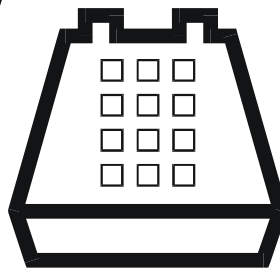


FACTS

for Business



Complying with the Telemarketing Sales Rule



Guidelines for Managers of Telemarketing Enterprises Who Sell Magazine Subscriptions



As the supervisor of a telemarketing sales force, you know that your employees' communications with prospective magazine subscription purchasers must be clear and courteous, and that their sales solicitations must be accurate, truthful, and complete. It makes good business sense — and it's the law.

Through its enforcement of the Telemarketing Sales Rule and other laws, the Federal Trade Commission regulates the telephone sale of consumer products, including magazine subscriptions. The Telemarketing Sales Rule requires that you keep certain records about advertising and promotional materials, recipients of prizes of \$25 or more, sales, sales employees, and verifiable approvals for demand drafts for two years from the date that records are made.

The FTC and the Magazine Publishers of America have written this guide for telemarketing professionals who sell magazine subscriptions.

Initial Contact: After You've Said Hello

When you are making an outbound call, you must disclose clearly and promptly, prior to the consumer's purchase, and in a way that is unlikely to mislead the consumer:

- That the purpose of your call is to sell magazine subscriptions.
- Who is selling the magazine subscriptions.
- A description of the magazine subscriptions you are selling.

You must not misrepresent the reasons why the consumer was chosen for the call. You may not suggest that the consumer was "specially" selected because he or she is a "good customer," a contest winner, or a survey participant — unless that is true.

Prize Promotions: You Never Have to Pay to Play

If you are offering a prize promotion in connection with an outbound call solicitation, you must state clearly and promptly, and prior to purchase, that no purchase is necessary to play or to win. You also must disclose:

- A description of any prize you offer in the sales promotion and a statement of its value.
- The "no purchase/no payment" way consumers can participate in the prize promotion with instructions on how to participate, or an address or toll-free telephone number where consumers can get instructions on how to participate.
- The odds of winning the prize in the promotion or the factors used to calculate the odds.
- Any material costs, restrictions, limitations, or conditions on receiving, redeeming or using a prize that you offer in the promotion.

Sympathy Appeals and Enticements: No Lies Allowed

The law does not allow you to make false statements to encourage a purchase.

Specifically, you must not falsely state that:

- You are affiliated with an educational, charitable, social, or governmental organization or cause, that you are selling subscriptions on their behalf, or that they will receive part of the sales proceeds.
- The consumer's subscriptions will be distributed as gifts to educational, charitable, social, or governmental organizations or causes.
- The consumer's relatives or friends will receive free gift subscriptions.
- You are working your way through school or competing for a scholarship or in a contest. That is, you must not make false statements to create a sympathy appeal about yourself — including claiming illness, disease, disability, or low-income or student status.
- Consumers will receive free gifts, goods, or services with the purchase of magazine subscriptions unless the subscription costs the same as or less than the regular subscription price (or "basic" subscription price published in the magazine).
- The subscription is available at a special or reduced rate unless the cost of the subscription is less than the regular subscription price (or "basic" subscription price published in the magazine) and less than the price that similar subscriptions have been sold in substantial quantities to similar consumers.
- The subscription is being offered free unless the cost of any other subscription(s) or other products that the consumer must purchase to get the free subscription is no more than the cost the consumer must pay to buy the other subscription(s) or other products without receiving the free subscription.
- The subscription is available at a reduced rate because the consumer will be charged only for postage or for shipping and handling.

Payment and Subscription Terms: Just the Facts

Before the consumer buys any subscription, you must clearly state:

- The total costs of the subscription(s); if you state the price of installment payments, you must give the amount of each installment and the total number of installment payments.
- The name and duration of each magazine subscription in your solicitation, including the number of issues or frequency of each subscription.
- A description of all material restrictions on the subscriptions, including the amount of any down payment that is required or the form of payment that is required.

Consumer Authorization For Payment: Getting The Okay

If you ask consumers for their bank account numbers to facilitate payment through “phone checks” or “demand drafts,” you must get the consumer’s advance “express verifiable authorization.” You can do this in one of three ways:

- By getting advance written authorization,
- By tape recording the consumer giving express oral verification, or
- By sending written confirmation of the transaction to the consumer before you submit the draft for payment.

At the same time, you must not:

- Bill a consumer’s credit card without their express authorization.
- Mislead a consumer about the reason you are asking for account information.
- Invoice the consumer for the subscription orders unless the consumer has expressly ordered the subscription.

Cancellation and Refund Rights: The Fine Print

You must not misrepresent the consumer’s right to cancel. Before the purchase, you must clearly and truthfully disclose:

- Any “no refund” or “no cancellation” policy, if you have such a policy.
- If you talk about refund, cancellation, exchange or repurchase options during your solicitation, you must disclose all material terms and conditions of your refund and cancellation policy.
- If you have a policy of accepting cancellations or making refunds or exchanges, you don’t have to raise the subject. But if you do — or if the consumer requests information — you must clearly disclose all material terms and conditions of your refund, cancellation or exchange policy.

Order Fulfillment: Delivering the Magazines

You may not sell subscriptions to — and accept payment for — magazines that you have no authority to sell.

It’s not necessary to mention when the first issue of each magazine subscription order will be shipped to the consumer if you have a reasonable basis to expect that it will be shipped within 30 days of the order (or 50 days if the consumer applies for credit).

However, it is necessary to:

- State clearly how long you reasonably expect it will take before the first issue of each magazine subscription order is shipped if that time period will be more than 30 days (or 50 days if credit is requested) from the order; and
- If first shipment is delayed beyond 30 days (if no shipment time was stated) or beyond the shipment time stated, you must then offer the consumer the option to accept a new delayed shipment date that you have reason

to believe will be met, or to cancel the subscription and get a full refund.

Guarantees and Bonds

You must not:

- Falsely describe any guarantees you make about the placement, fulfillment, or delivery of the magazine subscription orders.
- Make false statements about the fact that you are bonded — or about the nature or conditions of your bond.

Assisting in Deceptive Telemarketing Practices: Who Are You Dealing With?

You should take reasonable steps to determine whether someone is engaged in any deceptive telemarketing practice before you assist them. According to the Telemarketing Sales Rule, you must not provide substantial assistance or support for another seller or telemarketer if you know — or consciously avoid knowing — that he or she is engaged in deceptive practices. Support includes, but is not limited to sponsoring promotions, sending confirmation letters, prize certificates and bonuses to consumers for another seller or telemarketer, or billing consumers' credit cards.

Restrictions on Phone Calls and Abusive Practices: Respecting the Customer

You must not:

- Threaten, intimidate, or use obscene language when you make sales calls.
- Cause a phone to ring or engage consumers in phone conversations, repeatedly or con-

tinuously, to annoy, abuse, or harass the person who answers the phone.

- Call consumers who have previously said they do not wish to get calls from you or the seller of the magazine subscriptions that you are selling.
- Call consumers' homes earlier than 8 AM or later than 9 PM local time — unless you have their permission in advance.

For more information about complying with the Telemarketing Sales Rule, contact:

Federal Trade Commission
Consumer Response Center
600 Pennsylvania Avenue, NW
Washington, DC 20580
Toll-Free 1-877-FTC-HELP (382-4357)
www.ftc.gov

If your business has been a victim of fraud, you can file a complaint with the FTC by contacting the Consumer Response Center or by using the online complaint form at www.ftc.gov. Although the Commission cannot resolve individual problems, it can act if it sees a pattern of possible law violations.

The FTC publishes free brochures on many business and consumer issues. For a complete list of publications, visit the FTC online at www.ftc.gov. Click on Consumer Protection. Or, write for Best Sellers, Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580; or call toll-free 1-877-FTC-HELP (382-4357), TDD: 202-326-2502.



Federal Trade Commission
Bureau of Consumer Protection
Office of Consumer and Business Education