



# Proposed Regulation to License Telemarketers

## Discussion Paper

Ministry of Public Safety & Solicitor General  
Compliance and Consumer Policy Division  
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PSSG 04087

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## Introduction

On July 5, 2004, responsibility for the oversight of business practices and consumer protection in British Columbia was delegated from the Ministry of Public Safety & Solicitor General to the new independent [Business Practices and Consumer Protection Authority](#) (the BPCPA).

The BPCPA operates at arm's length from government and is responsible for provincial consumer protection activities. These activities include licensing, investigations, and enforcement under the new [Business Practices and Consumer Protection Act](#) and [Cremation, Interment and Funeral Services Act](#). The BPCPA operates within a full-cost recovery model and is not a taxpayer-subsidized system.

The new *Business Practices and Consumer Protection Act* allows the BPCPA to license telemarketers under [s. 143\(d\)](#) – Licence required. This section has not yet been proclaimed. However, the Ministry plans to regulate the telemarketing industry and requests the public to comment on the development of a licensing regulation.

## Background

There are many legitimate businesses and charities that use telemarketing as a vehicle for sales and fundraising. In recent years, fraudulent telemarketing has become a serious problem. There are an estimated 150 or more illegal lottery ticket telemarketing companies in British Columbia. Companies are also targeting American and European consumers.

Legitimate telemarketing businesses find their reputations adversely affected by fraudulent telemarketers and they experience difficulties in competing with deceptive schemes for limited dollars available in the marketplace.

Prior to the establishment of the BPCPA, the provincial government embarked on a series of cooperative efforts with the US Federal Trade Commission, departments in the Ministry of Attorney General, and police organizations to address fraudulent telemarketing businesses. Initiatives have resulted in putting some companies out of operation. Collectively these operations were responsible for an estimated \$25 million in fraudulent sales.

Some consumers are also expressing increasing frustration with the number and nature of unsolicited telemarketing calls.

## **Proposed Regulatory Framework**

The telemarketing industry is not regulated in British Columbia.

A regulation to licence telemarketers would improve consumer protection by:

- regulating who can enter the telemarketing industry; and
- providing the BPCPA with the enforcement powers to effectively address fraudulent telemarketing operations.

The regulation would also include conditions which would reduce consumers' frustration with the number and nature of some unsolicited calls.

### **Licensing**

The regulation would require all telemarketing businesses and their employees to be licensed. Non-profit organizations and charities that solicit contributions would also be licensed.

### **Licence Fees**

The amount of the licence fees would be based on a cost-recovery model that is consistent with the BPCPA's mandate. Businesses would pay an initial licence fee when they apply for a licence. Fees for both businesses and employees would apply for renewed licences.

### **Criminal Record Check**

Persons applying for a licence would be required to disclose whether they have a criminal record and would be required to complete an authorization form for a criminal record check.

### **Cross-Border Issues**

Telemarketers outside the province making unsolicited calls to consumers in British Columbia would be required to purchase a licence. Telemarketers located in British Columbia making unsolicited calls to consumers located outside the province would also be licensed.

### **Compensation Fund**

Some people suggest that a compensation fund be established for the telemarketing industry to compensate consumers for economic loss resulting from fraudulent telemarketing activities. However, government does not intend to proceed with this suggestion at this time.

### **Use of Mail Box Businesses**

Fraudulent telemarketers can receive money from consumers through mail boxes which conceal their identity. This fraudulent activity may be limited by requiring mail box companies to request and retain identification from their customers. Law enforcement agencies could access this information when investigating illegal telemarketing activities.

### **Additional Conditions of Licensing:**

The following lists additional conditions which may be applied to telemarketing licences:

- **Calling Hours:** Calls should only be made between 9:00 am and 9:30 pm on weekdays and between 10:00 am and 6:00 pm on weekends, with no calls on statutory holidays. The time refers to the local time of the person being contacted.
- **Frequency:** The telemarketer would not contact a consumer more than once in every 30 day period for the same product or service without the consumer's permission.
- **Identification:** At the beginning of each call or on the head of each fax, the telemarketer would provide identification, the originating number, company name, and contact information. The contact information would include a toll-free number where the telemarketer can be contacted. The telephone number provided would be staffed during business hours with an after-hours interactive voice mail back-up.
- **Blocked calls:** Telemarketers would not use blocked numbers.
- **Disclosure:** The telemarketer would disclose the type of product or business interest they are promoting and the purpose of the call. During each call the telemarketer would disclose the price of any product or service being promoted and any restrictions or conditions that must be met before the product is delivered.
- **False or Misleading Information:** The telemarketer would not make any representation that is false or misleading in a material respect.
- **Prizes:** The telemarketer would not conduct a contest, lottery or other game where delivery of the prize is conditional on payment in advance, or where the approximate value of the prizes and other facts that affect the chances of winning are not fairly disclosed.
- **Gifts:** The telemarketer would not offer a free gift or a product at minimal cost as an inducement to buy a second product (this is acceptable if they disclose the approximate value of the gift or premium).
- **Training Requirements:** The government may require telemarketers to complete a training program with the objective of increasing consumer protection.

## Questionnaire

- 1) Should charities and non-profit organizations pay a reduced licence fee?  
Yes  No
- 2) Should telemarketers who are located **outside** the province but who are calling consumers **in** British Columbia be licensed?  
Yes  No
- 3) Should mail box businesses be required to obtain and retain personal information from their customers? This information would be used by law enforcement agencies to investigate fraudulent telemarketing activities.  
Yes  No
- 4) Your comments, questions or concerns:

Please forward your reply to:

Ministry of Public Safety and Solicitor General  
Compliance and Consumer Policy Division  
PO Box 9288 Stn Prov Govt  
Victoria BC V8W 9J7  
Fax: 250-356-1092

Your reply should be forwarded no later than *Friday, October 29, 2004*.

This information is being collected for the purpose of determining how to regulate telemarketers in British Columbia. Any personal information you provide is subject to the *Freedom of Information and Protection of Privacy Act*. The information will be used to evaluate the results of the consultation, which may involve disclosing your comments to other institutions and interested parties during and after the consultation. Your name will not be disclosed without your consent.