



## Telecom Public Notice CRTC 2006-4

Ottawa, 20 February 2006

### **Proceeding to establish a national do not call list framework and to review the telemarketing rules**

Reference: 8665-C12-200601626, 8662-C131-200408543, 8662-F20-200409814,  
8662-B48-200409228, 8662-A84-200410035

Bill C-37, An Act to amend the Telecommunications Act, *S.C. 2005, c.50 (the amended Act)*, which received royal assent on 25 November 2005, will, when proclaimed, provide the Commission with the authority to establish a national do not call list (national DNCL) and to delegate the administration of a national DNCL and related functions to a third party. The amended Act will also empower the Commission to levy administrative monetary penalties for violations of its telemarketing rules.

*With this Public Notice, the Commission initiates a public proceeding, including a public consultation, in relation to the creation and operation of a national DNCL as well as the establishment and enforcement of national DNCL rules and any other rules related to telemarketing.*

#### **Introduction**

1. The Commission established the current telemarketing rules pursuant to section 41 of the *Telecommunications Act* (the Act) which reads as follows:

The Commission may, by order, prohibit or regulate the use by any person of the telecommunications facilities of a Canadian carrier for the provision of unsolicited telecommunications to the extent that the Commission considers it necessary to prevent undue inconvenience or nuisance, giving due regard to freedom of expression.

2. The Commission has defined telemarketing as follows:

[T]he use of telecommunications facilities to make unsolicited calls for the purpose of solicitation where solicitation is defined as 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 party. This includes solicitation of donations by or on behalf of charitable organizations.<sup>1</sup>

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<sup>1</sup> *Review of telemarketing rules*, Telecom Decision CRTC 2004-35, 21 May 2004, at para. 12.

3. There are several types of organizations that engage in telemarketing. Local businesses may engage in small-scale telemarketing campaigns to promote their services in the neighbourhoods in which they operate. Larger businesses, such as department stores or telecommunications carriers, may engage in similar endeavours to promote product sales or services, but operate on a larger scale in terms of numbers of people called and geographical area covered. Agencies may engage in telemarketing on behalf of enterprises that want to promote their products or services through telemarketing but do not wish to do it themselves. Charitable organizations may also use these agencies for fundraising campaigns.
4. Many Canadians consider telemarketing calls to be an annoyance and an invasion of privacy. In a survey conducted by Environics in 2003 cited by Industry Canada,<sup>2</sup> 97 percent of respondents reported a negative reaction toward unsolicited calls, 79 percent indicated that they support a national do not call list (national DNCL), and 66 percent indicated they would sign up for such a service.
5. In response to consumer dissatisfaction with telemarketing dating back many years, the Commission established restrictions on and requirements for telemarketers in a series of determinations. Current telemarketing rules are included in the tariffs of incumbent telecommunications service providers.
6. The Commission first approved certain restrictions on the use of automatic dialing announcing devices (ADADs)<sup>3</sup> for telephone solicitation in *Use of Automatic Dialing-Announcing Devices*, Telecom Decision CRTC 85-2, 4 February 1985.
7. The Commission later determined that the restrictions on the use of ADADs had not been effective in preventing undue inconvenience and nuisance to consumers. In *Use of telephone company facilities for the provision of unsolicited telecommunications*, Telecom Decision CRTC 94-10, 13 June 1994 (Decision 94-10), and Telecom Order CRTC 96-1229, 7 November 1996 (Order 96-1229), the Commission found that it was in the public interest to prohibit the use of ADADs to make unsolicited calls for solicitation of money or money's worth.
8. In Decision 94-10, the Commission also imposed a number of restrictions on unsolicited live voice and fax calls, including the requirement for telemarketers to maintain company-specific do not call lists. Furthermore, the Commission established specific enforcement procedures whereby a telemarketer's telephone service could be disconnected by the telephone company for violating the telemarketing rules, as set out in the company's tariff, upon notice, after two business days.
9. In Order 96-1229, the Commission added restrictions to telemarketing faxes. These included restrictions on sending hours. The Commission also required the removal of a consumer's name and number from a fax calling list within seven days of a consumer's request to do so.

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<sup>2</sup> Industry Canada, News Release, *Minister of Industry Tables Legislation for National Do Not Call List*, 13 December 2004.

<sup>3</sup> ADADs are automatic equipment capable of storing or producing telephone numbers to be called and can be used alone or in conjunction with other equipment to convey a pre-recorded or synthesized voice message to the number called.

10. In *Telemarketing restrictions extended to all telecom service providers*, Order CRTC 2001-193, 5 March 2001, the Commission concluded that the rules should apply to all incumbent local exchange carriers (ILECs), including independent telephone companies, all competitive local exchange carriers, interexchange carriers, wireless service providers, resellers of telecommunications services provided by the above companies and their customers.
11. More recently, following a review of the telemarketing rules, the Commission issued *Review of telemarketing rules*, Telecom Decision CRTC 2004-35, 21 May 2004 (Decision 2004-35). While the Commission stated that it believed there was considerable merit in establishing a national DNCL where a consumer could effectively stop all unwanted telemarketing calls by registering once instead of having to contact each telemarketer separately, it considered that implementing such a list without effective fining power for enforcement would be counter-productive.
12. The Commission considered that absent the legislative power to impose fines, additional regulatory measures were required such as the imposition on telemarketers of a requirement to give a unique registration number to a person requesting to be added to the telemarketer's company-specific do not call list. The Commission also implemented more specific identification procedures and constraints on the use of predictive dialing devices. The Commission further required telecommunications service providers to track and report telemarketing complaints and establish a multi-faceted awareness program for both consumers and telemarketers.
13. Following the release of Decision 2004-35, the Commission received applications requesting that it review and vary Decision 2004-35 (the R&V applications).<sup>4</sup> The Canadian Marketing Association (CMA) also requested an interim stay of Decision 2004-35, pending the Commission's final determination on its review and vary application. The stay was granted in *Application by the Canadian Marketing Association to stay Decision 2004-35*, Telecom Decision CRTC 2004-63, 28 September 2004. The stay applies to all new requirements set out in Decision 2004-35, with the exception of the requirement that telecommunications service providers track and report telemarketing complaint statistics; this requirement became effective 1 January 2005.
14. The telemarketing rules that are currently in effect, which are included in the tariffs of ILECs, as well as those set out in Decision 2004-35 (which are subject to a stay pending the disposition by the Commission of the R&V applications) are summarized in the Appendix to this Public Notice and are collectively referred to as the telemarketing rules.

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<sup>4</sup> The Commission received applications to review and vary Decision 2004-35 from the Canadian Marketing Association dated 6 August 2004; the Responsive Marketing Group Inc., Univision Marketing Group Inc. and Xentel DM Incorporated dated 20 August 2004; Beautyrock Inc. dated 26 August 2004; and the Association of Fundraising Professionals dated 15 September 2004.

15. On 13 December 2004, Industry Canada announced that the Minister of Industry was introducing legislation that would reduce the volume of unsolicited telemarketing calls Canadians receive, specifically addressing the issue that the Commission did not have the correct authority to establish and maintain a national DNCL, and also granting the Commission the power to levy monetary penalties against telemarketers who do not follow the telemarketing rules.<sup>5</sup>
16. *Bill C-37, An Act to amend the Telecommunications Act*, S.C. 2005, c.50 (the amended Act), when proclaimed, will provide the legislative framework for the creation, administration and enforcement of a national DNCL. The Commission will have the authority to administer databases or information systems for a national DNCL, to delegate to any person its power in relation to a national DNCL, to regulate the rates the delegate charges for its services and to impose administrative monetary penalties to enforce the DNCL and any other rules relating to telemarketing. It also sets out a list of telemarketers who will be exempt from any of the requirements or prohibitions established by the Commission in relation to a national DNCL.

### **The national DNCL framework**

17. The Commission hereby initiates a public proceeding for the establishment of a national DNCL framework, including a review of the telemarketing rules.
18. The Commission considers that various concurrent processes are needed to develop a national DNCL framework, which will encompass the creation and operation of a national DNCL, as well as the establishment and enforcement of the national DNCL rules (as defined below) and any other rules related to telemarketing.
19. The Commission intends to delegate to a third party its authority to administer a database or information system for the purpose of a national DNCL and to investigate allegations of contraventions of prohibitions or requirements established pursuant to section 41 of the Act. This third party will be referred to in this Public Notice as the DNCL operator or the delegate. The DNCL operator will be responsible for creating, implementing and operating the DNCL database or information system as well as investigating complaints regarding non-compliance.
20. The DNCL operator will have the power to charge rates for the services it provides pursuant to subsection 41.4(1) of the amended Act. Under subsection 41.4(2) of the amended Act, the funds collected by the DNCL operator will not be considered public money and thus, may be retained by the DNCL operator to offset ongoing costs associated with a national DNCL, as well as those which will have been invested to establish a national DNCL and other related costs. The Commission notes that while the amended Act does not specifically state to whom rates can be charged, the Commission is considering that the delegate will charge telemarketers who access the national DNCL. Section 41.5 of the amended Act will grant the Commission the power to regulate the delegate's rates and to regulate the manner in which the delegate exercises its delegated powers.

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<sup>5</sup> Industry Canada, News Release, *Minister of Industry Tables Legislation for National Do Not Call List*, 13 December 2004.

21. One key step in developing a national DNCL framework will be the selection of the DNCL operator and the development of the terms according to which that person will operate. In order to benefit from the expertise of a broad range of stakeholders and to maximize the opportunity for self-regulation, the Commission considers that there is significant value in an independent third party – specifically, a consortium of interested parties (the Consortium) – selecting the DNCL operator, developing the terms and conditions of the contract, and negotiating the contract with the DNCL operator. Further details regarding the preliminary steps leading to the incorporation of the Consortium and the role and operation of the Consortium, are discussed in subsection I a) below.
22. The Commission notes that industry consortia have been used effectively in the past to perform similar roles. Examples of such consortia include the Canadian LNP Consortium Inc. (CLNPC) (incorporated in order to manage the development and administration of mechanisms in support of the implementation and provision of local number portability in Canada), the Canadian Numbering Administration Consortium Inc. (CNAC) (incorporated in order to select and manage a vendor to carry out the numbering administration functions in Canada) and the Canadian Portable Contribution Consortium (CPCC) (incorporated in order to establish and supervise the mechanisms to implement the portable contribution regime established by the Commission in *Local Competition*, Telecom Decision CRTC 97-8, 1 May 1997).
23. While the Commission will retain the final authority to delegate its powers in respect of the DNCL, it expects, following a review of a recommendation from the Consortium, to delegate to the DNCL operator selected by the Consortium the powers necessary to operate the DNCL on the terms and conditions developed by the Consortium.
24. The Commission notes that in order for the Consortium to be able to finalize the terms and conditions of the contractual arrangement with the DNCL operator, various technical, operational and administrative issues must first be resolved. The Commission considers that the CRTC Interconnection Steering Committee (CISC) is the most appropriate forum (specifically, a DNCL operations CISC subcommittee) in which to address these issues efficiently and effectively. The process relating to the DNCL operations CISC subcommittee is discussed below in subsection I b) of this Public Notice.
25. Another key component of the national DNCL framework comprises the prohibitions or requirements relating to the national DNCL (the DNCL rules) to be imposed on telemarketers or, potentially, on persons on whose behalf telemarketing calls are made. The Commission will establish the DNCL rules, as well as any other telemarketing rules, in this proceeding. The Commission notes that it does not anticipate that these rules will have a significant impact on the Consortium's negotiations with the preferred operator as these rules do not involve the operation of the national DNCL and will have only minimal impact on the operator's duty to investigate allegations of contraventions of the rules. The process relating to the establishment of the DNCL rules and other telemarketing rules is discussed in section II of this Public Notice.

26. The matters outlined above as well as Commission costs resulting from the Commission's new statutory responsibilities, are addressed below in the following sections:

I. Establishment and operation of a national DNCL

- a) Establishment of the Consortium and selection of the national DNCL operator
- b) Implementation and operational issues to be examined by CISC

II. Establishment and enforcement of the DNCL and other telemarketing rules

III. Other matters

- a) The review and vary applications
- b) Commission costs

**I. Establishment and operation of a national DNCL**

*(a) Establishment of the Consortium and selection of the national DNCL operator*

- 27. As noted above, the Commission envisages that a consortium of parties with an interest and expertise in the workings of a national DNCL would be created for the purpose of conducting the process for selecting the prospective DNCL operator and for negotiating and executing the associated contractual agreement.
- 28. Based on past experience, the Commission expects that there will be a number of issues that need to be addressed prior to incorporation of the Consortium, for example, issues relating to the membership and structure of the Consortium. In the Commission's view, the most efficient way to proceed is for CISC to establish a subcommittee to address these issues (the Consortium formation CISC subcommittee).
- 29. Once the issues regarding formation of the Consortium have been resolved through this CISC process and the Consortium is established, it is envisaged that the Consortium will conduct a two-stage process for selecting the DNCL operator. In this regard, the Consortium's first task would be to develop a Request for Information (RFI) questionnaire to assess the interest of potential respondents to create and operate the national DNCL. The RFI would ask potential respondents to describe their capabilities and any preliminary views that they may have concerning the operation of the proposed DNCL system. Subsequent to this, the Consortium would develop and issue a Request for Proposals (RFP) to be sent to qualified respondents to the RFI and any other entities identified by the Consortium as potential DNCL operators that would describe in detail the technical, operational, administrative and financial requirements of the DNCL operator and invite proposals from recipients of the RFP. The RFP will reflect, as appropriate, the determinations resulting from the DNCL operations CISC subcommittee process. From the information provided, the Consortium would select its preferred respondent(s) for the purposes of negotiating a final agreement.

30. It is anticipated that the Consortium can issue the RFI and make significant progress toward developing and issuing the RFP prior to the Commission approving the recommendations to be made by CISC regarding the technical, operational and administrative matters.
31. The Commission notes that if a respondent to the RFP were also a member of the Consortium, such a respondent could be seen as having conflicting interests. Accordingly, to be eligible to submit a proposal to establish and operate the national DNCL, a respondent cannot also be a member of the Consortium or an entity controlled by a member of the Consortium.
32. The Commission hereby invites parties interested in participating in the Consortium formation CISC subcommittee to notify the Commission of their intention to do so by filling out the on-line form, or by writing to the Secretary General, CRTC, Ottawa, Ontario, K1A 0N2, or by faxing at: (819) 994-0218 by **6 March 2006**. Parties are to provide their e-mail address, where available, and to clearly mark their communication "Consortium Process." The Commission will issue on its website, as soon as possible after the registration date, a complete list of persons interested in participating in the Consortium formation CISC subcommittee and their mailing addresses (including their e-mail addresses, if available).
33. The Commission requests that the Consortium formation CISC subcommittee complete its work in sufficient time to allow the Consortium to complete the procedure for incorporation and to finalize any necessary agreements among Consortium members within three months of the date of this Public Notice. The Commission will hold the first meeting of this CISC subcommittee commencing at 1 p.m. EST on **21 March 2006**, Room 708, 7<sup>th</sup> floor of the Central Building, Les Terrasses de la Chaudière, 1 Promenade du Portage, Gatineau, Quebec.

*(b) Implementation and operational issues to be examined by CISC*

34. The Commission notes that there are various ways a national DNCL could be established. For example, the do not call registry in the United States (U.S.) uses the latest available technology resulting in a fully-automated system for recording registrations and complaints including Interactive Voice Response (IVR) functionality. Spoken or dialed digits are input directly into a database, and no live operator is required. Further, registrations and complaints can be submitted over the Internet and are then automatically entered into the appropriate database. In contrast, the United Kingdom list was implemented earlier (in 1999 versus 2003 for its U.S. counterpart). Registration via the Internet was only added in 2001. Although IVR access was implemented early on, the main mode of registration until at least 2002 was via live operator.
35. In addition to issues relating to the structure of a national DNCL, it will be necessary to examine a number of other operational issues regarding how a national DNCL will function, such as for example, matters pertaining to consumer registration and measures to ensure the protection of privacy and personal information. It will also be necessary to consider issues related to the rates charged by the DNCL operator as well as the administrative procedures and requirements for the registration and investigation of complaints.
36. The Commission accordingly requests the DNCL operations CISC subcommittee to examine these issues, which will be outlined in more detail in a memorandum to CISC to be issued within 10 days of the date of this Public Notice and which will be posted on the CRTC website. The Commission requests CISC to file its final report with the Commission within 150 days from the date of this Public Notice.

37. Persons interested in participating in the DNCL operations CISC subcommittee should notify the Commission of their intention to do so by filling out the on-line form, or by writing to the Secretary General, CRTC, Ottawa, Ontario, K1A 0N2, or by faxing at: (819) 994-0218 by **6 March 2006**. Parties are to provide their e-mail address, where available and clearly mark their communications "DNCL operations CISC subcommittee". The Commission will issue on its website, as soon as possible after the registration date, a complete list of persons interested in participating in the DNCL operations CISC subcommittee and their mailing addresses (including their e-mail addresses, if available).
38. As noted above, the Commission considers that CISC is the most appropriate forum in which to efficiently and effectively address these technical, operational and administrative issues.
39. Parties who do not wish to participate in the DNCL operations CISC subcommittee meetings may provide written comments to the Commission on the above technical, operational and administrative issues. These comments will become part of the record of CISC and should be provided in a separate document by **20 March 2006**. This document should be addressed to the Secretary General of the Commission and clearly labelled "the DNCL operations CISC subcommittee".

## **II. Establishment and enforcement of the DNCL and other telemarketing rules**

40. As discussed above, under the amended Act, the Commission will have the authority to establish the DNCL rules. As also noted above, the DNCL rules will not apply to those persons identified in the amended Act as being exempt from any such rules. Such exemptions include telecommunications made: (i) by or on behalf of a registered charity; (ii) by or on behalf of a registered political party or nomination or leadership contestant or candidate thereof or of an association of members of such a political party; (iii) for the sole purpose of collecting information for a survey; (iv) for the sole purpose of soliciting a subscription for a newspaper of general circulation; and (v) to a person with whom the person making the telecommunication, or the person on whose behalf the telecommunication is made, has an existing business relationship and who has not made a do not call request in respect of the person on whose behalf the telecommunication is made.
41. Contravention of the DNCL rules will constitute a violation. Individuals and corporations who commit such a violation are respectively liable to an administrative monetary penalty of up to \$1,500 or \$15,000 for each violation (i.e. per offending call).<sup>6</sup> The Commission has the discretion in each case to determine the appropriate penalty, up to the maximum penalties provided.

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<sup>6</sup> Administrative monetary penalties constitute a debt due to Her Majesty in right of Canada in accordance with section 72.09 of the amended Act and are considered to be public money. All monies received will be deposited to the Consolidated Revenue Fund. These funds are considered general government revenue and will not be available either to the Commission or to the DNCL operator.



42. In light of the amended Act, and in particular, the new power that the Commission will have to impose administrative monetary penalties, the Commission anticipates that it may no longer be necessary to include the telemarketing rules in the ILECs' tariffs. The Commission notes that contravention of the ILEC tariffs can result in suspension or termination of service by the ILEC. In the Commission's view, the imposition of administrative monetary penalties by the Commission would provide for a more practical and effective means of enforcing the rules. Under this approach, the DNCL and other telemarketing rules would be set out in the Commission's determinations in this proceeding and contravention of the rules would constitute a violation in respect of which an administrative monetary penalty may be imposed.
43. Given the imminent establishment of a national DNCL, combined with the Commission's new enforcement powers, the Commission will consider in this proceeding which, if any, of the telemarketing rules continue to be appropriate and necessary. For example, under the Commission's current rules, telemarketers are required to administer their own individual do not call lists. Under the amended Act, persons exempt from the DNCL rules will be required to maintain their own do not call lists. The Commission questions whether it is necessary for all telemarketers to continue to be required to maintain their own do not call lists following the establishment of a national DNCL.
44. The amended Act will establish a series of defences available to a person in a proceeding in relation to a violation. Specifically, it will be a defence to establish that the person exercised due diligence to prevent the violation. In addition, all the common law rules and principles available as justification or excuse in relation to a violation will also be defences, provided the rule or principle is not inconsistent with the Act. The Commission expects to establish guidelines to assist in the interpretation of these defences.
45. Lastly, as noted above, the Commission envisages that the DNCL operator will investigate complaints. In addition, pursuant to section 72.04 of the amended Act, the Commission will have the authority to designate persons who are authorized to issue notices of violation. The Commission notes that section 72.07 of the amended Act sets out a procedure for notifying a person that there are reasonable grounds to believe that they have committed a violation. A notice of violation must, among other things, set out the amount of the proposed penalty and advise the person of his or her right to either pay the proposed penalty or to make representations to the Commission with respect to the violation.
46. The Commission considers that it could be helpful to establish guidelines in respect of the investigation of violations and issuance of notices of violation, including guidelines to establish a "compliance continuum". Such guidelines would set out the Commission's non-binding views as to the circumstances under which it would consider it appropriate to investigate a complaint and to issue a notice of violation. For example, a complaint threshold (i.e., a certain pre-determined number of complaints about a given telemarketer within a specific period) could be established which would trigger further investigation and/or the issuance of a notice of violation.

47. The Commission invites comments on the above matters. In particular, parties are invited to comment on the following:
- (i) whether the DNCL and other telemarketing rules to be established by the Commission in this proceeding should be included in the ILECs' tariffs;
  - (ii) what the specific DNCL rules should be;
  - (iii) what, if any, other telemarketing rules are necessary and appropriate;
  - (iv) whether it is appropriate to develop non-binding guidelines for the imposition of penalties and, if so, what should those guidelines be; and
  - (v) whether the Commission should establish non-binding guidelines regarding the investigation of complaints and issuance of notices of violation and, if so, what those guidelines should be.
48. To provide further guidance to parties, the Commission notes that in determining the DNCL rules, it will be necessary to address, at a minimum, the following specific issues:
- (i) What should the specific elements be of the prohibitions or requirements, contravention of which would constitute a violation? For example, should all calls to parties registered on the DNCL be prohibited regardless of whether the called parties were only recently registered on the DNCL, and persons making such calls would be permitted in defence to argue that they exercised due diligence as the called party was only recently registered on the DNCL? Alternatively, should callers be permitted a grace period (e.g. within 30 days of registration) during which calls made to persons on the DNCL list would not constitute a violation? If so, what would be an appropriate grace period?
  - (ii) Should the DNCL rules apply to telemarketers making the calls, to the companies on whose behalf telemarketers are engaged, or to both?
  - (iii) Should the DNCL rules apply to voicecasting calls (i.e. unsolicited recorded messages delivered directly into consumers' voice mailboxes without interrupting the consumer's activities in real time)?<sup>7</sup> The Commission invites comments on the level of consumer concern in relation to these calls.
49. The Commission invites comments on the above issues and on any issue arising from these matters. Parties are requested to provide precise language for each prohibition or requirement that is proposed. The process for filing such comments is set out in section IV below.

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<sup>7</sup> Voicecasting is presently not subject to any rules pursuant to *Infolink Communications Inc. v. Bell Canada – Voicecasting service*, Telecom Decision CRTC 2004-65, 4 October 2004.

### III. Other matters

#### *a) The review and vary applications*

50. The Commission will dispose of the R&V applications in this proceeding. The record of those applications will accordingly form part of the record of this proceeding.

#### *b) Commission costs*

51. The Commission notes that as a result of new statutory responsibilities associated with the national DNCL, it will require additional resources.<sup>8</sup> The Commission will use its normal budgetary and cost recovery process to fund this requirement. Under that process, the Commission collects fees under the authority of section 68 of the Act and the regulations made pursuant to the Act, namely the *Telecommunications Fee Regulations 1995*. These fees allow the Commission to recover one hundred percent of its costs related to its responsibilities under the Act. In this manner, Canadian carriers that file tariffs with the Commission and pay Commission telecommunications fees will ultimately be responsible for the increased costs resulting from the Commission's new statutory responsibilities in connection with the national DNCL. The expected impact of the resulting increase in fees payable by existing fee payers is minimal, representing an increase of approximately four and one half percent for one time start up costs and two percent for ongoing resource requirements.<sup>9</sup>

### IV. Procedure

52. Persons interested in participating fully in the process (including receiving copies of all submissions) must notify the Commission of their intention to do so by filling out the on-line form, or by writing to the Secretary General, CRTC, Ottawa, Ontario, K1A 0N2, or by faxing at: (819) 994-0218 by **6 March 2006** (the registration date). Parties are to provide their e-mail address, where available. If parties do not have access to the Internet, they are to indicate in their notice whether they wish to receive disk versions of hard copy filings.
53. The Commission will issue on its website, as soon as possible after the registration date, a complete list of interested parties and their mailing addresses (including their e-mail addresses, if available), identifying those parties who wish to receive disk versions.
54. Parties are invited to file written comments with the Commission commenting on the questions and/or issues raised in sections II and III of this Public Notice, serving a copy on all other parties, by **20 March 2006**.
55. Parties are to include with their comments any evidence that they consider necessary to support their position. This includes any research studies or other material that parties wish to refer to in this proceeding.

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<sup>8</sup> The Commission's incremental costs associated with the establishment of the national DNCL are estimated at \$1.1 million, while annual on-going Commission costs are estimated at \$.5 million.

<sup>9</sup> These percentages are based on the fiscal year 2005-2006 billing of \$24.1 million to Commission telecommunications fee payers.

56. Any person who wishes merely to file comments in this proceeding without receiving copies of the various submissions may do so by writing to the Commission by **10 May 2006** at the address or fax number noted above or by filling out the on-line form. Alternatively, persons can call the Commission's toll-free comment line established specifically for this proceeding at 1-866-481-3838 to express their views on the issues raised in this Public Notice up to and no later than **10 May 2006**. A transcript of the comments given by phone will be placed on the publicly-accessible file and may be examined or made available upon request, however transcripts of comments will not be posted on the CRTC website.
57. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding.
58. A public consultation will be held on **2 to 5 May 2006** at the Conference Centre, Phase IV, Outaouais Room, 140 Promenade du Portage, Gatineau, Quebec. Parties are to indicate their intent to participate in the public consultation detailed below by **10 March 2006**. Only registered interested parties who have filed comments in accordance with this Public Notice will be permitted to make an oral presentation at the public consultation. The Commission will issue an organization and conduct letter to outline the process of the public consultation by **7 April 2006**.
59. The Commission reserves the right to group parties of similar views together for the purpose of presenting their views at the public consultation.
60. Parties may file reply comments with the Commission, serving a copy on all other parties by **23 May 2006**.
61. Where a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date.
62. Electronic submissions should be in the HTML format. As an alternative, those making submissions may use "Microsoft Word" for text and "Microsoft Excel" for spreadsheets.
63. Each paragraph of all submissions should be numbered. In addition, please enter the line **\*\*\*End of document\*\*\*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.
64. The Commission also encourages parties to monitor the record of this proceeding (and/or the Commission's website) for additional information that they may find useful when preparing their submissions.

### **Important notice**

65. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly-accessible file and, except as noted in paragraph 56 above, will be posted on the Commission's website. This information includes your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.

66. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
67. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

### **Location of CRTC offices**

68. Submissions may be examined or will be made available promptly upon request at the Commission offices during normal business hours:

#### Central Building

Les Terrasses de la Chaudière  
1 Promenade du Portage, Room 206  
Gatineau, Quebec J8X 4B1  
Tel: (819) 997-2429 - TDD: 994-0423  
Fax: (819) 994-0218

#### Metropolitan Place

99 Wyse Road, Suite 1410  
Dartmouth, Nova Scotia B3A 4S5  
Tel: (902) 426-7997 - TDD: 426-6997  
Fax: (902) 426-2721

#### 205 Viger Avenue West, Suite 504

Montréal, Quebec H2Z 1G2  
Tel: (514) 283-6607

#### 55 St. Clair Avenue East, Suite 624

Toronto, Ontario M4T 1M2  
Tel: (416) 952-9096

#### Kensington Building

275 Portage Avenue, Suite 1810  
Winnipeg, Manitoba R3B 2B3  
Tel: (204) 983-6306 - TDD: 983-8274  
Fax: (204) 983-6317

#### Cornwall Professional Building

2125 - 11<sup>th</sup> Avenue, Suite 103  
Regina, Saskatchewan S4P 3X3  
Tel: (306) 780-3422

10405 Jasper Avenue, Suite 520  
Edmonton, Alberta T5J 3N4  
Tel: (780) 495-3224

580 Hornby Street, Suite 530  
Vancouver, British Columbia V6C 3B6  
Tel: (604) 666-2111 - TDD: 666-0778  
Fax: (604) 666-8322

Secretary General

*This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

## Rules for telemarketing calls and faxes

Please note that this Appendix has been prepared as a convenience only. The telemarketing rules and their application were set out in *Use of telephone company facilities for the provision of unsolicited telecommunications*, Telecom Decision CRTC 94-10, 13 June 1994; Telecom Order CRTC 96-1229, 7 November 1996; *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997; *Telemarketing restrictions extended to all telecom service providers*, Order CRTC 2001-193, 5 March 2001 and *Review of telemarketing rules*, Telecom Decision CRTC 2004-35, 21 May 2004. To the extent of any inconsistency between this Appendix and the Commission's determinations listed above, those determinations take precedence.

Rules prior to Decision 2004-35	Additional rules announced in Decision 2004-35
	In <i>Application by the Canadian Marketing Association to stay Decision 2004-35</i> , Telecom Decision CRTC 2004-63, 28 September 2004, the Commission suspended the enforcement of these rules pending its determination on applications to review and vary that Decision.
<b>Automatic dialing-announcing devices (ADADs)</b>	
The use of ADADs to make unsolicited calls for solicitation of money or money's worth is prohibited.	
<b>Telemarketing faxes</b>	
Sending hours restricted to weekdays between 9 a.m. and 9:30 p.m. and weekends between 10 a.m. and 6 p.m. Hours refer to the time zone of the called party.	
The fax must identify the person or organization on behalf of whom the fax is being sent, including the telephone number, fax number and name and address of a responsible person to whom the called party can write. This rule also applies to professional calling organizations sending unsolicited fax calls on behalf of another organization.	<p>This information must be provided at the top of the first page of the fax in font size 12 or larger.</p> <p>When an agent is sending a fax on behalf of a client, this identification information for both the agent and the client must be provided.</p> <p>The originating date and time of the fax must be provided.</p>
	All fax and telephone numbers provided must be toll free and must be identified as numbers where a do not call request can be processed.

<b>Rules prior to Decision 2004-35</b>	<b>Additional rules announced in Decision 2004-35</b>
	The telephone number provided must be staffed during business hours with an after-hours interactive voice mail backup.
Sequential dialing is not permitted.	
Faxes cannot be sent to emergency lines or healthcare facilities.	
<p>Sender must maintain a do not call list and respect the listing for 3 years.</p> <p>Names and numbers must be entered on the do not call list within 7 days of a request.</p>	Starting October 1 <sup>st</sup> , 2004, the sender must give a unique registration number for confirmation purposes to all persons who request to be added to the do not call list.
Fax call must display the originating calling number or an alternate number where the sender can be reached (except where number display is unavailable for technical reasons).	
Telephone service to all lines used in connection with faxes that contravene these rules may be suspended or terminated two business days after notice from the telephone company.	
<b>Telemarketing voice calls</b>	
No calling hour restrictions.	
<p>Caller is required to identify the person or organization on behalf of whom the call is made. This rule also applies to professional calling organizations calling on behalf of another organization.</p>	<p>Caller must provide required identification before any other communication and before asking for an individual.</p> <p>When an agent is calling on behalf of a client, this identification information for both the agent and the client must be provided.</p>
<p>Caller is required to provide, upon request, the caller's telephone number and the name and address of a responsible party to whom the called party can write. The same information must be provided for the professional calling organization, if any.</p>	<p>In all cases, whether the called party requests it or not, the caller must provide the telephone number. This must be provided before any other communication and before asking for an individual.</p> <p>The telephone number provided must be toll free and must be identified as a number for questions or comments about the call.</p>



<b>Rules prior to Decision 2004-35</b>	<b>Additional rules announced in Decision 2004-35</b>
	The telephone number provided must be a number at which do not call requests can be processed and it must be staffed during business hours with an after-hours interactive voice mail backup.
	Addresses continue to only be required upon request.
Caller must maintain a do not call list and respect the listing for 3 years.	If, during the call, the called party asks to be put on a do not call list, the do not call request must be processed without requiring the called party to do anything further.
	If the call is made by an agent calling on behalf of a client, the agent must ask the called party if it wishes to have its name on the agent's do not call list, the client's do not call list or both do not call lists.
	Starting October 1 <sup>st</sup> , 2004, the caller must give a unique registration number for confirmation purposes to all persons who request to be added to the do not call list.
Names and numbers must be entered on the do not call list within 30 days of a request.	
The call must display the originating calling number or an alternate number where the caller can be reached (except where number display is unavailable for technical reasons).	
Sequential dialing is not permitted.	
Calls cannot be made to emergency lines or healthcare facilities.	
	Callers using predictive dialing devices shall ensure that they do not abandon more than 5% of calls, measured per calendar month and shall maintain records to show the abandonment rate.
Telephone service to lines used in connection with calls that contravene these rules may be suspended or terminated two business days after notice from the telephone company.	