

Telephone Consumer Protection Act & CAN-SPAM Act

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The 411 on TCPA

- The **Telephone Consumer Protection Act (TCPA)**, established in 1991, is the primary federal law governing the regulation of telephone solicitations
- The **“do not call” registry** was created from this law and applies to all persons or businesses, including REALTORS®
- TCPA also covers Voice Over Internet Protocol (VoIP), faxes, and text messages
- TCPA regulates communications aimed at encouraging people to buy, rent, or invest in something with exceptions for those who’ve given permission for the communication or if initiated by a tax-exempt non-profit organization



TCPA Compliance

- Calls can only be made between 8 AM and 9 PM to residential numbers
- You must keep, and respect, an internal “do not call” list
- Auto-dialed marketing calls to cell phones require prior written consent
- You can’t use pre-recorded voices for marketing without consent
- You must check the national “do not call” registry every 31 days and update internal call logs as appropriate

**TCPA
VIOLATIONS**
can lead to
damages of
up to \$500 per
violation
(or even more,
if willful)



CAN-SPAM

- CAN-SPAM regulates commercial email solicitations
- The CAN-SPAM Act is enforced by the Federal Trade Commission
- All commercial emails, including those between businesses, must comply



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CAN-SPAM Key Points

- The consumer must be able to accurately identify the person, or business, who initiated the message
- Header information must be accurate, including the originating domain name and e-mail address
- Subject lines can't be deceptive
- The email must be identified as an advertisement
- Recipients must have a clear way to opt out of future emails
- Opt-out requests must be honored within 10 business days

**CAN-SPAM
VIOLATIONS**
can result in
penalties over
\$50,000



Summary

Whether you're making calls or sending emails, it is crucial to follow these rules to stay compliant and avoid hefty fines



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Resources

Additional resources featured in this presentation:

<https://www.nar.realtor/references-150>

<https://www.ftc.gov/business-guidance/resources/can-spam-act-compliance-guide-business>



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- Call 800-370-LEGAL (5342) from 9 am – 4 pm Monday through Friday
- Or email Legalhotline@marealtor.com any time



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