



# Legislators Weigh In on In-Bound

By Joseph Sanscrainte

No industry has been more regulated over the past five years than outbound teleservices. Let's face it – the launch of the national Do Not Call (DNC) registry, along with new rules governing predictive dialer use and caller ID, has forever changed outbound as we know it. Inbound teleservices, on the other hand, has managed to emerge largely unscathed. Other than certain federal disclosure and billing requirements with regard to “upselling,” inbound has remained safely off the regulatory radar screen. The laws governing outbound teleservices have been predicated on the notion that consumers need to be protected from individuals seeking to perpetrate fraud over the telephone. The voluntary nature of the inbound call, so the theory goes, gives the consumer greater power in the context of the call, thus a lower need for protection.

However, two topics managed to change this logic: outsourcing (specifically to foreign countries) and privacy. The result has been a spate of legislation aimed at, on the one hand, making it more difficult and expensive to outsource call center operations overseas, and on the other, keeping “private” information stateside. This legislation cuts a wide swath across both inbound and outbound teleservices, and inbound centers have begun to take more notice of these legislative trends.

No less than twenty-seven bills in nineteen states were introduced in 2004 seeking the addition of “location disclosures” and financial data privacy protection in the context of offshore call centers. Two bills, including one introduced by presidential candidate Senator John Kerry, were introduced at the Federal level. Although none of these bills passed in 2004, legislative activity on these issues has remained high into 2005. Typically, these bills require a call center agent to disclose where he or she is physically located and also requires specific permission from a consumer before that consumer's private financial information is shared with an overseas entity.

From the teleservices industry's perspective, the jingoistic approach by legislators to the outsourcing issue appears at best schizophrenic. The national DNC registry, along with numerous other regulations, were enacted with little to no

regard for the potential loss of jobs in the teleservices sector. At the same time, politicians appear to be doing everything they can to stop exporting whatever teleservices jobs remain to other countries.

Such legislation, however, faces a major hurdle: perceived conflicts with international trade treaties entered into by the United States. Treaties to which the United States is a party are equivalent in status to Federal legislation, forming part of what the Constitution calls “the supreme Law of the Land.” In other words, the attempts of states to enter this arena, in the form of “anti-outsourcing” legislation, may ultimately prove futile.

Despite this hurdle, the newest trend in teleservices legislation is requiring yet additional disclosures of information, beyond simple “location disclosures.” These proposed rules give consumers the ability to “pierce the veil” of the call center, and require the call center to provide specific information about the call center itself, its employees, and the seller that hired it. The purpose of these laws is ostensibly to empower the consumer with information regarding the specific entity they are dealing with, making it impossible for a call center to identify itself merely as an agent of the company that hired it.

For example, Connecticut House Bill 5202 requires any paid call center telephone sales representative to provide, upon request, the name, business address, and telephone number of the supervisor in charge of the agent. Similarly, Minnesota House Bill 471 and West Virginia House Bill 2207 require a call center sales representative to provide, upon the request of the consumer, the name and location of the employer of the person with whom the consumer is speaking. These bills also give the calling (or called) consumer the right to speak to a “qualified employee” of the “company or government agency with whom the person is doing business” (i.e., the entity that hired the call center.)

The problems associated with releasing detailed information with regard to specific supervisors (as required by the CT bill) are obvious. A disgruntled customer, who perhaps did not receive the level of service he or she expected from the call, may use such information to harass the supervisor whose

*(Continued on page 30)*

## Legislators Weigh In on In-Bound

(Continued from page 29)

information is revealed. In general, requiring disclosure of call center information is problematic for two reasons. First, the purpose of requiring certain disclosures in the context of inbound and outbound calls is to provide the consumer with the information he/she needs to understand the nature of the call itself and to protect him/herself against fraud. Existing federal and state disclosure rules already give consumers sufficient protection and there is no need for additional rules that serve only to increase costs for call centers without providing additional protections to consumers.

Second, if a consumer asks for additional information, seeking to elicit the name and whereabouts of the call center itself, it should be up to the individual call center how to handle such requests. In certain circumstances, it may be appropriate to provide such information; in others, it may not. In addition, these call centers should be given the authority to determine when it is necessary to have a "qualified employee" of the center be on the call. Mandating such disclosures across the board for both inbound and outbound calls serves no useful purpose, except to the extent that it may serve to decrease domestic companies' desire to make use of foreign call centers.

One especially troublesome feature of certain "location disclosure" bills is a requirement to re-route the call at the request of the consumer. For example, Florida Senate

Bill 614 requires a call center sales representative to identify him/herself, where he/she is located, as well as the name and telephone number of an authorized representative of the company that hired the representative. In addition, however, and of most concern to the call center industry, calls to (or from) foreign countries must be re-routed to a domestic agent at the request of the consumer. It is difficult to see the benefit gained from such a rule, especially given the doubling of the cost of the call that is required to complete the re-routing.

What many in the teleservices industry fail to grasp is that there was a time when outbound rules were, like inbound rules today, just legislative proposals. Although the proposed rules mentioned in this article face significant hurdles to passage, the key issue for politicians is whether a given issue generates significant political capital. If the current proposed legislation impacting inbound fails to pass, there are many other issues, including service parity between inbound and outbound calls, and mandating minimum service levels (such as hold time, in-queue notification) that still can, and probably will, be exploited. ■

*Joseph Sanscrainte is director of regulatory affairs and general counsel with Call Compliance, Inc., and also serves as Chair of the American Teleservices Association's State Legislative Subcommittee. For more information on Call Compliance and its patented TeleBlock<sup>®</sup> Do Not Call blocking system, please visit [www.teleblock.com](http://www.teleblock.com).*