

## STAYING OUT OF LEGAL TROUBLE

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## Objectives

- Avoid Consumer Complaints
- Avoid Inquires from State and Federal Agencies
- Avoid Class Action Suits
- Avoid Negative Publicity
- Avoid Your Contract Being Void or Voidable
- Maintain the Value of your Business

## Primary Areas of Concern

Consumer Protection  
Print and Media Advertising  
Tele-Marketing  
Home Solicitations  
Warranties  
Internet Marketing

## Overview

Most States have Consumer Protection or Unfair Business Practices Laws

- If you think the practice is sharp or shady – it is probably illegal!
- Mostly confined to residential customers

## Where are the Rules?

- Consumer Protection Statutes (State and Federal)
- Security Industry Licensing
- Contractor Licensing
- General Civil Code
- Financial Codes (Credit and Financing)

## What is False Advertising?

- Almost anything a regulator wants it to be!
- It can be oral, written, or a picture
- Is it puffing or a warranty?
- Is a “free system” – really free?
- Don't rely on what other do!

## Puffing vs. Warranties

A statement in your advertising or may be considered a warranty and can be construed as a contractual promise to the consumer. A consumer can prevail if he can demonstrate that a product is defective because it does not conform to the provider's representation and that defect is the proximate cause of an injury.

## Is it Really Free?

- FTC Has Rules Governing "Free"
- State Law May Also Have Rules

## Outbound Telemarketing

- Generally Same Advertising Rules Apply
- Special State and Federal Rules
  - Live vs. Recorded
  - Required Introduction
  - Automatic Disconnect
  - No Random Call Generator
- No-Call List

## In-Home Marketing

- Hardest to Control and Mostly Likely to Lead to Trouble
- Use of Rebates and Incentives
- Language of Presentation vs. Language in Contract
- 3-Day Rescission Compliance

## 3-Day Right of Rescission

- Both a Federal and State Law
- Applies to all face to face sales – unless at your place of business
- Be sure contract is in full compliance as to type size and location.
- Customer must get two completed copies of the cancellation notice.
- Oral explanation is required

## Are There Unique State Rules?

- Restrictions on Renewals
- Assignability or Transfer of the Contract
- Special Type Size
- Unique Provisions

## Regulation - Z

- Depending upon its terms, payment cycle and duration, your agreement may be covered by Federal or State law regarding credit or installment contracts.

## Using the Internet

- How will you use the Internet?
  - Initial Contracts
    - Electronic Signature
  - Your Website or E-Mail
    - Don't be a Spammer