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May 23, 2006

SENT BY FAX AND EMAIL

Ms. Diane Rhéaume
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, ON K1A 0N2

Dear Madam:

**Re: Telecom Public Notice CRTC 2006-4
Establishment and Enforcement of the DNCL
and Other Telemarketing Rules**

1. The Consumers Association of Canada (Manitoba Branch) and the Manitoba Society of Seniors ("CAC/MSOS") are pleased to be able to provide the Commission with its reply comments. We have reviewed the submissions that were filed by all parties in this proceeding, together with the transcript from the public consultation, the responses to interrogatories of the Commission and reply comments received to date.

2. CAC/MSOS supports the submissions made by counsel for the Consumers' Association of Canada ("CAC") at the public hearings and also supports the views taken by CAC in its reply comments, including that:

- the exceptions to the DNCL should be interpreted narrowly and that undefined terms should be clearly defined;
- there must be meaningful tracking of complaints, not only relating to those telemarketers subject to the DNCL, but those who are required to maintain company-specific lists as well. CAC/MSOS agrees with CAC that it is critical to gather sufficient evidence so that when the three-year review is done, there will be accurate information as to what is working, what is not working and what needs to be changed;
- an explicit acknowledgement of consent is required from consumers;
- the cost of the national DNCL should **not** be borne by consumers. CAC/MSOS respectfully requests the Commission reject submissions to the contrary and adopt the position taken by CAC at the public consultation that the national DNCL "should never be costing the residential subscriber a penny";

- registration on the national DNCL be valid indefinitely.

3. In addition to lending its support to the position taken by CAC, the purpose of CAC/MSOS's reply comments is also to provide the Commission with further information regarding the survey conducted by CAC (Manitoba Branch) of Manitoba consumers regarding the national DNCL. In our initial submission we referred to preliminary survey results, but we have now gathered many more responses.

The Survey Results

4. CAC (Manitoba Branch) conducted a survey of Manitoba consumers at an Open House and also through its newsletter and to date has received 57 responses. CAC (Manitoba Branch) is still receiving survey responses and should the Commission so desire, we would be pleased to send them along as we receive them.

5. Consumers were asked several questions relating to the national DNCL based on their knowledge of it and their understanding of how it should work. Respondents were only told about specifics of the national DNCL **after** the surveys were completed. CAC/MSOS believes this gives an accurate snapshot of what Manitoba consumers know about the national DNCL based on the information that is out there to date. CAC/MSOS also believes that based on the survey results, public awareness is key to ensuring consumers are informed about how the national DNCL will work and, in particular, that they can expect to still receive calls from exempted individuals and organizations.

6. The questions asked of Manitoba consumers and their responses are as follows:

Q. Did you know that the federal government plans to create a national Do Not Call List, which would give consumers the opportunity to put their phone numbers on a list so telemarketers will not call them?

Yes - 33

No - 24

Q. When this list is ready, will you put your number on the list?

Yes - 53

No - 3

Undecided - 1

Q. Are you aware that some types of telemarketers will still be able to call you even if you put your number on the list?

Yes - 14
No - 43

Q. If you wanted to put your number on this list, which would be the easiest way for you to do this?

Online - 17
Toll-free number - 34
In writing - 7
Other - 0
All of these - 1

Q. How long should it take for telemarketers to comply with your request?

One week - 25
One month - 25
One day - 2
Not sure - 1
Reasonable time - 1

Additional comment by one respondent - One week seems to be short, but with present technology (on-line), it should be possible to comply.

Q. The government's plan includes fines for telemarketers who do not honour your request. How many complaints should it take before a telemarketer is fined for calling numbers on the Do Not Call List?

One complaint - 16
Two complaints - 18
Three complaints - 9
Five complaints - 3
Six complaints - 1
Ten complaints - 1
Twenty complaints - 1
Twenty-five complaints - 2
Fifty complaints - 1
500 - 1,000 complaints - 1
"Minimal number" - 1

Additional comment from one respondent - After 1-2 complaints there should be a warning, after 3rd complaint, there should be a fine.

7. Consumers who completed the survey were also asked to provide any additional comments they wished to make. These additional comments are:

- The supervisor should be fined too.
- Calls that are just surveys are okay, but not surveys that are really sales pitches.
- You should be able to add cell phone numbers to the national DNCL.
- This is a good start, but attention must be paid to aggressive telemarketers, including charities and auto dialers.
- Great idea.
- They should have a list to get rid of email spam.
- The DNCL should not apply to charities.
- It is important to make sure people know about the exceptions and publish it in the media.
- Excellent idea, has been needed for some time.
- Telemarketing is annoying, the worst part is dead silence (there was one further similar comment about dead time).
- The minimum fine should be \$10,000 so it will be a deterrent.
- I am very happy that there is going to be a DNCL.
- The DNCL will only be of value if there is early and visible detection.
- They [telemarketers] are quick to add your number to the call list, so they should be as quick to remove it.
- Keep in mind that people who are calling are employed and trying to do a good job. They could be on EI. Be respectful of them as people. All one has to do is say no.

- The DNCL is a needed plan.
- Is policing this [the DNCL] going to cost more than it is worth?
- It seems like a lot of nuisance callers are exempt.
- Include surveys on the list.
- A complaint procedure plus some indication that a particular telemarketer has been advised there is a do not call advisory in place must be part of the federal system. We hope to be advised of all of this.

8. CAC/MSOS respectfully submits that there are a number of important points that can be taken from this survey. First, almost half of those surveyed were not aware that the federal government intends to create the national DNCL. CAC/MSOS believes that public awareness is key to ensuring consumers are aware of it and can make an informed decision about whether or not they wish to put their names on the list.

9. Second, the survey reveals that the vast majority of respondents intend to place their phone numbers on the national DNCL, which CAC/MSOS believes reiterates the importance of this initiative for consumers. It also believes that for this reason, there must be meaningful enforcement so consumers expectations are met.

10. Third, the survey reveals that the majority of consumers are not aware of the exceptions in the legislation. CAC/MSOS supports the submissions made by the Consumers' Association of Canada ("CAC") that the exemptions should be narrowly interpreted and undefined terms should be clearly defined to ensure the intent of the legislation is fulfilled and that consumers will receive as few unwanted calls as possible. In addition, CAC/MSOS believes that this response reflects the need for public awareness campaigns when the national DNCL becomes operational. In its original submission it suggested such things as billing inserts and information on the Commission's and the Companies' websites, but another option to spread the word is certainly a media campaign, including newspapers, radio and TV advertisements.

11. Fourth, the survey results reveal that consumers want choice when it comes to registering on the national DNCL. Although toll-free phone and on-line registration were the preferred means, some consumers indicated they would like to register in writing. CAC/MSOS respectfully requests the Commission ensure there is as much choice as possible when it comes to registration.

12. Fifth, the survey results reveal that consumers are equally split on the question of the appropriate grace period, with 25 respondents choosing one week and 25 respondents choosing one month. CAC/MSOS believes that this shows consumers are willing to give telemarketers a reasonable grace period, but that nothing more than 30 days would be acceptable to them. CAC/MSOS supports the position taken by CAC in its submission and at

the public hearing that while 30 days may be reasonable, technological advances might reduce the amount of time required to update the lists and so this is a matter that should be revisited on a regular basis to ensure the grace period is appropriate.

13. CAC/MSOS agrees with CAC's position at the public consultation that the point is ensuring that numbers are placed on the DNCL as quickly as technology allows and that if it can be done faster, then it should. CAC/MSOS also believes that when determining the appropriate grace period, the focus must be on what is technologically possible and reasonable, not on what the preference is for telemarketers.

14. Sixth, the survey reveals that consumers do not believe it should take a significant number of complaints before action is taken to enforce the rules. Over half of the respondents indicated that it should only take one or two complaints before a telemarketer is fined. CAC/MSOS submits that this information reflects consumers' frustration with unwanted calls and their expectation that complaints will be taken seriously and the rules will be vigilantly and consistently enforced.

Conclusion

CAC/MSOS thanks the Commission for allowing it to participate in this important proceeding. The national DNCL is an initiative that consumers look forward to and CAC/MSOS believes that with proper enforcement, it can be an effective means of controlling unwanted calls. CAC/MSOS also believes that if the national DNCL is set up to be as consumer-friendly as possible, it will avoid consumer frustration and discouragement. Lastly, with consistent tracking of complaints and information gathering, any necessary changes can be made at the time of the three-year review to ensure the national DNCL is operating as efficiently and effectively as possible.

Yours truly,

Original signed by

Beverly Froese
Attorney

/bf

cc: Interested Parties – Public Notice 2006-4 (by email only)

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