Regulatory Summary:

The federal Telephone Consumer Protection Act of 1991 (TCPA) and related FCC regulations shield consumers from unwanted telemarketing. The United States Federal Communications Commission (FCC) implemented the TCPA to prohibit, among other things, calls made to telephone numbers assigned to paging services, cellular telephone services, specialized mobile radio services or other radio common carrier services, or any service for which the called party is charged for the call using (i) automatic telephone dialing systems, or (ii) artificial or prerecorded voices. The TCPA defines telemarketing as the initiation of a telephone call or fax for the purpose of encouraging the purchase or investment in property, goods or services, which is transmitted to any prospective customer at a residence. The TCPA governs cold calls, pre recorded sales calls, and the use of autodialers, fax machines and other telemarketing strategies. Those companies found at fault for not adhering to TCPA regulations risk legal action, including fines up to \$1,500 and separate lawsuits for each violation. The following requirements for a consumer's written consent to be sufficient under the new rules:

1. “clear and conspicuous disclosure” of the consequences of providing the requested consent (i.e., that the consumer is willing to receive future calls that deliver pre recorded messages by or on behalf of the telemarketer);
2. unambiguous agreement to receive autodialed telemarketing calls at a telephone number designated by the consumer; and
3. a written agreement is obtained “without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service.”

Notably, the FCC does not require a specific form as evidence of prior express written consent for telemarketing calls and because the E-SIGN Act is technology-neutral, telemarketers can use a wide array of electronic signature processes to obtain consent.

The TCPA mandates that telemarketers:

- Maintain a Do Not Call Policy
- Promptly provide a copy of the Policy to requesting consumers
- Artificial agent and automated recorded calls are prohibited in many cases
- Only make calls between 8 a.m. and 9 p.m. (local time of the person being called)
- Identify the caller name, company name and caller location
- Maintain and comply with a company “do not call” list derived from the federal “do not call” registry
- Honor a consumer’s request made during a call to place the consumer’s name on the “do not call” list
- Transmit caller ID information
- Not abandon outbound calls

How to maintain TCPA compliance:

- Manually dial calls except when consent to the use of an autodialer is previous obtained in writing
- Obtain proper consent, retain copies of consent
- Maintain “do not call” compliance for your company
- Maintain National “do not call” compliance
- Use properly equipped vender who has the ability to identify specific numbers (such as cell numbers that should be removed from your call list)
- Remove cell and ported numbers from call lists unless written consent is not documented
- Verify customer mobile numbers on a regular basis – Company should verify the mobile number assigned to the customer who provided you consent is still assigned to that number.
- Maintain proper documentation reflecting appropriate consent language (Note: customer needs to specifically acknowledge and consent to the use of any telemarketing before placing any calls).
- Continually monitor agent activities to insure compliance
- Immediately and sufficiently deal with consumer complaints
- Train employees to understand how to maintain and enforce TCPA procedures and requirements

Avoid call center software that falls under ATDS (Automatic Telephone Dialing System) classification

Use software that has built in automatic TCPA compliance updates to maintain compliance

Questions to consider:

1. Am I using an auto-dialer?

A: The FCC defines an auto-dialer as any equipment that has the *capacity* to store, generate and dial telephone numbers – regardless of whether the numbers are called randomly, sequentially generated or even **come from your own calling list**. If you're calling your *own* customer list using equipment that stores and dials the numbers for you, you're using an auto-dialer. Courts have applied the TCPA to auto-dialers in "preview only" mode and to calls made without pressing numbers on a keypad.

2. Am I calling a wireless number?

A: Consumers can take their home number and port it to a cell phone, or take their mobile number and convert it to a residential landline. There is no way to look at a number and know if it's wireless or landline; and most wireless numbers are unlisted, making them even harder to identify. Moreover, a growing number of U.S. households – currently more than 35 percent – have no landline phone. That means a significant and ever-increasing number of the people you're calling are using a wireless phone.

3. Do I have prior express consent?

A: Now, in the case of marketing calls, you are required to get **written** consent. That means you need to give the consumer clear and conspicuous notice of what it means to give you consent – namely, that they're going to get pre-recorded calls from you using automated dialing technology – and they must unambiguously agree to receive calls at that number. You must tell them that agreeing to receive such calls isn't a condition of sale or receiving the loan, and you shouldn't bury it deep in a contract./ Written consent doesn't mean you must have a signature. It can be an email or a key press in a Web form or even a voice recording. But it must be recorded and producible.

4. Who is the called party?

A: It's not who you think you're calling, according to a recent court ruling. It's the subscriber to the line at the time you place the call. If you have written consent from a person, but that person has turned in the number, and another person has received the number and is using it for a wireless phone, and you place a call to them without having their written consent, you're in violation of the Act.

5. What happens if I get it wrong?

The Act allows the FCC to impose fines per violation. Moreover, any consumer can bring a claim, and plaintiffs can claim statutory damages of up to \$1500 per call without having to show any harm.

General Statement of Policy

Any employee considering telemarketing must first consult with the executive responsible for legal affairs on appropriate procedures adhering to the TCPA and applicable state laws. Independent agencies conducting telemarketing in specific reference to a product or marketing initiative of Vizcaya Services Inc. or any subsidiary shall fully adhere to the TCPA and applicable state laws. There are strict penalties for noncompliance with the TCPA, and similar state laws. Violations may subject an agent or employee to such penalties, as well as contract termination, employment termination and other discipline.

For More Information:

To learn more about the TCPA and applicable state laws, you may visit the website listed below. FCC web page: <http://www.fcc.gov/cgb/consumerfacts/tcpa.html>

TCPA Terms

Automatic Telephone Dialing System: Equipment that has the capacity to store/produce and dial telephone numbers using a random or sequential number generator.

Unsolicited Advertisement: Any material advertising the commercial availability or quality of property, goods or services that is transmitted to a person without prior expressed invitation or permission.

Established Business Relationship: A relationship between a seller and consumer based on the consumer's purchase, rental, or lease of the seller's goods or services.

Revised TCPA Terms

Prior expressed written consent. Unambiguous written consent required – before calling or texting a consumer, marketers must obtain a consumer's written consent and signature.

Established Business Relationship: No longer valid as an exemption from obtaining prior expressed written consent; selling to a consumer does not qualify as obtaining a consumer's consent.

The Right to Revoke: Consumers now have the right to revoke their consent to receive calls and text messages sent from auto dialers in any reasonable way at any time. Many courts had concluded that consumers have a right to revoke consent. Some had said that revocation must be in writing. Some had said consent, once given, cannot be taken back. Now all courts likely will hold that consent may be revoked in any reasonable way at any time.

SAMPLE CONSENT LANGUAGE:

Agreement to Receive Telemarketing Text messages:

By signing this section, you authorize us, Vizcaya Services Inc. to send marketing text messages to the mobile number you have provided and that is listed on this Agreement using an automatic telephone dialing system. You are not required to authorize marketing text messages to obtain credit or a loan from us. If you do not wish to receive sales or marketing text messages from us, you should not sign this section. You understand that any messages we send you may be accessed by anyone with access to your text messages or phone. You also understand that your mobile phone service provider may charge you fees for text messages that we send you. You agree that we shall have no liability for the cost of any such text messages. You may withdraw your consent to receive marketing text messages at any time by either calling us, or replying STOP to any marketing text message that we send you. Mobile Number: ##### [[ESIGNATURE:]]using a random or sequential number generator.

Long version:

By providing clicking Agree here, You agree to the [Privacy Policy], [Terms and Conditions] and are expressly consenting to be contacted by Vizcaya Services Inc., its affiliates, third parties, lenders or other agents of Vizcaya Services Inc. including for marketing purposes by telephone, email or text/SMS messages or mailing addresses in our records or from other public or non public databases we may have lawful access and in connection with any such telephone calls, emails or texts. You consent to the use of pre-recorded/artificial voice message and/or automatic dialing devices, at any telephone number associated with your account, including mobile telephone numbers that could result in charges to you for matters related to your account, loan, payments on your account or application even if you have opted into the national Do Not Call List administered by the Federal Trade Commission, any state equivalent Do Not Call List or the Do Not Call List of any specific institution. If you do not wish to be contacted by telephone, email or voice message, please do not click to continue and contact us at the number displayed on this site.

Short Version:

I certify that I am a US resident over age of 18. I agree to the [Privacy Policy], [Terms and Conditions] and I expressly consent that Vizcaya Services Inc. and third parties can contact me via telephone, text or emails using a pre-recorded/artificial voice messages or autodialing system including for marketing purposes at any number you provide.