



Press Release

Bonn, 3 August 2009
Page 1 of 3

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Federal Network Agency may enforce cold calling regulations now

Kurth: "Competitive advantage through unlawful practices will not be tolerated"

"Agency needs help from consumers"

The Federal Network Agency has been entrusted with new powers to combat illegal sales calls. A change in the Unfair Competition Act improves the protection of consumers against such nuisance calls. From now on, the Agency will prosecute any failure to observe the prohibition on illegal sales calls.

"To most people, cold calls are not just a nuisance anymore. We all do not want to be disturbed in our precious spare time, unless we have expressed interest in being contacted. In view of the flood of unsolicited advertising calls, it was therefore only a logical consequence for the lawmakers to tighten the rules. The Federal Network Agency has always taken the consumers' side by consistently combating number misuse. And we are determined to use every means at our disposal to combat cold calling too", Matthias Kurth, the Agency's President, declared. Companies will not be allowed to secure a competitive advantage by breaking the law".

Even before the change in the law, calling consumers for advertising purposes without their explicit consent was prohibited. Unsolicited sales calls constitute an unacceptable inconvenience under the Unfair Competition Act. The change in the law makes it clear again that calling consumers for advertising purposes requires explicit prior consent by the called party. It is therefore no longer possible for callers to refer to a declaration of consent signed by the consumer in a completely different connection (eg a lottery) or subsequently.

As a further result of the change, a breach of the prohibition on illegal sales calls constitutes an administrative offence now. The Agency may punish breaches by fines not exceeding 50,000 euros.



Bonn, 3 August 2009

Page 2 of 3

In addition, a further administrative offence that is subject to a fine has been included in the Telecommunications Act. Sales callers are no longer allowed to withhold their number in order to conceal their identity and make it difficult to trace their calls. The Agency may impose a fine of up to 10,000 euros on any caller who fails to observe this prohibition.

"To be able to combat unlawful sales calls, we need complaints from consumers. Their reports on concrete calls are an essential requirement for us in our battle against cold calling", Kurth emphasised.

Consumers receiving cold calls without prior consent should in particular provide the Agency with the following data:

- date and time of the call;
- name and, if possible, number of the caller;
- name of the company on whose behalf the call was made;
- reason for the call.

To do so, consumers should preferably use the form available for download from the Agency's website (see below). The Agency needs detailed complaints from consumers in order to reveal unlawful telephone advertising activities and open administrative fines proceedings, or, in the case of proved breaches, take action and impose fines.

"Be careful with the provision of your data in everyday life; do not give them to anyone, especially not your telephone number", Kurth emphasised. Support the Agency in its work if you are cold called. Describe the calls as precisely as possible so that we can call the companies in question to account on the basis of detailed complaints. We cannot help consumers unless they provide us with verifiable facts, names, numbers and possibly even addresses. We do not know who called them and, luckily, there is no comprehensive interception of telephone calls. The success of our work therefore depends on reports from consumers who receive nuisance calls. At the same time I would call on the telemarketing companies to adhere to the statutory regulations and not to turn advertising measures into a nuisance for consumers. This will also damage the companies' reputation"



Bonn, 3 August 2009

Page 3 of 3

For advice on the subjects of number misuse and illegal sales calls, consumers should contact the addresses below.

Address:

Bundesnetzagentur
Nördelstraße 5
59872 Meschede

or

Bundesnetzagentur
Schütt 13
67433 Neustadt

Phone: +49 291 9955-206

(Mondays to Wednesdays between 9.00 and 17.00 hours;

Thursdays between 9:00 and 18:00 hours and Fridays between 9:00 and 16:00 hours)

Fax: +49 6321 934-111

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