

Telemarketing, Autodialing, Spam Texts and Do Not Call!

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Did you know that consumers have the right to prevent unwanted telemarketing calls and texts? Many consumers have heard about the National Do Not Call Registry and have even signed up; however, there are a number of other limits on how telemarketers may contact consumers.

Here is a quick guide to the legal protections offered to consumers under the Telephone Consumer Protection Act and subsequent U.S. Federal Communications Commission (FCC) rulings:

Unless the consumer has provided prior, written consent to receive automated calls from a particular organization for marketing purposes, that company is NOT legally permitted to contact the consumer with autodialed or pre-recorded calls.

- Cell phone users are also protected from unwanted automated communications that are “informational,” including those related to politics or debt collection.
- Consumers are afforded the same rights for text messages as they are for phone calls to wireless numbers.
- Any call or text message from a device capable of generating a random or sequential list of numbers is covered under these rules. This includes technology that sends Internet-to-phone text messages.

Consumers have the right to revoke consent and end these automated communications “in any reasonable way at any time.”

- For example, a simple request that the company stop calling, communicated to an agent over the phone, is sufficient to meet this standard.
- Consumers are not obligated to complete any form or other procedure to end unwanted communications.

Telemarketers may call a reassigned number one time and then must stop unless granted consent by the new recipient.

- Consumers whose name or number is contained in the list of contacts on an acquaintance’s mobile phone do not consent to receive robocalls from third-party applications downloaded by the acquaintance.
- Telephone service providers are permitted to offer technologies to block all automated calls and texts.

There are limited exceptions to the prior consent requirement, however consumers are allowed to opt out of these at any time:

- Free calls or texts to alert consumers to possible fraud on their bank accounts, remind them of important medication refills, or similar financial or healthcare messages are permitted without prior consent.
- Other types of financial or health care calls, such as marketing or debt collection calls, are NOT permitted without prior consent.

Solicitation calls before 8am or after 9pm are prohibited.

- Telemarketers must transmit CALLER ID information and are not permitted to block the organization or number from which they are calling.
- Anyone making a solicitation call to a home phone number MUST provide his/her name, the name of the entity on whose behalf the call is being made, and telephone number or address at which the entity may be contacted.

The National Do Not Call Registry remains in place; telemarketers may not call any number listed in the National Do Not Call Registry. However, there are certain allowed exceptions to this rule:

- Calls from organizations with whom a consumer has established a business relationship, or to whom the customer has provided prior, written consent.
- Calls which are not commercial or do not contain unsolicited advertisements.
- Calls by or on behalf of nonprofit tax-exempt organizations.

Company-specific do-not-call lists are available for consumers who do not wish to receive calls from a particular company.

The Do Not Call Registry launched in 2009 to protect consumers’ home telephone numbers from unwanted commercial calls. Over 200 million phone numbers are currently registered on this list. One must register any new or changed phone number on the list to enjoy the protections of the registry. It stops most commercial calls, although there are some exceptions for

any business consumers have previously done business with and some exceptions for local businesses. It also does not apply to nonprofit organizations, bill collectors, pollsters and some other organizations.

According to the U.S. Federal Trade Commission (FTC), this is how a consumer can register a home phone number on the Do Not Call List:

You may register online at donotcall.gov, provided you have a working email address, or by phone, by calling toll-free 1-888-382-1222 (TTY: 1-866-290-4236) from the number you wish to register. Registration is free.

If you register by phone, you must call from the number you want to register. If you register online, you must provide an email address for confirmation. The system will send you a confirmation email that you will have to open. Click on the link in it within 72 hours for your online registration to be complete.

31 days after registration is complete, its protections apply to the consumer. If one still receives such commercial calls, one can file a complaint at donotcall.gov or call 1-888-382-1222 (TTY: 1-866-290-4236). Unfortunately, one needs to know the company's name or phone number which can be a problem with some persistent callers, unless one has caller ID. One also needs the date of the call. There are real teeth to this – a fine of \$16,000 per illegal call.

If you get a random text message from a number you don't recognize that says you won something or asks you to confirm some personal information, the FTC advises that you do not text back or click on links. Instead, the FTC says you should report it to your provider at 7726 (SPAM) and to the FTC at ftc.gov/complaint or 1-888-382-1222.

Finally, there are a number of smartphone apps you can download to block spam texts. ◀