

Do Not Call Rules – Telemarketing & Robocalls

What Rules Govern Telemarketing Efforts by Real Estate Licensees?

There are four primary laws: The “FCC” Telephone Consumer Protection Act; The “FTC” Telemarketing Sales Rules; California laws that govern unsolicited and unwanted telephone solicitations; and The California Public Utility Code – that only regulates robocalls.

A Real Estate Broker Should Establish Telemarketing Office Policies to Comply with these Rules as Follows:

- Have a written policy, available upon demand, for maintaining a do-not-call list;
- Train telemarketing persons on the existence and use of the federal do-not-call list;
- Prohibit your telemarketers from initiating telephone solicitations to those on the do-not-call list;
- Your telemarketers can call those on the do-not-call list if there is (a) written permission; or (b) an established business relationship or (c) a personal relationship;
- Whoever requests not to be called must be placed on a company-specific do-not-call list within 30 days of the request and the request must be honored for 5 years;
- Your telemarketer must provide the called party with the name, telephone number and address of the person or entity on whose behalf the call is being made;
- Calls should not be made before 8 a.m. or after 9 p.m. (local time at the called party’s location);
- An unanswered call should not be disconnected prior to at least 15 seconds or four rings;

To Avoid Liability when A Person on the Do-Not-Call List is Mistakenly Called, You Must Meet these Requirements:

1. The office policy provisions above have been established;
2. The broker maintains a list of telephone numbers that may not be contacted;
3. The broker maintains a process to prevent calls to those on the do-not-call list and maintains a version of the national do-not-call registry obtained from the administrator of the registry no more than 31 days prior to the date any call is made, and provides records documenting this process; AND
4. The broker maintains a process to ensure that (a) the do-not-call database is not used for any purpose other than compliance with state and federal law; and (b) the cost of accessing the do-not-call database is not shared with other companies.

Robocalls Rules

- Robocalls rules apply to automated telephone dialing systems (ATDS) with the capacity to store or dial numbers using a random or sequential number generators. But curated lead lists which are specific numbers are not subject to this rule unless the call uses artificial or prerecorded messages.
- Telemarketers may not initiate robocalls without the express written consent of the called party.
- Robocalls must: (a) be made between 9 a.m. and 9 p.m. **in the time zone of the intended recipient of the call**; (b) be introduced by a live person; and (c) get the consent of the person called. The only applicable exceptions are for robocalls to a known party, business party, customer, or one who has agreed beforehand to receive robocalls.

Deceptive or Abusive Practices

Deceptive and abusive telemarketing acts or practices are prohibited.