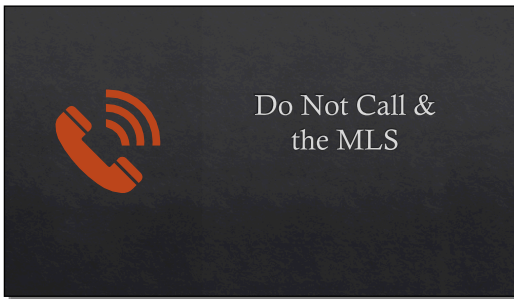
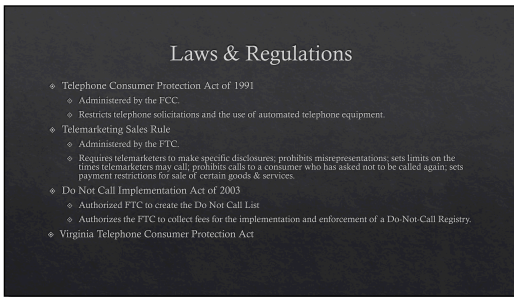


Broker Tool Kit – Do Not Call & MLS Broker Guide

The left-hand column contains a screen shot of the PowerPoint Slide. The right-hand column contains language that can be used as either a script or guide for discussing the information presented on the screen.



Note: There are several places where you, as the broker, should customize this presentation based on your own policies and the policies of your local MLS.



There are three laws, and one set of federal regulations, that govern telemarketing. The first, the Telephone Consumer Protection Act of 1991 is administered by the Federal Communications Commission (FCC) and it restricts telephone solicitations and the use of automated telephone equipment.

The second law is the Do Not Call Implementation Act of 2003 which authorizes the Federal Trade Commission (FTC) to create the Do Not Call list and authorizes the FTC to collect fees. The FTC has regulations which require telemarketers to make specific disclosures, prohibits misrepresentations, sets limits on the times telemarketers may call, prohibits calls to a consumer who has asked not to be called again, and sets payment restrictions for sale of certain goods and services.

Virginia also has its own Telephone Consumer Protection Act, which generally mirrors the Federal law, but adds a second layer of protection for the consumer. This means that someone could be found in violation of both the state and federal laws.

The Players

Sellers – companies that provide, offer to provide, or arrange for others to provide goods or services to a customer in exchange for some type of payment.

Telemarketers - companies that make telephone calls to consumers on behalf of sellers.

Service providers - companies that offer services to sellers engaged in telemarketing transactions, such as providing lists of telephone numbers to call, or removing telephone numbers from the sellers' lists.

Responsible Person – the telemarketer and seller.

There are four types of people that are important to know in the Do Not Call context. The first is “seller.” The seller is the person or company who is selling a good or service. The next is the telemarketer. This person is making calls on behalf of sellers. Note that someone could be both the seller and telemarketer. Third we have service providers. These are companies that offer services to sellers, such as providing lists of telephone numbers to call. The final is the “responsible person” and this definition is from the Virginia Telephone Consumer Protection Act. The responsible person is responsible for making sure that all calls are made in compliance with the applicable laws. Note that the responsible person is both the telemarketer and seller. This means that if you hire someone to make calls for you, you are still responsible for what they do.

What is covered

Covered	Not Covered
<ul style="list-style-type: none"> Any plan or campaign to sell goods or services through phone calls <p>Existing Business Relationship:</p> <ul style="list-style-type: none"> 18 months after customer's last purchase, delivery, or payment, unless the consumer asks the company not to call again. 3 months if consumer makes an inquiry or submits an application 	<ul style="list-style-type: none"> Calls from political organizations & political solicitations Calls from charities Calls from telephone surveyors Calls from companies with which a consumer has an existing business relationship.

The law covers all plans or campaigns to sell goods or services through phone calls. This is a VERY broad definition. There are a few carveouts, but only one will apply to real estate licenses. If you've have an existing business relationship, you may call the person for up to 18 months after the customer's last purchase, delivery, or payment, unless the consumer asks the company not to call again. Additionally, if the consumer has made an inquiry or submits an application, you may contact them for up to 3 months.




Accessing the Do Not Call List

- Limited to sellers, telemarketers and other service providers.
- Accessed only through an automated and secure website at: Telemarketing.donotcall.gov
- Must access every **31 days** to scrub your list of telephone numbers against newly registered numbers on the Do Not call Registry.
- Only provides registrants' telephone numbers.

Note: You should use this time to discuss specifically how your agents should access. For example, does the firm have a subscription that agents should use?

Sellers, telemarketers, and other service providers may access the do not call list at telemarketing.donotcall.gov. This list must be accessed at least every 31 days to scrub your list of telephone numbers.

Additional Restrictions

-  Cannot call before 8 a.m. or after 9 p.m., local time.
-  Solicitors must maintain a company-specific DNC list of consumers who asked not to be called.
-  Solicitors must provide their name, name of person or entity on whose behalf they are calling, and telephone number or address at which that person or entity may be contacted.

There are a few additional restrictions. First, you cannot call before 8 am or after 9 pm local time. Note that this is local to where the person is located, which can be different than where the call is being made from.

Code of Ethics

-  REALTORS® must disclose that they are a real estate professional
-  REALTORS® cannot engage in any practice that is inconsistent with an exclusive brokerage agreement
-  Prior to providing substantive services, REALTORS® must ask prospects if they are currently represented




In addition to the laws and regulations around Do Not Call, the Code of Ethics has some requirements and restrictions on REALTORS® calling consumers. Under Article 12, REALTORS® must disclose that they are a real estate professional when contacting someone. Under Article 16, REALTORS® cannot engage in any practice that is inconsistent with an exclusive brokerage agreement. This means that you cannot knowingly contact someone that is represented by another agent. Article 16 also requires REALTORS® to ask prospects if they are currently represented before providing substantive services.

DNC & MLS

- ◊ Understand the listing status definitions
- ◊ Do not "mine" the MLS for

Note: You should add information about the local MLS's status definitions and go over what each one means.

What does it all mean?

-  Check federal and firm Do Not Call lists
-  Know MLS status definitions and do not call individuals who are represented
-  Do not just rely on third party services

Agents must check the federal and firm do not call lists at least once every 31 days.

Agents must be aware of what each MLS status means, whether the seller is still subject to an exclusive representation agreement, and honor any such agreement.

When making calls, do not simply rely on lists provided by third party vendors – you are still responsible for compliance with federal and state laws and the Code of Ethics.

Also, remember that Article 15 of the Code of Ethics prohibits REALTORS® from making false or misleading statements about other real estate professionals. When making calls on expired listing, focus on what you can do for the seller – do not talk about what the previous listing agent did or did not do.