



NEWS

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FCC AUTHORIZES NATIONWIDE DO-NOT-CALL REGISTRY ***Consumers Now Have Easy Option to Eliminate Telemarketing Calls***

Washington, D.C. - The Federal Communications Commission today updated its rules implementing the Telephone Consumer Protection Act of 1991 (TCPA) and established a national do-not-call registry for consumers who wish to avoid telemarketing calls. The registry is nationwide in scope, includes all telemarketers (with the exception of certain non-profit organizations), and covers both interstate and intrastate telemarketing calls. Consumers can place their telephone numbers on the registry through one telephone call or one Web click.

Unwanted telemarketing calls are a national problem. The FCC has heard the American consumer and responded. Today's expansion of the FCC's original TCPA rules, adopted in 1992, gives consumers the choice of whether or not to receive telemarketing calls in their homes.

The telemarketing industry has undergone significant changes in the technologies and methods used to contact consumers which have resulted in significant growth in the number of telemarketing calls. There has been a corresponding increase in consumer frustration and dissatisfaction.

Industry estimates indicate that telemarketers may attempt as many as 104 million calls to consumers and businesses every day. The Commission also cited dramatic increases in telemarketer use of autodialers, which deliver prerecorded messages to thousands of potential customers every day, and predictive dialers, which initiate phone calls while telemarketers are talking to other consumers and which frequently abandon calls before a telemarketer is free to take the next call.

The Commission will implement the do-not-call registry in conjunction with the Federal Trade Commission (FTC). The national database will be administered by the FTC and enforcement will be coordinated between the FCC and the FTC. A forthcoming Memorandum of Understanding, signed by both agencies, will detail the enforcement functions.

The Commission will not require states to discontinue the use of their own do-not-call lists once the national do-not-call registry goes into effect. The TCPA prohibits a state from using any do-not-call list that does not include the part of the national do-not-call registry that relates to that state. Thus any individual state do-not-call list must include all the registrants on the national data base for that state.

The federal rules constitute a floor and therefore supercede all less restrictive state do-not-call rules. States may adopt more restrictive do-not-call laws governing intrastate telemarketing. When Congress enacted the TCPA it gave the Commission jurisdiction over both interstate and intrastate telemarketing calls with the intent generally to promote a uniform regulatory scheme. Therefore, any state regulation of interstate telemarketing calls that differs from FCC rules almost certainly would be preempted, although the FCC will consider any alleged conflicts on a case-by-case basis. Nothing done in the Order prohibits states from enforcing state regulations that are consistent with the TCPA in state courts.

Consumers also will continue to have the option of using current company-specific do-not-call registries if they wish to eliminate telemarketing calls from specific companies only.

In its Order today, the FCC also adopted restrictions on the use of predictive dialers in an effort to reduce the number of “hang-up” and “dead air” calls consumers experience. It also specified that telemarketers cannot block caller ID information and tightened its existing rules on unsolicited faxes to require that express permission be obtained in writing by companies before sending faxed advertisements to its customers. Finally, the Order establishes a common-sense exemption to permit calls by a marketer to friends, family members and acquaintances.

Details of the FCC TCPA Order follow:

National Do-Not-Call Registry

- The national do-not-call registry established by the FCC will cover both interstate and intrastate commercial telemarketing calls.
- Consumers can register, by telephone or by Internet, any residential telephone number, including wireless numbers, at no cost.
- The database has been set up and will be administered by the FTC.
- The FCC and FTC will coordinate enforcement efforts. The details of this will be included in a forthcoming Memorandum of Understanding that the two agencies will sign.
- The current company-specific do-not-call lists will still be available to consumers who wish to avoid telemarketing calls only from specific companies.
- Consumers registering with the national registry will be able to provide express written permission to any companies from which they wish to receive telemarketing calls.

- Telemarketers may continue to call individuals who have not placed their numbers on a do-not-call list and those with whom they have an established business relationship.
- Tax-exempt nonprofit organizations will not be subject to the do-not-call requirements since they are exempted under the TCPA.
- Calls regarding political and religious speech will not be subject to the do-not call requirements since they are not considered "telephone solicitations" under the TCPA.
- The Commission declined to preempt state-administered do-not-call lists and will coordinate with the states to harmonize their lists with the national registry.

Established Business Relationship

- The Commission's revised definition of "established business relationship" allows a company to contact a customer for 18 months after a business transaction and 3 months after an inquiry or application.
- However, once a customer has asked to be placed on a company-specific do-not-call list, the company may not call the consumer again regardless of whether the consumer continues to do business with the company.

"Hang Up" and "Dead Air" Calls and Caller ID

- Telemarketers must ensure that predictive dialers abandon no more than three percent of all calls placed and answered by a person. A call will be considered "abandoned" if it is not transferred to a live sales agent within two seconds of the recipient's greeting, although prerecorded messages sent under the "established business relationship" exemption are permitted.
- When a call is abandoned within the permissible three percent range, the telemarketer must deliver a prerecorded identification message.
- Telemarketers must allow the phone to ring for 15 seconds or four rings before disconnecting any unanswered call.
- Telemarketers must transmit caller ID information and are prohibited from blocking caller ID information.
- Call abandonment rules and caller ID requirements will not apply to tax exempt, nonprofit organizations.

Unsolicited Faxes

- Express permission must now be obtained in writing before faxed advertisements may be sent to a customer.
- Fax broadcasters may be liable for unsolicited faxing if there is a high degree of involvement or actual notice of the unlawful activity.

Consumers can register on-line for the national do-not-call registry beginning June 27, 2003. Telephone registration will open for consumers in states west of the Mississippi River – including Minnesota and Louisiana – on the same date. Telephone registration will be available July 7 in the entire country. Details on how to sign up for

the registry will be available shortly. The registry will become effective on October 1, 2003.

For more information on the FCC's telemarketing rules, including the national do-not-call registry, visit the FCC's Web site at www.fcc.gov/cgb/donotcall.

Action by the Commission June 26, 2003, by Report and Order (FCC 03-153). Chairman Powell, Commissioners Abernathy, Martin, Copps and Adelstein with Chairman Powell and Commissioners Abernathy, Copps and Adelstein issuing separate statements.

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