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# Small Business Notes

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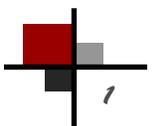
## Federal Communications Commission Harmonizes “Robocall” Rules with FTC Rule

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▶ **Federal  
Communications  
Commission  
Harmonizes  
“Robocall” Rules  
with FTC Rule**

On June 11, the Federal Communications Commission (FCC) published a final rule (77 Fed. Reg. 34233) harmonizing its rule on prerecorded or auto-dialed calls with the telemarketing rule of the Federal Trade Commission (FTC). The rule is effective July 11, 2012 and has the following elements:

- The rule explicitly requires a customer’s prior express written consent for all auto-dialed or prerecorded call to a wireless number or to a residential landline number.
- The rule explicitly eliminates the exemption from consent based on an established business relationship between the caller and the customer.
- The rule requires all prerecorded telemarketing calls to offer the customer an immediate, interactive method of opting out of receiving future prerecorded telemarketing calls.
- The rule exempts calls made by health related entities governed by the Health Insurance Portability and Accountability Act (HIPPA).
- The rule provides definition of terms used like “seller,” “sender,” “telemarketing,” and others. The definition of “prior express written consent” shows the specificity of the rule in its requirement that such consent be an agreement, in writing, bearing the signature of the person called, that clearly authorizes the seller to deliver advertisements or telemarketing messages using an auto-dialed or prerecorded system. The agreement must have a clear and conspicuous disclosure that such consent authorizes the deliverer of auto-dialed and prerecorded calls and that the customer is not required to sign the agreement or agree to enter into such an agreement as a condition of purchasing any property, goods, or services.



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