



American Teleservices Association

Consumer Guidelines: Using the Telephone Wisely

ATA strives to educate consumers on their rights, responsibilities and the benefits of doing business by phone. Many innocent consumers are victims of telephone fraud each year. You could be too, if you don't know the basic guidelines of doing business on the phone.

A survey conducted by the National Fraud Information Center (NFIC), a project of the National Consumers League, indicates that scam artists target those least able to afford the loss or resist their pitch (the very young, the very old, the disabled, those living on fixed incomes and those with a poor command of the English language). Of course, anyone can become a victim of telephone fraud. ATA is dedicated to high ethical standards among its members and has made a strong commitment to protecting the rights of consumers. We are as anxious to stamp out telephone swindlers as you are - maybe more so - as they undermine the credibility of legitimate telemarketers and hurt their business. This section was created to educate you about the ethical standards of telephone marketing and how to spot, stop and report telephone scams.

Telemarketing and telephone fraud are not the same

There was a time when all a company had to do was advertise to get business. Not any more. Competition intensified on a global scale, and the process of reaching consumers and meeting their demands became so complex that new technologies were required. Enter the telephone, which, over the past quarter of a century, has emerged as a significant marketing tool used by "Fortune 500" companies and small businesses alike. The telephone is both efficient and cost-effective. It instantly links consumers to goods, services and information, and it can be applied to everything from order-taking and account management to fundraising and responding to inquiries about merchandise and services.

Telemarketing is also a rapidly growing alternative to traditional retail shopping. Calls can be placed by the consumer (inbound), or by a telemarketer to your residence or business (outbound). Another prime benefit of telemarketing is customer relations. A phone call takes less time than a face-to-face sales call, phone calls can be made more regularly and frequently and you can get a much faster response to your questions or problems. Telephone fraud, on the other hand, involves unfair and deceptive trade practices and high-pressure sales pitches.

Telephone shopping is here to stay

People everywhere rely on the convenience of the telephone to meet their individual needs. An estimated 185 million Americans purchase goods or services by phone each year. Toll-free numbers are used to make purchases, ask questions, compare prices or arrange delivery and service. The telephone is also used to trace bank transactions, find out your loan or credit card balances and make your travel reservations. One may receive calls from insurance companies, publishers, political parties, charities, pollsters and a host of others, both known and unknown to you.

The solution is consumer empowerment

The way to shut down telephone fraud is to shop wisely and report your loss or any suspicious call to the proper authorities as soon as possible. Once you've been the victim of a telemarketing scam, you're branded as an "easy target" and will be called again and again. Scam artists count on their victims being too embarrassed about being conned to report it. Unfortunately, even if you do report it, the chances of getting your money back are slim. When law enforcement agents get close to apprehending fraudulent telemarketers, they change their names and scams and start over again somewhere else. With the passage of the Telephone Consumer Protection Act (TCPA) of 1991 and the Telemarketing and Consumer Fraud and Abuse Prevention Act of 1994 (Telemarketing Sales Rule), Congress safeguarded the rights of consumers and gave state and federal law enforcement agencies more power to track down and prosecute scam operators.

The Basics of Doing Business by Phone

1. Be sure the calling party is legitimate.

Reputable telemarketers will answer your questions about their organization, their product/service, the terms of the offer and the price. Don't hesitate to ask them to call back after you've had time to check them out through the Better Business Bureau (BBB), your state attorney general's office or your local consumer protection office (look in the telephone book under city, county or state government).

2. If you still have doubts, contact the National Fraud Information Center's (NFIC) Fraud Hotline: 800/876-7060 or website: www.fraud.org.

To combat the growing menace of fraud and improve regulation, prevention and enforcement, the NFIC provides information on how to identify possible fraud and directs your complaint to the appropriate federal regulatory agency. The Center is also the source of good advice for older Americans and others who need someone to talk to when they are contacted about "fabulous" offers and "irresistible" opportunities. Spanish-speaking counselors are also available for the convenience of the Hispanic population.

3. Understand the offer being made and the terms and conditions of sale.

Don't be afraid to ask questions, and make sure you keep a record of the following information before agreeing to the purchase:

- The caller's name, the name and address or phone number of the individual, business or other entity on whose behalf the call was made, and the date of the order.
- The total price of the item(s) or services(s), including taxes, delivery charges and the expiration date of the offer.
- The delivery date, and the guarantee, return and cancellation policies. For items to be delivered over time and billed periodically, find out the total purchase price and delivery dates.

4. Learn to say "no" to offers that sound too good to be true.

They usually are. For example, be wary if you're told you've won a prize but have to buy something, pay a fee or prepay taxes to receive it. While some legitimate offers may have a time limit, be careful of high-pressure telephone solicitors who demand that you "send your money today or the deal is off." Offers must be stated clearly and honestly, so that you know exactly what you have committed to and what you will be getting in return before you place your order. If you do send money, make it a check or money order - never send cash!

5. Do not give out personal information - your bank's name, your checking account number, your credit card number and expiration date, or your social security number - until you are sure you're dealing with a reputable organization.

Scam artists can use this information to debit your checking account or charge unauthorized purchases to your credit card. The Telemarketing Sales Rule permits the use of "demand drafts" and "checking account debits" only after the consumer has verified the purchase on tape or in writing.

The ATA supports these two laws, regulated by the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC) respectively, which require telemarketers to:

1. Promptly state in a clear and conspicuous manner their name, the individual business or other entity on whose behalf the call is being placed, that the purpose of the call is to sell a good or service, and a method for re-contacting the seller (address and/or phone number) in case you want to cancel the order or lodge a complaint.
2. If the caller represents a product or service that you are sure you will never want or need - or you don't want to be contacted by phone - just say: "Put me on your 'do not call list.'" Under the TCPA and the Telemarketing Sales Rule, these "do not call" lists of people who do not wish to be contacted again must be maintained by the company whose goods and services are being offered, and a written policy to this effect must be available upon demand. Failure to do so or to properly maintain a "do not call" list can result in legal actions and severe penalties.
3. Both the TCPA and the Telemarketing Sales Rule expressly forbid calls to private residences before 8:00 a.m. or after 9:00 p.m. in the local time zone of the person being called, and any exception must be with the express consent of the called party. State laws may also vary.
4. The TCPA and the Telemarketing Sales Rule require that all telephone service representatives be thoroughly trained on "do not call" procedure or other guidelines.

Any violations of the TCPA regulations should be submitted in writing to the FCC. Any violations of the Telemarketing Sales Rule should be submitted in writing to the FTC or your state attorney general. (See addresses of the FCC and FTC on the back of this brochure.) Keep detailed records so that you can provide accurate information when filing a complaint.

Industry and the consumer - a winning partnership

Telephone fraud is an easily preventable crime. Alert, educated consumers are the best weapons to fight it. To that end, the ATA, as a member of the National Consumers League's Alliance Against Fraud in Telemarketing, a founding member of the FTC Partnership on Consumer Education (for the Telemarketing Sales Rule), strongly encourages you to report any violations or telephone fraud incidents to the NFIC Hotline or the FTC at telephone numbers listed on the back of this brochure.

Answers to commonly asked questions

How can I tell a legitimate offer from a fraudulent one?

Some indicators of a potential telephone scam are:

- high pressure tactics,
- refusal to provide a name and address or phone number for verification,
- the offer of a valuable prize,
- a request for a credit card number without your agreement to buy, or
- an unrealistically low price for the product or service.

What if I don't want to receive any telemarketing calls from a company?

Under the TCPA and the Telemarketing Sales Rule, you have the right to ask to be put on the caller's "do not call" list. You can also send your name, address and telephone number(s) to the Telephone Preference Service, c/o the Direct Marketing Association, P.O. Box 9014, Farmingdale, NY 11735-9014. Companies subscribing to this service receive a list of people who do not want to receive telemarketing calls and then remove these phone numbers from their calling lists.

What if I'm not satisfied with the product or service I ordered by phone?

Before making the purchase, check out the return policy. Under the Telemarketing Sales Rule, telemarketers must inform customers when there is a "no return" policy. Legitimate companies want your business and will be happy to resolve your complaint. If you are not satisfied with the resolution of your complaint, and you purchased by credit card, write to the credit card company and stop payment within 60 days of purchase. (See the back of your credit card statement for guidance on problems with credit card purchases). If you need further assistance, contact your local Better Business Bureau, the National Fraud Information Center, your state attorney general, or your local consumer protection office and file a formal complaint. (To locate your local consumer protection office, check for the consumer affairs department under your city, county, or state government listings in your telephone book). If you feel a telemarketing call is being handled rudely or inappropriately, ask to speak to a supervisor. If you are refused, ask for the company's name and phone number and call back. A reputable firm will wish to correct the problem. If you have any questions that have not been covered in these guidelines, please contact any or all of the following:

American Teleservices Association

3815 River Crossing Parkway, Suite 20
Indianapolis, IN 46240
1-877-779-3974
www.ataconnect.org

National Fraud Information Center

c/o National Consumers League
P.O. Box 65868
Washington, DC 20035
1-800-876-7060
www.fraud.org

Federal Trade Commission

6th & Pennsylvania Avenue, NW
Washington, DC 20580
1-877-FTC-HELP, 202-382-4357
www.ftc.gov

Federal Communications Commission

1919 M Street, NW
Washington, DC 20554
www.fcc.gov