

Do Not Call Register— Overview for consumers

The Do Not Call Register (the register) is an Australian Government initiative that provides Australians with the opportunity to 'opt out' of receiving most telemarketing calls or marketing faxes. The legislative arrangements that establish the register include:

- > the *Do Not Call Register Act 2006* (the DNCR Act), which establishes the register, outlines rules for making telemarketing calls and sending marketing faxes and provides exceptions to the rules
- > the *Do Not Call Register Regulations 2006* (the regulations), which specify the types of calls that are not telemarketing calls and the persons who are deemed to be nominees of a relevant account holder
- > the *Telecommunications and Research Calls Industry Standard 2007* (the telemarketing and research calls industry standard), which sets rules for people who make telemarketing and research calls, about when and how they can make certain calls
- > the *Fax Marketing Industry Standard 2011* (the fax marketing industry standard), which sets rules about when and how fax marketers can contact people
- > other legislative arrangements concerning operational details of the register.

Who needs to comply with the requirements?

People who make telemarketing calls or cause telemarketing calls to be made must comply with the requirements of the Act.

People who send marketing faxes or cause marketing faxes to be sent must also comply with the requirements of the Act.

Refer to the ACMA information sheet *What is a telemarketing call?* or *What is a marketing fax?* for a detailed definition of telemarketing calls and marketing faxes.

In addition, the industry standards applies to all marketing faxes, telemarketing and research calls, including designated telemarketing calls and marketing faxes that can still be made to numbers on the register.

The DNCR Act

Under the DNCR Act, you can list your number on the register if it is:

- > used or maintained primarily for domestic purposes or
- > used or maintained exclusively for transmitting and/or receiving faxes or
- > used or maintained exclusively for use by a government body or
- > an emergency service number.

You can register online at www.donotcall.gov.au, by telephone on 1300 792 958 or by completing the postal registration form available on the website or from Australia Post.

It is against the law for unsolicited telemarketing calls to be made or marketing faxes to be sent to a number listed on the register unless you have given your consent to be called or faxed or the contact falls within an exemption under the Act or the regulations. Your consent may be given expressly, or it may be inferred if you have an existing business relationship with the company contacting you. You can withdraw your consent at any time by asking the company not to call or fax.

From the date that you register your number, it may take up to 30 days for telemarketers and fax marketers to recognise your registration and stop calling your number.

Placing your number on the register will not stop all telemarketing calls and marketing faxes, as there are some limited exemptions.

A copy of the Act is available on the ACMA website www.acma.gov.au/donotcall.

What telemarketing calls and marketing faxes are exempt from the DNCR Act?

The DNCR Act allows certain telemarketing calls and marketing faxes to be made, where the contact is authorised by an exempt organisation. These include contact authorised by:

- > government bodies
- > religious organisations
- > charitable institutions
- > political parties, independent members of parliament and political candidates
- > educational institutions, where the call or fax is made to a household where a current or former student lives or has lived previously.

However, where the call or fax relates to goods or services, the exempt organisation must be the supplier or prospective supplier of those goods or services for the call or fax to be exempt.

Telemarketing calls and marketing faxes may also be made or sent to a person who has consented to receiving the contact. Further information on consent can be found in the ACMA's 'consent' information sheet.

How does the register work?

Under the Act, telemarketers and fax marketers must not call or fax registered numbers. Any business that calls or faxes a number on the register, or arranges for a call to be made or fax to be sent to a number on the register, may be in breach of the legislation and could face penalties.

To avoid possible penalties, businesses planning to make telemarketing calls or send marketing faxes are able to check, or 'wash', their calling lists against the register. Businesses do this by submitting their lists to the register operator, Service Stream Solutions Pty Ltd, through the Telemarketer Access Portal—a website for industry—or by posting in a CD-ROM. Lists are washed and returned to the businesses, with numbers they can, and cannot, call or fax identified. Businesses are not provided with any number they did not have.

Regulations

Under the Do Not Call Register Regulations, certain calls are not considered to be telemarketing calls. These include:

- > product recall calls
- > fault verification calls
- > appointment rescheduling calls
- > appointment reminder calls
- > calls relating to payments

- > solicited calls relating to orders or requests or customer enquiries.

The regulations also prescribe circumstances where a person is deemed to be a nominee of a relevant account holder for the purpose of giving consent to receiving telemarketing calls.

For a copy of the regulations, go to Do Not Call Register website at www.donotcall.gov.au.

Telemarketing and research calls industry standard

The telemarketing and research calls industry standard includes requirements that cover:

- > when telemarketing and research calls cannot be made
- > information that must be provided during a telemarketing or research call
- > when calls must be terminated
- > the use of calling line identification.

The telemarketing and research calls industry standard applies to any person or business intending to make (or arranging for someone else to make) telemarketing or research calls, regardless of whether they are exempt from the Act.

This means that people who make or commission calls to conduct opinion polling or carry out standard questionnaire-based research need to comply with the requirements of the telemarketing and research calls industry standard.

For a copy of the telemarketing and research calls industry standard, go to the ComLaw website at www.comlaw.gov.au.

Fax marketing industry standard

The fax marketing industry standard includes requirements that cover:

- > when marketing faxes cannot be sent
- > information that must be provided on a marketing fax
- > providing an opt-out functionality
- > limiting the number of marketing faxes that can be sent to a number over a particular period.

The fax marketing industry standard applies to all participants in the fax marketing industry including some individuals and organisations that are not covered by the general prohibition contained in the DNCR Act.

This means that even if a particular business, such as a charitable organisation, is exempt from the requirements of the DNCR Act and therefore able to fax numbers listed on the register, they must still meet the requirements contained in the fax marketing industry standard.

For a copy of the fax marketing industry standard, go to ComLaw website at www.comlaw.gov.au.

Further information

Further information about the register, the regulations and the telemarketing industry standard is available at www.donotcall.gov.au.

A series of information sheets is also available on the ACMA website, at www.acma.gov.au/donotcall.

Please note: This publication intentionally avoids the use of legal language and information about the law may have been summarised or expressed in general statements. The information in this publication should not be relied upon as a substitute for professional legal advice or reference to the actual legislation.

IS 132—Oct 2011