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FCC PROPOSES NEW RESTRICTIONS ON PRERECORDED TELEMARKETING CALLS

The Federal Communications Commission (FCC) has issued a Notice of Proposed Rulemaking to harmonize its regulations under the Telephone Consumer Protection Act (TCPA) with the Federal Trade Commission's (FTC's) recent amendments to its Telemarketing Sales Rule. *See Alerts* dated September 1, 2009 and August 25, 2008.

Generally, the FCC proposes to require sellers and telemarketers to:

- (i) Obtain written consent from recipients before making prerecorded telemarketing calls, even when the caller has an established business relationship with the consumer; and
- (ii) Include in prerecorded telemarketing calls an automated, interactive mechanism by which a consumer may "opt out" of receiving future prerecorded messages from a seller or telemarketer.

Similar requirements currently apply to entities subject to the FTC's jurisdiction, which does not include, for example, banks.

Comments will be due 60 days after publication in the Federal Register, which is expected shortly.

✧ *Elizabeth Anstaett and Vanessa Nelson*

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