

Telemarketing Rules DNC Policy

1. The Telemarketing Rules apply whether or not the telemarketing telecommunication is exempt from the National DNCL Rules
2. A telemarketer shall not initiate a telemarketing telecommunication on its own behalf unless it has registered with, and provided information to, the National DNCL operator, and has paid all applicable fees charged by the Complaints Investigator delegate.
3. A telemarketer shall not initiate a telemarketing telecommunication on behalf of a client unless that client has registered with, and provided information to, the National DNCL operator, and has paid all applicable fees charged by the Complaints Investigator delegate associated with that client have been paid.
Telecom Decision CRTC 2008-6
4. The Telemarketing Rules do not apply to a telemarketing telecommunication made via voice mail broadcast.
5. A telemarketer shall keep the following records related to registration and provision of information to the National DNCL operator for a period of three (3) years from the date the records are created:
 - a) when initiating a telemarketing telecommunication on its own behalf, proof of its registration with the National DNCL operator and proof of payment of fees to the Complaints Investigator delegate; and,
 - b) when initiating a telemarketing telecommunication on behalf of clients, proof of registration with the National DNCL operator and proof of payment of fees to the Complaints Investigator delegate for each client.
6. The Telemarketing Rules do not apply in respect of an unsolicited telecommunication made for purposes other than solicitation, including telecommunications made solely for the purpose of emergencies, account collection, collecting information for a survey of members of the public, and market research.
7. A reseller of Centrex service shall make all reasonable efforts to ensure that subscribers and end-users of Centrex service do not employ the Centrex call transfer feature to transmit telemarketing telecommunications.
8. A telemarketer initiating a telemarketing telecommunication on its own behalf shall maintain its own do not call list and shall keep a consumer's name and telecommunications number on the list for a period of three (3) years and thirty-one (31) days from the date of the consumer's do not call request.
9. A client of a telemarketer shall maintain its own do not call list and shall keep a consumer's name and telecommunications number on the list for a period of three (3) years and thirty-one (31) days from the date of the consumer's do not call request.

10. A telemarketer initiating a voice telemarketing telecommunication shall process a do not call request from a consumer at the time of the telemarketing telecommunication.
11. A telemarketer initiating a telemarketing telecommunication on its own behalf shall add a consumer's name and telecommunications number to its do not call list within thirty-one (31) days of the consumer's do not call request.
12. A telemarketer initiating a telemarketing telecommunication on behalf of a client shall make all reasonable efforts to ensure that the client adds a consumer's name and telecommunications number to the client's do not call list within thirty-one (31) days of the consumer's do not call request.
13. A client of a telemarketer shall add a consumer's name and telecommunications number to the client's do not call list within thirty-one (31) days of the consumer's do not call request.
14. A telemarketer shall not initiate a telemarketing telecommunication on its own behalf to a consumer who is or should be on its do not call list.
15. A telemarketer shall not initiate, and a client of a telemarketer shall make all reasonable efforts to ensure that the telemarketer does not initiate, a telemarketing telecommunication on behalf of the client to a consumer who is or should be on the client's do not call list.
16. A telemarketer initiating a voice telemarketing telecommunication shall provide the following information in a clear manner upon reaching the intended party:
 - a) the name or fictitious name of the individual making the telecommunication;
 - b) the name of the telemarketer, whether the telemarketing telecommunication is made on its own behalf or on behalf of a client of the telemarketer; and
 - c) the name of the client, when the telemarketing telecommunication is being made on behalf of a client of the telemarketer.
17. A telemarketer initiating a voice telemarketing telecommunication shall provide the following information in a clear manner upon request:
 - a) a voice telecommunications number that allows access to an employee or other representative of the telemarketer for the purpose of asking questions, making comments about the telemarketing telecommunication, or making or verifying a do not call request; and
 - b) the name and address of an employee or other representative of the telemarketer to whom the consumer can write for the purpose of asking questions, making comments about the telemarketing telecommunication, or making or verifying a do not call request.
18. The information shall be provided for both the telemarketer and, where applicable, the client of the telemarketer, whether or not the consumer has requested that both be provided.

19. A telemarketer sending a fax telemarketing telecommunication shall clearly provide the following information at the top of the first page in font size 12 or larger:
 - a) the name of the telemarketer sending the fax, whether the telemarketing telecommunication is made on its own behalf or on behalf of a client of the telemarketer;
 - b) the name of the client when the telemarketing telecommunication is being made on behalf of a client of the telemarketer;
 - c) the originating date and time of the fax;
 - d) a voice and a fax telecommunications number that allows access to an employee or other representative of the telemarketer and, where applicable, the client of the telemarketer, for the purpose of asking questions, making comments about the telemarketing telecommunication, or making or verifying a do not call request; and
 - e) the name and address of an employee or other representative of the telemarketer and, where applicable, the client of the telemarketer, to whom the consumer can write for the purpose of asking questions, making comments about the fax, or making or verifying a do not call request.
20. The telecommunications numbers to be provided
 - a) shall be local or toll-free; and
 - b) in the case of a voice telecommunications number, shall be answered either by a live operator or with a voice mail system that is always capable of taking messages from the consumer.
21. The voice mail system referred to in section 20 shall provide a message informing the consumer that his or her call will be returned within three (3) business days.
22. The telemarketer or, where applicable, the client of the telemarketer shall return the consumer's call referred to in section 21 within three (3) business days.
23. Subject to section 24, a telemarketing telecommunication is restricted to the following hours: 9:00 a.m. to 9:30 p.m. on weekdays (Monday to Friday); and 10:00 a.m. to 6:00 p.m. on weekends (Saturday and Sunday). The hours refer to those of the consumer receiving the telemarketing telecommunication.
24. A telemarketing telecommunication is restricted to the hours set out in or pursuant to provincial legislation that governs an activity where the hours set out in the provincial legislation are more restrictive than those set out in section 23, provided that the telecommunication is made for the purpose of that activity. The hours refer to those of the consumer receiving the telecommunication.
25. A telemarketer initiating a telemarketing telecommunication shall display the originating telecommunications number or an alternate telecommunications number where the telemarketer can be reached (except where the number display is unavailable for technical reasons).

26. Sequential dialing for the purpose of initiating a telemarketing telecommunication is prohibited.
27. Random dialing for the purpose of initiating a telemarketing telecommunication, including to a non-published or a non-listed telecommunications number, is permitted except to telecommunications numbers that
 - a) are registered on the National DNCL;
 - b) are emergency lines;
 - c) are associated with healthcare facilities;
 - d) in the case where a telemarketer initiates a telemarketing telecommunication on its own behalf, are on the telemarketer's do not call list; and
 - e) in the case where the telemarketer initiates a telemarketing telecommunication on behalf of a client of the telemarketer, are on the client's list.
28. A telemarketer shall not initiate, and a client of a telemarketer shall make all reasonable efforts to ensure that the telemarketer does not initiate, a telemarketing telecommunication to any emergency line or healthcare facility.
29. A telemarketer using a predictive dialing device to initiate telemarketing telecommunications shall not exceed, in any calendar month, a five (5) percent abandonment rate.
30. A telemarketer and a client of a telemarketer shall maintain records, on a calendar month basis, with respect to the actual telemarketing telecommunication abandonment rates for a period of three (3) years from the date each monthly record is created.

Restrictions on Telemarketing, Telephone Solicitation

(a) No person or entity may:

(1) Initiate any telephone call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing

system or an artificial or prerecorded voice,

(i) To any emergency telephone line, including any 911 line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency;

(ii) To the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

(iii) To any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

(iv) A person will not be liable for violating the prohibition in paragraph (a)(1)(iii) when the call is placed to a wireless number that has been ported from wireline service and such call is (A) a voice call; (B) not knowingly made to a wireless number; and (C) made within 15 days of the porting of the number from wireline to wireless service, provided the number is not already on the national do-not-call registry or caller's company-specific do-not-call list.

(2) Initiate any telephone call to any residential line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call:

(i) Is made for emergency purposes,

(ii) Is not made for a commercial purpose,

(iii) Is made for a commercial purpose but does not include or introduce an unsolicited advertisement or constitute a telephone solicitation,

(iv) Is made to any person with whom the caller has an established business relationship

(v) Is made by or on behalf of a tax-exempt nonprofit organization.

(3) Use a telephone facsimile machine, computer, or other device to send an unsolicited

advertisement to a telephone facsimile machine, unless-

- (i) The unsolicited advertisement is from a sender with an established business relationship, as defined in paragraph (f)(5) of this section, with the recipient; and
- (ii) The sender obtained the number of the telephone facsimile machine through –
 - (A) The voluntary communication of such number by the recipient directly to the sender, within the context of such established business relationship; or
 - (B) A directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution. If a sender obtains the facsimile number from the recipient's own directory, advertisement, or internet site, it will be presumed that the number was voluntarily made available for public distribution, unless such materials explicitly note that unsolicited advertisements are not accepted at the specified facsimile number. If a sender obtains the facsimile number from other sources, the sender must take reasonable steps to verify that the recipient agreed to make the number available for public distribution.
 - (C) This clause shall not apply in the case of an unsolicited advertisement that is sent based on an established business relationship with the recipient that was in existence before July 9, 2005 if the sender also possessed the facsimile machine number of the recipient before July 9, 2005. There shall be a rebuttable presumption that if a valid established business relationship was formed prior to July 9, 2005, the sender possessed the facsimile number prior to such date as well; and
- (iii) the advertisement contains a notice that informs the recipient of the ability and means to avoid future unsolicited advertisements. A notice contained in an advertisement complies with the requirements under this paragraph only if –
 - (A) The notice is clear and conspicuous and on the first page of the advertisement;
 - (B) The notice states that the recipient may make a request to the sender of the

advertisement not to send any future advertisements to a telephone facsimile machine or machines and that failure to comply, within 30 days, with such a request meeting the requirements under paragraph (a)(3)(v) is unlawful;

(C) The notice sets forth the requirements for an opt-out request under paragraph (a)(3)(v) of this section;

(D) The notice includes—

to transmit such a request to the sender; and

(2) If neither the required telephone number or facsimile machine number is a toll-free number, a separate cost-free mechanism including a Web site address or e-mail address, for a recipient to transmit a request pursuant to such notice to the sender of the advertisement. A local telephone number also shall constitute a cost-free mechanism so long as recipients are local and will not incur any long distance or other separate charges for calls made to such number; and

(E) The telephone and facsimile numbers and cost-free mechanism identified in the notice must permit an individual or business to make an opt-out request 24 hours a day, 7 days a week.

(iv) A facsimile advertisement that is sent to a recipient that has provided prior express invitation or permission to the sender must include an opt-out notice that complies with the requirements in paragraph (a)(3)(iii) of this section.

(v) A request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if –

(A) The request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

(B) The request is made to the telephone number, facsimile number, Web site address or e-mail address identified in the sender's facsimile advertisement; and

(C) The person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine.

(vi) A sender that receives a request not to send future unsolicited advertisements that complies with paragraph (a)(3)(v) of this section must honor that request within the shortest reasonable time from the date of such request, not to exceed 30 days, and is prohibited from sending unsolicited advertisements to the recipient unless the recipient subsequently provides prior express invitation or permission to the sender. The recipient's opt-out request terminates the established business relationship exemption for purposes of sending future unsolicited advertisements. If such requests are recorded or maintained by a party other than the sender on whose behalf the unsolicited advertisement is sent, the sender will be liable for any failures to honor the opt-out request.

(vii) A facsimile broadcaster will be liable for violations of paragraph (a)(3) of this section, including the inclusion of opt-out notices on unsolicited advertisements, if it demonstrates a high degree of involvement in, or actual notice of, the unlawful activity and fails to take steps to prevent such facsimile transmissions.

lines of a multi-line business are engaged simultaneously.

(5) Disconnect an unanswered telemarketing call prior to at least 15 seconds or four (4) rings.

(6) Abandon more than three percent of all telemarketing calls that are answered live by a person, measured over a 30-day period. A call is "abandoned" if it is not connected to a live sales representative within two (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 two (2) seconds after the called person's completed

greeting, a prerecorded identification message that states only 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 so provided must permit any 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 paragraph (a)(6) of this section.

(i) A call for telemarketing purposes that delivers an artificial or prerecorded voice message to a residential telephone line that is assigned to a person who either has granted prior express consent for the call to be made or has an established business relationship with the caller shall not be considered an abandoned call if the message begins within two (2) seconds of the called person's completed greeting.

(ii) Calls made by or on behalf of tax-exempt nonprofit organizations are not covered by paragraph (a)(6) of this section.

(7) Use any technology to dial any telephone number for the purpose of determining whether the line is a facsimile or voice line.

(b) All artificial or prerecorded telephone messages shall:

(1) At the beginning of the message, state clearly the identity of the business, individual, or other entity that is responsible for initiating the call. If a business is responsible for initiating the call, the name under which the entity is registered to conduct business with the State Corporation Commission (or comparable regulatory authority) must be stated, and

(2) During or after the message, state clearly the telephone number (other than that of the autodialer or prerecorded message player that placed the call) of such business, other

entity, or individual. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges. For telemarketing messages to residential telephone subscribers, such telephone number must

(c) No person or entity shall initiate any telephone solicitation, as defined in paragraph (f)(12) of this section, to:

(1) Any residential telephone subscriber before the hour of 8 a.m. or after 9 p.m. (local time at the called party's location), or

(2) A residential telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the federal government. Such do-not-call registrations must be honored for a period of 5 years. Any person or entity making telephone solicitations (or on whose behalf telephone solicitations are made) will not be liable for violating this requirement if:

(i) It can demonstrate that the violation is the result of error and that as part of its routine business practice, it meets the following standards:

(A) Written procedures. It has established and implemented written procedures to comply with the national do-not-call rules;

(B) Training of personnel. It has trained its personnel, and any entity assisting in its compliance, in procedures established pursuant to the national do-not-call rules;

(C) Recording. It has maintained and recorded a list of telephone numbers that the seller may not contact;

(D) Accessing the national do-not-call database. It uses a process to prevent telephone solicitations to any telephone number on any list established pursuant to the do-not-call rules, employing a version of the national do-not-call registry obtained from the administrator of the registry no more than 31 days prior to the date any call is made, and

maintains records documenting this process; and

(E) Purchasing the national do-not-call database. It uses a process to ensure that it does not sell, rent, lease, purchase or use the national do-not-call database, or any part thereof, for any purpose except compliance with this section and any such state or federal law to prevent telephone solicitations to telephone numbers registered on the national database. It purchases access to the relevant do-not-call data from the administrator of the national database and does not participate in any arrangement to share the cost of accessing the national database, including any arrangement with telemarketers who may not divide the costs to access the national database among various client sellers; or

(ii) It has obtained the subscriber's prior express invitation or permission. Such permission must be evidenced by a signed, written agreement between the consumer and

(iii) The telemarketer making the call has a personal relationship with the recipient of the call.

(d) No person or entity shall initiate any call for telemarketing purposes to a residential telephone subscriber unless such person or entity has instituted procedures for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of that person or entity. The procedures instituted must meet the following minimum standards:

(1) Written policy. Persons or entities making calls for telemarketing purposes must have a written policy, available upon demand, for maintaining a do-not-call list.

(2) Training of personnel engaged in telemarketing. Personnel engaged in any aspect of telemarketing must be informed and trained in the existence and use of the do-not-call list.

(3) Recording, disclosure of do-not-call requests. If a person or entity making a call for telemarketing purposes (or on whose behalf such a call is made) receives a request from a

residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name, if provided, and telephone number on the do-not-call list at the time the request is made. Persons or entities making calls for telemarketing purposes (or on whose behalf such calls are made) must honor a residential subscriber's do-not-call request within a reasonable time from the date such request is made. This period may not exceed thirty days from the date of such request. If such requests are recorded or maintained by a party other than the person or entity on whose behalf the telemarketing call is made, the person or entity on whose behalf the telemarketing call is made will be liable for any failures to honor the do-not-call request. A person or entity making a call for telemarketing purposes must obtain a consumer's prior express permission to share or forward the consumer's request not to be called to a party other than the person or entity on whose behalf a telemarketing call is made or an affiliated entity.

(4) Identification of sellers and telemarketers. A person or entity making a call for telemarketing purposes must provide the called party with 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. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges.

(5) Affiliated persons or entities. In the absence of a specific request by the subscriber to the contrary, a residential subscriber's do-not-call request shall apply to the particular business entity making the call (or on whose behalf a call is made), and will not apply to

(6) Maintenance of do-not-call lists. A person or entity making calls for telemarketing purposes must maintain a record of a consumer's request not to receive further telemarketing calls. A do-not-call request must be honored for 5 years from the time the request is made.

(7) Tax-exempt nonprofit organizations are not required to comply with 64.1200(d).

(e) The rules set forth in sections 64.1200(c) and 64.1200(d) are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers to the extent described in the Commission's Report and Order, CG Docket No. 02-278, FCC 03-153, "Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991."

(f) As used in this section:

(1) The terms automatic telephone dialing system and autodialer mean equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator and to dial such numbers.

(2) The term clear and conspicuous for purposes of paragraph (a)(3)(iii)(A) of this section means a notice that would be apparent to the reasonable consumer, separate and distinguishable from the advertising copy or other disclosures, and placed at either the top or bottom of the facsimile.

(3) The term emergency purposes means calls made necessary in any situation affecting the health and safety of consumers.

(4) The term established business relationship for purposes of telephone solicitations means 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 the subscriber's purchase or transaction with the entity within the eighteen (18) months immediately preceding the date of the telephone call or on the basis of the subscriber's inquiry or application regarding products or services offered by the entity within the three months immediately preceding the date of the call, which relationship has not been previously terminated by either party.

(i) The subscriber's seller-specific do-not-call request, as set forth in paragraph (d)(3) of

this section, terminates an established business relationship for purposes of telemarketing and telephone solicitation even if the subscriber continues to do business with the seller.

(ii) The subscriber's established business relationship with a particular business entity does not extend to affiliated entities unless the subscriber would reasonably expect them

(5) The term established business relationship for purposes of paragraph (a)(3) on the sending of facsimile advertisements means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a business or residential subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the business or residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party.

(6) The term facsimile broadcaster means a person or entity that transmits messages to telephone facsimile machines on behalf of another person or entity for a fee.

(7) The term seller means the person or entity on whose behalf a telephone call or message is initiated for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

(8) The term sender for purposes of paragraph (a)(3) means the person or entity on whose behalf a facsimile unsolicited advertisement is sent or whose goods or services are advertised or promoted in the unsolicited advertisement.

(9) The term telemarketer means the person or entity that initiates a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

(10) The term telemarketing means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

(11) The term telephone facsimile machine means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

(12) The term telephone solicitation means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message:

(i) To any person with that person's prior express invitation or permission;

(ii) To any person with whom the caller has an established business relationship; or

(iii) By or on behalf of a tax-exempt nonprofit organization.

(13) The term unsolicited advertisement means any material advertising the commercial person without that person's prior express invitation or permission, in writing or otherwise.

(14) The term personal relationship means any family member, friend, or acquaintance of the telemarketer making the call.

(g) Beginning January 1, 2004, common carriers shall:

(1) When providing local exchange service, provide an annual notice, via an insert in the subscriber's bill, of the right to give or revoke a notification of an objection to receiving telephone solicitations pursuant to the national do-not-call database maintained by the federal government and the methods by which such rights may be exercised by the subscriber. The notice must be clear and conspicuous and include, at a minimum, the Internet address and toll-free number that residential telephone subscribers may use to

register on the national database.

(2) When providing service to any person or entity for the purpose of making telephone solicitations, make a one-time notification to such person or entity of the national do-not-call requirements.

Failure to receive such notification will not serve as a defense to any person or entity making telephone solicitations from violations of this section.

(h) The administrator of the national do-not-call registry that is maintained by the federal government shall make the telephone numbers in the database available to the States so that a State may use the telephone numbers that relate to such State as part of any database, list or listing system maintained by such State for the regulation of telephone solicitations.

Delivery requirements and privacy restrictions.

(e) Any person or entity that engages in telemarketing, as defined in section 10) must transmit caller identification information.

(i) For purposes of this paragraph, caller identification information must include either CPN or ANI, and, when available by the telemarketer's carrier, the name of the telemarketer. It shall not be a violation of this paragraph to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller on behalf of which the telemarketing call is placed and the seller's customer service telephone number. The telephone number so provided must permit any individual to make a do-not-call request during regular business hours.

(ii) Any person or entity that engages in telemarketing is prohibited from blocking the transmission of caller identification information.

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