

DRAFT

Form 1088C –Prerecorded Message Received at a Residential Telephone Line Complaint

Consumer's Information:

First Name: _____ Last Name: _____

Company Name: _____
(Complete only if you are filing this complaint on behalf of a company or an organization.)

Street Address or Post Office Box Number: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: (____) ____ - _____ Ext: _____

***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT. *****

Background information is at the end of this section.

1. Telephone number where you received the prerecorded message (____) ____ - _____
2. Is this number on the National Do-Not-Call Registry? ___Yes ___No ___Not certain
3. When did you receive the message? Date ____/____/____ Time __:__ AM PM
4. Did the message advertise the commercial availability or quality of any property, goods, or services?
___Yes What property, goods, or services did the message promote?

___No _____
5. Record any other time that you received the same message from this advertiser.
Date ____/____/____ Time __:__ AM PM
Date ____/____/____ Time __:__ AM PM
Date ____/____/____ Time __:__ AM PM
6. Was the following information provided DURING the message?
Name of the business, individual, or other entity responsible for the message ___ Yes ___ No
Name(s) provided _____
Was this provided at the beginning of the message? ___ Yes ___ No
Business telephone number for the entity responsible for the message ___ Yes ___ No
Numbers provided: (____) ____ - _____ (____) ____ - _____
Other information provided _____
Did you listen to the entire message? ___ Yes ___ No

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7. Did you receive caller ID information for the message in question?
 Yes No Don't have caller ID (If you answer No or Don't Have, skip to **question 8.**)

Information obtained through caller ID: (____) ____ - _____

Business name _____

Did the caller ID information accurately report the name and/or calling number for the call in question?

Yes

No How did you determine it was not accurate _____

Not certain

8. List any names, telephone numbers, or other identifying information (e.g., addresses, websites) that you have obtained through other means (e.g., reverse call back through *57 or your own research).

(____) ____ - _____ (____) ____ - _____ (____) ____ - _____

Business name(s) _____

Other information _____

How did you obtain this information? _____

9. Did the message claim to represent a tax-exempt nonprofit organization?

Yes _____ (organization name) No

10. Have you or anyone else in your household given the advertiser or anyone associated with the advertised property, goods, or services permission to call? Yes No

Did you give permission in writing? Yes No

11. Have you or anyone else in your household:

Done any business with the advertiser involving the advertised property, goods, or services (a purchase or other transaction) within the past 18 months prior to receiving the message?

Yes No

Made an inquiry or application to the advertiser involving the advertised property, goods, or services within the past 3 months prior to receiving the message? Yes No

12. Have you or anyone else in your household asked the advertiser or anyone associated with the advertised property, goods, or services NOT to call you?

Yes No (If you answer No, skip to **question 13.**)

(Provide as much detail as possible.)

When? Date ____/____/____

How did you make your request?

By telephone during a telemarketing call

By telephone to (____) ____ - _____

By fax to (____) ____ - _____

By e-mail to _____

By website request at _____

By letter to _____

Provide name and address _____

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12. (Cont'd) Describe any response from, or other contact with, the advertiser or telemarketer including any difficulty in making your do-not-call request, or any telemarketing calls that you received from this advertiser after making your do-not-call request.
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13. Did the message indicate any emergency purpose (a necessary communication in any situation affecting the health and safety of consumers)? Yes No (If you answer No, skip to **question 14.**)
Describe _____
-

14. Did the message disconnect promptly (within about 5 seconds) after you hung up?
 Yes
 No Describe _____
 Not certain

Continue to the Attestation Page to Complete Your Complaint

BACKGROUND

FCC rules prohibit prerecorded advertising calls to home telephone numbers unless someone in the household has given prior express permission for the call to be made or has an established business relationship with the caller. For telemarketing purposes, making a purchase or having some other transaction within the past 18 months or making an inquiry or application within the past 3 months establishes a business relationship. Any allowable prerecorded telemarketing messages to residential telephone lines (those made under prior express permission or an established business relationship) must not be made before 8 am or after 9 pm.

The prohibition on prerecorded messages covers advertisements – “any material advertising the commercial availability or quality of any property, goods, or services.” Messages that claim to be surveys actually may be advertisements if they are a pretext for the promotion of any property, goods, or services. In addition, messages that offer “free” information or products may also be covered if the offer is a pretext to a sales pitch. Further, messages that invite you to press a keypad or call another number to hear an advertisement are also prohibited. The rules do not cover calls made by tax-exempt nonprofit organizations and calls that are not advertisements, such as solicitations for charitable contributions, political and religious messages, and debt collection calls.

At the beginning of the message, all allowable prerecorded messages must state the identity of the business, individual, or other entity that is responsible for initiating the call. During or after the message, the caller must give the telephone number (other than that of the automatic dialing system or prerecorded message player that placed the call) of the entity responsible for the call.

Automatic dialing systems that deliver a prerecorded message must release your telephone line within 5 seconds of the time that the calling system receives notification that your line has hung up. In certain areas, telecommunications systems may not be capable of terminating the call this quickly and there might be a delay before a dial tone is restored. Your local telephone company should be able to tell you whether there is a delay in your area.

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Form 1088C – Attestation

ATTEST TO THE ACCURACY OF YOUR COMPLAINT Thank you for filing your complaint. **Your complaint will be most useful to us if you execute this sworn statement.** The FCC will make every effort to take enforcement action against any party who violated the FCC's rules.

Fill in the blanks below and then check the "EXECUTE" box, to declare under penalty of perjury that the information you have provided is, to the best of your knowledge, true and correct.

I declare under penalty of perjury that (1) I am over 18 years old, (2) I am authorized to make decisions regarding the telephone number listed below, and (3) the information I have provided today on this Federal Communications Commission form is, to the best of my knowledge, true and correct.

_____ (name) _____ (date) EXECUTE

(____) ____ - _____ (telephone number where you received the call(s) that is the subject of your complaint)

You may submit this form over the Internet at <http://www.fcc.gov/cgb/complaints.html>, by e-mail to fccinfo@fcc.gov, by fax to 1-866-418-0232, or by postal mail to:

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Complaints
445 12th Street, SW
Washington, D.C. 20554.

In addition, you may submit your complaint over the telephone by calling 888-CALL-FCC. If you choose to submit your complaint over the telephone, an FCC customer service representative will fill out an electronic version of the form for you during your conversation. If you have any questions, feel free to contact the FCC at 888-CALL-FCC.

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT AND THE PRIVACY ACT

The Federal Communications Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information that we request in this form. This form is used for complaints that involve (1) junk faxes, (2) telemarketing (including do-not-call violations), and (3) other related issues such as prerecorded messages, automatic telephone dialing systems, and unsolicited commercial email messages to wireless telecommunications devices. The public reporting for this collection of information is estimated to average 3-30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, OMD-PER, Paperwork Reduction Project (3060-1088), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR COMPLETED FORMS TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-1088.

In addition, the information that consumers provide when filling out FCC Form 1088 is covered by the system of records notice, FCC/CGB-1, Informal Complaints and Inquiries File (Broadcast, Common Carrier, and Wireless Telecommunications Bureau Radio Services). The Commission is authorized to request this information from consumers under 47 U.S.C. 206, 208, 301, 303, 309(e), 312, 362, 364, 386, 507, and 51; and 47 CFR 1.711 *et seq.*

Under this system of records notice, FCC/CIB-1, the FCC may disclose information that consumers provide as follows: when a record in this system involves a complaint against a common carrier, the complaint is forwarded to the defendant carrier who must, within a prescribed time frame, either satisfy the complaint or explain to the Commission and the complainant its failure to do so; where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order; a record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit; a record on an individual in this system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body; a record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when: (a) the United States, the Commission, a component of the Commission, or, when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Commission determines that the disclosure is relevant or necessary to the litigation; a record on an individual in this system of records may be disclosed to a Congressional office in response to an inquiry the individual has made to the Congressional office; a record from this system of records may be disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

In each of these cases, the FCC will determine whether disclosure of the information in this system of records notice is compatible with the purpose for which the records were collected. Furthermore, information in this system of records notice are available for public inspection after redaction of information that could identify the complainant or correspondent, *i.e.*, name, address and/or telephone number.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507 AND THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. SECTION 552a(e)(3).