

ASML / FDMA
Code of Conduct

TELEMARKETING

The telemarketer and the consumer

5 April 2004
(unofficial translation)
updated 1.9.2008

1. Introduction

This Code of Conduct, prepared by the Finnish Direct Marketing Association (hereinafter 'the FDMA' or 'the Association'), applies to the relationship between telemarketers (hereinafter 'marketers') and their customers, i.e. individual consumers (hereinafter 'consumers'). The objective of this Code is to establish joint minimum standards for calls made by marketers to consumers, guarantee a high quality of telemarketing, improve the image of telemarketing among marketers, consumers and interest groups, and enhance the effectiveness of telemarketing.

A separate Code of Conduct applies to the relationship between clients and telemarketing companies.

In addition to this Code and current legislation, the FDMA's other Codes of Conduct must be taken into account in telemarketing.

The FDMA's other Codes of Conduct and a list of its member companies can be accessed at www.ssml.fi.

2. Scope of application

This Code of Conduct applies to the relationship between marketers and consumers. For the purposes of this Code, telemarketing refers to all telephone conversations between marketers and consumers, the objective of which is for the consumer to buy the product or service offered by the marketer. This Code applies to all contacts made over the phone, regardless of which party initiates the call, and extends to situations where the marketer operates from a call or contact centre or similar premises.

This Code applies to the sale of all kinds of products and services using the telephone. However, item 5 of this Code does not apply to the sale of banking, insurance or investment products, the arranging of appointments with customers, or fund-raising for charitable purposes in cases where the fund-raising does not include the sale of products or services to consumers. The provisions of the Consumer Protection Act and the special provisions applicable to financial services apply to the remote sale of financial services.

- This Code of Conduct applies to the activities of marketers employed by assignees who are members of the FDMA.
- This Code applies also to cases where a client who is a member of the Association gives a telemarketing assignment to a non-member telemarketing company and its marketers.
- Should a telemarketing company that is a member of the FDMA use non-member subcontractors for telemarketing, the telemarketing company shall ensure that the marketers of such subcontractors comply with this Code of Conduct.
- Telemarketing and other companies that are members of the FDMA and which use telemarketers under employment or assignment contracts shall

ensure that their marketers are familiar, and comply, with this Code of Conduct.

- Clients must ensure that their marketers are familiar with the contents of this Code of Conduct and comply with it when telemarketing is carried out by individual agents or by marketers employed by the client.

3. Good practice in telemarketing

Compliance with good practice

When carrying out telemarketing, marketers must not apply practices that breach good practice or are otherwise inappropriate from the perspective of consumers. Marketers must respect the will of consumers who indicate that they wish to end the call. In this case, the marketer must politely sign off and terminate the call.

Marketers who contact consumers by phone should not offer the same product or service provided by a client to the consumer by phone within 2 months of the previous phone call, unless the consumer is the company's customer or the call is based on the consumer's expression of intent.

Marketers are allowed to make phone calls to consumers from Monday to Saturday only. The appropriate hours for phone calls are between 09:00 a.m. and 20:30 p.m. on weekdays and between 10:00 a.m. and 18:00 p.m. on Saturdays. Making phone calls to consumers outside these hours is prohibited, unless the marketer and the customer have expressly agreed otherwise or unless otherwise provided for by the nature of the product being sold (e.g. the provision of credits related to apartments). Provided that it is appropriate to make phone calls on Sunday, as described above, the appropriate hours are between noon and 18:00 p.m..

When making an outbound call, marketers must promptly state their name and the commercial purpose of the call.

The granting of consumption credit must not be used as the primary marketing tool, unless the product to be sold is consumption credit.

Prohibition of deceptive and misleading practices

Marketers must not use deceptive or misleading practices to promote sales.

Marketers must inform the consumers, clearly and in an accessible manner, about the name and price of the product or service that they are offering, as well as the terms of payment, instalments and other terms and conditions that are essential to the order (for additional information, see item 5 below). Marketers must base their sales talk on the main product, not on free gifts, marketing lotteries or similar attractions. It is expressly prohibited to use free gifts, various monetary benefits

that are offered to the entire sales target group or lottery prizes as the main content of the sales talk.

Marketers must not use subscription prices or other terms and conditions of the deal which they have made up or which are sponsored by them.

Marketers must sum up the conversation with the consumer by reviewing the content of the agreement in order to guarantee that the consumer understands his or her rights and obligations ensuing from the agreement. Marketers must inform the consumer that he or she will receive a written or electronic order acknowledgement that summarises the main content of the agreement.

Negative contractual commitment

Consumers must have freedom of choice. Marketers must not send products other than free gifts, samples or similar material to consumers without their order. When marketers send free material to consumers, the delivery must indicate clearly that the consumer does not have to pay anything, has no obligation to return the gift or sample and does not have to react to the delivery in any manner.

Informing the consumer about the price, price comparisons and discounts

Marketers must clearly indicate the price of the product or service that they offer to consumers. The price-related information that must be provided to the consumer, clearly and in an accessible manner, must include the total price of the product or service and all expenses incurred by the order, unless included in the price of the product or service. Should the receipt of a product that is offered as a free gift require the purchase of another commodity, the marketer must clearly indicate the amount of payment. In this case, the phrase 'free of charge' must not be used in marketing; other phrases, such as 'as an added extra' must be used instead.

Price comparisons, if any, must not mislead consumers. The products or services, the prices of which are compared, must be mutually comparable.

Marketers must not claim that the price of a product or service is discounted more than by the amount it is below the price that was actually charged for the commodity in question before the bargain sales campaign started. Prices that have been temporarily increased before the bargain sales campaign must not be used for comparison.

Free gifts and combined offers

The marketers' sales talk must not focus on free gifts; the main focus of attention must be the product or service that is being sold. Marketers who use free gifts or combined offers must provide consumers with the information provided by law, including

the content of the offer (description of the products or services offered to the consumer at the combined price). When free gifts are offered to consumers,

marketers must state that the additional benefit is available without a separate charge.

- 1) the value of the offer (i.e. the separate prices of the commodities minus the total price of the product package). In cases where two or more equivalent products are offered to consumers, the separate prices of all products must also be indicated. However, the value of the offer does not have to be indicated if the price of the commodity, purchased separately, is less than EUR 10.
- 2) all terms and conditions related to the utilisation of the offer, including but not limited to the duration of the offer and quantitative and other limitations.

All terms and conditions related to free gifts and combined offers must be clarified to the consumers.

3.6. Marketing lotteries

Marketers must not refer to a marketing lottery in a manner that dominates the conversation with the consumer. Marketers must provide the consumer with the most important information on the lottery, including the dates when the lottery starts and ends, the date of the draw, the way in which the draw is carried out and instructions on how the results of the draw can be checked and how consumers are kept informed.

Marketers must clearly inform the consumer that he or she can participate in the marketing lottery even without purchasing the product or service offered by the marketer.

4. Telephone preference service

Marketers are not allowed to make marketing phone calls to consumers that are not connected to the customer relationship or appropriate contact, as referred to section 7 of the corporate rules (FDMA's code of conduct – The client and the telemarketing company) if the consumer has issued a company-specific ban to the client or calls to the customer are restricted under the Telephone Preference Service. The client agrees on ways to comply with this provision with the telemarketing company in the assignment contract.

A marketer making a marketing phone call as referred to above to a consumer who reports that he or she has registered with the Telephone Preference Service must record the consumer's name and phone number as well as the time and date of the call and the name of the company whose product or service was being sold to the consumer. Once the marketer has received this information from the consumer, he or she must politely terminate the call and refrain from further attempts to sell him or her the product or service in question.

On request, the marketer must give the consumer the telephone numbers which he or she can call in order to register with the Telephone Preference Service.

5. The marketers' obligation to provide information to the consumer

Marketers must provide the consumers with the information prescribed by the Consumer Protection Act before the order is made. Some of this information can easily be given during a normal telesales conversation, while other pieces of information are difficult to discuss over the phone. All information provided by the Consumer Protection Act must be given in the order acknowledgement that is delivered to the consumer once the deal is concluded. The order acknowledgement is usually sent to the consumer by the client company on the basis of the information provided by the marketer.

When making an outward call to a consumer, the marketer must provide the following information during the telephone conversation before the consumer makes the deal:

- 1) the name and street address of the telemarketing company;
- 2) the description of the product or service that is being sold;
- 3) the terms and conditions related to the price of the product or service and the terms of delivery and payment;
- 4) the price of phone calls made to the marketer, if calling the marketer's service number or other similar telephone number incurs higher costs than the normal telephone call;
- 5) the duration of the offer and
- 6) information on the consumer's right to cancel the order or, if the consumer does not have the right to cancel the order by law, information on the lack of such right.

The marketer must provide the client company with the above information and all other information required by the client company as soon as possible, because the grace period starts, at the earliest, from the day that the consumer receives the order acknowledgement.

For phone calls initiated by the consumer, the marketer's obligation to provide information can be fulfilled, for example, in the form of a sales catalogue or marketing letter sent to the consumer or through the information provided on the service provider's web site.

Special legislation applies to the marketers' obligation to provide information on financial services.

6. The consumer's data protection

Should a consumer wish to review the register descriptions prepared by the client company or the telemarketing company, the marketer must inform him or her of how they can be accessed. Should the consumer ask where he or she can obtain additional information on the way in which personal data are processed by the client company or the telemarketing company, the marketer must inform the consumer about the source of this information.

The registers of persons that the client company provides to the marketer remain the client company's property. When the marketer stops selling the client company's products or services, he or she must return all the personal data obtained for the assignments to the telemarketing company, and the telemarketing company shall convey them to the client company.

7. Supervision of the activities of marketers

All telemarketing companies must supervise the activities of their marketers and provide for efficient disciplinary action for cases of non-compliance with this Code of Conduct.