



Fundraising For Nonprofits

Under The FTC's New Telemarketing Sales Rule & DMA Guidelines

KEY

TSR Requirements For 3rd Parties Calling On Behalf Of Nonprofits

TSR Requirements For 3rd Parties Calling On Behalf Of Nonprofits
AND

DMA Guideline Requirements For Nonprofits & Marketers

Are You Covered By The Rule?

- Are you a for-profit calling consumers interstate on behalf of nonprofits? (e.g., soliciting donations, catalog sales, etc.)



The Rule Does **Not** Apply If You Are:

- A nonprofit using your own employees or volunteers to solicit donations or sales, but DMA Guidelines do apply (see yellow boxes.)
- Making business-to-business calls placed by nonprofits or third parties calling on behalf of nonprofits.
- Making intrastate calls placed by nonprofits or third parties calling on behalf of nonprofits.

You Must Honor In-House Suppress Requests

By scrubbing numbers of consumers (prospects & customers) who don't want to be contacted by your company from your company's telephone marketing list.
Article #31, DMA Guidelines for Ethical Business Practice

Call During Appropriate Hours:

- Make sure your call is received between 8 A.M. - 9 P.M.
Sec. 310.4(b)(4)(c) p. 254
- Make sure you check state laws for more restrictive calling hours and note some state laws apply directly to nonprofits.
<http://www.the-dma.org/guidelines/tsr-guide.pdf>

Transmit Caller ID

- You cannot block transmission,
- You must include phone number of seller, service bureau or customer service number that will be answered during normal business hours, and
- You must also include name of seller or service bureau when technology is available.

Effective January 29, 2004

Sec. 310.4(a)(7) p.251

Do You Contact Consumers Or Donors With Pre-recorded Messages?

YES

Note: Conflict Exists Between FCC & FTC

- FCC - would allow nonprofits and third parties calling on behalf of nonprofits to use pre-recorded marketing or solicitation messages.

- FTC - would ban this practice all together after Oct. 1.

Bottom Line: watch for FCC's final ruling to decide how to proceed after Oct. 1.

NO

Do You Use Predictive Dialers Or Other Automatic Dialing Technology?

NO

You Must Connect The Call To A Live Representative Within 2 Seconds Of The Consumer's Completed Greeting
(if you don't, call is considered abandoned even if it's answered by a live rep. after the 2 seconds)
Effective October 1, 2003

You Must Either Connect The Call To A Live Representative Within 2 Seconds Of The Consumer's Completed Greeting
(if you don't, call is considered abandoned even if it's answered by a live rep. after the 2 seconds)
Effective October 1, 2003

OR

You Must Meet Safe Harbor Requirements For Abandoned Calls:

- Allow 15 seconds or 4 rings before disconnecting the unanswered call,
- Set abandoned rates not to exceed 3% per day per calling campaign,
- Play a pre-recorded message that includes company name and phone number, and
- Retain appropriate records for 2 years to show compliance with these requirements.

Effective October 1, 2003
Sec. 310.4(b)(4) pp. 253-254

Provide Promptly To The Consumer:

- 1) Identity of the fundraiser/seller,
- 2) That the purpose of the call is to fundraise or sell goods or services, and
- 3) The nature of the goods or services.

You may not misrepresent purpose of the charity, tax deductibility, % going to a program, material aspects of prize promotion or affiliation with government entity.

Sec. 310.4(d),(e) p.254. and Article #8 DMA Guidelines for Ethical Business Practice

Did The Consumer Ask To Be Placed On Your Company's DNC List?

NO

YES

Did The Consumer Use A Novel Payment?
(Payment other than by credit or debit card)

Add Consumer To Your Company's DNC List And End Call
Sec. 310.4(b)(1)(iii)(A) p. 252
Article #31 DMA Guidelines for Ethical Business Practice

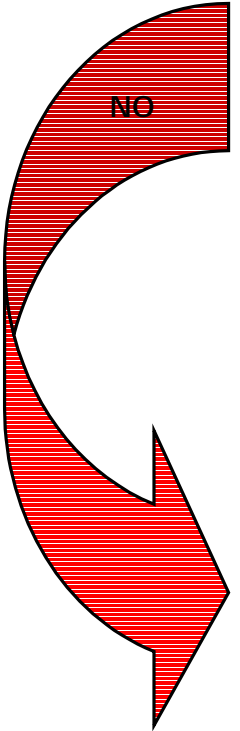
YES

Obtain:
- Customer's signature,
- Taped customer authorization, or
- Written confirmation sent prior to submission for payment
Effective March 31, 2003
Sec. 310.3(a)(3)(i-iii) pp. 247-248

Is Your Campaign A
Negative Option/Continuity Program?

NO

Do You Have
Preacquired Account Info?



YES

YES

NO

Notify Donors/Subscribers:
1) Accounts will be charged unless they take affirmative action to avoid the charge,
2) Date the charge will be submitted for payment, and
3) Specific steps they can take to avoid charges.
Effective March 31, 2003
Sec. 310.3(a)(1)(vii) p. 246

1) Fundraiser/seller must identify with specificity the account that will be charged, and
2) Obtain consent from the consumer to charge such account.
Effective March 31, 2003
Sec. 310.4(a)(6)(ii)(A-B) p. 251

You Must Get:
Informed consumer consent for payment.
Effective March 31, 2003
Sec. 310.4(a)(6) p. 250



Do You Have Preacquired Account Info?



Is This A Free-To-Pay Conversion Program?



1) Fundraiser/seller must identify with specificity the account that will be charged, and
2) Obtain consent from the consumer to charge such account
Effective March 31, 2003
Sec. 310.4(a)(6)(ii)(A-B) p. 251

1) Obtain from the customer the last 4 digits of the account to be charged,
2) Obtain consent from the consumer to charge such account, and
3) Audio-record the entire transaction.
Effective March 31, 2003
Sec. 310.4(a)(6)(i)(A-C) pp. 250-251

Is This An Upsell?
Each upsell is a separate transaction, not continuation of initial transaction.
If novel payments, negative option, preacquired account info, and/or free-to-pay conversion are used then all previous relevant disclosures must be repeated.

Internal Upsell?
(same seller)

External Upsell?
(different seller)



Provide Any New Disclosures Not Initially Provided
Effective March 31, 2003

Provide Promptly To The Consumer:
1) Identity of the fundraiser/seller,
2) That the purpose of the call is to sell goods/services or raise funds, and
3) The nature of the goods or services.
Effective March 31, 2003
Sec. 310.4(d), (e) p.254

Charge Or Debit Customer's Account.
And Don't Forget - Keep Those Records For 24 Months!
Sec. 310.5 pp. 255-256

