



# FREQUENTLY ASKED QUESTIONS ABOUT FCC TELEMARKETING LAWS

## WHAT ARE THE FEDERAL TELEMARKETING LAWS?

There are two different telemarketing rules that have been passed in 2003. Those passed by the FTC (Federal Trade Commission) and those passed by the FCC (Federal Communication Commission).

Why are there two federal telemarketing rules?

The FTC (Federal Trade Commission) and the FCC (Federal Communication Commission) each have jurisdiction over telemarketing practices. The FTC's jurisdiction is limited to those industries that it regulates, and it is limited to interstate calls. The FCC is not limited in jurisdiction like the FTC. Thus, the FCC implemented its own regulations in order to make the do-not-call list applicable to telephone solicitations that would otherwise be exempt from the FTC rules. Insurance falls within this category. Thus, it is the FCC's Telemarketing Rules that the Insurance industry must worry about.

## WHY DO I HAVE TO KNOW ABOUT THESE RULES?

If you call a person at home, you are subject to these rules and must abide by them. These rules apply to the insurance industry, and anyone who solicits over the phone in order to offer the sale of insurance is subject to the rules. A call to set up a face-to-face meeting is treated like any other telephone solicitation.

## WHAT WILL HAPPEN TO ME IF I DON'T FOLLOW THESE RULES?

If a consumer files a complaint against you, the FCC may fine you up to \$11,000.00 per violation.

## WHAT DO I HAVE TO DO TO SELL INSURANCE WITHIN THE FRAMEWORK OF THE TELEMARKETING RULES?

You have to have access to the list and consult it when attempting to call a consumer.

You have to abide by the provisions of the rule regarding how a telephone solicitation must be conducted:

- No calls before 8AM or after 9PM
- You must let the phone ring 4 times, or for 15 seconds
- You must not abandon more than 3% of your telephone solicitation calls

- You must not block caller ID information (effective 1/29/04)
- If using a pre-recorded message, the message must state your name/company name and provide a number where the consumer can call and request that no more calls be made
- You must not send a faxed advertisement to anyone who has not agreed to receive it or with whom you do not have an established business relationship.

## WHO CAN I CALL?

You may call (not fax) any business phone number without regard to the FCC telemarketing rules. You may make a telephone solicitation to a residential number that does not appear on the national do-not-call registry, the state do-not-call list in the state where the resident lives, or your business specific do-not-call registry. You may call those who have given you express permission to do so without regard to the do-not-call lists. You may call those people who you know personally without regard to their presence on the do-not-call list. You may call those with whom you have an established business relationship.

## WHAT IS AN ESTABLISHED BUSINESS RELATIONSHIP?

If a consumer has transacted business with you or the company you represent within the past 18 months, or has inquired about your product within the past 3 months, you have an established business relationship with that consumer and may call his/her number even if it appears on the national or state do-not-call lists.

The established business relationship is broken if the consumer requests to be added to the company specific do-not-call list, even if the consumer continues to do business with you. In other words, if someone has asked you not to call them, then you cannot make a telephone solicitation to their number.

For purposes of faxed advertisements the time limits set out above do not apply. Thus, for the sake of faxing an advertisement, an established business relationship exists if a consumer has transacted business with you or your company at any time or has made an inquiry.

## WHAT CONSTITUTES KNOWING SOMEONE PERSONALLY?

The obvious personal relationships are family members and friends. However, this exception can extend to people you have met and exchanged business cards with. If you have met or been introduced to a person and have a reasonable belief that he/she might be interested in purchasing insurance, you probably can call him/her without regard to her number being on the do-not-call lists. Keep in mind that the FCC will look at what was reasonable to the consumer, rather than you. If the consumer had no reasonable expectation of a call from you, and would regard your call as a violation of the FCC's rules, then you risk being in violation of the rules, and thus subject to the fines.

## WHO MUST I NOT CALL?

You must not call numbers, including wireless numbers, which appear on the national do-not-call list, the state do-not-call list, or the company specific do not-call list. If someone with whom you have an established business relationship requests that you not call anymore, you must not call them again for telemarketing purposes, even though they may continue to do business with you or your company.

## WHAT ABOUT CALLS REGARDING EXISTING BUSINESS?

The telephone solicitation rules are for solicitations only. Calls to consumers regarding existing coverage or transaction—or any purpose other than to offer goods/services—are not covered by the federal telemarketing rules. However, if you try to sell the consumer something during the business call, you have made a telephone solicitation and the call is subject to the rules, even if you didn't intend to sell anything when you called.

## ARE FAXES THE SAME AS TELEPHONE SOLICITATIONS?

No. Faxes are more heavily restricted than telephone solicitations.

## WHO CAN I FAX?

You may fax unsolicited advertisements to those who have given you express permission to do so. An existing business relationship implies this permission to receive your faxes. Thus, you may also fax advertisements to those with whom you have an established business relationship.

## CAN WE CALL OTHER PRODUCERS?

You may call other producers at their offices without worrying about the do-notcall list. The FCC Rule applies to calls made to residential subscribers. Calls made to business phone numbers are not covered by the rules. Calling a business establishment is outside the scope of the federal rules, but calling a producer at home may cause problems if that producer is on one of the various no-call lists (national, state, or company) and does not meet the exemptions outlined in the regulation (established business relationship, personal acquaintance, or signed written permission to call).

## WHAT ABOUT FAXING OTHER PRODUCERS? IS IT THE SAME AS CALLING THEM?

No. You may not send an unsolicited fax advertisement to ANY fax number without express permission or an established business relationship.

## **WHAT ABOUT CALLING REFERRALS PROVIDED BY CLIENTS? IS THIS STILL ALLOWED?**

You may call a referral at home if that person's number is not on one of the do-not-call lists (national, state, or company). You can also request an address or ask your clients to have referrals call you directly.

## **WILL I BE ABLE TO CONTACT MY WORKSITE CONSUMERS AT HOME AND WORK? WHAT ABOUT THEIR SPOUSES, CAN I CALL SPOUSES AT HOME OR AT WORK?**

You may call an employee to whom you wish to sell insurance at home if their name does not appear on the national, state, or company specific do not call list. If you have an established business relationship with the employee, you may call them even if their number is on the state or national do-not-call list (This is not true for the company specific list because if the employee has requested they not be called for telephone solicitations. That request negates the established business relationship for telemarketing purposes). You may call an employee at home for existing business or if you know them personally. You may call someone at work who has instructed you to call him or her at their work number without referencing the Do-Not-Call list.

If an employee recommends that you contact their spouse, then this is the same as any other referral (see question on referral). You must abide by the do-not-call lists to determine if you may contact him/her.

## **WHAT ABOUT WIRELESS NUMBERS? ARE THEY ON THE DO-NOT-CALL LIST?**

Yes. Wireless numbers are eligible to be added to the national list, and must be checked against it. Whether a wireless number is on a state list varies from state to state, so you must check the laws of the state in question to know if wireless numbers are included on their state do-not-call list.

Keep in mind that wireless calls cost the consumer money, and the FCC has indicated that they do not like for telephone solicitations to cost the consumer instead of the telemarketer. This is one of the overriding reasons for the fax restrictions, and would also apply to wireless calls. Be very careful about calling wireless numbers to ensure that doing so does not violate federal OR STATE law.