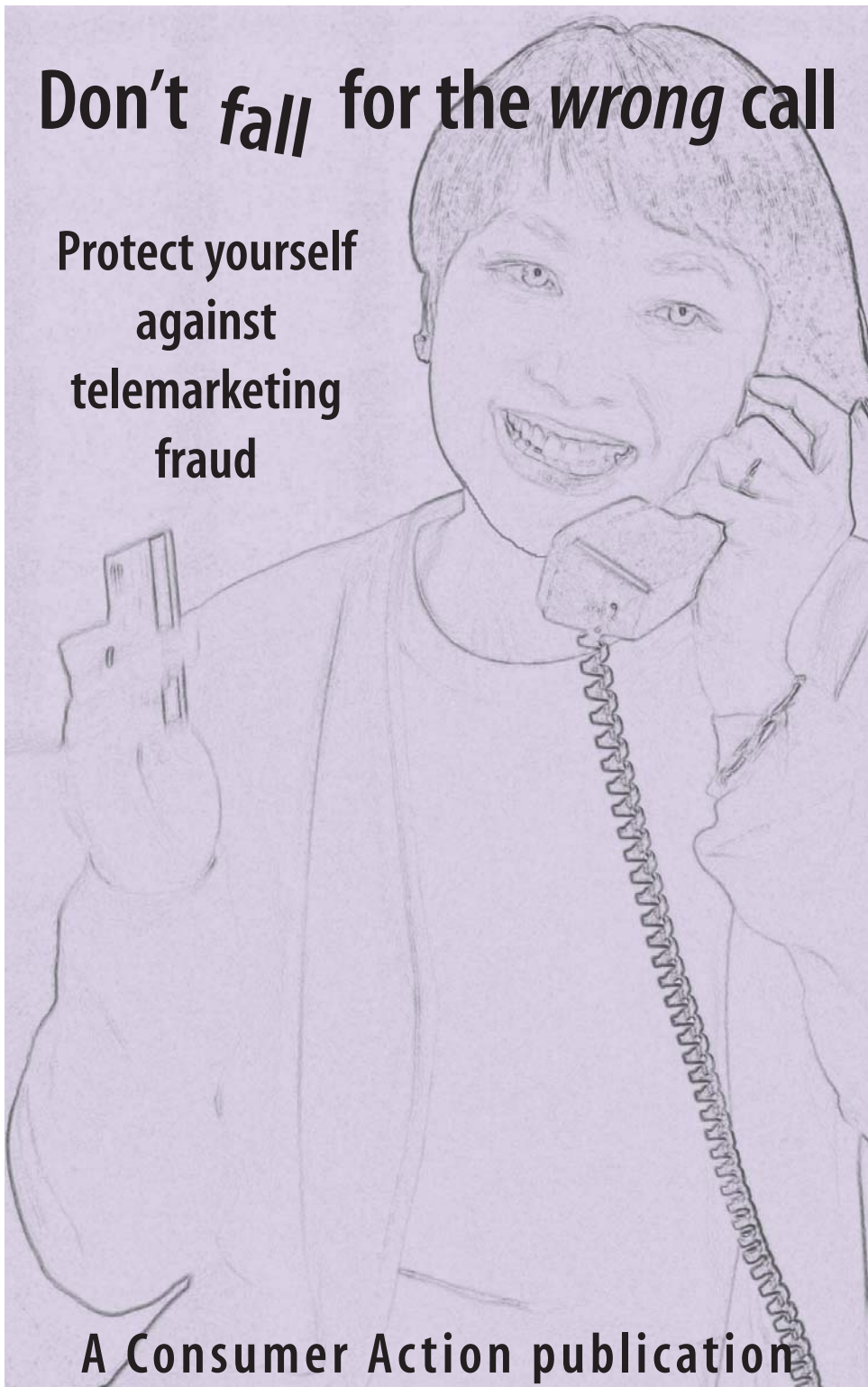


Don't *fall* for the *wrong* call

**Protect yourself
against
telemarketing
fraud**



A Consumer Action publication

Don't fall for the wrong call

Telemarketing fraud—using the phone to swindle and cheat—robs U.S. consumers of about \$40 billion a year.

According to the Direct Marketing Association, overall telemarketing sales, both business-to-consumer and business-to-business, reached \$585 billion in 2000. There are many legitimate, law-abiding companies offering their products and services over the phone. But the problem is that not all telemarketers work for legitimate companies—some are crooks to whom the law means nothing.

To protect yourself from telemarketing fraud, it's a good rule not to do business over the phone with any company you don't know. Crooks are skilled in manipulating you. They sound professional and convincing. You do not have to listen to any sales pitch over the phone—you *can always say you are not interested and hang up.*

In 2001, AARP estimated that U.S. residents received approximately 19 billion unsolicited sales calls per month. To combat potential fraud, federal and state governments have passed laws and regulations that protect consumers. Nationally, some 5 million households are on do-not-call lists. There are also services and products you can buy to prevent telemarketers from calling you. But the best way to fight phone fraud is to understand how it works and know your consumer rights.

Tricks and traps

If a telemarketing offer sounds too good to be true, it probably is. *Don't fall for these common tricks:*

- **Prizes.** If a caller says you've won something, it might signal fraud. "Winners" often are asked to send an inflated shipping and handling fee for their "free" prize, which turns out to be worthless. In other cases, crooks mail millions of postcards promising people that they've won prizes. So-called winners are asked to call a 900 number (which costs money) and are subjected to a lengthy sales pitch.
- **Free trial offers.** So-called "no obligation" offers to try a new product or service end up costing consumers as much as \$100 million per year because they fail to tell you that you'll be billed for the full price of the service if you don't cancel by a certain deadline. Even if you never gave the company your credit card number, you might be charged for a free offer because telemarketers often obtain your credit card information illegally.

DID YOU KNOW? Scam artists compile and sell "sucker lists" of people who are easy to trick because they've fallen for telemarketing pitches in the past.

- **Travel deals.** Some telemarketers offer travel deals that sound great. Not every deal is fraudulent, but even legitimate travel offers can have significant conditions or catches. Many such offers require you to sit through a lengthy sales pitch for "time share" resorts, a type of vacation real estate ownership that has been the subject of many complaints.

DID YOU KNOW? Telemarketing industry executives point out that unsolicited sales calls aren't always unwelcome. You might hear from a company you want to do business with, such as your local newspaper. The Newspaper Association of America reports that phone solicitations account for 58% of new subscribers generated by marketing campaigns. You might save money by taking advantage of discounts offered through a telemarketing campaign. Just be sure you're dealing with a company you recognize.

- **Credit cards.** The telemarketer offers a “guaranteed” credit card if you pay a hefty fee in advance. It is illegal for telemarketers to require up front payment for credit.
- **Credit protection.** Swindlers may call saying they are from MasterCard or Visa, hoping to fool you into paying for phony credit protection. The callers warn that if you don’t purchase their protection services you will be held liable for any unauthorized charges made on your credit card. But existing federal law limits your loss to \$50 if your card is used without your permission.
- **Investment fraud.** You are promised a “guaranteed risk-free investment.” There is no such thing. The scam artists who pitch the investments are good at sounding as if they represent legitimate businesses. They may have lots of information about you—such as your age, income and net worth. This information is available from marketing lists that anyone can buy. Many people have lost their life savings after only a phone conversation, and despite their best efforts, law enforcement and regulatory agencies usually can’t get the victims’ money back.
- **Responding to ads.** It’s common for swindlers to send direct mailings or advertise in reputable publications or on the Internet to entice you to call them. The ads offer easy loans, credit cards, investments or work-at-home opportunities. Even if you are the one to place the call, be very cautious about giving out bank account and credit card numbers to unfamiliar businesses.

Give wisely

When a crisis hits the news, crooks are usually close behind. Following the Sept. 11, 2001 terrorist attacks, many people received calls—and e-mails—attempting to take advantage of the tragedy. Often these scam artists are trying to get your bank or credit card account numbers

Be careful before promising a telemarketer money for a charity. Many legitimate charities raise money by phoning potential donors, but crooks take advantage of people’s generosity. Don’t be fooled by the name of a charity—many scam artists use a name that sounds like a well-known charitable organization to trick you into making a donation that ends up in their pockets.

Ask the caller to send you information about the charity. Get all the information you can about the charity and then verify it.

Ask what percentage of the money you donate actually goes to the charity (and not the fund-raising effort). Before donating, check with one of the charity watchdog organizations listed under “Helpful Resources” at the end of this booklet.

Warning signs of fraud

Be suspicious of statements like these:

- You’ve won a prize or free gift.
- You’ve been selected to receive a special offer.
- You must act immediately or lose out on a great deal.
- You must pay for shipping your prize or free gift.
- You’re promised fantastic financial returns or risk-free investing.
- You’re told that there’s a secret legal loophole that will allow you to profit.
- You’re asked for your credit card number and expiration date to verify that you are a credit cardholder.
- You’re asked for your Social Security number or other personal information, such as your bank account number.
- You’re asked to donate to an agency whose name sounds like a well-known charity—such as the “American Cancer Center” (instead of the American Cancer Society).
- You’re told that you are one of just a few special people to receive this offer.
- You are pressured to allow the caller to send a courier to your home to get your payment.
- You’re told that you have purchased the caller’s product or service in the past but you don’t remember doing so.

‘Who’s there?’

When you pick up a ringing phone and hear silence on the other end, you may have been called by a computer dialing system. Companies use automatic dialers to simultaneously dial many phone numbers—more than their employees could handle—predicting that some of those calls will be answered by an answering machine, will ring with no answer because no one’s home or will be busy. Answered calls are routed to available sales agents. Sometimes more people answer than predicted. At that point, some of the calls are disconnected.

Automatic dialing is frustrating in itself but it also makes it difficult to exercise your rights because victims of aborted calls can’t identify the company that’s calling to ask to be placed on its do-not-call list.

Stopping unwanted calls

In 1991 Congress passed the federal Telephone Consumer Protection Act to help people reduce the nuisance and invasion of privacy caused by telemarketing calls and prerecorded sales calls. The more recent federal Telemarketing Sales Rule sets additional limits on telemarketers.

If you don’t want a telemarketer to call you again, ask to be put on the company’s do-not-call list. The Telemarketing Sales Rule requires that companies maintain their own do-not-call registries. You must ask each company to place you on its list. It helps to keep detailed notes about when and whom you asked.

In December 2002, the FTC strengthened the Telemarketing Sales Rule and created a national do-not-call registry for people who do not want to receive telemarketing calls. The do-not-call registry will not be in place before 2004. Immediately in effect are restrictions on hang-ups (see “Who’s There?”) and a requirement that telemarketers must display company names and phone numbers to Caller ID users.

DID YOU KNOW? You can sue a telemarketer in small claims court if you ask to be placed on its do-not-call list and the company does not comply with your request. Under the Telephone Consumer Protection Act, you can sue for your actual monetary loss or up to \$500—whichever is greater—for each call received after you asked the company not to call again.

(Non-profit organizations, political groups and businesses with whom you have an established relationship are exempt from do-not-call lists.)

A firm that calls you after specifically being told not to is liable for \$500 in damages, which you can win by bringing an action against the company in your local small claims court.

If you have an existing business relationship with a company, it doesn’t have to honor your request that it stop calling you with sales offers. But you can ask anyway—firms have an incentive to respect the wishes of current customers.

You can also write to the Direct Marketing Association and ask it to inform its telemarketing members that you do not want to receive their calls. Your name remains on file for five years. However, this won’t stop all calls because many companies don’t belong to the association. To get on the list, write to the DMA, Telephone Preference Service, P.O. Box 282, Carmel, NY 10512. There is a \$5 processing fee for registering with the Telephone Preference Service online (<http://www.dmaconsumers.org>). However, you can print out a form from the web site and mail it to the organization at no charge.

Many states prohibit all telemarketing calls to individuals who have registered on the state’s do-not-call list. The Direct Marketing Association maintains a list of state do-not-call sites on its web site (www.the-dma.org/government/donotcallists.shtml).

California's do-not-call list is expected to be in place in early 2003. When it is operational, you can add your name to the state-maintained list and, if your request is ignored, the state can fine the company \$500 for the first violation and \$1,000 for subsequent violations. You may still receive political calls, including those seeking campaign contributions, and solicitations from non-profit organizations. For more information about the California do-not-call list, visit the California Office of the Attorney General web site (<http://caag.state.ca.us>) and click on Programs & Services.

DID YOU KNOW? It is a sure sign that you're dealing with scam artists if they offer to send a messenger or delivery service to your home to pick up your contribution.

Telemarketing Sales Rule

The **federal Telemarketing Sales Rule** provides some strong legal protections:

- It prohibits late night/early morning phone solicitations between 9 p.m. and 8 a.m.
- Telemarketers must tell you up front that they are selling something—and which company is doing the selling—before they make a pitch.
- All mentions of promotions, prizes or contests must be accompanied by the disclosure that no purchase is necessary to enter or win.
- Telemarketers who promise to “repair” your credit are banned from accepting any payment before they have provided you with an amended copy of your credit report.
- When calling to solicit a credit service, such as a credit card, loan or credit repair service, telemarketers are prohibited from asking for payment in advance. You need not make any payment until the service has been delivered satisfactorily.
- Telemarketers may not use abusive or obscene language, threats or intimidation.
- They cannot misrepresent goods or services. When selling an investment, telemarketers cannot exaggerate or lie about its earnings potential, profitability, risk or liquidity.
- Telemarketers are not allowed to accept payment before you have been given the total cost of the goods or service and told whether or not the purchase is refundable.

It is illegal for a telemarketer to withdraw money from your checking account to satisfy a payment without your written or recorded oral permission.

Other federal laws also prohibit:

- Computer-generated or prerecorded voice phone messages without your prior consent.
- Unsolicited faxes sent without a toll-free number for you to call to tell the sender you don't want to receive the faxes.
- Unsolicited sales calls to any line where the recipient is charged for the call—such as cell phone calls or text messages.

Answering sales calls

- Do not feel you have to be polite. Hang up on aggressive or harassing callers.
- Don't be pressured. Get all the facts, hang up and talk it over with your spouse and friends. If the deal is legitimate, there's no need to rush.
- Ask the caller to send you information. This will give you more time to review the offer.
- If you're interested, find out as much as you can about who is calling, and why. Write this information down along with the time and date of the call. You will need this information if the telemarketer continues to call after you asked him or her not to.

Optional services, gadgets & gizmos

There are services and products sold to avoid telemarketers' calls. Many people use an answering machine to screen calls. Before buying a product just to avoid telemarketing calls, make sure it will help you. None of these products can outwit telemarketers or scam artists and they do nothing to force telemarketers to stop calling:

Caller ID. This service is sold by your local phone company. It requires a phone with caller ID capability or a separate caller ID (identification) device. The compatible phones have display

screens that show the phone number from which the call is being placed and the name of the person who holds the account for that number. You may choose to ignore calls from numbers, people or businesses that you do not recognize. (If you ignore all calls from numbers you don't recognize, you may miss a call from a friend or family member who is not calling from home.) Caller ID saves the name and number of the last 50-100 calls, which may help you verify that you were contacted by a telemarketing company after you told it to stop calling you.

TIP: When a stranger or business you don't know calls you, do not give out your credit card number, Social Security number, checking account number or other personal information.

Protecting yourself

- Consider getting an unlisted phone number. An unlisted number may reduce the number of unsolicited calls you receive, but it cannot protect you from marketers who call random combinations of numbers.
- Protect your phone number. Don't print it on your checks or give it to anyone you don't know well. Whenever you are asked for your phone number, ask what it will be used for. Make it clear that you don't want your phone number to be shared with marketers.
- Voter registration information is available to the public. Ignore the space that asks for your phone number or put down "unlisted."
- Don't give your credit card number and expiration date to strangers. These can be used to make unauthorized charges on your card and to make counterfeit cards.
- Don't give your Social Security number to strangers. It can help a crook get credit in your name and run up huge bills.
- Don't give your bank account number to strangers. It can be used to make withdrawals without your permission.

Privacy screening. A fee-based service is sold to phone customers with caller ID as a way to avoid missing calls from callers who block display of their phone numbers, as some telemarketers do. Any caller with a blocked number is invited to leave a message and is placed on hold while the person being called listens to the message and decides whether to take the call. You also can play a legally binding announcement asking the caller to take you off its marketing lists.

Gadgets. Some products claim to stop telemarketers. The TeleZapper plugs into your phone jack and tries to outsmart automatic dialing programs by answering the call and emitting the sound of a disconnected line. The company claims that this fools the computer into dropping your number from its list.

A gadget called the Phone Butler plugs into any phone jack. When a telemarketer calls, you can press the star (asterisk) key on your phone and the Phone Butler takes over. In a prim and proper British accent, a recording says, "Pardon me, this is the Phone Butler...kindly place this number on your do-not-call list."

How to complain

- If you have lost money to a telemarketing scam, contact the attorney general of your state, or the district attorney or consumer affairs agency in your area.
- If a telemarketer fails to fulfill the requirements of federal telemarketing laws, write to the Federal Trade Commission (FTC), Correspondence Branch, Washington, DC 20580. For more information, call (877) 382-4357 or (866) 653-4261 (TTY) or visit the FTC web site (www.ftc.gov).
- If a telemarketer calls you between 9 p.m. and 8 a.m. or calls again after you have asked to be placed on its do-not-call list, write to the Federal Communications Commission. The FCC also handles complaints about telemarketing calls from outside your state. Call for instructions before filing a complaint: (888) 225-5322; (888) 835-5322 (TTY). You can send your complaint to: FCC Consumer & Governmental Affairs Bureau, Consumer Complaints, 445 12th Street, SW, Washington, D.C. 20554, or by e-mail (fccinfo@fcc.gov). For more information, visit the web site (www.fcc.gov).

If the court determines that the company knowingly broke the law, the maximum penalty triples, up to \$1,500. You can also sue for that amount if you ask a telemarketing firm for a copy of its written policy on complying with “do-not-call” requests and it fails to send you one.

The Telemarketing and Consumer Fraud Abuse Prevention Act allows you to sue in federal court if you can show damages greater than \$50,000—such large amounts are often involved in investment scams.

DID YOU KNOW? Cell phone telemarketing—known as wireless spamming—is prohibited by federal and certain state laws. Federal law prohibits unsolicited messages in situations where the called party is charged for the call. California law prohibits unsolicited advertising messages from being sent via fax or e-mail unless they are clearly labeled as advertising and provide a toll-free phone number that allows the recipient to opt out of future communications.

Helpful resources

- **The American Institute of Philanthropy** has a guide that grades charities on their finances and openness with the public. AIP, 4905 Del Ray Avenue, Suite 300W, Bethesda, Maryland 20814, (773) 529-2300. E-mail: aip@charitywatch.org. Web site: www.charitywatch.org.
- **Ban The Spam** (www.banthespam.com) is an online clearinghouse created by Consumer Action, the National Consumers League and the Telecommunications Research and Action Center, where consumers can report unsolicited commercial e-mail solicitations (junk e-mails, or spam) in order to help federal regulators crack down on e-mail abuses.
- **Junkbusters** (www.junkbusters.com) provides detailed instructions on how to foil unwanted telemarketing calls, as well as how to rid yourself of junk mail, unwanted commercial e-mails (spam) and unsolicited faxes. Online services only.
- **BBB Wise Giving Alliance** (www.give.org) tracks hundreds of charities and evaluates about 250 according to standards that include purpose, financial support, use of funds, annual reporting, accountability and budget, and publishes the “Wise Giving Guide.” 4200 Wilson Boulevard, Arlington, VA (703) 276-0100.
- **The National Fraud Information Center**, a project of the National Consumers League, has a toll-free hotline—(800) 876-7060 Monday–Friday, 9 a.m.–5 p.m. ET—to help people learn about fraud and file complaints. It also provides information on its web site (www.fraud.org) on how to avoid becoming a victim of fraud.

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Consumer Action provides advice and referral on consumer issues. Leave a message anytime and a counselor will call you back. Chinese, English and Spanish are spoken.

You can e-mail Consumer Action (hotline@consumer-action.org) or visit its web site (www.consumer-action.org).

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