



SOCIETY OF ACTUARIES

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WHAT YOU NEED TO KNOW ABOUT TELEMARKETING AND DNC REGULATIONS—AND WHAT YOU CAN DO ABOUT IT

BY ROGER W. RISLEY

Compliance is simple—at least according to the Federal Trade Commission (FTC). The FTC’s Web site (www.ftc.gov) explains that the National Do-Not-Call (DNC) Registry applies to: *“any plan, program or campaign to sell goods or services through interstate phone calls. This includes telemarketers who solicit consumers, often on behalf of third party sellers. It also includes sellers who provide, offer to provide or arrange to provide goods or services to consumers in exchange for payment.”*

There are three exceptions. These are:

- Political organizations
- Charities
- Telephone surveyors

If you don’t fall into these categories, then you need to make sure that the consumer you’re calling is **NOT**

on the National DNC Registry, or your state’s DNC Registry if applicable, prior to calling them.

For those not covered by these categories, the FTC does provide three exemptions to their National DNC Registry. These are:

1. A telemarketer or seller may call a consumer with whom it has an established business relationship for up to 18 months after the consumer’s last purchase, delivery or payment—even if the consumer’s number is on the National Do Not Call Registry.
2. A company may call a consumer for up to three months after the consumer makes an inquiry or submits an application to the company.
3. And, if a consumer has given a company written permission, the company may call that consumer even if the consumer’s number is on the National Do Not Call Registry.

One caveat: If a consumer asks a company not to call, the company may not call, even if there is an established business relationship. Indeed, a company may not call a consumer—regardless of whether the consumer’s number is on the registry—if the consumer has asked to be put on the company’s own in-house do not call list.

Finally, FCC rules make it illegal to call cell phones. While this seems simple enough, how do you know a number is a cell phone? This is particularly a problem since the FCC began allowing consumers to “port” or move their telephone number from a land line to a cellular phone. A mistake here too can cost you a hefty fine!

This is where the misunderstanding comes in. What is the definition of an existing business relationship? It appears to be clearly defined above. But what if you are, for example, a mortgage company that receives leads through existing relationships with realtors? In this case, unless the mortgage company and the real estate company are one and the same, the mortgage company is not the company that the consumer has a relationship with. Nor did the consumer make an inquiry of the mortgage company. The mortgage



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company cannot call the consumer without violating the National DNC!

Another example might be a large company that has multiple divisions. Let's say they have a consumer banking division and an insurance division. If the consumer has a relationship with the banking division, the insurance division cannot consider that the consumer has a relationship with them. They need to develop their own independent relationship with the consumer.

The National DNC Registry went into effect in October 2003. There are currently **86 million** phone numbers on the registry. The Federal Communications Commission (FCC) also has oversight responsibility of the registry. In fact, just last month the FCC sought a fine of \$770,000 against Dynasty Mortgage for allegedly calling consumers who had placed their phone number on the National DNC. Nonetheless, according to the Direct Marketing Association's 2004 Response Rate Report, telemarketing still has the highest response rate of the 12 types of media they tested. It also has the highest ROI for marketers driving direct-order purchases. In other words, it still pays to use the telephone!

It's also important to note that, prior to the creation of the National DNC Registry, several states had already passed their own DNC legislation. Today, 43 states have DNC legislation. While many of the states use the National DNC Registry as their own, there are some states that do not. If you use the telephone to solicit consumers in one of these states, you have to check the consumer's phone number to ensure you're not calling consumers who have registered their phone numbers. While the fine for violating the National DNC is up to \$11,000 per occurrence, state fines vary widely by state. (Just 91 complaints to the FTC could result in a fine of more than \$1 million!) Also, exemptions differ by state. So, make sure to check with your state's Attorney General's office or your attorney to ensure you are in compliance.

Don't Be Discouraged

There are compliance options. Some companies opt to handle their compliance in-house. Others outsource compliance to an experienced third party provider. There are inexpensive, effective, easy-to-use solutions available. Either way, it's less expensive to be in compliance than not.

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Don't be lulled into a false sense of security. The overwhelming popularity of the National and state DNC Registries clearly shows that consumers are fed-up with calls from companies that don't do their homework and who don't properly target their prospecting and sales efforts. Make sure you're abiding by the National and the state DNC laws. Noncompliance can be very costly! ■

CCIA HOLDS 54TH ANNUAL MEETING AT KIAWAH

BY CHRIS HAUSE

The Consumer Credit Insurance Association held its 54th annual meeting on May 1-3, 2005 at the Kiawah Island Resort in South Carolina. The attendees were treated to outstanding weather and activities, as well as informative and interesting educational sessions.

The meeting was off to a great start with a lively and interactive presentation by Dr. Bruce Weinstein, Ph.D., who is also known by his CNN moniker, "The Ethics Guy." Dr. Weinstein left everyone laughing and more aware of the importance of ethics in business.

Other session topics included debt protection, compensation transparency, reinsurance programs, international accounting, and voiding and defending class actions.

The meeting was an exceptional opportunity to learn and network in a relaxed environment. I would highly recommend attending a future meeting to anyone involved in credit insurance or debt protection products. ■