

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
DO NOT CALL REPORT FOR FISCAL YEAR 2019-2020

The Office of Attorney General’s Bureau of Consumer Protection (“Bureau”) provides the following report on Pennsylvania’s Do Not Call program for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

I. Pennsylvania’s “Do Not Call” Law

The Commonwealth’s Do Not Call program was established through a 2002 amendment to Pennsylvania’s Telemarketer Registration Act, 73 P.S. § 2241, *et seq.* (“Telemarketer Act”). The Telemarketer Act provides legal protections from unwanted telephone solicitations for consumers who place their residential landline and wireless telephone numbers or their business numbers¹ on the statewide Do Not Call list. Under the law, telemarketers are required to obtain copies of the list, which is updated quarterly, or use a service provider who has, and will use, the Do Not Call list when making telephone solicitation calls.

II. Pennsylvania’s “Spam Law”

Pennsylvania’s Unsolicited Telecommunications Advertisement Act, 73 P.S. § 2250, *et seq.* (“Spam Law”), is intended to protect consumers from e-mail or fax messages which:

- contain false or misleading information in the return address;
- contain false or misleading information in the subject line; or
- fail to include a telephone number or return e-mail address to which recipients can notify the sender not to transmit further unsolicited documents.

The prohibitions of the Spam Law cover unsolicited commercial electronic mail messages or faxes transmitted “*from a computer or fax machine located in this Commonwealth . . .*” See, 73 P.S. § 2250.3(a).

¹ An amendment to the Telemarketer Act was passed in 2019 which allows for businesses to now register their numbers on the Do Not Call list.

III. Do Not Call Enrollment

Pennsylvania citizens and businesses can register their residential, wireless, and business telephone numbers on Pennsylvania's Do Not Call list by contacting the Office of Attorney General by telephone, mail or online. More than 271,500 telephone numbers² were registered with the Bureau during the 2019-20 fiscal year³. Registration may also be done directly with Direct Marketing Association, which is the administrator of Pennsylvania's Do Not Call list. Registration is free.

The Office of Attorney General's website and toll-free telephone number for registration and filing complaints are:

<https://www.attorneygeneral.gov>

1-888-777-3406

At the close of the fiscal year, there were 3,144,025 residential landline, wireless telephone numbers, and business phone numbers enrolled on Pennsylvania's Do Not Call registry.

IV. Enforcement

A. General

Violations of the Telemarketer Act and the Spam Law constitute violations of Pennsylvania's Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* ("Consumer Protection Law"). *See* 73 P.S. § 2246(a) and 73 P.S. § 2250.5(a). Under the Consumer Protection Law, the Attorney General may bring an action to stop unlawful acts or practices by filing a civil law enforcement action, whenever he has reason to believe a

² Residential landline numbers – 41.5%; wireless telephone numbers – 56.5%; and business phone numbers – 2%

³ This fiscal year had a very dramatic increase in enrollment compared to last fiscal year at 51,000 numbers.

person has engaged in business practices which violate the law. The Consumer Protection Law also permits the Attorney General to enter into agreements, known as Assurances of Voluntary Compliance (“AVC”), to end unlawful activity and obtain restitution and other relief in connection with violations of the law.

The Consumer Protection Law provides for penalties of up to \$1,000 for each violation and up to \$3,000 per violation involving a consumer who is age 60 or older. The Telemarketer Act and Spam Law state that 10% of any civil penalty collected for violations, up to \$100 per person, is to be remitted to consumers whose complaints led to the imposition of the penalty. *See*, 73 P.S. § 2245.2(k)(2) and 73 P.S. § 2250.8(a)(2).

B. Do Not Call Law

During the 2019-2020 fiscal year, the Bureau received more than 2,250 Do Not Call complaints from consumers, a significant decrease from last year. In the past, the telephone number and information displayed on these devices could be relied upon to identify the person who was calling; however, more than 1,000 telephone numbers reported in consumer complaints as displaying on caller ID devices were actually found to be “spoofed.” This means that many of the callers relating to these complaints are not able to be identified through ordinary investigative means for enforcement action. Also important to note is that the number of these complaints filed decreased significantly, which could indicate that our enforcement efforts, the carrier efforts, and the legislative efforts in the telemarketing space are deterring violations appropriately. Nevertheless, we are still faced with the scammers using the telephone and email to harm Pennsylvania consumers.

Scammers utilize voice-over internet protocol (VoIP) to modify caller ID fields and set up messaging to appear to be someone else, passing the information through numerous networks to appear, eventually, on the consumer’s caller ID display. Many times this caller ID displays telephone numbers that are in the same area code and local exchange of the targeted victim. That prompts consumers to answer their phones because they think the call “must-be” from someone nearby, like a neighbor. In some cases, the spoofed number is the same number of the targeted victim. All too often the ‘spoofed’ caller ID is that of a well-

known agency like the IRS, FBI or the customer service departments of well-known corporations. A vast majority of these illegal scam calls are originating outside of the United States. In order to effectively combat the illegal calls coming into this country, and Pennsylvania, technological innovations, as well as legislative efforts, will need to continue. Some specific examples of action we took, in partnership with State Attorneys General from across the country, are listed below in Section V.

During this past fiscal year, the calls where consumers identified the caller or subject matter about which they complained mostly covered a range of goods and services. They include motor vehicle warranties or service contracts, electricity suppliers, timeshares, and insurance. However, most of the calls were purely scams, aimed at obtaining personal financial information from consumers. Prominent among these scams were:

- Advance Payment/Wire Transfer Scams - in which they instruct the victim to cash the check or money order and send them a portion of the money by wire.
- Contest, Promotions & Prizes Scams - they will instruct the victim to pay a fee or buy something, asked to wire money, deposit a check they've sent, they are told they are from the government or another organization with a name that sounds official.
- Counterfeit Check Scams - the scammer may ask the victim to send a wire transfer for a portion of the check amount. The scam exploits the rule that a wire transfer cannot be rescinded, so when the check is returned as counterfeit, it is debited from the victim's bank account, leaving him responsible for the loss.
- Criminal Charges Scam – a caller claims to be an agent with the federal or state government calling to inform the victim that an arrest warrant has been issued for them but can be avoided by purchasing gift cards or a wire transfer
- Debt Collection Scam – Typically involving “ghost or phantom debt” in the name of a payday lender or one of the large financial institutions, the caller claims a legal action is imminent but can be avoided by an immediate payment.
- Grants Scams - telephone solicitors call out of the blue looking to give you thousands of dollars worth of government grants they say you are eligible for.
- Inheritance Scams - advance fee scam where the victim is asked for money before they can collect the money. Usually a letter or email is sent to a group of people with the same last name, or those on a list of email addresses purchased by the scammers.

- Utility Scam – A caller spoofing the local electrical service provider’s number indicates service will be shut off within minutes unless the victim pays the overdue balance as the result of a processing error.

Not every complaint presents a violation of the Telemarketer Act or is actionable under the law. For instance, some complaints contain insufficient information to identify the caller, or may have been filed by a consumer who was not enrolled on the list at the time of the call.

Some calls are still permitted under the Telemarketer Act, including:

- Calls made in response to an express request of the consumer;
- Debt collection calls;
- Calls made by a telemarketer which has had an established business relationship with the consumer within 12 months prior to the call;
- Calls made on behalf of the following organizations: charities, fraternal benefit societies, and federally chartered veterans organizations; and
- Calls from political candidates and parties.

In the 2019-20 fiscal year, the Bureau opened 10 investigations related to violations of the Telemarketer Act, filed 3 legal actions during the fiscal year. The legal actions that were resolved via an AVC obtained injunctive relief to prevent further violations of the Telemarketer Act and Consumer Protection Law, among other things. Where the Bureau filed a complaint, it is seeking all appropriate relief under the law. The legal action activity is as follows:

DND Consulting, LLC

A lawsuit was previously filed in Lancaster County, alleging violations of the Telemarketer Act and Consumer Protection Law by DND Consulting, LLC (“DND”). DND initiated or caused to be initiated or caused to be initiated telephone solicitation calls to consumers on the Do Not Call list. On July 3, 2019, the Court issued a

permanent injunction against DND from conducting telemarketing calls to Pennsylvania residents.

CWPPA, Inc. d/b/a College Works Painting

An AVC was filed on September 30, 2019, in Montgomery County, to resolve violations of the Telemarketer Act and Consumer Protection Law by CWPPA, Inc. d/b/a College Works Painting (“CWP”), a California corporation which offers to perform residential painting for Pennsylvania residents. CWP initiated or caused to be initiated telephone solicitation calls to consumers on the Do Not Call list, as well as initiated outbound calls to persons who previously stated they did not wish to receive such calls. CWP was required to pay \$30,000, of which \$19,600 was distributed to the Treasury, \$400 was distributed to 4 consumer complainants for remittance pursuant to the Telemarketer Act, and \$10,000 was distributed to the Office of Attorney General for costs of the investigation.

Titan Gas, LLC d/b/a Titan Gas & Power

An AVC was filed on November 15, 2019, in Dauphin County, to resolve violations of the Telemarketer Act and Consumer Protection Law by Titan Gas, LLC d/b/a Titan Gas & Power (“Titan”), a Texas based energy supplier registered with the Pennsylvania Public Utilities Commission (“PUC”). Titan initiated or caused to be initiated telephone solicitation calls to consumers on the Do Not Call list, as well as initiated outbound calls to persons who previously stated they did not wish to receive such calls. Titan was required to pay \$50,000, of which \$41,700 was distributed to the Treasury, \$3,300 was distributed to 33 consumer complainants for remittance pursuant to the Telemarketer Act, and \$5,000 was distributed to the Office of Attorney General for costs of the investigation.

First Class Distribution, LLC

An AVC was filed on November 19, 2019, in York County, to resolve violations of the Telemarketer Act and Consumer Protection Law by First Class Distribution, LLC (“First Class”), a Maryland limited liability company that sold light bulbs and warranty plans. Among other things, First Class initiated or caused to be initiated telephone solicitation calls to consumers on the Do Not Call list, as well as failed to purchase or utilize the PA Do Not Call list from the list administrator. First Class was required to pay \$30,000, of which \$15,000 was distributed to the Treasury and \$15,000 was distributed to the Office of Attorney General for costs of the investigation.

C. Spam Law

In fiscal year 2019-2020, the Bureau received 32 complaints involving unsolicited faxes and spam. Consumer complaints regarding unsolicited e-mails and faxes involved a variety of issues, such as home improvements and vacations.

As with the Do Not Call law, not every complaint presents a violation of the Spam Law or is actionable under the law. For instance, the statute does not: (1) restrict messages and advertisements that an e-mail user agreed to receive in exchange for free use of an e-mail account or (2) restrict transmissions sent as a result of an established business relationship. Additionally, a significant amount of spam and unsolicited faxes originate from outside Pennsylvania and the United States, creating enforcement and prosecution issues.

The Office of Attorney General continues to educate consumers about the protections these laws afford and will take action, as appropriate, to protect consumers in cases where it finds violations of these laws.

V. Other Activity

Since 2017, Pennsylvania has been a member of the Executive Committee of the Robocall Technologies Working Group, which is a working group of forty-five (45) State Attorneys General. This year, the working group was focused on the industry’s efforts in

implementing the caller identification authentication framework known as STIR/SHAKEN⁴. With this technology, which is designed to combat caller ID ‘spoofing,’ calls travelling through the interconnected phone networks have their caller ID ‘signed’ as legitimate by the carrier that originates the call. Thereafter, carriers responsible for delivering the call to the consumer validate the call before it reaches the consumer. If a call has not been ‘signed’ as legitimate, it can be blocked. In its capacity as an Executive Committee state, Pennsylvania has assisted in the following actions:

On August 21, 2019, Pennsylvania partnered with 50 other State Attorneys General in forming a bipartisan coalition to adopt principles aimed at cracking down on illegal robocalls. The principles were supported and agreed to by twelve (12) voice service providers, including, among others: AT&T, Services, Inc., Comcast, Sprint, T-Mobile USA, and Verizon. In so agreeing, the voice service providers declared that they would incorporate certain business practices, as follows: (1) offer free call blocking, (2) implement STIR\SHAKEN caller ID technology, (3) analyze and monitor network traffic to identify illegal robocalls, (4) investigate suspicious calls and calling patterns, (5) confirm the identity of commercial ‘voice-over-internet-protocol’ customers and collect identifying information, (6) in all contracts concerning the transportation of voice calls, require cooperation in traceback process, (7) cooperate in traceback investigations, and (8) communicate with State Attorneys General.

On August 23, 2019, in response to the FCC’s request for comments on the proposal to require all voice service providers to implement the STIR/SHAKEN caller ID

⁴ STIR/SHAKEN are acronyms for **Secure Telephone Identity Revisited** and **Signature-based Handling of Asserted Information Using Tokens**.

authentication framework by a date certain, Pennsylvania partnered with 50 other State Attorneys General in forming a bipartisan coalition to file comments with the FCC. In these comments, the State Attorneys General urged the FCC to adopt rules requiring providers to implement the STIR/SHAKEN caller ID technology, as it would be an effective tool in combatting “caller ID spoofing.” On March 31, 2020, the FCC adopted new rules requiring implementation of the caller ID technology by June 30, 2021.

On January 27, 2020, Pennsylvania, along with the other Executive Committee states of the Robocall Technologies Working Group, met with federal law enforcement partners, several major voice service providers, as well as USTelecom, to discuss important considerations in the tracing back of illegal robocalls, including: (1) criteria for prioritizing which campaigns to traceback, (2) possible modifications to the traceback process that would aid law enforcement, (3) incorporating consumer complaint data from State Attorneys General, and (4) streamlining the process for document production to law enforcement pursuant to subpoenas and civil investigative demands.

On June 4, 2020, Pennsylvania partnered with 51 other State Attorneys General in forming a bipartisan coalition to file comments with the FCC concerning proceedings the FCC initiated in selecting an entity to manage the private-led efforts in tracing back the origin of suspected illegal robocalls. In its comments, the State Attorneys General highlighted the need for efficient traceback investigations to identify illegal robocallers, as well as those intermediary voice service providers who assist and facilitate the bad actors.

In conclusion, and looking ahead to the future, we believe that the continued collaboration between state and federal law enforcement, along with the telecommunications industry, will be essential in investigating and shutting down illegal robocall operations.

The Bureau of Consumer Protection appreciates your interest in and consideration of its efforts in these important areas.