

FTC Proposes Updates to Telemarketing Sales Rule, Business to Business Exemption in Order To Protect Small Businesses

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On April 28, the FTC [proposed](#) updating the Telemarketing Sales Rule (TSR) to extend protections against telemarketing tricks and traps to small businesses and to strengthen defenses against other telemarketing schemes that negatively impact consumers. The agency is seeking public comments on the proposed changes to the rule.

The [proposed changes](#) to the TSR include the following major updates:

- Narrow the business-to-business telemarketing exemption by including business-to-business calls within the TSR's prohibitions on the use of false or misleading statements in telemarketing.
- Requiring telemarketers to retain new categories of information related to their telemarketing activities, including each unique prerecorded message, records sufficient to show the established business relationship between a seller and a consumer, records of the service providers used by a telemarketer to deliver outbound calls, and records of the FTC's Do Not Call Registry that were used to ensure compliance with this rule.
- Adding a definition of "previous donor" related to charitable donation solicitations.

The FTC also announced an [advance notice of proposed rulemaking](#) (ANPRM) and seeks comment on whether the TSR should:

- Address rise in tech-support scams in which telemarketers trick consumers into purchasing computer technology to remedy nonexistent issues;
- Require telemarketers to provide consumers with a simple notice and cancellation (e.g., a click-to-cancel option) when they sign up for subscriptions; and

- Generally stop treating telemarketing calls made to businesses differently from those made to consumers.

Comments on the proposed rule and the APNRM are due within 60 days after their publication in the Federal Register.

Putting It Into Practice: Lenders and other companies engaging in business-to-business calls should be particularly concerned. The proposed rule expands the reach of the TSR beyond consumer transactions to more types of business-to-business transactions. While the FTC considers comments to its latest announcement, companies should focus on compliance challenges that may be necessitated by the rules, including updates to marketing, scripts, and disclosures requirements.

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