

# Fundraising For Nonprofits

## Under The FTC's New Telemarketing Sales Rule & DMA Guidelines

**KEY**

TSR Requirements For 3rd Parties Calling On Behalf Of Nonprofits

TSR Requirements For 3rd Parties Calling On Behalf Of Nonprofits  
**AND**  
DMA Guideline Requirements For Nonprofits & Marketers

**Are You Covered By The Rule?**

- Are you a for-profit calling consumers interstate on behalf of nonprofits? (e.g., soliciting donations, catalog sales, etc.)



**The Rule Does Not Apply If You Are:**

- A nonprofit using your own employees or volunteers to solicit donations or sales, *but DMA Guidelines do apply (see yellow boxes.)*
- Making business-to-business calls placed by nonprofits or third parties calling on behalf of nonprofits.
- Making intrastate calls placed by nonprofits or third parties calling on behalf of nonprofits.

**You Must Honor In-House Suppress Requests**

By scrubbing numbers of consumers (prospects & customers) who don't want to be contacted by your company from your company's telephone marketing list.  
*Article #31, DMA Guidelines for Ethical Business Practice*

**Call During Appropriate Hours:**

- Make sure your call is received between 8 A.M. - 9 P.M.  
*Sec. 310.4(b)(4)(c) p. 254*
- Make sure you check state laws for more restrictive calling hours and note some state laws apply directly to nonprofits.  
<http://www.the-dma.org/guidelines/tsr-guide.pdf>

**Transmit Caller ID**

- You cannot block transmission,
- You must include phone number of seller, service bureau or customer service number that will be answered during normal business hours, and
- You must also include name of seller or service bureau when technology is available.  
*Effective January 29, 2004*  
*Sec. 310.4(a)(7) p.251*

**Do You Contact Consumers Or Donors With Pre-recorded Messages?**

**YES**

**Note: Conflict Exists Between FCC & FTC**

- FCC - would allow nonprofits and third parties calling on behalf of nonprofits to use pre-recorded marketing or solicitation messages.
  - FTC - would ban this practice all together after Oct. 1.
- Bottom Line:** watch for FCC's final ruling to decide how to proceed after Oct. 1.

**NO**

**Do You Use Predictive Dialers Or Other Automatic Dialing Technology?**

**NO**

**You Must Connect The Call To A Live Representative Within 2 Seconds Of The Consumer's Completed Greeting**  
*(if you don't, call is considered abandoned even if it's answered by a live rep. after the 2 seconds)*  
**Effective October 1, 2003**

**YES**

**You Must Either Connect The Call To A Live Representative Within 2 Seconds Of The Consumer's Completed Greeting**  
*(if you don't, call is considered abandoned even if it's answered by a live rep. after the 2 seconds)*  
**Effective October 1, 2003**

**OR**

**You Must Meet Safe Harbor Requirements For Abandoned Calls:**

- Allow 15 seconds or 4 rings before disconnecting the unanswered call,
- Set abandoned rates not to exceed 3% per day per calling campaign,
- Play a pre-recorded message that includes company name and phone number, and
- Retain appropriate records for 2 years to show compliance with these requirements.

**Effective October 1, 2003**  
*Sec. 310.4(b)(4) pp. 253-254*

**Provide Promptly To The Consumer:**

- 1) Identity of the fundraiser/seller,
- 2) That the purpose of the call is to fundraise or sell goods or services, and
- 3) The nature of the goods or services.

*You may not misrepresent purpose of the charity, tax deductibility, % going to a program, material aspects of prize promotion or affiliation with government entity.*  
*Sec. 310.4(d),(e) p.254. and Article #8 DMA Guidelines for Ethical Business Practice*

**Did The Consumer Ask To Be Placed On Your Company's DNC List?**

**NO**

**YES**

**Did The Consumer Use A Novel Payment?**  
*(Payment other than by credit or debit card)*

**Add Consumer To Your Company's DNC List And End Call**  
*Sec. 310.4(b)(1)(iii)(A) p. 252*  
*Article #31 DMA Guidelines for Ethical Business Practice*

**NO**

**YES**

**Obtain:**  
- Customer's signature,  
- Taped customer authorization, or  
- Written confirmation sent prior to submission for payment  
*Effective March 31, 2003*  
*Sec. 310.3(a)(3)(i-iii) pp. 247-248*

**Is Your Campaign A  
Negative Option/Continuity Program?**

**NO**

**Do You Have  
Preacquired Account Info?**

**YES**

**YES**

**NO**

**Notify Donors/Subscribers:**

- 1) Accounts will be charged unless they take affirmative action to avoid the charge,
- 2) Date the charge will be submitted for payment, and
- 3) Specific steps they can take to avoid charges.

*Effective March 31, 2003*  
*Sec. 310.3(a)(1)(vii) p. 246*

- 1) Fundraiser/seller must identify with specificity the account that will be charged, and
- 2) Obtain consent from the consumer to charge such account.

*Effective March 31, 2003*  
*Sec. 310.4(a)(6)(ii)(A-B) p. 251*

**You Must Get:**  
Informed consumer consent for payment.

*Effective March 31, 2003*  
*Sec. 310.4(a)(6) p. 250*

**Do You Have Preacquired Account Info?**

**YES**

**Is This A Free-To-Pay Conversion Program?**

**NO**

**YES**

1) Fundraiser/seller must identify with specificity the account that will be charged, and  
2) Obtain consent from the consumer to charge such account  
**Effective March 31, 2003**  
*Sec. 310.4(a)(6)(ii)(A-B) p. 251*

1) Obtain from the customer the last 4 digits of the account to be charged,  
2) Obtain consent from the consumer to charge such account, and  
3) Audio-record the entire transaction.  
**Effective March 31, 2003**  
*Sec. 310.4(a)(6)(i)(A-C) pp. 250-251*

**Is This An Upsell?**  
*Each upsell is a separate transaction, not continuation of initial transaction.  
If novel payments, negative option, preacquired account info, and/or free-to-pay conversion are used then all previous relevant disclosures must be repeated.*

**Internal Upsell?**  
(same seller)

**External Upsell?**  
(different seller)

**YES**

**YES**

**Provide Any New Disclosures Not Initially Provided**  
**Effective March 31, 2003**

**Provide Promptly To The Consumer:**  
1) Identity of the fundraiser/seller,  
2) That the purpose of the call is to sell goods/services or raise funds, and  
3) The nature of the goods or services.  
**Effective March 31, 2003**  
*Sec. 310.4(d), (e) p.254*

**Charge Or Debit Customer's Account.**  
**And Don't Forget - Keep Those Records For 24 Months!**  
*Sec. 310.5 pp. 255-256*