



March 17, 2006

Canadian Radio-Television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

BY FAX AND EMAIL

Attention: Diane Rhéaume
Secretary General

Dear Ms. Rhéaume:

Re: Public Notice CRTC 2006-4 - National Do Not Call List Framework

1. The following comments are submitted on behalf of the RESP Dealers Association of Canada (RESPDAC) in response to the above-noted public notice. RESPDAC, which represents four of Canada's leading Registered Education Savings Plan (RESP) providers, appreciates this opportunity to comment on the establishment of a national Do Not Call List (DNCL) framework.
2. The members of RESPDAC which have participated in the development of this submission include: C.S.T. Consultants Inc., Children's Education Funds Inc., Heritage Education Funds Inc., and USC Education Savings Plans Inc. Typically RESPDAC members obtain the telephone numbers of prospective purchasers by means of various lead generation programs. The majority of these programs include a request by the individual to be contacted for information (opt-in method). Others, such as referrals for example, do not involve this specific consent and could be considered "unsolicited telecommunications".

INTENT OF THE DNCL

3. As noted in the summary of Bill C-37, the intent of the legislation is to permit the CRTC to administer a national DNCL in order to prohibit or regulate the use by any person of the telecommunications facilities of a Canadian carrier for the provision of unsolicited telecommunications. For the purposes of our comments with respect to the national DNCL, RESPDAC includes under the term "unsolicited telecommunications" only those communications made by telephone.
4. While RESPDAC is supportive of the intent of the national DNCL, it is concerned that the operation of the DNCL be properly established to permit member firms to simply and cost-effectively comply with the rules, and that the rules pursuant to which the DNCL operates be clear and unambiguous.

ESTABLISHMENT AND ENFORCEMENT OF THE DNCL AND OTHER TELEMARKETING RULES

Ensuring Timely Compliance with DNCL Requirements

5. It is the view of RESPDAC that the most effective process to ensure timely compliance with the requirements of the DNCL rules is to have the DNCL operator make the DNCL available to commercial users, both persons and organizations, to enable them to determine whether an individual may be contacted or not. The alternate approach, where organizations provide information to the DNCL operator to validate against the DNCL, would, in our view, create an unnecessary administrative burden, increase costs and create additional concerns as member firms would need to obtain appropriate consent for the release of personal information to the DNCL operator.
6. It is the view of RESPDAC that the only information from the DNCL that needs to be made available to persons or companies accessing the DNCL is the individual's telephone number.
7. RESPDAC member firms distribute information to numerous individuals within our respective organizations across Canada. The DNCL will flow from our corporate head offices to branch offices, which will distribute it to sales representatives associated with the branch. These individuals may, in turn, send it to their respective telemarketers or other individuals acting on their behalf. Given this, RESPDAC recommends a 60-day grace period be applied from the date that an individual registers to be included on the DNCL, during which calls to the individual on the DNCL would not be deemed to be a violation. This would ensure that there is sufficient time to allow the DNCL to be disseminated to all levels of the organization in all regions of the country. This recommendation is based on the assumption that the DNCL will be operated as outlined in point 5 above. Should member firms be required to submit lists to the DNCL operator to be validated, RESPDAC recommends a 90-day grace period be applied from the date that an individual registers to be included on the DNCL before a call will be deemed a violation.

Maintenance of the DNCL

8. RESDAC member firms are concerned that, given the mobility of the Canadian public, if there is no mechanism to require a Canadian to remove their old number from the list when they change telephone numbers, over time the DNCL will no longer accurately represent the wishes of Canadians. We therefore recommend that, should an individual on the DNCL cease to have a particular telephone number assigned to them, this number be removed from the DNCL. Since the individual no longer 'owns' that telephone number, they should not be issuing instructions with respect to it. Following from this recommendation, if an individual who is on the DNCL moves and/or otherwise changes their telephone number, should they call to register to put the new telephone number on the DNCL the number on the DNCL that is no longer theirs should be removed.
9. RESPDAC is of the view that it is reasonable to require all telemarketers to continue to maintain their own do-not-call lists following the establishment of the national DNCL. This is reflective of the fact that some consumers may not wish to be on the national DNCL for all purposes, but would like to prevent contact from specific organizations.

10. RESPDAC is of the view that it is reasonable to charge a fee to those firms who make use of the DNCL, however is concerned that the fee be structured to reflect the scale of the organization and the actual usage of the DNCL by the firm.

Exemptions/Contraventions/Applicability to Telemarketers

11. RESPDAC notes that an exemption exists for an existing business relationship which includes *“a business relationship that has been formed by a voluntary two-way communication between the person making the telecommunication and the person to whom the telecommunication is made, arising from...an inquiry or application, within the six-month period immediately preceding the date of the telecommunication, by the person to whom the telecommunication is made in respect of a product or service offered by the person or organization on whose behalf the telecommunication is made.”* RESPDAC is seeking clarity around the extent of the existing business relationship. It is the view of RESPDAC that an individual who has provided express consent to be contacted through an opt-in method within the past six months should be deemed to fall within the existing business relationship.
12. RESPDAC is supportive of the creation of a “compliance continuum” whereby organizations will need to display a pattern of contravening the DNCL rules before being subject to an investigation. This will allow the CRTC to focus investigations on those firms who have demonstrated a pattern of non-compliance with the rules as opposed to investigating single incidents.
13. RESPDAC is of the view that the DNCL rules should apply to both the telemarketers and the companies on whose behalf telemarketers are employed.
14. RESPDAC member firms do not make use of voicecasting calls and as such have no comments with respect to this matter.

These are the comments from RESPDAC at this point in time; as further details on the DNCL are established or clarified, we may have further comments to submit at that time.

All of which is respectfully submitted,



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Chair, Government Relations

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