

DRAFT

Form 1088G – Call or Message to Wireless Device (Cell Phone or Pager) 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 (Residential or Business): (____) ____ - _____ Ext: _____

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

Background information is at the end of this section.

1. Call/message received on: ___ Cell phone (____) ____ - _____ ___ Pager (____) ____ - _____
___ Other wireless device. Provide number (____) ____ - _____

2. Is the number where you received the call/message on the National-Do-Not-Call Registry?

___ Yes ___ No ___ Not certain

Is this a personal (non-business) phone? ___ Yes ___ No

3. When did you receive the call(s)/message(s)?

Date ___/___/___ Time ___:___ AM PM Date ___/___/___ Time ___:___ AM PM

Date ___/___/___ Time ___:___ AM PM Date ___/___/___ Time ___:___ AM PM

4. TYPE OF CALL OR MESSAGE Select **one**:

___ Live (voice) call

___ Prerecorded message

___ Text message

___ Commercial e-mail message to: _____
(your wireless device's internet address)

___ "Dead air" or automated tones

5. Was the following information provided DURING the call/message?

Name of the business, individual, or other entity responsible for the call/message ___ Yes ___ No

Name(s) provided _____

Was this provided at the beginning of the call/message? ___ Yes ___ No

Business telephone number for the entity responsible for the call/message ___ Yes ___ No

Numbers provided: (____) ____ - _____ (____) ____ - _____

Other information provided _____

Did you listen to the entire call/message? ___ Yes ___ No

6. Did you receive caller ID information for the call(s)/message(s) in question?

___ Yes ___ No ___ Don't have caller ID (If you answer No or Don't Have, skip to **question 7**.)

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

Business name _____

DRAFT

Form 1088G – Call or Message to Wireless Device (Cell Phone or Pager) Complaint

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

Background information is at the end of this section.

6. (Cont'd) Did the caller ID information accurately report the name and/or calling number for the call/message in question?

Yes

No How did you determine it was not accurate? _____

Not certain

7. List any names, telephone numbers, or other identifying information (e.g., addresses, websites) you 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? _____

8. Did the call/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 9.**)

Describe _____

9. 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

10. Did the call/message claim to be on behalf of a tax-exempt nonprofit organization?

Yes _____ (organization name)

No

11. Does the call/message advertise the commercial availability or quality of any property, goods, or services?

Yes What property, goods, or services does the call/message promote?

No

12. Have you or anyone else in you household:

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

Yes No

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

13. Do you or anyone else in your household have a personal relationship (family, friend, or acquaintance) with the individual who made the call? Yes No

14. Have you or anyone else in your household asked the advertiser or anyone associated with the advertised property, goods, or services NOT to contact you on your wireless number?

Yes No (If you answer No, skip to **question 15.**)

DRAFT

Form 1088G – Call or Message to Wireless Device (Cell Phone or Pager) Complaint

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

Background information is at the end of this section.

14. (Cont'd) (Provide as much detail as possible.)

When? Date ___/___/___

How did you make your request?

___ By telephone during a telemarketing call (including the one about which you are complaining)

___ By telephone to (___) ___ - _____

___ By e-mail to _____

___ By website request at _____

___ By fax to (___) ___ - _____

___ By letter to _____

Provide name and address _____

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.

15. Did any prerecorded message disconnect promptly (within about 5 seconds) after you hung up?

___ Yes

___ No Describe _____

___ Not certain

16. Did the commercial e-mail message provide the following information? (Check all that apply.)

___ An Internet e-mail address or website to receive your request that no future messages be sent to your wireless device: _____

(Internet e-mail address or website)

___ Identification of the sender as having received your permission to e-mail your wireless device

___ Neither of the above

___ Not certain

Continue to the Attestation Page to Complete Your Complaint

BACKGROUND

Several FCC rules protect consumers who use wireless communications devices such as cell phones and pagers from calls or messages that may be costly, tie up the line, or deliver unwanted advertising.

- The FCC prohibits the use of automatic telephone dialing systems or prerecorded messages to call such wireless communications devices unless the call is made for emergency purposes or with the called party's prior express permission.

You may not know whether or not a call you received used an automatic dialing system. Calls to multiple telephone lines in quick succession often involve an automatic dialing system. Automatic dialing systems

DRAFT

Form 1088G – Call or Message to Wireless Device (Cell Phone or Pager) Complaint

are used by many entities that regularly make calls to large numbers of telephone lines including telemarketers who rely heavily on such systems to conduct their business.

- The FCC prohibits sending unsolicited commercial e-mail messages to such wireless communications devices.

The FCC's ban on sending "spam" to wireless devices applies to all commercial messages – messages for which the primary purpose is to advertise or promote a commercial product or service – unless you have provided prior express authorization for the message to be sent. The FCC's ban does not cover "transactional or relationship" messages, which are notices to facilitate a transaction you have already agreed to. Such messages would include, e.g., statements about an existing account or warranty information about a product you've purchased. Finally, the ban also does not cover non-commercial messages such as political and religious messages.

The FCC's ban covers messages to wireless devices, **if the message uses an Internet address that includes an Internet domain name** (usually the part of the address after the individual or electronic mailbox name and the "@" symbol). The ban does not apply to "short messages," typically sent from one cell phone to another, which do not use an Internet address. Also, the FCC's ban does not cover e-mail messages that you have forwarded from your computer to your wireless device.

- The FCC enforces National-Do-Not-Call rules for advertising calls made to personal (not business) wireless communications devices.

The FCC enforces National Do-Not-Call rules for advertising calls made to your personal (not business) cell phone. If you have registered your personal cell phone number on the National Do-Not-Call Registry, telemarketers are prohibited from making advertising calls to you UNLESS you (1) have agreed in writing to accept telemarketing calls from the business, (2) have established a business relationship with the business by a purchase or having some other transaction within the past 18 months or by making an inquiry or application within the past 3 months, or (3) have a personal relationship (friend, family, acquaintance) with the individual who calls you. In these situations, however, you may rescind the permission to call, end your business relationship, or prevent future calls based on a personal relationship by making a company-specific do-not call request. Advertisers have no more than 30 days to honor National Do-Not-Call registrations and company specific do-not-call requests. Such requests must be honored for a period of 5 years.

Determining whether an automatic dialing system has been used to make a particular call or identifying and locating a sender of spam can be difficult. The more details you are able to provide, the greater the likelihood that the FCC will be able to determine whether a violation has occurred that could lead to an enforcement action.

DRAFT

Form 1088G – Attestation Page

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-PERF, 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).