

47 U.S.C. § 227 – Telephone Consumer Protection Act

(a) Definitions. As used in this section--

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(4) The term “telephone solicitation” means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person’s prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

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(e) Prohibition on provision of inaccurate caller identification information

(1) In general

It shall be unlawful for **any person** within the United States, in connection with any telecommunications service or IP-enabled voice service, to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value, unless such transmission is exempted pursuant to paragraph (3)(B).

(2) Protection for blocking caller identification information

Nothing in this subsection may be construed to prevent or restrict any person from blocking the capability of any caller identification service to transmit caller identification information.

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(6) Enforcement by States

(A) In general

The chief legal officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as parens patriae, on behalf of the residents of that State in an appropriate district court of the United States to enforce this subsection or to impose the civil penalties for violation of this subsection, whenever the chief legal officer or other State officer has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this subsection or a regulation under this subsection.

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(8) Definitions

For purposes of this subsection:

(A) Caller identification information

The term “caller identification information” means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service.

(B) Caller identification service

The term “caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service. Such term includes automatic number identification services.

(C) IP-enabled voice service

The term “IP-enabled voice service” has the meaning given that term by section 9.3 of the Commission’s regulations (47 C.F.R. 9.3), as those regulations may be amended by the

Commission from time to time.

(9) Limitation

Notwithstanding any other provision of this section, subsection (f) shall not apply to this subsection or to the regulations under this subsection.

(f) Effect on State law

(1) State law not preempted

Except for the standards prescribed under subsection (d) of this section and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

(B) the use of automatic telephone dialing systems;

(C) the use of artificial or prerecorded voice messages; or

(D) the making of telephone solicitations.

* * *

(g) Actions by States

(1) Authority of States

Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive \$500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

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**Applicable Regulations Under 47 U.S.C. § 227:
47 C.F.R. § 64.1200; 47 C.F.R. §§ 64.1600-64.1605**

47 C.F.R. § 64.1200(f):

(f) As used in this section:

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(9) The term seller means the person or entity on whose behalf a telephone call or message is initiated for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

* * *

(11) The term telemarketer means the person or entity that initiates a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

(12) The term telemarketing means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

* * *

(14) The term telephone solicitation means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message:

- (i) To any person with that person's prior express invitation or permission;
- (ii) To any person with whom the caller has an established business relationship; or
- (iii) By or on behalf of a tax-exempt nonprofit organization.

47 C.F.R. §§ 64.1600-64.1605:

§ 64.1600. Definitions

(a) Aggregate information. The term “aggregate information” means collective data that relate to a group or category of services or customers, from which individual customer identities or characteristics have been removed.

(b) ANI. The term “ANI” (automatic number identification) refers to the delivery of the calling party's billing number by a local exchange carrier to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

(c) Caller identification information. The term “caller identification information” means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or interconnected VoIP service.

(d) Caller identification service. The term “caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or interconnected VoIP service.

(e) Calling party number. The term “Calling Party Number” refers to the subscriber line number or the directory number contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network.

(f) Intermediate Provider. The term Intermediate Provider means any entity that carries or processes traffic that traverses or will traverse the PSTN at any point insofar as that entity neither originates nor terminates that traffic.

(g) Charge number. The term “charge number” refers to the delivery of the calling party's billing number in a Signaling System 7 environment by a local exchange carrier to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

(h) Information regarding the origination. The term “information regarding the origination” means any:

- (1) Telephone number;
- (2) Portion of a telephone number, such as an area code;
- (3) Name;
- (4) Location information;
- (5) Billing number information, including charge number, ANI, or pseudo-ANI; or
- (6) Other information regarding the source or apparent source of a telephone call.

(i) Interconnected VoIP service. The term “interconnected VoIP service” has the same meaning given the term “interconnected VoIP service” in [47 CFR 9.3](#) as it currently exists or may hereafter be amended.

(j) Privacy indicator. The term “Privacy Indicator” refers to information, contained in the calling party number parameter of the call set-up message associated with an interstate call on an

Signaling System 7 network, that indicates whether the calling party authorizes presentation of the calling party number to the called party.

(k) Signaling System 7. The term “Signaling System 7” (SS7) refers to a carrier to carrier out-of-band signaling network used for call routing, billing and management.

§ 64.1601. Delivery requirements and privacy restrictions

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(e) Any person or entity that engages in telemarketing, as defined in [section 64.1200\(f\)\(10\)](#) must transmit caller identification information.

(1) For purposes of this paragraph, caller identification information must include either CPN or ANI, and, when available by the telemarketer’s carrier, the name of the telemarketer. It shall not be a violation of this paragraph to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller on behalf of which the telemarketing call is placed and the seller’s customer service telephone number. The telephone number so provided must permit any individual to make a do-not-call request during regular business hours.

(2) Any person or entity that engages in telemarketing is prohibited from blocking the transmission of caller identification information.

(3) Tax-exempt nonprofit organizations are not required to comply with this paragraph.

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§ 64.1604. Prohibition on transmission of inaccurate or misleading caller identification information

(a) No person or entity in the United States shall, with the intent to defraud, cause harm, or wrongfully obtain anything of value, knowingly cause, directly or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information.

(b) Exemptions. Paragraph (a) of this section shall not apply to:

(1) Lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States; or

(2) Activity engaged in pursuant to a court order that specifically authorizes the use of caller identification manipulation.

(c) A person or entity that blocks or seeks to block a caller identification service from transmitting or displaying that person or entity’s own caller identification information pursuant to [§ 64.1601\(b\)](#) of this part shall not be liable for violating the prohibition in paragraph (a) of this section. This paragraph (c) does not relieve any person or entity that engages in telemarketing, as defined in [§ 64.1200\(f\)\(10\)](#) of this part, of the obligation to transmit caller identification information under [§ 64.1601\(e\)](#).

Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101-6108

§ 6102. Telemarketing rules

(a) In general

(1) The [Federal Trade Commission] shall prescribe rules prohibiting deceptive telemarketing acts or practices and other abusive telemarketing acts or practices.

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§ 6103. Actions by States

(a) In general

Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule of the Commission under [section 6102](#) of this title, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such telemarketing, to enforce compliance with such rule of the Commission, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

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(f) Actions by other State officials

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a) of this section, such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

§ 6104. Actions by private persons

(a) In general

Any person adversely affected by any pattern or practice of telemarketing which violates any rule of the Commission under [section 6102](#) of this title, or an authorized person acting on such person's behalf, may, within 3 years after discovery of the violation, bring a civil action in an appropriate district court of the United States against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of \$50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule of the Commission under [section 6102](#) of this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

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§ 6106. Definitions

For purposes of this chapter:

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(4) The term “telemarketing” means a plan, program, or campaign which is conducted to induce purchases of goods or services, or a charitable contribution, donation, or gift of money or any other thing of value, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description, or illustration of the goods or services offered for sale,
 (B) includes the business address of the seller,
 (C) includes multiple pages of written material or illustrations, and
 (D) has been issued not less frequently than once a year,
 where the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation.

Applicable Regulations Under Telemarketing and Consumer Fraud and Abuse Prevention
16 C.F.R. §§ 310.2; 310.4(a)(8)

§ 310.2. Definitions

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(d) Caller identification service means a service that allows a telephone subscriber to have the telephone number, and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber's telephone.

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(n) Customer means any person who is or may be required to pay for goods or services offered through telemarketing.

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(p) Donor means any person solicited to make a charitable contribution.

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(dd) Seller means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration.

* * *

(ff) Telemarketer means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

(gg) Telemarketing means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which: contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term "further solicitation" does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer's call or in a substantially similar catalog.

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§ 310.4. Abusive telemarketing acts or practices

(a) Abusive conduct generally. It is an abusive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

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(8) Failing to transmit or cause to be transmitted the telephone number, and, when made available by the telemarketer's carrier, the name of the telemarketer, to any caller identification service in use by a recipient of a telemarketing call; provided that it shall not be a violation to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller or charitable organization on behalf of which a telemarketing call is placed, and the seller's or charitable organization's customer or donor service telephone number, which is answered during regular business hours;

Vermont: S.72

(2) "Caller identification information" means information a caller identification service provides regard the name and number of the person calling.

(3) "Caller identification service" means a service that allows a subscriber of the service to have the telephone number, and where available, the name of the calling party transmitted contemporaneously with the telephone call and displayed on a device in or connected to the subscriber's telephone.

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(3)(A) A telephone solicitor engaged in a telephone solicitation shall transmit, or cause to be transmitted, to a caller identification service in use by a consumer:

(i) the telephone solicitor's telephone number; and

(ii) if made available by the telephone solicitor's carrier, the telephone solicitor's name.

(B) Notwithstanding subdivision (3)(A) of this subsection, a telephone solicitor may substitute for its own name and number the name and the number, which is answered during regular business hours, of the person on whose behalf the telephone solicitor makes the telephone solicitation.

New York: MGBL § 399-pp

n. "Caller identification information" means information provided by a caller identification service regarding the telephone number and name of the person calling.

o. "Caller identification service" means a service that allows a telephone subscriber to have the telephone number, and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber's telephone.

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7-a. Unlawful transmission of certain caller identification information. It shall be unlawful for any telemarketer or seller to cause any caller identification service to knowingly transmit misleading, inaccurate, or false caller identification information, provided that it shall not be a violation to substitute (for the name and phone number used in, or billed for, making the call) the name or telephone number of the person or seller on behalf of which a telemarketing call is placed.