



For Your Information

Debt Relief Companies Prohibited From Collecting Advance Fees Under FTC Rule That Takes Effect October 27, 2010

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Tags: [Consumer Protection](#)

Starting October 27, consumers trying to settle their debts will be protected by a new rule that prohibits companies that sell debt relief services over the telephone from charging fees before settling or reducing a customer's credit card or other unsecured debt. The ban on advance fees reflects changes that the Federal Trade Commission made to its Telemarketing Sales Rule last July.

"The rule change that goes into effect next week is a major victory for consumers struggling to control and manage their debt without inadvertently digging themselves in deeper," Chairman Jon Leibowitz said. "Starting on October 27, debt relief telemarketers are on notice – if you charge consumers before actually helping them, you will find the FTC and state enforcers knocking at your door to enforce the Rule. We look forward to working with our state partners to ensure that the Rule is enforced across the country."

Over the past decade, the FTC and state enforcers have brought over 250 law enforcement actions to stop deceptive and abusive practices by debt relief providers that have targeted consumers in financial distress. The FTC will be enforcing the new rule, as will the states – which also have authority to bring actions under the Rule.

The new advance fee ban specifies that fees for debt relief services may not be collected until:

- the debt relief service successfully settles or changes the terms of at least one of the consumer's debts;
- there is a settlement agreement, debt management plan, or other agreement between the consumer and the creditor that the consumer has agreed to; and
- the consumer has made at least one payment to the creditor as a result of the agreement negotiated by the debt relief provider.



The new rule also has provisions to ensure that debt relief providers do not front-load their fees if a consumer has

enrolled multiple debts in one debt relief program.

The advance fee ban does not apply retroactively, so it applies only to consumers who enroll in a debt relief service after October 27, 2010.

Dedicated Account for Fees and Savings

Another provision of the rule that becomes effective October 27 places additional restrictions on debt relief companies that require consumers to set aside provider fees and savings used to pay creditors in a “dedicated account.”

Providers may only require a dedicated account if five conditions are met:

- the account is maintained at an insured financial institution;
- the consumer owns the funds (including any interest accrued);
- the consumer can withdraw from the debt relief service at any time without penalty and receive all unearned provider fees and savings within seven business days;
- the provider does not own or control or have any affiliation with the company administering the account; and
- the provider does not exchange any referral fees with the company administering the account.

Other New Debt Relief Rules Now in Effect

Other changes to the Rule took effect on September 27, including requiring debt relief companies to make specific disclosures to consumers and prohibiting them from making misrepresentations.

Who's Covered

The rule covers telemarketers of for-profit debt relief services, including credit counseling, debt settlement, and debt negotiation services. The rule does not cover nonprofit firms, but does cover companies that falsely claim nonprofit status.

Information for Businesses and Consumers

The FTC issued a guide to help businesses comply with the debt relief rule. The guide describes the key changes to the Telemarketing Sales Rule affecting debt relief services, helps businesses determine if they are covered by the new rules, details information that covered entities must disclose to customers, and discusses how fees may now be collected. It can be found at <http://www.ftc.gov/bcp/edu/pubs/business/marketing/bus72.pdf> on the agency's website and is linked to this press release. Information for consumers can be found at <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre02.shtm>.



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