



Unsolicited selling

(formerly known as door-to-door sales)

Australian Consumer Law factsheet for suppliers and salespeople

What defines an unsolicited consumer agreement?

An agreement is considered to be unsolicited when:

- a supplier/salesperson approaches or phones a consumer uninvited;
- negotiations take place over the phone, or in person at a location other than the supplier's premises; and
- the total value of the agreement is more than \$100, or the value was not ascertainable at the time the agreement was made.

An uninvited approach outside of a business or trade premises includes approaching or intercepting a consumer in a shopping centre and may include operating from a kiosk or stall. If a consumer merely invites a quote an agreement negotiated on that visit is still unsolicited as the invitation was for a quote to be considered at the consumer's leisure.

In the event of a dispute, the onus is on the business to prove that an agreement is not an unsolicited consumer agreement.

When can I call on a consumer?

You **must not** call on a consumer:

- on Sunday or a public holiday;
- before 9 am or after 6 pm on a weekday (or after 8 pm for fax/phone calls); or
- before 9 am or after 5 pm on a Saturday.

You can only visit outside the above times if you make an appointment over the phone or in writing (not in person) beforehand.

What do I need to do when calling on a consumer?

You must:

- explain up-front the purpose of your visit;

- produce identification setting out the dealer's full name and address or, if the dealer is not the supplier, the supplier's full name and address;
- let the consumer know they can ask you to leave; and
- leave the premises immediately if the consumer asks you to. You must not make contact again for the purpose of negotiating an agreement, or any incidental or related purpose on behalf of the same supplier, for at least **30 days**.

You must also refrain from approaching homes displaying 'Do Not Knock' signs or stickers.

What must I do when negotiating a sale?

You must:

- before the agreement is made, provide information about the customer's right to cancel the agreement;
- ensure you and the customer sign the agreement and any amendments; and
- give the customer a written copy of the agreement immediately after signing.

What must the sales contract contain?

The document must:

- be transparent – that is, expressed in plain, legible and clear language;
- be printed – although any changes to the agreement may be handwritten (and must be signed by both parties);
- clearly state:
 - the customer's cancellation and cooling-off rights;
 - full terms of the agreement;

- total price payable, or how this will be calculated; and
- any postal or delivery charges.
- contain your (the supplier's):
 - name;
 - business address (not a post office box number);
 - Australian Business Number (ABN) or Australian Company Number (ACN); and
 - fax number and email address, if available.
- contain a notice the customer may use to cancel the agreement, in a format set out in regulation 84 of the Competition and Consumer Regulations 2010.

What are the customer's cancellation rights?

The customer has 10 business days to cancel the agreement without penalty. This cooling-off period begins on the first business day after the agreement was made. If the agreement was made by telephone, the 10 day period commences on the first business day after the consumer was given the documentation about the agreement.

Important: You must not accept payment for any goods or services during the cooling-off period. The supply of goods worth more than \$500 or services (other than electricity and gas) during the cooling-off period is also prohibited.

The customer may also cancel an agreement up to three months after it was made if you did not:

- visit within permitted selling hours;
- disclose the purpose of your visit;
- produce identification; or
- leave the premises upon request.

The cancellation period is extended to six months if you:

- did not provide information about cooling-off rights;
- breached requirements for unsolicited consumer agreements (such as failing to provide a written copy or not including required information);
- supplied goods during the cooling-off period; or
- accepted or requested payment during the cooling-off period.

The customer may cancel the agreement verbally or in writing. The cancellation date is when the customer gives or sends the notice.

What happens when the customer cancels the agreement?

An agreement cancelled by a customer is void; that is, treated as if it never existed.

You must promptly return or refund any money paid under an agreement or related contract.

The customer must, within a reasonable time, return any goods that have not been consumed, or tell you where to collect them.

For more information on your obligations under the Australian Consumer Law (ACL), refer to:

- *ACL: Sales practices – A guide for businesses and legal practitioners*
- *Fair Trading Act 2010*
- Competition and Consumer Regulations 2010.

Department of Mines, Industry Regulation and Safety

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