

(4) The term “telemarketing” means a plan, program, or campaign which is conducted to induce purchases of goods or services, or a charitable contribution, donation, or gift of money or any other thing of value, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which—

- (A) contains a written description, or illustration of the goods or services offered for sale,
- (B) includes the business address of the seller,
- (C) includes multiple pages of written material or illustrations, and
- (D) has been issued not less frequently than once a year,

where the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation.

(Pub. L. 103–297, § 7, Aug. 16, 1994, 108 Stat. 1550; Pub. L. 107–56, title X, §1011(b)(3), Oct. 26, 2001, 115 Stat. 396.)

Editorial Notes

AMENDMENTS

2001—Par. (4). Pub. L. 107–56 inserted “, or a charitable contribution, donation, or gift of money or any other thing of value,” after “services” in introductory provisions.

§ 6107. Enforcement of orders

(a) General authority

Subject to subsections (b) and (c), the Federal Trade Commission may bring a criminal contempt action for violations of orders of the Commission obtained in cases brought under section 53(b) of this title.

(b) Appointment

An action authorized by subsection (a) may be brought by the Federal Trade Commission only after, and pursuant to, the appointment by the Attorney General of an attorney employed by the Commission, as a special assistant United States Attorney.

(c) Request for appointment

(1) Appointment upon request or motion

A special assistant United States Attorney may be appointed under subsection (b) upon the request of the Federal Trade Commission or the court which has entered the order for which contempt is sought or upon the Attorney General's own motion.

(2) Timing

The Attorney General shall act upon any request made under paragraph (1) within 45 days of the receipt of the request.

(d) Termination of authority

The authority of the Federal Trade Commission to bring a criminal contempt action under subsection (a) expires 2 years after the date of the first promulgation of rules under section 6102 of this title. The expiration of such author-

ity shall have no effect on an action brought before the expiration date.

(Pub. L. 103–297, § 9, Aug. 16, 1994, 108 Stat. 1550.)

§ 6108. Review

Upon the expiration of 5 years following the date of the first promulgation of rules under section 6102 of this title, the Commission shall review the implementation of this chapter and its effect on deceptive telemarketing acts or practices and report the results of the review to the Congress.

(Pub. L. 103–297, § 10, Aug. 16, 1994, 108 Stat. 1551.)

CHAPTER 87A—NATIONAL DO-NOT-CALL REGISTRY

Sec.

6151.	National do-not-call registry.
6152.	Telemarketing Sales Rule; do-not-call registry fees.
6153.	Federal Communications Commission do-not-call regulations.
6154.	Reporting requirements.
6155.	Prohibition of expiration date.

Editorial Notes

CODIFICATION

This chapter is comprised principally of Pub. L. 108–10, Mar. 11, 2003, 117 Stat. 557, which was formerly set out as a note under section 6101 of this title.

§ 6151. National Do-Not-Call Registry

(a) Authority

The Federal Trade Commission is authorized under section 6102(a)(3)(A) of this title to implement and enforce a national do-not-call registry.

(b) Ratification

The do-not-call registry provision of the Telemarketing Sales Rule (16 C.F.R. 310.4(b)(1)(iii)), which was promulgated by the Federal Trade Commission, effective March 31, 2003, is ratified.

(Pub. L. 108–82, § 1, Sept. 29, 2003, 117 Stat. 1006.)

Editorial Notes

CODIFICATION

Section was formerly set out as a note under section 6102 of this title.

Section was enacted as part of Pub. L. 108–82, and not as part of the Do-Not-Call Implementation Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–188, § 1, Feb. 15, 2008, 122 Stat. 635, provided that: “This Act [amending sections 6152 and 6154 of this title and enacting provisions set out as a note under section 6152 of this title] may be cited as the ‘Do-Not-Call Registry Fee Extension Act of 2007.’”

Pub. L. 110–187, § 1, Feb. 15, 2008, 122 Stat. 633, provided that: “This Act [enacting section 6155 of this title] may be cited as the ‘Do-Not-Call Improvement Act of 2007.’”

SHORT TITLE

Pub. L. 108–10, § 1, Mar. 11, 2003, 117 Stat. 557, provided that: “This Act [enacting this chapter] may be cited as the ‘Do-Not-Call Implementation Act.’”

§ 6152. Telemarketing Sales Rule; do-not-call registry fees

(a) In general

The Federal Trade Commission shall assess and collect an annual fee pursuant to this section in order to implement and enforce the “do-not-call” registry as provided for in section 310.4(b)(1)(iii) of title 16, Code of Federal Regulations, or any other regulation issued by the Commission under section 6102 of this title.

(b) Annual fees

(1) In general

The Commission shall charge each person who accesses the “do-not-call” registry an annual fee that is equal to the lesser of—

(A) \$54 for each area code of data accessed from the registry; or

(B) \$14,850 for access to every area code of data contained in the registry.

(2) Exception

The Commission shall not charge a fee to any person—

(A) for accessing the first 5 area codes of data; or

(B) for accessing area codes of data in the registry if the person is permitted to access, but is not required to access, the “do-not-call” registry under section¹ 310 of title 16, Code of Federal Regulations, section 64.1200 of title 47, Code of Federal Regulations, or any other Federal regulation or law.

(3) Duration of access

(A) In general

The Commission shall allow each person who pays the annual fee described in paragraph (1), each person excepted under paragraph (2) from paying the annual fee, and each person excepted from paying an annual fee under section 310.4(b)(1)(iii)(B) of title 16, Code of Federal Regulations, to access the area codes of data in the “do-not-call” registry for which the person has paid during that person’s annual period.

(B) Annual period

In this paragraph, the term “annual period” means the 12-month period beginning on the first day of the month in which a person pays the fee described in paragraph (1).

(c) Additional fees

(1) In general

The Commission shall charge a person required to pay an annual fee under subsection (b) an additional fee for each additional area code of data the person wishes to access during that person’s annual period.

(2) Rates

For each additional area code of data to be accessed during the person’s annual period, the Commission shall charge—

(A) \$54 for access to such data if access to the area code of data is first requested during the first 6 months of the person’s annual period; or

(B) \$27 for access to such data if access to the area code of data is first requested after the first 6 months of the person’s annual period.

(d) Adjustment of fees

(1) In general

(A) Fiscal year 2009

The dollar amount described in subsection (b) or (c) is the amount to be charged for fiscal year 2009.

(B) Fiscal years after 2009

For each fiscal year beginning after fiscal year 2009, each dollar amount in subsection (b)(1) and (c)(2) shall be increased by an amount equal to—

(i) the dollar amount in paragraph (b)(1) or (c)(2), whichever is applicable, multiplied by

(ii) the percentage (if any) by which the CPI for the most recently ended 12-month period ending on June 30 exceeds the baseline CPI.

(2) Rounding

Any increase under subparagraph (B) shall be rounded to the nearest dollar.

(3) Changes less than 1 percent

The Commission shall not adjust the fees under this section if the change in the CPI is less than 1 percent.

(4) Publication

Not later than September 1 of each year the Commission shall publish in the Federal Register the adjustments to the applicable fees, if any, made under this subsection.

(5) Definitions

In this subsection:

(A) CPI

The term “CPI” means the average of the monthly consumer price index (for all urban consumers published by the Department of Labor).

(B) Baseline CPI

The term “baseline CPI” means the CPI for the 12-month period ending June 30, 2008.

(e) Prohibition against fee sharing

No person may enter into or participate in an arrangement (as such term is used in section 310.8(c) of the Commission’s regulations (16 C.F.R. 310.8(c))) to share any fee required by subsection (b) or (c), including any arrangement to divide the costs to access the registry among various clients of a telemarketer or service provider.

(f) Handling of fees

(1) In general

The Commission shall deposit and credit as offsetting collections any fee collected under this section in the account “Federal Trade Commission—Salaries and Expenses”, and such sums shall remain available until expended.

(2) Limitation

No amount shall be collected as a fee under this section for any fiscal year except to the

¹ So in original. Probably should be “part”.