
It's The Law: Complying With Do-Not-Call Legislation

By Donovan Bezer

By now, unless you've been living on another planet, you must know about state do-not-call laws. Enacted back in 1991, the federal Telephone Consumer Protection Act (TCPA) was straightforward, and even if telemarketers did not like the TCPA, they understood how to comply with it. Eleven years later, compliance is not even remotely as simple as it once was. Welcome to the post-TCPA universe of telemarketing.

Today, 26 states have passed do-not-call legislation, and each of the other 24 states is in the process of doing the same. The costs of non-compliance vary from state to state. In Oregon, a single do-not-call violation can draw a fine as high as \$25,000, and Nevada can assess up to \$50,000 per call for repeat violations. Louisiana sets maximum fines much lower (\$3,000 for senior citizens, \$1,500 for people under age 65), but requires telemarketers to post a \$20,000 surety bond before calling anyone in the state. Determining how to achieve full compliance should be important to every business that uses the telephone to generate customers.

At a bare minimum, to avoid violating any of the multitude of state do-not-call laws, call center managers should keep three things in mind. First, join a trade association (if you have not already done so). The Direct Marketing Association (DMA) offers consumers a free 'Telephone Preference Services' (TPS) to request the removal of their numbers from callings lists, has a prominent national do-not-call list, and is the biggest and best-funded trade organization for call centers. The American Telemarketing Association (ATA) also represents and serves reputable telemarketing professionals, as does the Electronic Retailing Association.

Second, the TCPA is not obsolete, so continue complying with it. Companies still need to compile their own internal do-not-call lists. Moreover, call centers can use their TCPA do-not-call policy for the states that require telemarketers to keep a do-not-call policy on hand for state residents who request it. Third, keep in close contact with the relevant agencies in the states in which your call center contacts the public. Get new lists as soon as they are available; many states want telemarketers to update their do-not-call databases quarterly.

Options

Many companies choose to outsource their do-not-call functions. Several firms have risen to the task of providing assistance in complying with the state laws. For a price, call centers can enlist the help of any one of these companies.

Founded in 1995, Gryphon is a provider of a network-delivered do-not-call compliance service. The technology behind Gryphon's real-time blocking of do-not-call numbers is patented and network-delivered (i.e., comes through the phone company). Whenever an employee or auto-dialing program attempts to call a prohibited number, the call center employee hears the following intercept message: 'You've reached a do-not-call-restricted number. Please call a different number.' In a case where an employee subsequently places an allowable call, but the called party asks not to be called again, all the caller-employee need do is press the pound button, then zero. Hitting #0 instantly blocks the customer's phone number and prevents all phone reps from calling that telephone number.

DNCSolution (www.dncsolution.com / www.possiblenow.com)

DNCSolution is a Web-based toolkit that manages the different state and private DNC databases and subscription requirements, eliminates do-not-call numbers from outbound calling campaigns and provides Web-based agent training. There is no need for call centers to change long-distance providers or integrate any hardware or software to use the service. PossibleNow provides a binder of state and federal laws, registration and bonding requirements, and also offers a legal defense service to assist customers with legal costs associated with compliance defense. Time is also the enemy; in many cases there is no grace period to comply with DNC laws. Therefore, PossibleNow designed DNCsolution to instantly deploy into customers' operations. The list scrubbing service allows telemarketers to process their campaigns minutes before the calling begins.

TeleBlock/Call Compliance (callcompliance.com)

The people at Call Compliance, Inc., with its flagship product TeleBlock, acknowledge that the most difficult part of complying with DNC regulations is taking the secured DNC lists and merging and purging them against a lead database on an ongoing basis. If your compliance strategy is limited to list scrubbing, they warn, the risk of incurring fines is far from eliminated. Therefore, Call Compliance offers a software solution to automatically block calls to DNC numbers. If the number dialed appears on any DNC list, the call is blocked and a 'restricted' number message is supplied. TeleBlock works through the public network, so a local or long-distance company can add the TeleBlock service to their existing network providing their customers with a value-added solution. No additional hardware is required, and TeleBlock is available to both local and long-distance carriers wishing to participate. Call Compliance also provides the tools necessary to demonstrate compliance with the pertinent governing bodies.

Alpha Omega Consulting Group (www.aocg.com)

Alpha Omega Consulting Group has developed software that enables its customers to download state DNC files and perform a 'reverse merge,' removing the do-not-call subscribers from the contact database. The company warns that while some mailing list vendors insist their databases are DNC compliant, do-not-call lists change constantly. For this reason, AOCG offers a one-time software change that fully automates the removal of the DNC subscribers from the contact database.

Sarrick Systems' Direct Market Pro (www.directmarketpro.com)

Sarrick Systems' Direct Market Pro is a dialing program for small telemarketing operations. The software compares a firm's database to the DNC list, and then automatically removes the offending names. Direct Market Pro accumulates the names that have been removed, so

call centers can go back to the list vendor and receive a credit.

Red Clay Media 'Do Not Call Scrubbing' (www.redclaymedia.com)

Red Clay Media acquires the latest updates to all state and Direct Marketing Association DNC lists and provides its clients various levels of update options, ranging from monthly to 80 times a year. The company offers services for list compiling and scrubbing, quick turnaround FTP transfer, and corporate 'A' list maintenance and management. Red Clay also maintains records of all files to ensure continued compliance and keeps customers abreast of federal and state DNC policies.

SSA/Data Clustering Engine (www.searchsoftware.com)

Search Software America's 'Data Clustering Engine' was designed to perform identity searching and matching by comparing names and addresses. The program is sophisticated enough to be overkill for all but the largest telemarketing operations.

Anchor Computer (www.anchorcomputer.com)

Anchor Computer is a supplier of software and data processing services to the telemarketing industry. The company offers a range of address hygiene, data enhancement, data appending, merge/purge, data modeling and document personalization software and services.

The Do-It-Yourself Option

On the other hand, you may be thinking about handling do-not-call compliance in-house. Outsourcing providers urge it's just not worth it. Anchor Computer's Paul Lacey says compliance 'burns up a lot of time' the call center should probably dedicate one full-time position to ascertain each state's specific telemarketing requirements, register with every state the company calls, purchase all the states' updated lists and update them immediately.' AOCG's Mike Burch adds, 'The level of expertise required to take two unrelated databases and remove ALL records appearing in the DNC database from the contact database is beyond the ability of most non-programmers.'

Although it is possible to filter out the DNC subscribers manually, doing so is a cumbersome and error-prone process. Furthermore, even when the process is working correctly, a minor change in the format of either database can cause the process to 'break.' Worse still, no error message will be generated, so the user is likely to assume the process is working. Many telemarketers work with several contact databases, which must be handled differently, thus multiplying the likelihood of error. For example, a solution designed for a flat ASCII file will not work with an Access database

According to do-not-call legal experts, a good choice for call centers is an in-house administered program that integrates the various state lists with the company's own consumer-specific list and possibly the DMA's telephone preference service. Unless the call center controls its own DNC compliance program, it will be dependant on an outsourcer to follow-through. Nonetheless, handling compliance in-house is obviously a very expensive and time-consuming process. While outsourcing is probably the most economical option across the board, each call center should carefully evaluate its needs and capabilities before

committing to an extensive relationship with a do-not-call solution provider.

Looking Ahead

Do-not-call laws might actually end up helping the telemarketing industry. JHA Telemanagement's president Jon Hamilton is encouraged that the trend will force call centers to 'target and train phone reps better' to weed out the poor prospects. 'From a best practices standpoint,' opines Paul Lacey, 'DNC laws make sense for all of us in the direct marketing industry. Why try to reach people who do not have any interest at all in being reached through that particular medium?' For good or for ill, multitudes of citizens are asking not to be called. In the post-TCPA universe of telemarketing, compliance will not be simple, but will be very necessary.

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