

Do Not Call Registry

As of December 2003



Prepared by
Paul McLaughlin, Legal Counsel
Marie Callas, Director of Education

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Iowa Association of REALTORS®

1370 NW 114th Street, Suite 100

Clive, Iowa 50325

800-532-1515 or 515-453-1064

www.iowarealtors.com

Do Not Call Quiz -- Current as of December 2003

Q # 1. The effective date for the Do Not Call rules for REALTORS® is:

- a. unknown since it has been challenged in Court
- b. January 1, 2004
- c. October 1, 2003
- d. January 1, 2005
- e. Not applicable since the rules only apply to Telemarketing firms and not real estate brokerages

Q # 2. The Federal Agency which has authority to regulate commerce, including telephone calls, amongst the States is:

- a. Federal Trade Commission
- b. Federal Department of Interstate Transportation
- c. Federal Bureau of Commerce
- d. Federal Communication Commission

Q # 3. The State of Iowa has had state specific Do Not Call Rules since:

- a. the Iowa legislature adopted rules Spring 2003, effective July 1, 2003
- b. October 1, 2003
- c. Iowa has not adopted any Do Not Call rules, therefore the laws do not apply to Iowa companies
- d. Iowa has not adopted Do Not Call rules

Q #4. If a REALTOR® previously had a contractual relationship with an individual, and the individual is listed on the Do Not Call Registry:

- a. the Realtor may contact the individual until death of one
- b. the Realtor may contact the individual for up to 18 months after the termination of the contract
- c. The Realtor may contact the individual only 3 months after the contract was signed
- d. The Realtor may not contact the individual, because the consumer is listed on the Registry

Q #5. A REALTOR® may contact an individual on their residential phone up to three (3) months after the consumer:

- a. Has registered on the Do Not Call Registry because of the “lag time” necessary for the government to update their files
- b. Has given notice to an individual company not to contact them for any reason
- c. Has made a customer inquiry or application to the brokerage firm or an independent contractor real estate licensee.
- d. Has contacted the Iowa Real Estate Commission regarding real estate rules and regulations in Iowa.

#6. What is a “customer inquiry or application”?

- a. a potential buyer signing a registry at an open house.
- b. a potential buyer making a phone call to a brokerage regarding a price of a property.
- c. A potential buyer calling a pre-recorded information line on available properties.
- d. An email to a salesperson for all the farm listings in a county in Iowa
- e. All the above
- f. None of the above

#7. Which of the following are exempted from the Do Not Call regulations:

- a. Political Calls
- b. Business to Business Calls
- c. Non-Profit tax exempt Charities
- d. Surveys by news organizations
- e. All of the above
- f. None of the above

Q #8. An individual may request:

- a. to be placed on the Do Not Fax registry
- b. for his business phone to be placed on the Do No Call Registry
- c. For his home based business to be placed on the do not fax registry
- d. An individual company to not call him whether he is registered on the Do Not Call registry or not .

#9. The current law may not be enforceable due to a court challenge based upon:

- a. the FTC does not have authority to create telephone rules
- b. Individuals may not prohibit calls to their phones, because the privilege in having a phone carries the burden that they are subject to any calls
- c. The government is infringing on the Commercial Speech Rights of certain companies over other similar companies
- d. Constitutional based laws on anti-trust laws which are targeting telemarketing companies

Q # 10. All of the following are true for the Do Not Fax Rules, except:

- a. You need in your possession written permission from an individual company to receive and send faxes to that company
- b. The Do Not Fax Rules became effective October,1 2003
- c. The Do Not Fax Rules were postponed until January 1, 2005
- d. The state government may make rules applicable to fax transmissions.

Do Not Call Quiz – Answers

Q # 1. The effective date for the Do Not Call rules for REALTORS® is:

- a. unknown since it has been challenged in Court
- b. January 1, 2004
- c. **October 1, 2003**
- d. January 1, 2005
- e. Not applicable since the rules only apply to Telemarketing firms and not real estate brokerages

Q # 1 answer = C. The do not call rules became effective October 1, 2003, and the federal government is enforcing the rules even though they are under appeal in the federal court system. They apply to any company who is attempting to “induce or encourage the use of services”.

Q # 2. The Federal Agency which has authority to regulate commerce, including telephone calls, amongst the States is:

- a. **Federal Trade Commission**
- b. Federal Department of Interstate Transportation
- c. Federal Bureau of Commerce
- d. Federal Communication Commission

Q #2 answer = A. The Federal Trade Commission is the federal agency who regulates trade among the states, via the power of the commerce clause in the Constitution. The Federal Communication Commission is limited in its scope of authority to transmission of signals, not the broader authority to regulate ALL types of commerce.

Q # 3. The State of Iowa has had state specific Do Not Call Rules since:

- a. the Iowa legislature adopted rules Spring 2003, effective July 1, 2003
- b. October 1, 2003
- c. Iowa has not adopted any Do Not Call rules, therefore the laws do not apply to Iowa companies
- d. **Iowa has not adopted Do Not Call rules**

Q #3 Answer = D. The state of Iowa Legislature has not adopted a state law for telemarketing calls, however, via Federal law, the rules are enforceable against Iowa companies beginning October 1, 2003.

Q #4. If a REALTOR® previously had a contractual relationship with an individual, and the individual is listed on the Do Not Call Registry:

- a. the Realtor may contact the individual until death of one
- b. **the Realtor may contact the individual for up to 18 months after the termination of the contract**
- c. The Realtor may contact the individual only 3 months after the contract was signed
- d. The Realtor may not contact the individual, because the consumer is listed on the Registry

Q #4 Answer = B. The law exempts companies who have a contractual relationship from the do not call rules for up to eighteen (18) months after the termination of the contract. However that 18 month window to call, may be terminated at any time if the consumer specifically informs the particular company not to call them. Each individual company must keep a company specific log of those

individuals who specifically request not to be disturbed by telephone calls, and distribute to all employees who potentially make telephone calls.

Q #5. A REALTOR® may contact an individual on their residential phone up to three (3) months after the consumer:

- a. Has registered on the Do Not Call Registry because of the “lag time” necessary for the government to update their files
- b. Has given notice to an individual company not to contact them for any reason
- c. **Has made a customer inquiry or application to the brokerage firm or independent contractor real estate licensee.**
- d. Has contacted the Iowa Real Estate Commission regarding real estate rules and regulations in Iowa.

Q #5 Answer = C. The do not call rules allow a company to call an individual up to three months after the consumer has made a customer inquiry or application. The law requires companies to update their do not call lists every three months, so a person who registers between the update times of the companies will not be protected by the rules and regulations. An exclusive listing contract would allow the REALTOR® to contact the consumer up to 18 months after the termination of the contract.

Q #6. What is a “customer inquiry or application”?

- a. potential buyer signing a registry at an open house.
- b. potential buyer making a phone call to a brokerage regarding a price of a property.
- c. A potential buyer calling a pre-recorded information line on available properties.
- d. An email to a salesperson for all the farm listings in a county in Iowa
- e. **All the above**
- f. None of the above

Q # 6. Answer = E. All the above have been thought to be a “customer inquiry or application”, however the rules have not provided any specific definition, and there is no case law to rely upon. Legal analysis of the above by National and State REALTOR lawyers generally find the above to be “applications or inquiries.” A key in any analysis is, what is the reasonable expectations of those individuals who do the above and what is reasonable expectation of privacy of those who put their names on the do not call list.

Q #7. Which of the following are exempted from the Do Not Call regulations:

- a. Political Calls
- b. Business to Business Calls
- c. Non-Profit tax exempt Charities
- d. Surveys by news organizations
- e. **All of the above**
- f. None of the above

Q # 7 answer = e. All of the above are exempt from the do not call rules. Political calls, Surveys by telephone, and non-profit tax exempt charities are exempt from the do not call rules. The laws are only applicable to residential phone calls, business to business calls are not affected by the rules.

Q #8. An individual may request:

- a. to be placed on the Do Not Fax registry
- b. for his business phone to be placed on the Do No Call Registry
- c. For his home based business to be placed on the do not fax registry
- d. **An individual company to not call him whether he is registered on the Do Not Call registry or not.**

Q # 8 Answer = d. There is not a do not FAX registry developed yet, there are only delayed rules requiring permission slips to send and receive a fax transmission from a particular company. Only residential lines are eligible to be placed on the do not call registry, and home based business phones are not considered residential. A person can not only register on the do not call registry, but also may also specifically dictate to individual companies to not call their residential phone any longer.

Companies who violate the rules are subject to penalties of up to \$11,000 per call by the federal government, and \$500 by individual consumers.

Q #9. The current law may not be enforceable due to a court challenge based upon:

- a. the FTC does not have authority to create telephone rules
- b. Individuals may not prohibit calls to their phones, because the privilege in having a phone carries the burden that they are subject to any calls
- c. **The government is infringing on the Commercial Speech Rights of certain companies over other similar situated companies**
- d. Constitutional based laws on anti-trust laws which are targeting telemarketing companies

Q # 9. Answer = c. The claim is the speech rights of the telemarketing businesses are being restricted, while the commercial speech of non-profit tax exempt companies are not being affected, even though both types of entities are doing similar activities and the calls made from the non-profits are just as intrusive as calls made from “regular” telemarketing businesses. The telemarketers are claiming this is an unconstitutional division which the government is preferring one type of business over another. A specific emergency action by Congress gave explicit authority for the FTC to create the do not call system.

Q # 10. All the following are true for the Do Not Fax Rules, EXCEPT:

- a. You need in your possession written permission from an individual company to receive and send faxes to that company
- b. **The Do Not Fax Rules became effective October,1 2003**
- c. The Do Not Fax Rules were postponed until January 1, 2005
- d. The state government may make rules applicable to fax transmissions.

Q # 10 answer = B. The do no fax regulations were supposed to take effect September 1, 2003, but at the last minute Congress delayed until January 1, 2005. The rules as currently written would have necessitated documented written consent and permission from anyone you wanted to send a fax. It is expected these rules will be revised and changed to a more reasonable standard before the effective date of September 1, 2005. The states government always have the power to regulate phone or fax transmission, however, the state of Iowa has made no such state specific rules to date.