

109:4-3-11

**Direct solicitations.**

(A) It shall be a deceptive act or practice in connection with a consumer transaction involving any direct solicitation sale for a supplier to do any of the following:

- (1) Solicit a sale without clearly, affirmatively, and expressly revealing at the time the supplier initially contacts the consumer or prospective consumer, and before making any other statement, asking any question, or entering the residence of the consumer or prospective consumer, that the purpose of the contact is to effect a sale, stating in general terms the goods or services the supplier has to offer, provided that this paragraph shall not apply to solicitations by mail;
- (2) Represent that the consumer or prospective consumer will receive a discount, rebate, or other benefit for permitting his home or other property, real or personal, to be used as a so-called "model home" or "model property" for demonstration or advertising purposes when such in fact is not true;
- (3) Represent that the consumer or prospective consumer has been specially selected to receive a bargain, discount, or other advantage when such in fact is not true;
- (4) Represent that the consumer or prospective consumer is a winner of a contest when such in fact is not true;
- (5) Fail to conform to the requirements of sections 1345.21 to 1345.27, and 1345.99 of the Revised Code relative to home solicitation sales or misrepresent in any manner, the consumer's or prospective consumer's right to cancel provided for under such sections, when such sections are applicable;
- (6) Represent that the goods that are being offered for sale cannot be purchased in any place of business, but only through direct solicitation, when such in fact is not true;
- (7) Represent that the ~~salesman~~ salesperson, representative, or agent has authority to negotiate the final terms of a consumer transaction when such in fact is not true;
- (8) Send a consumer a communication that the supplier proposes to send goods to, or provide services for, the consumer, which communication, goods or services the consumer has not expressly agreed in advance to receive, and the consumer will be required to pay for those goods or services unless the consumer communicates a refusal of the offered goods or services;

- (9) Send unordered goods to a consumer accompanied by a communication that requires, or purports to require, payment for the goods unless the consumer communicates a refusal to accept the goods and/or returns the goods;
- (10) Send unordered goods to, or perform unordered services for, a consumer and then request payment for the provided goods or services;
- (11) Interrupt, terminate, cancel, or deny delivery or provision of goods or services previously contracted for to a consumer solely on the basis that the consumer has not paid for or returned to the supplier goods or services which the consumer has not ordered, requested or authorized from the supplier;
- (12) Make any attempt to collect upon, assign or convey to any other person or entity, or report to any credit reporting agency any claimed consumer debt related to unordered goods or services provided to the consumer in violation of this rule.
- (B) "Direct solicitation" means solicitation of a consumer transaction initiated by a supplier, at the residence of any consumer, or at a place other than the normal place of business of the supplier or by a supplier who has no normal place of business, and includes a transaction initiated by the supplier by mail or telephone solicitation at the residence of any consumer or at a place other than the normal place of business of the supplier. The term "mail" shall include e-mail and facsimile.
- (C) The provisions of subdivisions (A)(8), (9), and (10) of this rule shall have no application to goods or services sent pursuant to an agreement that is in compliance with the Federal Trade Commission rule on the use of negative option plans by sellers in commerce (16 C.F.R. Section 425).

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R.C. 119.032 review dates: 11/12/2004 and 09/29/2010

CERTIFIED ELECTRONICALLY

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Certification

09/19/2005

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Date

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