

pre-existing business relationship with the consumer and can therefore use eligibility information it receives from its affiliated creditor to make solicitations to the consumer about its products or services for three months after the date of the inquiry.

(3) *Examples where no pre-existing business relationship is created.* (i) If a consumer makes a telephone call to a centralized call center for a group of affiliated companies to inquire about the consumer's existing account with a creditor, the call does not constitute an inquiry to any affiliate other than the creditor that holds the consumer's account and does not establish a pre-existing business relationship between the consumer and any affiliate of the account-holding creditor.

(ii) If a consumer who has a loan account with a creditor makes a telephone call to an affiliate of the creditor to ask about the affiliate's retail locations and hours, but does not make an inquiry about the affiliate's products or services, the call does not constitute an inquiry and does not establish a pre-existing business relationship between the consumer and the affiliate. Also, the affiliate's capture of the consumer's telephone number does not constitute an inquiry and does not establish a pre-existing business relationship between the consumer and the affiliate.

(iii) If a consumer makes a telephone call to a creditor in response to an advertisement that offers a free promotional item to consumers who call a toll-free number, but the advertisement does not indicate that creditor's products or services will be marketed to consumers who call in response, the call does not create a pre-existing business relationship between the consumer and the creditor because the consumer has not made an inquiry about a product or service offered by the creditor, but has merely responded to an offer for a free promotional item.

(k) *Solicitation*—(1) *In general.* The term "solicitation" means the marketing of a product or service initiated by a person to a particular consumer that is—

(i) Based on eligibility information communicated to that person by its affiliate as described in this part; and

(ii) Intended to encourage the consumer to purchase or obtain such product or service.

(2) *Exclusion of marketing directed at the general public.* A solicitation does not include marketing communications that are directed at the general public. For example, television, general circulation magazine, and billboard advertisements do not constitute solicitations, even if those communications are intended to encourage consumers to purchase products and services from the person initiating the communications.

(3) *Examples of solicitations.* A solicitation would include, for example, a telemarketing call, direct mail, e-mail, or other form of marketing communication directed to a particular consumer that is based on eligibility information received from an affiliate.

(l) *You* means a person described in § 680.1(b).

§§ 680.4–680.20 [Reserved]

§ 680.21 Affiliate marketing opt-out and exceptions.

(a) *Initial notice and opt-out requirement*—(1) *In general.* You may not use eligibility information about a consumer that you receive from an affiliate to make a solicitation for marketing purposes to the consumer, unless—

(i) It is clearly and conspicuously disclosed to the consumer in writing or, if the consumer agrees, electronically, in a concise notice that you may use eligibility information about that consumer received from an affiliate to make solicitations for marketing purposes to the consumer;

(ii) The consumer is provided a reasonable opportunity and a reasonable and simple method to "opt out," or prohibit you from using eligibility information to make solicitations for marketing purposes to the consumer; and

(iii) The consumer has not opted out.

(2) *Example.* A consumer has a homeowner's insurance policy with an insurance company. The insurance company furnishes eligibility information about the consumer to its affiliated creditor. Based on that eligibility information, the creditor wants to make a solicitation to the consumer about its home