

ALABAMA PUBLIC SERVICE COMMISSION  
ADMINISTRATIVE CODE

CHAPTER 770-X-5  
TELEPHONE RULES

770-X-5-.31      Telephone Solicitation Regulations - Do Not Call Register.

(1) Definitions - In the interpretation of this rule, the following definitions shall be used:

(a) "Act" refers to Sections 8-19A-1 through 24, as well as the provisions in Section 8-19C-1 through 12 of the Code of Alabama 1975, as amended.

(b) "Commission" means the Alabama Public Service Commission.

(c) "Business Telephone Subscriber" means a person or company who has subscribed to a business telephone service from a local exchange carrier.

(d) "Caller Identification Service" or "Caller ID" means a type of telephone service, which permits telephone subscribers to see the telephone number of incoming telephone calls.

(e) "Coordinator" refers to the individual employed by the Commission to oversee the regulation of telephone solicitation practices, including the operations of the Do Not Call Register, as delegated by the Commission.

(f) "Database" means the information from which the Commission compiles the Register. The database shall be maintained by the Commission, or its designee, for the purpose of fulfilling the requirements of the Act.

(g) "Do Not Call Register" or "Register" means a list of telephone numbers of residential telephone subscribers who have notified the Commission of their objection to telephone solicitations and have properly enrolled their telephone numbers with the Commission.

(h) "Interexchange carrier" means a company that is certificated by the Commission to provide long distance toll telephone service.

(i) "Local exchange companies" as used in this Regulation, includes telecommunications service providers and competing telecommunications service providers certificated by the Commission.

(j) "Notice of Objection" refers to the completed enrollment form submitted by a residential telephone subscriber to the Commission to be included on the Do Not Call Register.

(k) "Regulation" refers to 770-X-5-.31 of the Alabama Public Service Commission Telephone Rules.

(l) "Residential Telephone Subscriber" means a person residing in Alabama who has residential telephone service.

(m) "Section" refers to the Consumer Services Section of the Alabama Public Service Commission.

(n) "Telephone Solicitor" means any natural person, firm, organization, partnership, association or corporation, or a subsidiary or affiliate thereof, doing business in this state, who makes or causes to be made a telephonic sales call, including, but not limited to, calls made by use of automated dialing and announcing devices or by a live person.

(o) "Telephone Solicitation" means a voice communication over a telephone line for the purpose of encouraging the purchase or rental of, or investment in property, goods, or services, but does not include communications by or on behalf of any of the exempt persons in Section 8-19A-4.

(2) General Telephone Solicitation Regulations

(a) All telephone solicitations to residential telephone subscribers shall, within the first thirty (30) seconds of a telephone call, state clearly the identity of the person initiating the call and entity or organization such person represents, and the consumer goods or services being sold.

(b) Telephone solicitors are prohibited from knowingly using telephone equipment or telecommunications network elements to block or otherwise interfere with the Caller ID function on the telephone of a residential telephone subscriber to whom a telephone solicitation is made so that the telephone number of the caller is not displayed on the telephone equipment of the called party.

(c) Telephone solicitors must adhere to state and federal statutes, rules and regulations regarding telephone solicitation practices, including, but not limited to, the Alabama Telemarketing Act.

(d) After receipt of a complaint forwarded by the Commission, telephone solicitors shall, file a written response in accordance with the Commission's Rules of Practice.

(3) Maintaining the Alabama Do Not Call Register

(a) The Commission, or other entity under contract with the Commission, shall maintain a database of names, addresses and telephone numbers of all Alabama residential telephone subscribers who have elected not to receive telephone solicitations.

(b) The information contained in the database is not open to public inspection or disclosure as defined under Section 8-19C-4 of the Code of Alabama.

(c) The Commission shall include in its Register the list of Alabama subscribers to the Federal Communications Commission's or any other federal agencies' Do Not Call national database, if and when such lists are established.

(d) The Section will update the Register at the beginning of each month.

(4) Access to the Alabama Do Not Call Register by Telephone Solicitors

(a) Telephone solicitors shall submit an application in writing to the Commission for access to the database. The application must contain the telephone solicitor's name, address, telephone number and name of the agent for service of process along with a notarized statement from an officer of the company affirming the company understands and agrees that information contained in the database shall be used exclusively for the purpose of compliance with this statute. The information contained in the database is not open to public inspection or disclosure as defined under Section 8-19C-4 of the Code of Alabama.

(b) Telephone solicitors doing business in the state and subject to the control and jurisdiction of this Act shall pay to the Commission an annual fee for access to the Do Not Call Register. Such annual fee shall cover the time period from the following July 1st through June 30th, or any part thereof.

1. Telephone solicitors may receive access to the database in paper or computer disc form quarterly upon receipt of a non-refundable annual fee of \$500.

2. It is the duty of telephone solicitors to ensure they have the latest version of the Register prior to soliciting residential telephone subscribers. Telephone solicitors must update their respective list of residential subscribers at least once a quarter. A thirty (30) day grace period shall be given on all newly published registrations.

(6) Consumer Registration with the Alabama Do Not Call Register - The Commission shall establish and provide for the operation of a

Register containing the telephone numbers of residential telephone subscribers who object to receiving telephone solicitations. Such Register may be operated by the Commission or by another entity under contract with the Commission. Guidelines for the operation of the Register are described as follows:

- (a) A residential telephone subscriber may obtain information about enrollment on the Register by contacting the Commission at the toll-free number designated for this program or via the Commission's web site. Upon request, an application for enrollment will be mailed to the residential telephone subscriber to be completed and returned to the Commission. Upon receipt of the written application, the residential telephone subscriber's name and number will be entered on the Register. Registration will become effective sixty (60) days following the first day of the succeeding month of enrollment by the subscriber.
- (b) A residential telephone subscriber will remain on the "Do Not Call Register" for a period of two (2) years or until the subscriber requests, in writing, that the Commission remove his or her name from the Register.
- (c) It will be necessary for a residential subscriber to file a new notice of objection with the Commission in the event the subscriber changes his or her telephone number.
- (d) Business telephone subscribers may not be included on the Register.
- (e) The Coordinator may audit and purge the Register periodically in order to ensure accuracy.
- (6) Public Education about the Alabama Do Not Call Register - Local exchange companies shall notify their residential subscribers on an annual basis of how to enroll on the Register. This notification shall be disseminated at the option of the carrier by television, radio, or newspaper advertisements; written correspondence; bill inserts or messages; or any other method not expressly prohibited. Methods of notification shall be developed in cooperation with the Coordinator.
- (7) Violations of the Alabama Do Not Call Register
  - (a) It is a violation of the Act for a telephone solicitor to knowingly make or cause to be made any telephone solicitation to any telephone number that appeared in the copy of an updated Register that was in effect at least sixty (60) days prior to the time the telephone solicitation was made.
  - (b) Violators of subsection (a) of Section 8-19C-2 or Section 8-19C-5 are subject to a civil penalty of any amount not to exceed two thousand dollars (\$2,000) for each violation. The

Commission may seek additional relief in any court of competent jurisdiction.

(c) It shall be a defense in any proceeding brought under this Act that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the Act.

(8) Enforcement Provisions

(a) The Commission may, on its own motion, or the recommendation of the Section, or any other interested person, order the investigation of the practices of any telephone solicitor conducting business in Alabama. If such investigation discloses a violation of subsection (a) of Section 8-19C-2 or Section 8-19C-5, the Commission shall take appropriate action as provided for in the Act.

(b) Local exchange companies and interexchange companies shall fully cooperate with the Commission in any investigation of an alleged violation of this Act.

(c) If one or more of the term(s) or provision(s) of this Regulation or the application thereof, to any extent, are held to be invalid or unenforceable, then the remainder of this Regulation shall not be affected thereby.

**Author:** Alabama Public Service Commission

**Statutory Authority:** Code of Ala. 1975, §§37-1-38, 37-2-3.

**History:** Effective June 2000. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to the Code of Ala. 1975, §41-22-7.