



# national do not call list

a **consumer's** choice • a **telemarketer's** responsibility



Canadian Radio-television and  
Telecommunications Commission

Teleconference for the  
Canadian Association of Movers

21 January 2009



le choix du **consommateur** • la responsabilité des **entreprises de télémarketing**

# liste nationale de numéros de télécommunication exclus



## National DNCL Presentation Outline



- Definition of Telemarketing
- National DNCL Rules
- National DNCL Exemptions
- National DNCL Operations
- Telemarketing Rules
- Liability
- Complaints, Investigation, and Enforcement
- What Telemarketers should do now



## Definition of Telemarketing



### Telemarketing

- The use of telecommunications facilities to make unsolicited telecommunications for the purpose of **solicitation**

### Solicitation

- The selling or promoting of a product or service, or the soliciting of money or money's worth, whether directly or indirectly and whether on behalf of another person. This includes solicitation of donations by or on behalf of charitable organizations



## Are you a telemarketer?



Do you use telecommunications technologies:

- To sell products and services to new or existing clients?
- To prospect for new clients?
- To sell or prospect, directly or indirectly, for yourself or another party?
- To ask for charitable donations or recruit volunteers?

If you answered yes to any of the above, then

***You are a telemarketer!***



## National DNCL Rules



***Any  
Canadian  
telephone  
number can  
be  
registered***

- Land line***
- Fax***
- Wireless***
- VoIP***

- Do not call registered consumers unless you have prior explicit consent
- Telemarketers and clients of telemarketers must
  - Subscribe to the National DNCL prior to making any telemarketing telecommunications
  - Pay subscription fees and keep a record of proof of payment and subscription for three years
- May not use National DNCL for any purpose other than compliance with the Rules



## National DNCL Rules



- May not sell, rent, lease, publish or otherwise disclose the National DNCL to any person outside of the telemarketer's or client of telemarketer's organization, including affiliates
- May provide National DNCL to person supplying services to enable compliance with the Rules
- 31-day grace period
- A consumer's registration is effective for 3 years

*Any  
Canadian  
telephone  
number can  
be  
registered*

- Land line
- Fax
- Wireless
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## Express Consent



*Consent  
can be  
withdrawn  
at any time*

- **Rule states**
  - “...express consent has been provided by such consumer to be contacted via a telemarketing telecommunication...”
- Part V of the Rules describes acceptable forms
  - Written, including a completed application form
  - Oral
  - Electronic via toll-free number or Internet
  - Other methods if record created by consumer or third party
- Personal referral not considered consent
- Onus on telemarketer and client of telemarketer to prove consent obtained





## National DNCL Exemptions



*All  
exemptions  
except  
Business  
to  
Business  
provided for in  
the Act*

- **Types of telemarketing telecommunications are exempt, not organizations**
  - Made by or on behalf of charities registered under *Income Tax Act*
  - Based on an existing business relationship with a consumer
  - Made for purposes of elections, surveys, and solicitations for subscription to a newspaper of general circulation
  - Made to businesses





## Existing Business Relationship



## Definition of existing business relationship

### *The Consumer has*

1. Purchased services or purchased, leased, or rented products within the 18-month period preceding the date of the telemarketing telecommunication
2. Made an inquiry or application about a product or service within the 6-month period preceding the date of the telemarketing telecommunication
3. A written contract that is either current or has expired within the 18-month period preceding the date of the telemarketing telecommunication

**Section 41.7(2)**  
**of the**  
**Telecommunications**  
**Act**



## National DNCL Exemptions



**Consumer  
choice**

- **Organizations making exempt telecommunications are required to:**
  - Keep their own do not call lists
  - Identify the purpose of their call at the beginning of the call

***The above requirements do not apply to organizations making calls for the sole purpose of surveys, polls, and research***





## Affiliates



***Request not to be called is not required to be passed on to an affiliate***

- *One entity is affiliated with another entity if one of them is controlled by the other or if both are controlled by the same person*
- Affiliates:
  - Must obtain own subscription to the National DNCL
  - Consent to be called does not apply to affiliate unless specifically stated in consent
  - Existing business relationship does not extend to affiliate



## National DNCL Operations



*IVR*

*Interactive Voice  
Response*

### Consumers

- Registration and filing of complaints
- Via Internet or telephone (IVR)
  - [www.innte-dncl.gc.ca](http://www.innte-dncl.gc.ca)
  - IVR system: **1-866-580-3625** or
  - 1-888-362-5329 (TTY – hearing impaired only)

### Telemarketers

- Registration via website
  - [www.innte-dncl.gc.ca](http://www.innte-dncl.gc.ca) (choose “I am a telemarketer” button on home page)
- Technical Assistance via e-mail only
  - [support@req.innte-dncl.gc.ca](mailto:support@req.innte-dncl.gc.ca)



## National DNCL Operations



*National DNCL  
launch date  
September 30*

- **Subscription Types and Rates**
  - Download entire country or by area code
  - Query (designed for small businesses or individuals)
- **File formats**
  - Telephone numbers only
  - CSV or XML tagged
  - [http://www.crtc.gc.ca/eng/INFO\\_SHT/t1028.htm](http://www.crtc.gc.ca/eng/INFO_SHT/t1028.htm)
- **Who can access the National DNCL?**
  - Subscriber
  - Third party authorized by subscriber



# National DNCL Subscription Rates



*Payable by  
credit card or  
electronic funds  
transfer*

| Subscription option - by area code |          |         |         |         |
|------------------------------------|----------|---------|---------|---------|
| Number of area codes               | Annual   | 6-month | 3-month | 1-month |
| All area codes                     | \$11,280 | \$5,640 | \$2,970 | \$1,125 |
| By individual area code            | \$615    | \$310   | \$155   | \$55    |

| Subscription option - by telephone number             |           |
|---|-----------|
| Telephone number query <sup>1</sup>                   | Per query |
| Any area code (maximum 100 queries per query session) | \$0.50    |

<sup>1</sup>A query is available for those making unsolicited calls to a limited number of consumers. For example, an organization finding new business from referrals might find this subscription method useful.

[http://www.crtc.gc.ca/eng/INFO\\_SHT/t1028.htm](http://www.crtc.gc.ca/eng/INFO_SHT/t1028.htm)





## Telemarketing Rule Changes



***Telemarketing Rules apply to all telemarketers, except calls for public opinion polls, market research, surveys, or calls to collect overdue accounts.***

- Once intended party is reached the telemarketer must identify
  - Name of person who is calling
  - Organization call is made on behalf of
  - Organization making the call
- Upon request
  - Provide local or toll-free number
  - If number answered by voice mail, must return consumer's call within 3 business days
- Calling hours for both fax and voice
  - 9:00 am to 9:30 pm weekdays
  - 10:00 am to 6:00 pm weekends



## Telemarketing Rule Changes



***Telemarketing Rules apply to all telemarketers, except calls for public opinion polls, market research, surveys, or calls to collect overdue accounts.***

- Must keep individual do not call lists
  - Handle request at the time of the telemarketing call
  - Grace period for voice and fax is 31 days
  - Request in effect for 3 years and 31 days
  
- Predictive dialing devices and call abandonment rates
  - Call is abandoned if not connected to agent within two (2) seconds
  - May not exceed, in any calendar month, 5% abandonment rate
  - Maintain records of abandonment rates for 3 years





## Telemarketing Rules



***Telemarketing Rules apply to all telemarketers, except for calls made for the purpose of opinion polling, market research, surveys, or calls to collect overdue accounts.***

- Restrictions on Automatic Dialing Announcing Devices (ADADs)
  - May not use for telemarketing unless have express consent from consumer to use ADADs
  - May be used for appointment reminders and thank you calls
- Exemptions to the Telemarketing Rules
  - Surveys or market research (not considered telemarketing)
  - Telemarketing via voicemail broadcast (Commission will monitor complaints)



## Telemarketing Rules



***Telemarketing Rules apply to all telemarketers, except for calls made for the purpose of opinion polling, market research, surveys, or calls to collect overdue accounts.***

- All telemarketers must register with the National DNCL, including those making exempt calls.
- The CRTC will procure a third party to be the Complaints Investigator in the future.
- At that time, all telemarketers and clients of telemarketers will be required to pay applicable fees to support investigations.





## Who can be held liable for violations



***Clients of telemarketing agencies are responsible for subscribing to the National DNCL***

- Telemarketers who telemarket on behalf of themselves
- Telemarketers who telemarket on behalf of clients (i.e. agencies)
- Vicarious Liability (section 72.02 of the Act)
  - Clients of telemarketers provided there is an agent/mandatary relationship



## Complaints



**Complaints  
about National  
DNCL  
Telemarketing  
ADADS  
Rules**

- **Making a complaint**
  - By phone or online
  - Within 14 days
  - Require telephone number or name of telemarketer
  
- **National DNCL operator**
  - Collects complaints
  - *Prima facie* assessment
  - Forward to CRTC
    - Investigation
    - Enforcement



## CRTC roles and responsibilities



### *New Enforcement Powers*

- **Investigations**
  - Has a rule been violated?
  
- **Notices of violation and amount of Administrative Monetary Penalty (AMP)**
  - Examples of factors that will be considered
    - Nature of violation (minor, serious, very serious, negligent or intentional)
    - Number and frequency of complaints and violations
    - Relative disincentive of measure
    - Potential for future violation



## New Enforcement Powers



### ➤ **Administrative Monetary Penalty (AMP)**

- Each contravention of the Rules constitutes a violation
- Individual - Up to \$1,500
- Corporation - Up to \$15,000
- Payable to the Government of Canada

### ➤ **CRTC intends to make public the Notice of Violation (after opportunity to represent a defence)**

- Name of the violator
- Amount of the AMP
- Reason for the AMP



## Defences



**Section 72.1 of the  
Telecommunications  
Act**

### ➤ **Due Diligence \***

Demonstrates

- Telemarketing call resulted from an error, and
- As part of routine business practice, has
  - Established and implemented adequate written policies and procedures to comply with the rules
  - Provided adequate ongoing training to employees
  - Entered into an agreement between itself and a third party telemarketer requiring that the latter comply with the Unsolicited Telecommunications Rules.

*\* see Liability Section in the Rules for complete list*

### ➤ **Common law**



## What telemarketers should do now



*National DNCL  
launch date  
September 30*

- **Systems and processes**
  - Download the National DNCL and scrub lists (31-day grace period)
  - Establish toll-free number or local number for consumer contact
  - Review Record-keeping Rules
  - Review Predictive Dialing Device Rules
- **Telemarketing and business processes**
  - Revise scripts (review identification rules)
  - Ensure you process a do-not-call request **at time of call**
  - Modify telemarketing faxes (12-point font and other rules)
- **Consent Rules**
  - Modify application and other consumer forms and contracts





# National Do Not Call List



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*Telecom Decision 2007-48*

<http://www.crtc.gc.ca/eng/archive/2007/dt2007-48.htm>

*Telecom Decision 2008-6*

<http://www.crtc.gc.ca/eng/archive/2008/dt2008-6.htm>

*Documents related to the National DNCL*

<http://www.crtc.gc.ca/eng/dncl.htm>

*Website to register on the List*

<https://www.lnnte-dncl.gc.ca/ind/insorg-regorg-eng>