



# Fricke & Associates, P.C.

## CERTIFIED PUBLIC ACCOUNTANTS

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Hi, . Here are your Articles for September 17, 2013.

### Pay Attention When They Say 'Don't Call'

**The national do-not-call list is in effect**, and although non-profit organizations are generally exempt from the regulations, the rules may significantly affect your operations.

Charities, religious and political organizations, as well as their paid and volunteer staff, are generally exempt from the do-not-call rule. Surveys that don't involve solicitations are also exempt.

However, although calls made directly by those organizations are not covered by the Federal Trade Commission (FTC) regulations, calls made *for them* by professional, for-profit telemarketers are covered. In other words, you must ensure that firms working for your not-for-profit organization comply with the law.

To keep telemarketing efforts within the law, be aware of the following regulations:

**1. Mailing lists.** Under some circumstances, giving a for-profit telemarketer access to your mailing list can get your organization in trouble. For example, if the telemarketer uses your list and violates the FTC regulations, your organization could be found to have assisted and facilitated fraudulent activity. A state's attorney general could file suit.

**2. Operating hours.** Soliciting phone calls cannot be made before 8 a.m. or after 9 p.m. Exceptions require the consent of the person called.

**3. Disclosure.** Callers working for you must make clear:

- Your organization's identity.
- The purpose of the call is to solicit a contribution.
- The nature of any goods or services being offered.

In the case of a prize promotion, the fact that no purchase is necessary to win.

**4. Pretense.** Callers cannot misrepresent their affiliation with your organization, your group's charitable status, endorsement by you, or the tax-deductibility of the contribution.

**5. Do-not-call policies.** You cannot call numbers listed on the no-call registry or any individual who asks you not to call again. Your organization or its hired telemarketer must keep a list of people who don't want to be contacted. Institute a written policy and train telemarketing personnel in the procedures. If a call is inadvertently made, there could be an investigation into the effectiveness of your policy, its use, and the training.

### Federal and State Regulations

More than half of the states have some type of no-call *intrastate* registry and require telemarketers to maintain up-to-date lists of consumers who asked not to be called.

The national do-not-call list expands this to regulate *interstate* soliciting and to cover states that don't have a no-call system.

All the rules are aimed at protecting donors and consumers from fraud or harassing phone calls. A violation of the FTC rule carries penalties of as much as \$10,000.

The FTC rule defines telemarketing as any "*plan, program, or campaign ... 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.*"

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**Bottom Line:** Monitor all firms you contract with and maintain control over solicitations to ensure your organization's integrity is protected. The rules can also help your organization save time and money by not wasting solicitation efforts on people who don't want to be called and aren't likely to make a contribution.

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