

Overview—Fax Marketing Industry Standard 2011

Overview

The Fax Marketing Industry Standard 2011 (the industry standard) sets rules about when and how fax marketers can contact people. It includes requirements for:

- > when marketing faxes cannot be sent
- > information that must be provided on the marketing fax
- > opt-out functionality
- > limiting the number of marketing faxes that can be sent to a number over a particular period.

The industry standard applies to **all participants in the fax marketing industry** including some individuals and organisations that are not covered by the general prohibition contained in the *Do Not Call Register Act 2006* (the Act).

This means that even if a particular business, such as a charitable organisation, is exempt from the requirements of the Act and therefore able to fax numbers listed on the register, they must still meet the requirements contained in the industry standard.

Broadly speaking, a person is a participant in the fax marketing industry if they use marketing faxes to:

- > offer, advertise or promote goods or services, land or an interest in land, or a business or investment opportunity, or to promote a supplier or prospective supplier of such goods or services
- > solicit donations
- > conduct opinion polling
- > carry out standard questionnaire-based research.

Prohibited times for the sending of faxes

Fax marketers are not able to fax people during the times below, unless a fax recipient has consented to be faxed at that time. The term 'consent' has the same meaning as in the Act.

A separate information sheet on the topic of consent is available.

A sender must not send a marketing fax, or cause a marketing fax to be sent on:

- > a weekday before 9.00 am or after 8.00 pm
- > a Saturday before 9.00 am or after 5.00 pm
- > a Sunday
- > a national public holiday.

The times set out above refer to the time of the day at the fax recipient's usual residential address.

Information that must be provided on a marketing fax

A marketing fax must include the following information:

- > the name of fax advertiser
- > the Australian Business Number (ABN) of the fax advertiser, or equivalent business number identification if the person who authorised the sending of the fax is a foreign company
- > the contact details of the fax advertiser (including a telephone or fax number, and a street or email address)
- > the destination number that the fax is intended to be sent to
- > the details of how the recipient can send an opt-out message:
 - > a statement advising that a fax recipient may opt out of receiving any future faxes from the person who authorised the sending of the fax by communicating an opt-out message to an opt-out address and
 - > an opt-out address to which fax recipients can communicate an opt-out message.

The information required must be:

- > displayed in a clear and conspicuous manner
- > included on the first page of the fax
- > displayed using a minimum size 10 point font.

Opt-out facility

A person can opt-out of receiving marketing faxes by sending to, leaving at, or otherwise communicating an opt-out message to the opt-out address displayed in the fax.

Fax marketers are required to display a fax number to which an opt-out message may be sent; and at least one of the following:

- > a local or toll free number
- > an email address
- > a website address.

A fax marketer also must ensure that:

- > the opt-out address provided in the fax is capable of receiving opt-out messages at all times
- > remove the fax recipients numbers from any list of Australian numbers used by the sender as soon as possible, and no later than seven days, after receiving an opt-out message.

Limit on number of faxed to be sent to a recipient in a period

A person who sends faxes must make reasonable efforts to ensure that no more than 10 faxes authorised to be sent by the same fax advertiser are sent to a particular Australian number in any single 24-hour period.

Enforcement

A separate information sheet on the topic of enforcement action and penalties is available.

Further information

Further information about the register can be found at www.donotcall.gov.au

Please note: This publication intentionally avoids the use of legal language and information about the law may have been summarised or expressed in general statements. The information in this publication should not be relied upon as a substitute for professional legal advice or reference to the actual legislation.

IS 187—April 2011