WEST VIRGINIA CODE: §46A-6F-501

§46A-6F-501. Unfair or deceptive acts or practices.

It is an unfair or deceptive act or practice and a violation of this article for any seller or telemarketer to engage in the following conduct:

(1) To advertise or represent that registration as a telemarketer equals an endorsement or approval by the state or any governmental agency of the state;

(2) To request or receive payment of any fee or consideration for goods or services represented to remove derogatory information from, or improve, a person's credit history, credit record, or credit rating until:

(A) The time frame in which the telemarketer has represented all of the goods or services will be provided to that person has expired; and

(B) The telemarketer has provided the person with documentation in the form of a consumer report from a consumer reporting agency demonstrating that the promised results have been achieved, such report having been issued more than six months after the results were achieved;

(3) To obtain or submit for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, share, or similar account, without that person's express verifiable authorization. Such authorization shall be deemed verifiable if any of the following means are employed:

(A) Express written authorization by the customer, which may include the customer's signature on the negotiable instrument; or

(B) Express oral authorization which is tape recorded and made available upon request to the customer's bank and which evidences clearly both the customer's authorization of payment for the goods and services that are the subject of the sales offer and the customer's receipt of all of the following information:

(i) The date of the draft(s);

(ii) The amount of the draft(s);

(iii) The payor's name;

(iv) The number of draft payments (if more than one);

(v) A telephone number for customer inquiry that is answered during normal business hours;

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and

(vi) The date of the customer's oral authorization.

(C) Written confirmation of the transaction, sent to the customer prior to submission for payment of the customer's check, draft, or other form of negotiable paper, that includes:

(i) All of the information contained in subparagraphs (i) through (vi), paragraph (B), subdivision (3) of this section; and

(ii) The procedures by which the customer can obtain a refund from the telemarketer in the event the confirmation is inaccurate;

(4) To procure the services of any professional delivery, courier or other pick-up service to obtain immediate receipt and possession of a consumer's payment unless:

(A) Such service is requested by the consumer;

(B) The consumer is informed that he or she can inspect the goods or services prior to payment and may refuse to accept the goods or services; and

(C) The consumer is actually afforded an opportunity to inspect the goods or services prior to payment;

(5) To engage in any other unfair or deceptive conduct which will create a likelihood of confusion or misunderstanding to any reasonable consumer;

(6) To misrepresent the requirements of this section;

(7) To provide substantial assistance or support to any telemarketer when that person knows or consciously avoids knowing that the telemarketer is engaged in any act or practice that violates this section;

(8) To engage in any "unfair methods of competition and unfair or deceptive acts or practices" as specified in §46A-6-102(f) of this code and made unlawful by the provisions of §46A-6-102 of this code; or

(9) To engage in transmission of misleading or inaccurate caller identification information, including, but not limited to, circumventing caller identification technology that allows the consumer to identify from what phone number or organization the call has originated from, or to otherwise misrepresent the origin and nature of the solicitation: Provided, That the provisions of this subsection do not apply to a communications service provider that delivers a communication originated by another person or entity.

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