



Third Party Evaluation of CallAssistant, LC & Echo by CompliancePoint

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Subject: Compliance Review of the CallAssistant “Echo” Technology.

Purpose: CallAssistant, L.C. has developed a patented contact center technology known as the “Echo Call System” (Echo). The purpose of this report is to describe how Echo technology and CallAssistant’s processes support federal and state telemarketing and DNC compliance requirements.

Background: Echo is a state of the art technology that combines the benefits of complete live-agent call control with automation of scripted response delivery. This capability enables trained agents to handle multiple client telephone interactions simultaneously. Echo is not a pre-recorded messaging platform, automated ROBO call system or a hardware solution that replaces “live agent” interaction with consumers. The Echo technology merely substitutes sound files for the agent’s voice (although the agent can also interject with his or her own voice at any time) and assures positive interactive experiences for the consumer. CallAssistant’s agents interact with callers by selecting the appropriate audio file responses. Agents have access to “hot keys” connected to common conversational responses such as “I understand,” “exactly,” “yeah,” and laughing. The customer experiences a completely natural conversation complete with laughing, positive affirmation, and most importantly, natural interaction.

While extremely rare and highly unusual in nature, there are times when a consumer will ask a question for which there is no pre-recorded response; in which case, the agent can interject with his or her own voice or select a response essentially saying that they are not trained or authorized to address said concern and will then transfer the call to a manager. Agents interact with consumers on a real time basis from the beginning to the end of the call.

One of the primary benefits of Echo technology is the fact that federal and state disclosure requirements are programmed into the solution to ensure reliable and consistent delivery in accordance with the relevant jurisdiction’s rules. The concerns of an agent “forgetting” or failing to provide federal and state or crucial client specific sales disclosures are virtually eliminated.

CallAssistant also offers a licensed version of the Echo technology that enables companies to employ the advantages of Echo technology using their own agent sales and support staff.

Compliance Considerations and Analysis: All business to consumer and business to business telephone communications are subject to varying regulatory requirements dependent upon the purpose and nature of the communications. These requirements may be applicable to outbound as well as inbound calls. While federal regulations serve as the compliance foundation, many states have more stringent requirements and these are not preempted by federal rules. The result is a patchwork of requirements and businesses must comply with the appropriate jurisdictional rules. Determining the jurisdiction is becoming increasingly difficult due to the portability of mobile telephone numbers and even VOIP technologies. Many consumer complaints have arisen when a business applies the jurisdictional rules associated with a state where a telephone number area code resides. For example, an increasingly common scenario occurs where a California resident is awoken by a telemarketing call at 5 AM because they had maintained their previous east coast telephone number. Following are some compliance considerations and analysis of how CallAssistant the Echo technology addresses them.

1. Federal and State Do Not Call Compliance: (TCPA, 47 USCS §227) (§310.4(b)(3)), and various state requirements.

- a. **Requirement Background:** FTC and FCC rules require that any seller or telemarketer placing non-exempt calls, suppress calls to phone numbers listed on the National Do Not Call (DNC) Registry within 31 days of the number being placed on the registry.

Thirteen states maintain and enforce their own DNC registries.

- i. Colorado
- ii. Florida
- iii. Indiana
- iv. Louisiana
- v. Massachusetts
- vi. Mississippi
- vii. Missouri
- viii. Oklahoma
- ix. Pennsylvania
- x. Tennessee
- xi. Texas
- xii. Wisconsin
- xiii. Wyoming

When placing non-exempt calls, telemarketers are required to suppress against the applicable state lists. The update schedules and available exemptions from the lists vary by state.

- b. **CallAssistant and/or Echo Processes:** CallAssistant employs a proprietary and internally managed solution for downloading and suppressing relevant DNC lists as

required. CallAssistant maintains current subscriptions for the National DNC Registry as well as all required state DNC lists. Their IT staff downloads the most recently available National DNC Registry every 15 days and acquires state DNC lists as updates become available. Scheduling calendars are employed to ensure events are not missed and records are maintained of each download and suppression event. CallAssistant's technology suppresses against these lists per client requirements and campaign type. However, the majority of CallAssistant's outbound calls is to their client's inquiring or current customers and is exempt from federal and most state DNC requirements.

2. Entity-specific Do Not Call Compliance: (TCPA, 47 USCS §227) (§310.4(b)(1)(iii))

- a. **Requirement Background:** The federal rules require sellers to maintain a list of telephone numbers they may not contact. After a company-specific DNC request is made to the seller and/or entity calling on the seller's behalf, the entity must honor the request as soon as their technology allows but in no case longer than 30 days. The entity may not place any solicitous calls to the telephone number more than 30 days after the request has been made. The federal rules also mandate that DNC requests apply to the household and not to a specific individual or individuals. The establishment of a company-specific DNC list and suppression of calls to numbers on that list are two major tenets of the DNC Safe Harbor provisions.
- b. **CallAssistant and/or Echo Processes:** CallAssistant's employees are specifically trained on the requirement to accept and honor a consumer's company-specific DNC request. When a consumer makes a DNC request specifically to CallAssistant, both the inbound and the outbound agents are trained to activate the correct response, which states the request will be honored. Next, the Echo technology automatically dispositions the number as DNC. The number remains on CallAssistant's internal DNC list indefinitely. If a consumer makes a DNC request to the client CallAssistant's technology facilitates the dispositioning of the number as a DNC for the appropriate client and a file of DNC requests is automatically sent to the client at a frequency stipulated in the contract. CallAssistant consistently maintains a date with DNC requests during inbound and outbound calls. This ability is critical to enable clients to demonstrate compliance with time-based requirements. In the rare event of an "irate" consumer, agents are able to "go live" and speak with the consumer directly about their concerns. This capability helps to avoid consumer complaints arising from their concern about not receiving further calls.

3. Federal and State Do Not Call Exemption Management: (TCPA, 47 CFR 64.1200) (§310.2(n)), various state laws.

- a. **Requirement Background:** The majority of telemarketing calls are based on inquiry or past relationship exemptions to federal and state DNC rules.

The TCPA defines an established business relationship as: *"A prior or existing relationship formed by a voluntary two-way communication between a person or entity and a*

residential subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party."

The TSR defines an established business relationship as: "*A relationship between a seller and a consumer based on: (1) the consumer's purchase, rental, or lease of the seller's goods or services or a financial transaction between the consumer and seller, within the eighteen (18) months immediately preceding the date of the telemarketing call; or (2) the consumer's inquiry or application regarding a product or service offered by the seller, within the three (3) months immediately preceding the date of a telemarketing call.*" While many states have adopted the concept of EBR exemptions from their DNC lists the exemptions are not consistently applied.

The definition of what constitutes an EBR varies and 19 states have more restrictive time-limitations than the federal rules. Several states do not exempt outbound solicitation calls from their DNC rules after a consumer's inquiry, while others do not exempt solicitation calls at all.

- b. **CallAssistant and/or Echo Processes:** CallAssistant employs an onboarding process to ensure that the nature of each client campaign is clearly communicated and understood between the parties. During this process the client outlines the types of customer campaigns CallAssistant will be calling. This process ensures that the appropriate DNC, federal and state exemption and wireless rules are programmed into the system.

CallAssistant also expires campaigns based on their clients' call-attempts policies and the appropriate federal and state EBR timeframes. These issues are integrated into the campaign onboarding process as well. The Echo technology facilitates compliance management of federal and state exemption criteria based upon the jurisdictional requirements for each call. When available, Echo technology is able to comply with the appropriate jurisdiction based upon the called consumer's address rather than the telephone area code. This ensures that the appropriate jurisdiction's rules are applied to each call.

CallAssistant's technology also automates the process of suppressing calls against both the client's and CallAssistant's entity-specific DNC list prior to dialing.

4. Prohibitions Relating to Calls to Mobile Telephones: (TCPA, 47 USCS § 227) (§310.4(b)(1)(iii))

- a. **Requirement Background:** The TCPA bans any person or entity from placing a call for any purpose using an Automated Telephone Dialing System (ATDS) to any wireless device without the called party's prior expressed consent. There are two lists of wireless numbers that telemarketers must suppress against: the NeuStar Ported Number and the Wireless Block Identifier lists. The NeuStar Ported Number list contains phone numbers that have been ported between wire lines and wireless numbers. Federal law requires that telemarketers comply with wireless prohibitions

within 15 days of the number being ported from a wire line to a wireless line. The Wireless Block Identifier is a block of phone numbers that are designated as wireless numbers. Solicitation calls to wireless phones are prohibited in Arizona, Louisiana, New Jersey and Texas without the consumer's express consent. Maine and Nebraska prohibit the delivery of any pre-recorded messages to wireless phones. Also, Wyoming does not allow unsolicited calls to unpublished wireless numbers.

- b. CallAssistant and/or Echo Processes:** CallAssistant subscribes to and accesses the NeuStar ported number as well as the wireless block identifier lists. These lists are downloaded on a weekly basis. As part of the client campaign onboarding process, CallAssistant helps clients determine the appropriate wireless rules that will be applied throughout each specific campaign. Of paramount importance is whether or not the campaign includes wireless numbers provided by the consumer to the seller in the context of the business relationship. CallAssistant's technologies integrate wireless rules per client and per campaign.
- 5. State Telemarketer Registration Requirements:** (TCPA, 47 USCS § 227, various state rules)
 - a. Requirement Background:** Thirty-four states have seller/telemarketer registration requirements in their laws. Many also require bonds. However, many exemptions apply and registration fees and other requirements vary by state. Sellers and service providers must comply with their own independent registration requirements.
 - b. CallAssistant and/or Echo Processes:** CallAssistant, LC is a registered provider of telemarketing services in all states required. The company ensures that telemarketer registration status and bonding is current in accordance with each state's requirements.
- 6. Call Abandonment Compliance:** (TCPA, 47 CFR 64.1200(a)(6)) (§310.4(b)(i))
 - a. Requirement Background:** The FTC and FCC ban telemarketers from abandoning any telemarketing call. A safe harbor has been provided but several requirements must be met including a limit of no more than 3% of calls can be abandoned measured over a 30-day period per campaign.

A call is considered "abandoned" if it is not connected to a sales representative within 2 seconds of the called person's completed greeting. Whenever a sales representative is not available to speak with the person answering the call, that person must receive, within 2 seconds after the called person's completed greeting, a pre-recorded identification message that states the name and telephone number of the business, entity, or individual on whose behalf the call was placed, and that the call was for "telemarketing purposes."

The telephone number provided must allow an individual to make a do-not-call request during regular business hours for the duration of the telemarketing campaign. The telephone number may not be a 900 number or any other number

for which charges exceed local or long distance transmission charges. The seller or telemarketer must maintain records establishing compliance with this section.

- b. **CallAssistant and/or Echo Processes:** CallAssistant’s call system ensures the abandonment rate remains below 3% per campaign. CallAssistant maintains records of call abandonment compliance on a campaign basis per client. These records are available for each client upon demand. CallAssistant’s standard call abandonment message always includes the company name as well as a phone number. The call abandonment message does not include any form of solicitation. This is in accordance with federal and state regulatory requirements. Clients may also provide their own call abandonment message. CallAssistant reviews this message to ensure it meets the requirements.

Call abandonment records are maintained indefinitely.

7. **CallerID Compliance:** (TCPA, 47 CFR 64.1601(e)) (§310.4(a)(7))

- a. **Requirement Background:** The FCC, FTC and several states have requirements for the use of caller identification. The federal rules require any person or entity that engages in telemarketing to transmit caller identification information.

Caller identification information must include a phone number of the telemarketer and, when available by the telemarketer’s carrier, the name of the telemarketer. If a telemarketer is placing calls on behalf of a seller, the telemarketer may substitute the seller’s company name and telephone number for the telemarketer’s caller ID information. Enforcement actions have demonstrated that failure to transmit caller ID may result in significant fines and penalties. During November 2007 the FTC announced enforcement actions resulting in six settlements collectively imposing nearly \$7.7 million in civil penalties. One of these settlements was with Guardian Communications. Guardian paid \$150,000 to settle the FTC’s charges, with the remainder of the \$7.7 million civil penalty judgment suspended based on their inability to pay. A large contributor to the penalty was Guardian’s practice of transmitting inaccurate caller ID information.

The FTC specifically charged Guardian with: *“failing to transmit accurate caller ID information to consumers – instead transmitting the text “Cuts Service,” “Services, Inc.,” “Card Services,” “DWC,” or “LTR” as the name of the caller.”*

The telephone number provided on the caller ID must permit a consumer to make a do-not-call request during regular business hours. The federal rules also prohibit any person or entity that engages in telemarketing from blocking the transmission of caller identification information.

“Any person or entity that engages in telemarketing is prohibited from blocking the transmission of caller identification information.” 47 C.F.R. § 64.1601(e)

- b. CallAssistant and/or Echo Processes:** CallAssistant’s call system fully complies with the CallerID requirements. The seller or CallAssistant name is displayed to consumers on outbound calls. The telephone number displayed during outbound calls is specific to each seller-client. This enables CallAssistant through the Echo technology, to route inbound calls to agents that are able to answer calls as the client-seller associated with the inbound number dialed by the consumer.
- 8. Disclosure Requirements:** (47 CFR 64.1200 (d)(4)) (16 CFR 310.2), various state rules and client specific requirements.
 - a. Requirement Background:** The FCC, FTC and several states require that certain disclosures be made during telemarketing calls.

The federal rules require that the telemarketer disclose the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted.

Many states also have immediate disconnect requirements that must be included in the telemarketing scripts. Some of these states require telemarketers to get the individual’s permission to continue before beginning the solicitation and some of these states require the telemarketer to immediately end the call if the individual shows any indication they do not want to continue the call. Several states also require a telemarketer to gain the consent of the consumer if the call will be recorded. Scripts should include a disclosure for two-party consent when calls are being recorded.

Certain payment methods or the use of sweepstakes also invoke specific disclosures and may require the telemarketer to show evidence of the consumer’s acknowledgement and agreement to payment terms and conditions. When “express verifiable consent” is required such as when pre-acquired or novel payment methods are involved, it is imperative that all disclosures are accurately made and recorded.

Finally, clients typically require specific disclosures related to a product sale or customer support function.

- b. CallAssistant and/or Echo Processes:** The Echo technology automates disclosure requirements in accordance with the relevant federal or state jurisdiction rules (the controlling rule), as well as client specific requirements. This automation prevents agents from omission of any required disclosure. The system also complies with state no-rebuttal as well as permission to continue mandates. These are critical compliance areas as state regulators have rigidly enforced these requirements when consumers complain. The system also automatically provides the two-party consent to monitoring disclosures. Agent failure to properly deliver disclosures is one of the most common consumer complaints and usually a specific point of regulator investigation. The Echo technology ensures that these as well as client mandated (sales-based) disclosures are reliably and accurately delivered on every call. As the call

progresses through the sales or customer service process, each subsequent agent key-press invokes the correct response dependent upon the consumer's question, agreement/disagreement or comment. Each subsequent system response includes the appropriate disclosures required at each stage of the conversation.

9. Script Adherence: (47 CFR 64.1200 (d)(4)) (16 CFR 310.2), various state rules and client specific requirements.

- a. Requirement Background:** Script adherence is one of the most common failure points in traditional contact center operations. When agents are compensated based upon sales performance they may attempt to avoid portions of the script which they feel may impede the sale in any way. Agents may also become increasingly “freelance” as they become comfortable with the product. These facts very often lead to omission of critical disclosures or incomplete or inaccurate representations to consumers. Contact centers and their clients often conduct significant QA processes designed to monitor adherence.
- b. CallAssistant and/or Echo Processes:** Echo technology virtually eliminates the script adherence concern. The scripts are programmed into the system and while agents do have control over the selection of the appropriate follow-on response, the system delivers the exact scripting as required by law and each client. The consumer consistently experiences a friendly, professional and highly skilled interaction throughout the engagement. Agent frustration, anger or the fact they're having a bad day cannot be introduced into the conversation. The correct disclosures and the sales information is always presented accurately, completely and enthusiastically. This fact greatly reduces client as well as CallAssistant risk.

10. Call Time Restriction Compliance: (TCPA, 47 CFR 64.1200) (§310.4(c)), various state laws.

- a. Requirement Background:** The federal government limits the time telemarketing calls may be made from 8AM to 9PM. Several states have their own calling time restrictions that are more restrictive than those set by the federal rules. Some states also limit telemarketing calling times during the weekends and on holidays.
- b. CallAssistant and/or Echo Processes:** CallAssistant and the Echo technology automatically places each outbound call in accordance with all federal and state specific call time and holiday restrictions. When made available by the client, CallAssistant technology uses the consumers address to determine jurisdiction. CallAssistant prescribes to several information services such as PACE (formerly ATA), the law firm of Mac Murray, Peterson and Shuster and CompliancePoint. Each of these entities send frequent compliance informational updates including upcoming call time restriction reminders.

11. Recordkeeping Requirements: (TCPA, 47 USCS § 227) (§310.5(a)(1))

- a. **Requirement Background:** In the consumer privacy preference compliance area, accurate and timely recordkeeping is a crucial component of all parties defense against litigation or governmental inquiries. Consumers complain about legal calls because they do not understand exemptions to the DNC laws. Companies must be able to provide evidence that their telemarketing marketing activities are being conducted within regulatory requirements. Additionally, the FTC and FCC have mandated specific time-based requirements for recordkeeping.
- b. **CallAssistant and/or Echo Processes:** CallAssistant's recordkeeping regime exceeds federal, state and client requirements. CallAssistant maintains dial records indefinitely. These records include the number dialed, date and time of dial, and the disposition of the call. Also, two copies of the call recording are maintained. CallAssistant archives all recordings in accordance with applicable state and federal laws and contract agreements.

Scripts are backed-up utilizing an automated process. Whenever a script is changed the edit is recorded as well as the date the edit occurred. Training records have been maintained since 2009 (date of arrival of current ownership), and will be maintained indefinitely moving forward. These records include agent name, date of training, and the result of the training.

The call abandonment records are maintained indefinitely by CallAssistant's outbound dialer, Zeus. The call abandonment records are part of the dial records and are maintained with the dial records mentioned above.

The quality assurance agents score the call center agents' calls using a program located on their computer. These scores are maintained indefinitely and are readily available in a centralized database.

The National Registry, NeuStar Ported Numbers list and Wireless Block are downloaded on a weekly basis. Records of these downloads occurring are maintained. State DNC lists are downloaded according to each state's schedule and records of downloads occurring are maintained indefinitely. Versions of the state DNC lists downloaded are not maintained.

Suppression records are maintained indefinitely and include the date scrubbed and the reason the number was suppressed from future calling lists. CallAssistant maintains company-specific DNC requests indefinitely and records that suppression against the company-specific DNC list occurs. The dates of consumer DNC requests are also maintained.

12. Legal Guidance (TCPA 47 USC § 227(c)(5)(C)) (16 CFR 310.4)

- a. **Requirement Background:** Federal and state Direct Marketing laws are constantly changing. Legal guidance is essential to ensure that companies are aware of current and future legal requirements.

- b. **CallAssistant and/or Echo Processes:** CallAssistant retains in-house counsel who also performs duties as compliance officer. The compliance officer is supported by the CTO who is primarily the designer and builder of the compliance integration throughout the Echo and other technology. As mentioned earlier, the team receives regular compliance updates through a variety of resources. The company tracks all regulatory requirements and makes changes to policies, procedures and training as required.

13. Monitoring and Enforcement Requirements (16 CFR 310.4);

- a. **Requirement Background:** Monitoring and enforcing is an essential component of corporate compliance. Federal and state regulators have provided clear evidence of the importance of monitoring and enforcement through their commentary on enforcement actions. While possessing written corporate compliance guidelines is crucial, their value in terms of meaningful compliance is suspect unless the procedures are monitored and enforced throughout the organization. This monitoring and enforcement extends to third party providers as well. When monitoring uncovers areas that are not being complied with, there must be a resulting enforcement action designed to discourage non-conformance. Enforcements can range from retraining or counseling all the way up to monetary fines or dismissal.
- b. **CallAssistant and/or Echo Processes:** CallAssistant employs formal processes in the area of monitoring and enforcing Do Not Contact compliance. The Echo technology incorporates numerous monitoring tools that automate report generation in key compliance areas. For instance, each time an agent “goes live” during a call, the event is captured and evaluated to determine if changes to scripting or training are required. Monitoring of script adherence is also accomplished through the Echo technology platform. Agent monitoring has resulted in continual improvements in the scripting, automation and training of agents.

CallAssistant has invested in a very robust quality assurance department responsible for monitoring both inbound and outbound agents. The quality assurance agents are required to monitor a specific number of calls per day as required by client. These calls are monitored for DNC compliance including ensuring the correct disclosures are made during the call as well as for overcall consumer experience. Upon requests by clients, each call that results in a sale is reviewed the same day. Samples of non-sale calls are reviewed the next day.

Calls are monitored in real time and each call is scored based on compliance as well as consumer experience. These reports are stored in a database for any call center managers to view. If an inbound or outbound agent receives a failing grade, an e-mail will be sent to that agent’s manager notifying them of the failed call.

Also, the quality assurance agents are required to verify that each DNC request was dispositioned correctly. If the quality assurance agent finds that the call was not

dispositioned correctly, the agent will disposition the number as a DNC and inform the agent's manager about the indiscretion.

The quality assurance agents are monitored by their managers to ensure they are monitoring calls for the correct disclosures and consumer experience.

The CallAssistant quality assurance group also coordinates with clients to deliver call recordings and the score the call was given by the CallAssistant quality assurance team, to each client. The number of recorded calls provided depends on the client.

The call abandonment rate is monitored regularly by the numerous individuals within the organization including, the Chief Technology Officer, Compliance Officer as well as the Chief Operating Officer. If the abandonment rate is found to be above three percent, immediate action is taken to lower the rate to the allowable level below three percent.

Prior to calling any leads on behalf of a client, the websites or URLs where leads are generated are reviewed by CallAssistant's legal team to ensure the exemption claimed is valid.

The Caller ID information is verified on a monthly basis to ensure the correct information is being transmitted to consumers.

Conclusions: CompliancePoint has years of experience and countless hands-on hours working with sellers and contact center operations. CallAssistant and the Echo technology combine to offer one of the most compliant contact center environments we have experienced. The entire organization is compliance focused and the Echo design and implementation incorporated compliance at every turn. Recently, the company engaged CompliancePoint to provide a thorough compliance review of the CallAssistant onboarding process, Echo technology as well as their operational compliance processes. This assessment revealed that the company and their patented Echo technology facilitate the highest levels of compliance due diligence and safeguards. Even though compliance is largely automated, the company still undertakes continuous Quality Assurance steps which result in ongoing refinements. We highly recommend this company to any client concerned with high quality sales performance and risk mitigation through compliance due diligence efforts.



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