



## **Frequently Asked Questions** **About the Do Not Contact Rules**

These Frequently Asked Questions should be read in conjunction with NRT's Do Not Contact Policy and will be updated from time to time.

### **I - The Do Not Call Rules**

On July 3, 2003, the Federal Communications Commission ("FCC") issued a Report and Order that expanded the reach of the national Do Not Call rules to *intrastate*, as well as interstate, telephone solicitation calls. The real estate industry must comply with these FCC Do Not Call rules. Numerous trade associations, including the National Association of REALTORS, have petitioned the Federal government seeking clarification of the rules and limited exceptions (i.e. calling "for sale by owners," expired listings, and referrals).

Although the United States District Court for the District of Colorado declared the Federal Trade Commission ("FTC") rules regarding the Do Not Call registry unconstitutional, the United States Court of Appeals announced on October 7, 2003 that the FTC may enforce the Do Not Call rules, including penalties, until the constitutional issue is resolved. The FCC Do Not Call rules are in effect as of October 1, 2003.

#### **Can I call a FSBO or an expired listing?**

If you have a legitimate interested buyer, you would not be making a sales call, and therefore, you may call a FSBO or expired listing solely on behalf of such legitimate interested buyer. If you do not have a legitimate buyer or if you are calling to market your services (i.e. obtain the listing), you may NOT call if the FSBO's or expired listing's phone number is on a DNC list, even if the FSBO/expired listing advertised in a newspaper or had a lawn sign. In other words, sales calls to FSBO's and expired listing are subject to normal rules of NRT's Do Not Call Policy.

Note however, that you may call your company's expired listings for 18 months from the date of expiration because of the company's established business relationship.

#### **Can I call neighbors of a new listing to invite them to an open house?**

Since the primary purpose of the call would be to either sell such neighbors the house or to convince them to list with you when selling their home (i.e. market our services), it is a sales call and these numbers need to be checked on the NRT Do Not Call website in accordance with the normal rules of NRT's Do Not Call Policy.

#### **What if I am doing a survey?**

Any survey must be a legitimate survey, i.e. for the sole purpose of collecting data for analysis or a particular group or area. A legitimate survey involves a systematic plan to gather and document information for a defined purpose. A legitimate survey does not involve any marketing and therefore would not be a sales call that is subject to NRT's Do Not Call Policy.

**What is a personal relationship?**

A personal relationship is a relationship that is outside the scope of your business, such as a friend or family member. The definition of a personal relationship does NOT include referrals.

**What language is needed on an express written consent, e.g. Open House Sign In Sheet, to obtain consent to call buyer prospects in the future?**

“By providing your name, signature, and phone number, you are consenting to receive phone calls from [brokerage] regarding our services.”

The above language must be conspicuously positioned on the document.

It is very important that you obtain a person’s signature. Merely obtaining a name and phone number constitutes an inquiry and affords you only 3 months to call. However, obtaining a signature, name and phone number provides you with written consent that doesn’t expire until rescinded.

**What if I call someone on his or her business phone?**

Business to business phone calls are not subject to NRT’s Do Not Call Policy – only sales calls made to residential and cellular phone numbers are subject to NRT’s Do Not Call Policy. Be careful when making a business to business call that you distinguish between a business phone number (not subject to the rules) and an individual’s cellular phone number (which is subject to the rules).

**Can I call an agent for recruiting purposes?**

A recruiting call solely for the purpose of encouraging an agent to join your company is not a sales call, and therefore is not subject to NRT’s Do Not call Policy.

**Do I need to retain a copy of the phone numbers I search on the NRT Do Not Call website?**

No. A record of your search will automatically be retained the website for a period of 2 years from the date of your search.

**Can I call a consumer referred from a relocation company or another real estate broker?**

The rules regarding the permissibility of calling a referral are not clear, and the National Association of Realtors has included this issue in its petition to the FCC for rules clarification. If there is a legitimate referral by a relocation company or real estate broker that is provided to you as a result of a consumer’s request to be contacted, and the request follows such consumer’s business relationship with the referring relocation company or real estate broker, the consumer reasonably expects to receive this referred sales call. Therefore, promptly upon receipt, you may call a legitimate referral from a relocation company or real estate broker. In all cases, be sure to identify to the consumer the relocation company or real estate broker that made the referral.

Note that a personal referral (e.g. a friend tells you that a neighbor needs a real estate agent) is subject to NRT’s Do Not Call Policy – phone numbers must be checked prior to calling such consumers.

**Can I make a phone call on behalf of a charity or charity event?**

If you are calling solely on behalf of a legitimate charitable organization and the call does not involve any marketing of your services, you may make such calls.

Note that you should refrain from disclosing the name of your company and should only refer to the name of the charity or charity event you are making the charitable phone call for.

### **Can I or my company outsource sales calling to a telemarketing firm?**

The answer depends on the telemarketing firm's ability to comply with the Do Not Call rules and to enter into a written agreement that includes sufficient protection for NRT and its affiliates against violations of the Do Not Call rules. If you would like to outsource your telemarketing activities, please contact Stacy Tankel, Corporate Counsel for NRT.

### **How will I know if I am complying with the caller ID requirement?**

NRT has confirmed that all phones in all offices either currently transmit caller ID information, or will transmit caller ID information, in compliance with this requirement

If you are unsure if your residential or cellular phone transmits caller ID information, you should contact your local carrier.

## **II – The Do Not E-mail Rules**

The CAN-SPAM Act of 2003 became effective January 1, 2004. The law governs the sending of commercial e-mail messages and requires any commercial e-mail (i) to be labeled an advertisement, (ii) to have an opt out mechanism and (iii) provide a physical address of the sender. This law will pre-empt all state anti-spam laws. At this time there is no national Do Not E-mail Registry.

### **What is a commercial e-mail message?**

Any e-mail the *primary purpose* of which is to advertise or promote your services or products.

### **Can I e-mail a buyer or seller that I am working with?**

Yes. An e-mail whose *primary purpose* is to facilitate, complete, or confirm a commercial transaction is not a commercial e-mail message. However, the message in the subject line cannot be false or misleading and the "from" line must accurately identify the sender.

### **What does it mean to "opt out"?**

Opt out means that a recipient of a commercial e-mail message must be able to request not to receive any further e-mail messages from the sender through an Internet mechanism, such as replying to the sender via e-mail.

### **When do I need to check e-mail addresses against the Do Not E-mail List?**

You must check the Company Specific Do Not E-mail List prior to sending any commercial e-mail message. Remember, a transactional or relationship message is not considered commercial e-mail so you do not need to check the Do Not E-mail List prior to sending such messages.

### **Is an internal e-mail sent within my company indicating I have a buyer looking for a specific property or describing a new listing considered a commercial e-mail?**

No. Internal e-mails sent solely to agents and/or employees of your company are directly related to your affiliation with your company and therefore are not commercial e-mail. Note however that such e-mail should be sent in accordance with your applicable company e-mail policy, which policy may restrict such e-mails.

**Can I e-mail an agent for recruiting purposes?**

A recruiting e-mail solely for the purpose of encouraging an agent to join your company is not a commercial e-mail.

**Can an e-mail address on the Do Not E-mail list be removed?**

Yes. The recipient must provide you with written consent (which can be via e-mail) indicating a consent to receive commercial e-mail messages and the e-mail address to which such messages can be sent. You can call 1-877-NRT-HELP (678-4356) to request to remove an e-mail address from the Do Not E-mail list.