

**Office of the
Attorney General**

Telephone Solicitation



AUGUST 2004

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State of Idaho Office of Attorney General Lawrence Wasden

Dear Fellow Idahoan:

Telemarketing is a significant and legitimate business. At the same time, many Idahoans have suffered financial losses due to deception by unscrupulous telemarketers. Similarly, Idahoans report that the large number of calls they receive disturbs their peace and interrupts their family life.

My office created this pamphlet to help Idaho consumers understand how they can protect themselves from the deceptive telemarketer. While we will win our battles in the courtroom, the best defense against telemarketing fraud is a consumer knowledgeable of his or her rights.

This pamphlet also discusses Idaho's No Call Law and the Federal Trade Commission's national Do Not Call Registry. I encourage Idahoans who want to receive fewer calls to register for these services.

I hope that the information contained in this pamphlet will minimize the problems with deceptive and unwanted telephone solicitations.

Sincerely,

LAWRENCE G. WASDEN
Attorney General

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INTRODUCTION

While many telemarketers are engaged in legitimate business, many people report deception by telemarketers. In response, the legislature enacted the Idaho Telephone Solicitation Act. This law grants consumers certain rights and places specific duties upon telephone solicitors. It is designed to safeguard the public against deception and financial hardship.

The best way to combat deceptive telemarketers is to be informed. Take time to research a business and to carefully consider a purchase before finalizing it.

Many people are also tired of the volume of calls they receive. At the request of the Office of the Attorney General, the legislature enacted Idaho's No Call Law for Idaho citizens. This law allows Idahoans who do not want to receive telephone solicitations to register their residential and mobile telephone numbers. It is unlawful for telemarketers to call any registered number.

TERMINOLOGY

Here are definitions of some of the frequently used terms related to telephone solicitation.

- “Unsolicited” means any offer of goods or services that is presented to someone without the person’s prior invitation or permission.

- “Telephone solicitor” or “telemarketer” means any person who makes unsolicited phone calls to a consumer for the purpose of asking, inviting, or encouraging the consumer to purchase or invest in goods or services. A person who makes such calls is a “telephone solicitor” whether he calls on his own behalf, for another company, or through use of an automatic dialing device. The definition includes a caller offering free gifts, awards, or prizes when it is intended that the recipient of the call will make an agreement to purchase goods or services during the course of the phone call or return phone call.
- “Written confirmation” means that the purchaser receives, in writing, all of the following information:
 1. the date of purchase,
 2. the telephone solicitor’s complete address and telemarketer registration number,
 3. a listing of all goods and/or services purchased,
 4. a listing of the price of each good and/or service purchased,
 5. the total amount of the purchase made by the purchaser, and

6. the required notice of cancellation.

IDAHO'S TELEMARKETING LAW

Consumer Rights

Under the Telephone Solicitation Act, consumers are entitled, in most situations, to:

- receive written confirmation regarding any purchase of goods or services made during the course of a telephone call,
- request and be provided with an itemized billing of goods or services purchased,
- cancel any purchase made over the phone, without obligation, up to three (3) business days after receiving written confirmation, and
- pursue a private lawsuit against a telemarketer who has engaged in deceptive and/or misleading selling tactics during an unsolicited sales call.

Notice of Cancellation

As noted, a consumer may cancel a telephone sales transaction, without penalty or obligation, within three (3) business days of the date on which the consumer receives written confirmation of the purchase.

The business must return payments made by the consumer within ten (10) business days of receiving the cancellation notice.

When a consumer cancels a transaction, the consumer must return the goods to the business within 21 days of the date the refund is received.

To cancel the transaction, the consumer must deposit in the mail or deliver a written cancellation notice, signed and dated. This must be done no later than midnight of the third business day after receiving the written confirmation of the purchase.

Contact the business for its return mailing address if the business does not clearly provide a return mailing address.

Telemarketer Responsibilities

- Telemarketers must clearly state that they are making a sales call.
- A telemarketer must clearly identify the company and the nature of the product or service being offered for sale.
- If the call is in regard to a prize promotion, the telemarketer must state that “no purchase or payment is necessary to win.” (This must be clearly explained to the consumer before, or with, the prize description.)

- Upon the request of a consumer, telemarketers must disclose their telemarketing registration number that has been assigned by the Idaho Attorney General's Office. The registration number does not indicate that the Attorney General's Office is endorsing the business, it is simply for reference and record keeping purposes.
- Telemarketers are restricted to making phone calls between the hours of 8 a.m. and 9 p.m. They may call seven days a week and on holidays.

Unlawful Acts

It is unlawful for a telephone solicitor to:

- intimidate or torment any person in connection with a telephone solicitation,
- fail to hang up and free a consumer's telephone line immediately upon request,
- misrepresent the price, quality, or availability of goods or services being offered for purchase,
- use any device or method that may block the phone number or mislead the recipient as to the identity of the solicitor on a caller identification device, (NOTE: Due to their location, some telephone numbers may display as "unavailable" or "out of area.")

- advertise, represent, or imply that they have approval or endorsement of any government office or agency unless such is a fact. (It is a good idea for consumers to verify this with the government agency directly before making a purchase with the organization.)

The Attorney General's Office does not endorse businesses or solicitations. If a telemarketer claims that the office has endorsed a telemarketer or his products, the consumer should consider the claim false and report the false claim to the Attorney General.

THE NO CALL LAWS

There are two No Call Laws, one state and one federal, that offer protection from unwanted telemarketing calls to Idaho residents.

Registering for the No Call Laws

The Attorney General encourages Idahoans who do not want to receive telephone solicitations to register their residential and mobile phone numbers. Registration is free.

To register, go to the Attorney General's Internet site (www.ag.idaho.gov) and follow the links to the Federal Trade Commission's registration site. Registered phone numbers are covered under both Idaho's No Call Law and the National No Call Law.

Idaho's No Call Law

Idaho's No Call Law helps Idaho consumers reduce the number of unwanted phone solicitations. Consumers may place their household and mobile phone numbers on a registry of people who do not wish to be contacted by telephone solicitors. Telemarketers may not call registered phone numbers. A telemarketer who does call a registered number can face court action and civil penalties under state law.

The National No Call Law

The Federal Trade Commission (FTC) administers the National Do Not Call Registry. The National Do Not Call Law operates similarly to Idaho's No Call Law. When you register on the FTC registry, your numbers are covered by both the state and the federal No Call Laws.

Exempt Calls

Some calls are not actually "telephone solicitations" as that term is defined in the law. The No Call Laws do not cover such calls.

Examples of exempt calls are:

- calls seeking a charitable donation,
- calls conducting a survey or doing research,

- calls from a business to customers who have an established and existing business relationship with the company.

CONSUMER TIPS

- You don't have to answer your telephone every time it rings. If the call is important, the caller will call back.
- If you are receiving unwanted telephone solicitations, consider registering your telephone number on the Federal Trade Commission's Do Not Call Registry. This will give you the protection of both state and federal No Call Laws.
- If you have an answering machine or voice mail, add a short message to remind callers that your household does not accept solicitation calls.
- If you are not on the Do Not Call Registry and do not want to take a sales call, simply hang up the phone or ask the caller not to phone back.
- If your number is on the Do Not Call Registry and you receive an unlawful call, file a written complaint with the Attorney General's Consumer Protection Unit. You can file a No Call complaint on the Attorney General's Internet site or print a complaint form from the Internet site and mail it to the office.

- If you consider purchasing from a telemarketer, ask the solicitor to send you written details of the goods or services being provided before you agree to a purchase. This will allow you time to carefully consider your purchase. It will also assure that you have all the caller's promises in writing.

UNSOLICITED FAXES

Unsolicited Fax advertising is illegal in Idaho.

Businesses and residences receive unsolicited advertising over their fax machines every day. Many of these ads promote low cost vacations and the prices frequently seem too good to be true. These so-called "vacations" usually turn out to be opportunities for time-share presentations. Other common unsolicited fax advertising includes stock promotions and advertisements for business products.

The majority of these ads are directed to small business owners. The ads are frequently "fax blasted" by third party marketing companies. While the products and services offered may be legitimate, this form of advertisement is not.

Unsolicited fax ads can be frustrating and very expensive for the recipients. The advertiser is using the recipient's resources, paper, toner, electricity and time to advertise its products or services.

The Office of Attorney General enforces the law prohibiting unsolicited fax advertisements. You may file a complaint with the Consumer Protection Unit.

Funds collected by the Attorney General's Consumer Protection Unit as the result of enforcement actions paid for this pamphlet. No tax monies were used to pay for this publication.

The Consumer Protection Unit enforces Idaho's consumer protection laws, provides information to the public on consumer issues, and offers an informal mediation process for individual consumer complaints.

If you have a consumer problem or question, please call 208-334-2424 or in-state toll-free 1-800-432-3545. TDD access and Language Line translation services are available. The Attorney General's web site is available at www.ag.idaho.gov.