



Manager
Do Not Call Taskforce
Australian Communications and Media Authority
PO Box 13112 Law Courts Melbourne Vic 8010
Via email: donotcalltaskforce@acma.gov.au

September 2006

Re: Industry Standard for the Making of Telemarketing Calls Discussion Paper

Thank you for the opportunity to comment on the above discussion paper. The Consumers' Telecommunications Network (CTN) is a national peak body of consumer and community organisations, and of individuals representing community interests, who participate in developing national telecommunications policy.

CTN advocates policies for better access, quality of service and affordability of telecommunications facilities for all residential consumers. CTN's members are national and state organisations representing consumers from non-English speaking backgrounds, deaf consumers, indigenous people, low income consumers, people with disabilities, young people including children, pensioners and superannuants, rural and remote consumers, women and consumers in general.

Introduction

We are pleased that the legislation allowing the creation of the register has been passed, and believe an Industry Standard for the Making of Telemarketing Calls is an important complementary instrument to the Do-Not-Call register.

In November 2005, CTN made extensive comments to the Department of Communications, IT and the Arts on the proposal to establish a Do-Not-Call register. Many of the areas covered by the proposed Industry Standard were made in our original submission to DCITA, and we are pleased to have the opportunity to re-state those views.

Principles Guiding the Development of the Standard

Improvements to the draft principles are set out below in the same order as those in the discussion paper.

- Establish nationally consistent rules for telemarketing;
The standard cannot “promote” anything. It is to *establish* rules by which telemarketers must abide if they are to employ that particular sales method. The principles need to inherently recognise that poor telemarketing practices have resulted in consumer dissatisfaction, which have in turn driven the decision to create a Standard.
- Ensure responsible practices in relation to the making of telemarketing calls;
The original principle suffered the same lack of clarity as the previous point. Setting a standard is setting a standard - the language used needs to be reflective of this.
- Meet public interest considerations without imposing unwarranted undue financial and administrative burdens on participants in the telemarketing industry;
ACMA needs to be clear that this Standard is a direct response to ongoing consumer concerns about telemarketing practices. This Standard will exist *because* of existing industry practices. Financial and administrative burdens will in all likelihood occur as a result of having to improve practice – this is unavoidable and the public interest considerations must be clearly given priority over costs associated for industry.
- Assist in arresting the level of dissatisfaction within the community about telemarketing activities (including privacy concerns);
Whilst we agree this should be an outcome, it would seem out of place as a principle – it is part of the *purpose* of the standard, and the other principles are a means of achieving this outcome.
- Be easily understood and adhered by all parties affected by the standard;
“Acted upon” is inappropriate language again – the implication of indirect language suggests that it is not mandatory. It is, therefore use direct language.
- Recognise and promote industry self-regulation;
Why this is a principle is unclear. This is a mandated Standard, not a self-regulatory instrument. Self-regulatory mechanisms will deal with issues outside the areas identified for the Standard – this principle would seem to be redundant.
- Be competitively neutral.
This principle exists in legislation – why is it being singled out amongst the other range of principles enshrined in legislation? Again it would seem a redundant principle, as it already exists.

An additional principle that needs to be added is that an effective dispute resolution scheme must be created (or given jurisdiction) to cover any complaints about breaches of the Standard. This is a critical addition to the principles – namely the consumer’s right to redress.

Contact Times

CTN believes telemarketing should only be allowed to occur between 9am and 5pm Monday through Saturday. There should be no telemarketing calls allowed at all on Sundays and public holidays.

The need for national consistency is an important one reflected in the principles guiding the development of the Standard. As the discussion paper notes, under existing State legislation the most restrictive existing time band allows telemarketing to commence is 9am. The most restrictive existing legislation allows no telemarketers after 5pm on a Saturday. Accordingly, allowing telemarketing only between 9am and 5pm incorporates the minimum allowable timeframes based on existing legislation, and does not expand the number of hours for consumers in any given State. It is important that consumers are not disadvantaged by this new consumer protection.

The timing of calls is a significant problem, and there is a need to ensure that inconvenience to the consumer is minimised. In many public submissions to the DCITA Do-Not-Call register proposal, consumers complained at the timing of telemarketing calls, particularly those around dinner-time in the early evening. The inconvenience and irritation this caused consumers was highlighted many times as the reason for the complainants support for the register. By keeping telemarketing hours to between 9am and 5pm, the irritation of telemarketing will be minimised.

It has long been of concern to CTN that calls can be made up to 8 or 9pm at night, from telemarketers selling products or services that have a long term contracts and/or require financial commitments. It is not unusual for people to consume quantities of alcohol in the evenings. Given the possibility that people can be under the influence when they are telemarketed, there is a need to ensure appropriate community standards are reflected in the allowable times for telemarketing. One consumer complained to CTN about receiving a telemarketing call from a financial institution at 8.55pm on a Friday night, which in the view of that consumer – and CTN - was highly inappropriate.

There should be no telemarketing on Sundays or public holidays. This would be in line with minimum existing standards and in line with general community expectations. Again, consistency is the key to consumers understanding when they can and cannot be contacted by telemarketers.

Provision of Contact Information

At the outset of any call, telemarketing agents should identify themselves, the organisation they represent, the location from where the call is originating and then inform the recipient that the call is a telemarketing call. This should occur *before* any sales pitch commences, or any other information is conveyed. This will ensure the purpose of the call is clear to the consumer.

We often hear complaints from consumers who are confused about why they have been contacted, particularly for older and younger people who do not have much experience with hard-sell sales approaches, and are not clear about whether they have a salesperson on the phone. Some consumers become confused when they are approached with an offer for a service when the purpose of that call is convoluted by additional information – for example telemarketers who call consumers advising they have “won” something, when in order to claim the “prize” the consumer has to attend a seminar at which they are asked to make a purchase or an investment. There needs to be clear standards that ensure customers are not misled when the primary purpose of the contact is to solicit a sale.

Having good industry standards that identify who the calling party is and why they are calling will help telemarketing regain its reputation as a legitimate sales form. Information about how the consumers contact details were obtained – for example, sourced from an affiliate company - must be provided immediately upon request of the customer.

Termination of Calls

Telemarketing calls should be terminated immediately at the request of the called party, in a polite manner.

When the customer indicates they do not wish the call to continue, the marketer should ask if they would like to be removed from the contact list. This will ensure that the consumer is not contacted if they do not want to hear the offer, and will also help capture those who are not aware of the Do Not call register. It will also serve to minimise the number of unsuccessful contacts that company will make to that individual consumer.

All telemarketers must be required to give details about how the customer can join the Do Not Call register if requested. Similarly, details about how to make a complaint must be provided to the customer upon request.

Calling Line Identification

We support a requirement that a telemarketer be required to not disable calling line identification. This will allow consumers who have calling line identification to screen calls and to avoid being marketed in the future using that feature, should they choose to. It is also important so that a consumer can contact the telemarketing party and request not to be contacted in the future. Perhaps most importantly it will assist where sales are made, as it will allow consumers who are asked to provide payment details to check that the party who has called them is in fact who they say they are.

We hope these comments are of use to you. Should you wish to discuss this response in more detail please contact myself or Sarah Wilson at the Consumers' Telecommunications Network on 02 9572 6007 or at ctn@ctn.org.au.

Yours sincerely,

A handwritten signature in black ink that reads "Teresa Corbin". The signature is written in a cursive style with a long horizontal flourish at the end.

Teresa Corbin
CTN Executive Director

This submission was prepared by Sarah Wilson, CTN Policy Advisor, and Teresa Corbin, CTN Executive Director. It was approved out of session by the CTN Council.

Unit 2, 524-532 Parramatta Rd, Petersham, NSW 2049 Australia
Tel: (02) 9572 6007 Fax: (02) 9572 6014 TTY: (02) 9572 6047
Website: www.ctn.org.au Email: ctn@ctn.org.au
Incorporated in the ACT ABN 24 377 532 644