

Do Not Call Register— Calls to business numbers

The Do Not Call Register (the register) provides Australians with the opportunity to 'opt out' of receiving certain telemarketing calls. The register is operated by Service Stream Solutions Pty Ltd (the register operator).

Individual telephone account holders or their nominees can place their Australian fixed line and mobile telephone numbers on the register, provided the number is used or maintained exclusively or primarily for private or domestic purposes.

Primarily for private or domestic purposes

When applying to enter their telephone number on the register, a person is required to state whether the number is used primarily for private or domestic purposes before the number can be registered.

In practice, whether a number is used primarily for private or domestic purposes can only be answered on a case-by-case basis. It may depend on how the number is used, because even if the number is used for some business calls, it may still be eligible to be registered if its primary purpose is private or domestic.

In general, if a telephone number is located at a business premises, is used mainly for business calls, or the telephone account is registered under a business name, it is less likely to be used primarily for private or domestic purposes.

However, in some circumstances a number that appears to be a business number may in fact be eligible to be on the register. Examples of this include the following:

- a small business, such as a milk bar, where a person resides above the premises and only has one phone line for both the business and home, which is used mainly for personal calls. In this case, the number may be primarily used for private or domestic purposes and therefore would be eligible to be registered on the register
- a business, such as a plumbing business, may have a mobile and home number listed in a business directory. The home telephone number may be used primarily for private or domestic purposes and

therefore would be eligible to be registered on the register

- a club or an association, such as a life saving club, may have a contact person or a committee member listed in a directory or on a website. The telephone number listed is likely to be used primarily for private or domestic purposes and therefore would be eligible to be listed on the register.

The Do Not Call Register Act— what is required?

Under section 11 of the *Do Not Call Register Act 2006* (the Act), a person must not make a telemarketing call, or cause a telemarketing call to be made, to a number that is registered on the register.

Sections 11(2) to 11(5) of the Act provide for a range of exceptions (or defences) to the general prohibition on calling numbers on the register. These are in summary:

- during the 30 days before the date on which the call was made, the person received information in response to a submission to access the register, which indicated that the number was not listed on the register
- the relevant telephone account holder (or their nominee) consented to the making of the call;
- the person made the call, or caused the call to be made, by mistake,
- the person took reasonable precautions, and exercised due diligence, to avoid the contravention.

For further information regarding the Do Not Call Register please visit www.donotcall.gov.au.

‘Washing’ numbers against the register

Under the Act, the ACMA has established a system for people who make telemarketing calls, or cause telemarketing calls to be made, to check (or ‘wash’) their calling lists against the register. This system provides an effective way for people to ensure they do not contravene the requirements of the Act.

Where a person has not checked their calling list(s) against the register on the basis that they only make calls to business numbers, they risk calling registered numbers. For this reason, the ACMA recommends that any business involved in making telemarketing calls washes its lists of numbers against the register prior to making these calls.

Registered numbers that are ineligible

In the first instance, the ACMA encourages people with enquiries and complaints about numbers entered on the register to contact the register operator. If the matter concerns a potential breach of the Act, such as the eligibility requirements, the complaint will be referred to the ACMA for investigation.

Where the ACMA is satisfied that a number entered on the register is not used primarily for private or domestic purposes, it will have the number removed from the register as required by section 8 of the Do Not Call Register (Administration and Operation) Determination 2007.

Before removing a number from the register, the ACMA will advise the telephone account holder that the number is to be removed. The ACMA will give the account holder the opportunity to provide their reasons for believing the number is used primarily for private or domestic purposes, before deciding whether the number should be removed.

Telemarketing calls may be made to the number once it is removed from the register at the times permitted under the Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007. It is important to note that a call made to a number on the register prior to its removal, would be a contravention of section 11(1) of the Act, subject to the exceptions available.

Further information

Further information about the register can be found at www.donotcall.gov.au.

Please note: this document is intended as a guide only and should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases.

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