

FTC Wins Lawsuit Over Its Robocall Contest

Gonzalo E. Mon

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In 2012, the FTC sponsored a contest in which it invited contestants to submit their best solutions to block robocalls. After reviewing almost 800 entries, the FTC announced two winners. As we [posted previously](#), though, one of the losing entrants sued the FTC, alleging that the agency hadn't followed its rules. This week, the Court of Federal Claims dismissed the case, holding that the contest's judges had not made a gross mistake or acted in bad faith.

The plaintiff's complaint focused on the contest's scoring procedures. His entry was among 268 forwarded to judges after the rest were deemed facially deficient. However, his entry did not proceed to the final round after the judges further narrowed the entries down to those that employed "filtering-type solutions." (The plaintiff's entry had used a different technology.) He argued that the rules did not permit the FTC to narrow down the entries based on technology before scoring them.

The main issue before the court was whether the plaintiff could avoid the exculpatory clauses found in the contest rules which stated, among other things, that entrants released the FTC from liability in disputes arising from the contest and that the FTC's decisions were final and binding. For the plaintiff to prevail, there had to be a material breach in the form of fraud, bad faith, gross mistake, or irregularity. The court held that no such breach had occurred.

This decision is good news for companies that run sweepstakes and contests. Courts have generally held that the rules for these types of promotions form binding contracts with entrants and that the exculpatory clauses in the rules are enforceable. Before you run a promotion, make sure that you take some time to think about how things can go wrong, and make sure you have clauses in the rules to protect your company.