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Office of Consumer Affairs CONSUMER QUARTERLY

SPRING 1999

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V. 4, #2, JUNE 1999

Telemarketing Fraud: A Costly Crime for Consumers

Telemarketing fraud, cheating people out of their money or property using the phone, has become one of the most common white-collar crimes in Canada. It costs Canadian consumers and businesses about \$4 billion every year.

Criminals are drawn by large proceeds and the relatively low risk of detection, prosecution and punishment. The elderly are

often victims because they are isolated, too polite to hang up the phone and likely to expect others to be as good as their word.

This issue of *Consumer Quarterly* looks at what telemarketing fraud is and how to spot and report it. Also included are various initiatives to punish offenders and to protect consumers from, and inform them about, telemarketing fraud.

Hello. May I Speak to...?

Telemarketing fraud, or deceptive telemarketing, comes in many forms: prize and recovery pitches, loan scams, and investment, fundraising and lottery schemes, among many others. Here are some tips for recognizing some scams.

*If you suspect you are
a target of telemarketing fraud,
or if you have already sent funds,
report it right away.*

The pitch sounds too good to be true.

A caller says you have won a big prize in a contest that you do not recall entering. You are offered a once-in-a-lifetime investment that promises a huge return. You are told that you can buy into a lottery ticket pool that cannot lose.

You must pay money to receive what you have won. You must agree to send money to the caller to pay for delivery, processing, taxes, duties or some other fee in order to receive your prize. Sometimes the caller will even send a courier to pick up your money.

If you suspect you are a target of telemarketing fraud, or if you have already sent funds, report it right away (see box).

Who to Contact

If you want to report a fraud, or if you need more information, contact PhoneBusters or SeniorBusters (a group of volunteers who work with PhoneBusters to provide telephone support and information to seniors who have become victims of telemarketing fraud):

1-888-495-8501

Fax:
(705) 494-4008

E-mail:
PhoneBusters@efni.com

Web site:
http://www.phonebusters.com

Or contact the Competition Bureau at Industry Canada:

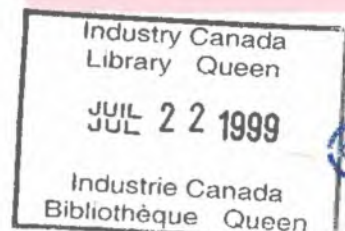
1-800-348-5358

E-mail:
compbureau@ic.gc.ca

Web site:
http://competition.ic.gc.ca

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The Deceptive Telemarketing Prevention Forum

In May 1996, public sector organizations and businesses interested in preventing and combatting telemarketing fraud joined forces with the creation of the Deceptive Telemarketing Prevention Forum.

The forum, chaired by Industry Canada's Competition Bureau, comprises participants from the private and public sectors: Bell Canada, Better Business Bureau, Canada Post, Canadian Association of Retired Persons, Canadian Bankers Association, Canadian Marketing Association, Federal-Provincial-Territorial Consumer Measures Committee, MasterCard Canada Inc., Ontario Ministry of Consumer and Commercial Relations, PhoneBusters, Royal Canadian Mounted Police, Solicitor General of Canada, Stentor, Visa Canada, and Volunteer Centre of Toronto.

In the spring of 1998, forum members adopted the campaign slogan, "Stop Phone Fraud — It's a Trap!" and began to develop and implement a social marketing

strategy aimed at changing Canadians' attitudes and behaviour toward telemarketing.

Phase One

The first phase of the campaign was launched in November 1998 in Charlottetown at a meeting of federal, provincial and territorial ministers responsible for consumer affairs. The ministers, along with forum representatives, unveiled the "Stop Phone Fraud" poster and pamphlet. The pamphlet provides basic information on how to detect telemarketing fraud and what to do about it, and contains contact information for PhoneBusters and the Competition Bureau.

Phase Two

The forum released a series of radio and television public service announcements and is beginning national distribution of the pamphlet and poster across the country.

Canadians will soon find them on display at telephone centres, postal outlets and libraries across the country. The forum also unveiled an upgraded Web site for PhoneBusters; consumers can now get on-line information on how to spot a phone scam, what to do about it and how to report it.

Next Steps

As part of the final phase of the campaign, the forum is establishing a community outreach program that will include the release and distribution of an educational video. Forum members are also committed to communicating their messages about deceptive telemarketing, using notices printed on corporate materials such as financial statements, telephone bills and credit card statements. The Volunteer Centre of Toronto, as well as other organizations, is coordinating training sessions and the development of printed workshop materials for volunteers. For more information, call PhoneBusters or visit its Web site (<http://www.phonebusters.com>).



OCA's New Fraud Quiz

Industry Canada's Office of Consumer Affairs (OCA) and a private sector partner are developing an on-line questionnaire to help consumers identify the type of fraudulent approaches they may encounter and determine their susceptibility to direct marketing fraud. This tool will also provide individually tailored advice and tips on how to spot and avoid fraudulent practices.

After the user answers a set of multiple-choice questions, the computer will calculate a score that represents the user's susceptibility to fraud. The quiz will take the form of a magazine-style questionnaire.

Look for the Fraud Quiz on *Consumer Connection* in late August or early September (<http://strategis.ic.gc.ca/oca>).

A Better Law to Fight Telemarketing Fraud

Recent changes to the *Competition Act* will make it easier to prosecute telemarketing crimes and will increase the penalties for those guilty of telemarketing fraud.

Deceptive telemarketing now a crime. The amendments, which came into effect in March, create a new and specific criminal offence for deceptive telemarketing that covers all situations involving the practice of using interactive telephone communications for the purpose of promoting the supply of a product or business interest. The amended Act also covers charities because they use the telephone in their work. Previously, con artists who used the telephone could only be charged under the general deceptive marketing practices provisions of the *Competition Act*. For example, someone who made misleading claims over the phone would likely be charged with misleading advertising, but a deceptive telemarketer who operated scams but did not actually make any misrepresentations over the phone would not.

Stiffer penalties. Offences are punishable by a maximum penalty of five years in prison and a fine at the discretion of the court, which means there is no ceiling for the fine amount that can be imposed. In addition, the new provisions have increased the responsibility of corporations, as well as their officers and directors, for ensuring that employees comply with the law. Officers and directors of companies engaged in deceptive telemarketing may be charged as parties to the offence and found guilty, along with those who actually work the phones, unless they prove that they exercised due diligence to prevent the offence.

Disclosure rules. Telemarketers are now required to disclose certain information at the beginning of the call, including the name of the company or person they are working for, the nature of the product or the business interest they are promoting and the express purpose of the call. They must also disclose other types of information, such as the price of the product.

Prohibited practices. Telemarketers can no longer make "payment in advance" a con-

dition for receiving a prize, offer gifts or prizes as an inducement to buy another product without fairly disclosing the value of the gift, or offer a product at a grossly inflated price and require payment in advance.

Surveillance. The amendments allow law enforcement officials to use electronic surveillance or wiretaps to gather evidence of deceptive telemarketing. This will undermine the anonymity afforded by the telephone that had previously shielded scam artists from detection.

Injunctions. The amendments also give the Competition Bureau, which enforces the *Competition Act*, more power to seek and obtain interim injunctions to stop the activities of fraudulent operators. Injunctions can also be issued against third parties (such as telephone companies) providing services to businesses, or persons who have been previously convicted of deceptive telemarketing.

Montréal Court Hands Down Record Fine

On May 5 in Montréal, the Competition Bureau obtained a record fine of \$1 million against people responsible for a scheme in which consumers were defrauded after being offered valuable prizes over the phone.

A number of companies operating under the names American Family Publishers, Publishers Central and First Canadian Publishers were fined after the companies' president, Mr. Vijay Sharma, pleaded guilty before the Quebec Superior Court. Mr. Sharma was also fined an additional \$100,000 and prohibited from taking part in any venture that would allow him to repeat his crimes.

In order to claim their valuable "mystery prizes," consumers were told that they would have to purchase various items, such as pen and letter opener sets or jewellery, from the company at what turned out to be grossly inflated prices.

Many customers were contacted later by a more aggressive telemarketer, who would convince them that they were eligible for even more valuable prizes under the company's "executive" prize promotion if they made more purchases. This pattern of "reloading" continued until the customer either ran out of money or simply refused to continue dealing with the company.

The inquiry that led to the conviction began after the Competition Bureau and PhoneBusters received hundreds of complaints. In total, 17 companies and 18 individuals including the above were charged in April 1997 with false and misleading advertising. Many telemarketers involved received jail terms and orders to carry out community work; other individuals and their personal corporations are still awaiting trial.

International Cooperation

Telemarketing fraud, by its very nature, knows no geographical boundaries. During meetings in Washington, D.C., in April 1997, U.S. President Bill Clinton and Prime Minister Jean Chrétien directed their respective officials to prepare a joint study examining ways to counter the serious and growing problem of cross-border telemarketing fraud. The Working Group on Telemarketing Fraud published a report in November 1998 recommending that both countries:

- clearly identify telemarketing fraud as a serious crime;
- further explore the legal and technical potential and limits of electronic surveillance as a tool against telemarketing fraud;
- examine the regulation of telephone services and options for denying telephone services to telemarketing offenders;
- examine, and if possible modify, extradition arrangements to facilitate and

accelerate extradition in telemarketing fraud cases;

- conduct research into offenders, victims and other aspects of telemarketing fraud to create effective educational materials and strategies to prevent it.

The recent *Competition Act* amendments address several of these recommendations.

For Further Information

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Consumer Quarterly is also available on *Consumer Connection*, the Office of Consumer Affairs' home page on *Strategis*, Industry Canada's business information Web site:

English

<http://strategis.ic.gc.ca/oca>

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ISSN 1206-9744

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What Can I Do to Protect Myself and My Family from Telemarketing Fraud?

Be cautious. You have the right to check out any caller by requesting written information, a call back number, references and time to think over the offer.

Criminal telemarketers will take the time to become your "friend," call you by your first name, make several calls over days and weeks, and ask personal details about your life.

first name, make several calls over days and weeks, and ask personal details about your life. They may keep up the calls until they get the money they want, then put your name on a "sucker" list to be sold to other fraud artists.

Protect older persons in your family by discussing the dangers of telemarketing fraud and by encouraging them to share their concerns about unsolicited calls or any new business or charities they have been speaking to over the phone. Assure them it is never rude to hang up on a suspicious call.

Protect your personal information, especially banking and credit card details. If you have any doubts about the caller, just hang up.

Know that the caller will often claim to be a government official, tax officer, banking official or lawyer.

Legitimate telemarketers will not ask you to send money, whether to win a prize or cover taxes, postage or processing fees. Criminal telemarketers will usually ask for cash or a money order, two methods of payment that are not traceable.

Criminal telemarketers will take the time to become your "friend," call you by your

