

Manager - Do Not Call Taskforce
Australian Communications and Media Authority
Via email: donotcalltaskforce@acma.gov.au

March 2007

**Re: Do Not Call Register (Administration and Operation) Determination
2007**

Thank you for the invitation to comment on the Do Not Call Register
(Administration and Operation) Determination 2007.

About CTN

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. We advocate 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, pensioners and superannuants, rural and remote consumers, women and consumers in general.

Introductory comments

The Do Not Call Register (DNCR) is a key issue for consumers, as evidenced by the issue of telemarketing being the single most discussed telecommunications issue in the media in the past twelve months. CTN has followed the development of the DNCR very closely and submitted comments on the implementation and operation of the register on multiple occasions.

Whilst we understand the tight timeframe for developing rules governing the DNCR, the highest priority should be ensuring that the DNCR is effective, efficient, and consumer friendly from the outset. If the first attempt at creating the DNCR fails to meet the high expectations of the general public, there will be considerable public backlash. There are some fundamental consumer rights which must be protected especially in relation to privacy protection and keeping

consumers informed, and our suggestions will help ensure the Determination incorporates these rights.

Inadequate timeframe for input

It is enormously disappointing to have received only 5 working days to submit our comments on such a critical component of the DNCR framework. Even more problematic is the lack of detail in some parts of the draft Determination. As a result a number of critical consumer issues have not been addressed. Due to the rushed timeframe, our comments raise issues rather than attempt in all cases to offer solutions. Nonetheless we want ACMA to address these concerns as a matter of high priority.

Application for registration

Registration must be accessible to the entire Australian community by telephone call, online and by written request. Telephone registration should be Telephone Typewriter (TTY) accessible. Online registration must take into account the needs and circumstances of rural and remote Australians and people with disabilities, specifically the use of low-bandwidth connections, adaptive technology, including screen readers for people with visual impairments, mouse-less navigation, and alternative browsers.

Listing of DNCR number

We are concerned that the telephone number need only be specified on ACMA's website or the website of the contracted service provider (see for example 4 (3) (i) and [ii]). Listing a number on a website is insufficient promotion. We want the Determination to include a requirement that the number also be listed in public directories, to ensure those who don't have internet access can also find the number readily. We understand a promotional campaign is part of the contract with the contracted service provider who will administer the register, however this needs to be incorporated into the Determination as well.

Entry of details on DNCR

We are aware that ACMA are anticipating high levels of demand when the DNCR is first established, but we also believe consumer expectations will be very high and they will expect to be listed immediately. ACMA must ensure basic performance indicators will be established in the Determination, setting a minimum timeframe for the entry of details on a register – 24 hours is appropriate. Furthermore the Determination should be amended to ensure consumers are advised of the anticipated time it will take for their registration to take effect.

Correction of entries on DNCR

This section is confusing and the practical implementation is unclear. How can an account holder know to apply to correct an entry – how will they know their details are not correct in the first place? Only when the correct details are confirmed will the consumer know they have been correctly listed. There is also no timeframe for correction to take place – once again 24 hours would be appropriate.

Section 6 on ACMA and the contracted service provider is disturbing. It implies that personal details can be checked without the customer's consent. Why has this power been given? There are no requirements that the consumer be informed – or even consulted – in determining whether an entry is in fact "incorrect".

In our view, there needs to be a requirement that amendments to the DNCR only be made with the consumer's explicit consent and knowledge. This will ensure there is no confusion about such amendments and the consumer's choice is respected. From a consumer protection stand point, the most harmful thing that can happen to a consumer who is added to the DNCR without their consent is that they are no longer telemarketed. The consequence of allowing the contracted service provider to proactively check their personal details is unclear, and we ask ACMA to justify in their response to our submission what this will achieve, or else remove the clause.

Removal of "ineligible" numbers

The same comments made above apply here. How will "ineligible" actually be determined? Will the owner of the phone number be aware of their "ineligibility" – before any adjustment to their listing on the DNCR takes place? Will the owner be the authoritative source of this information, as they should be? What will be the notification requirements? All these issues need to be fully justified by ACMA in the Determination because of the potentially detriment to the consumer or their personal privacy.

Expiry of registration

Consumers should be told that their details are being removed from the DNCR prior to the removal, preferable with 30 days notice. Simply advising this at the point of registration is insufficient. It is highly unlikely that every 3 years a consumer will remember to renew their registration.

We recommend that the DNCR contracted service provider should be required to advise of impending expiry, which will ensure that consumers don't unwittingly find themselves being again contacted by marketers. This will undermine the integrity of the DNCR. The DNCR will only be considered effective if consumers

can trust in the processes that administer the scheme. Notification should be via an established communication mechanism that the consumer advises at the point of registration for formal notices.

Complaint handling

The complaint handling section needs to be more detailed. A timeframe for dealing with complaints needs to be added – 5 working days is appropriate for the contracted service provider to resolve a consumer complaint and is also consistent with industry standards.

It is also unclear what happens if a consumer is unable to resolve their issue, is ACMA their escalated complaints handling body? The Determination needs to put a requirement on the contracted service provider to advise any complainants who are unhappy about the outcome of their complaint as to who the escalated complaints handling body is. This will ensure consumers are aware of their avenues of redress and that the complaints handling procedures are consistent with the Australian Standard on Complaints Handling.

Ongoing monitoring of contracted service provider

The Determination is silent on how ACMA will monitor the contracted service provider. Perhaps this issue is dealt with in another Determination, but it would seem to belong in the Administration and Operation Determination. Effective monitoring of the performance of the DNCR administrator must be undertaken by ACMA, especially in the areas of privacy of information, database maintenance (assuring data is as up to date as possible), registration and removal from the Register, and a functional complaint handling process. Outcomes of ACMA monitoring must be made publicly available.

Conclusion

We are pleased to see that there are a range of ways consumers can list themselves on the DNCR, and overall think this process sounds straight forward and user friendly. However, our concerns about basic consumer rights – namely the right to be informed and to redress – need to be upheld in the Determination. We look forward to a response from ACMA regarding these fundamental consumer concerns.

Thank you once again for the opportunity to comment and to have our comments taken into account. 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 underneath the name.

Teresa Corbin
CTN Chief Executive Officer

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