

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

Rule Subject: Telephone Solicitations; No-Call and No-Text List
Adm. Code Reference: ATCP 127
Rules Clearinghouse #: Not yet assigned
DATCP Docket #: 12-R-04

Rule Summary

This rule does all of the following:

- Defines “caller identification information” and “caller identification service.”
- Prohibits telephone solicitors from transmitting misleading or inaccurate caller identification information.
- For purposes of the no-call list, clarifies that the definition of “telephone solicitation” includes text messages, and creates a definition of “text message.”

“Spoofing”

Under current rules, telephone solicitors are required to disclose the name of the primary seller, and the name of the person making the telephone solicitation, before asking any questions or making any statements other than an initial greeting. Current rules prohibit sellers from using fictitious names or otherwise misrepresenting the seller’s identity, location, or other characteristics.

This rule prohibits telephone solicitors from causing, either directly or indirectly, caller identification services to transmit or display misleading or inaccurate caller identification information. This practice has come to be known as “spoofing.”

No Text

Under s. 100.52, Wis. Stats., and current rules, telephone customers may enroll for the Wisconsin no-call list. Telephone solicitors are prohibited from calling telephone numbers on the no-call list, and must register annually with DATCP.

This rule follows recent changes to s. 100.52, Wis. Stats., and includes text messaging under the definition of “telephone solicitation.”

¹ This analysis includes, but is not limited to, a small business analysis (“regulatory flexibility analysis”) under ss. 227.114 and 227.19(3)(e), Stats.

Business Impact

This rule will have minimal impact on business. This rule might affect the following businesses in the following ways (many of which are “small businesses”):

- ***Direct marketers that conduct both telephone solicitation and text message solicitation.*** Wisconsin’s no-call program was established in 2001. Therefore, businesses in this category are already regulated under current law, and will only experience minimal additional regulatory obligations or expenses. Currently, there are approximately 460 telephone solicitors registered for the Wisconsin no-call program.
- ***Direct marketers that conduct text message solicitation but are not currently registered telephone solicitors.*** Under this rule (as well as s. 100.52, stats., as amended by 2011 Wisconsin Act 197), businesses that send text message solicitations must register with the Wisconsin no-call program and refrain from sending text messages to numbers on the no-call list. The annual registration fee consists of the following; subject to a maximum limit of \$20,000:
 - A basic fee of \$700 for the first year and \$500 each subsequent year.
 - An additional fee of \$75 for each telephone line used for registrants greater than four lines.
 - An additional \$25 fee for each e-mail address the registrant would like DATCP to transmit the no-call list, in excess of one.
 - An additional \$25 fee for each compact disc set the registrant would like DATCP to mail, in excess of one.
 - An additional \$1,000 for each hard-copy the registrant would like DATCP to mail, in excess of one.

This new law and proposed rule may result in some saving for some consumers on their monthly wireless service bills. On some plans, the provider charges the customer for each text message received. The new no-text provision protects consumer from these charges.

Accommodation for Small Business

Many of the businesses affected by this rule are “small businesses.” However, given the subject matter, there are very few accommodations or special exceptions that can be made for small businesses.

This rule and existing rule include many provisions that will benefit large and small businesses alike. For example:

- DATCP publishes a fact-sheet for solicitors, explaining the requirements and prohibitions contained in the rule.

- The rule allows solicitors to obtain the no-call list in a variety of formats, so they can use what is most convenient to them.

Conclusion

This rule will not have a significant adverse effect on “small business.” Therefore, it is not subject to the delayed “small business” effective date provided in s. 227.22(2)(e), Stats.

Dated this _____ day of _____, 20____.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Sandy Chalmers, Administrator,
Division of Trade and Consumer Protection