

New FCC Rulings on Telemarketing Calls and Text Messages

FREQUENTLY ASKED QUESTIONS

Q. What is an Established Business Relationship (EBR)?

A. An EBR is any interaction between a prospect/member and a club in regards to a trial, purchase or exchange of information between the member and the club. Clubs can contact Inactive members within t eighteen (18) months immediately after their accounts become inactive. Clubs can contact prospects up to three (3) months after the last interaction with that prospect. Informational campaigns can be done for either members or prospects without written consent; however any telemarketing call or text will require written consent.
"Further defined by USLegal.com (<http://bit.ly/16qSF3a>)"

Q. Is there a difference between call campaigns to landlines vs. wireless I should be worried about?

A. No. Within the fitness industry both residential (landline) and mobile (wireless) phones are seen the same way. What applies to one, applies to the other.

Q. What if my prospect or member is on the Do-Not-Call list when they opt in to receiving messages from my club?

A. Prior written consent supersedes the Do-Not-Call list. Please be advised that in the event of an investigation into such a matter, you or your vendor will be asked to show proof of consent.
Reference- Section 7 of the FCC Commission Document (<http://fcc.us/19tojsQ>)

Q. What if my prospect or member requests to be on the Do-Not-Call list after Opting into receiving messages from my club?

A. Prior written consent supersedes the Do-Not-Call list. Please be advised that in the event of an investigation into such a matter, you or your vendor will be asked to show proof of consent.
Reference- Section 7 of the FCC Commission Document (<http://fcc.us/19tojsQ>)

Q. Can I send telemarketing text messages from my wireless phone to a prospect or member's wireless phone without prior written consent?

A. This is an extremely grey area and clubs should proceed with caution. The TCPA does not state that one to one messages are exempt from needing prior written consent. ABC Financial would not recommend that clubs use this as a way to circumvent needing prior written consent.

Q. What is Prior Written Consent?

A. The Commission defines Prior Written Consent as unambiguous and explicitly gives permission to receive telemarketing calls and texts. This can be written and signed physically on an agreement or signed using electronic or digital signatures. Please be advised that in the event of an investigation into such a matter, you or your vendor will be asked to show proof of consent.
Reference- Section 32 of the FCC Commission Document (<http://fcc.us/19tojsQ>)

Q. What is Telemarketing?

A. Telemarketing is the marketing of goods or services by means of telephone calls or texts; typically unsolicited and to potential customers.

Q. **How long can I contact a Prospect Member?**

A. A club can communicate with prospective members regarding their products or services offered up to three (3) months after the last interaction with that prospect. Most states have separate rules that apply that could increase or decrease this time period. In absence of any state regulations, the federal law still applies.

Q. **Who is an Active Member?**

A. Active members are members that you have an on-going (continuous) relationship with; typically established by an agreement or membership to your club. You have the full ability to market to these members with consent and can send informational messages without consent.

Q. **How long can I contact a Canceled Member?**

A. By federal law, a club can communicate with a member up to 18 months after their membership is considered cancelled or simply inactive. Most states have separate rules that apply that could increase or decrease this time period. In absence of any state regulations, the federal law still applies.

Q. **How do I handle Future Prospect Members?**

A. From October 16th, 2013 forward, clubs will want to start capturing consent from prospects during the trial period with expressed language to build out their Opt-In base.