

## PN2006-4 Reply Comments



**97% of the People of Canada**

June 5, 2006

**Re: CRTC letter dated May 18, 2006 “Revised date for filing reply comments in the above proceeding” signed by Gary Lylyk**

1. Thank you for the opportunity to reply to the undertakings received from the other parties after the public consultation.
2. As we are replying primarily to the responses from other parties to the undertakings we received after the public proceeding, we have included the Commission’s questions for reference, in small blue type. Quotations from other parties’ responses will be in small red type.
3. In its “*Advocis Take Aways from May 2, 2006*”, Advocis responds to a question from Commissioner Duncan. The original question was attributed to ContactNB’s submission: “*If all businesses that call their customers are required to comply with the legislation, what will be the impact on each business that is required to install the telephony, Customer Relationship Management software and systems required to keep them compliant?*”
4. Advocis replied “*We note the transcripts of the second day of hearings record the ContactNB representative’s estimate that it will cost a business at least \$25,000 (\$15,000 to purchase a call blocker server and \$10,000 for supporting software, etc.) to meet the DNCL requirements. A business doing any significant volume of telemarketing, will want to have its own server, which would likely entail costs similar to what ContactNB has presented. This price point would prove costly for many financial advisors. Furthermore, the equipment is unlikely to meet the business model for most as a majority of Advocis members will not generate a flow of telemarketing activity that would require them to obtain a separate server.*”

Several firms support customer relationship management (CRM) software for businesses operating in Canada but Canadian providers of call list scrubbing services appear to be limited. Examples of CRM costs include annual solutions priced at \$249 or \$995 and monthly solutions priced at \$40 or \$65 per user.<sup>1</sup> These CRM solutions however, would extend beyond what financial advisors in general need to support their business. Fully integrated DNCL support is far from being a universal feature provided by online CRM services. In the United States, several business offer call list scrubbing services and may charge, for example, \$49 USD for an initial license fee and \$125 USD per month for scrubbing.<sup>2</sup>

Where a computer and Internet connection is required along with CRM and DNCL support, a reasonable pre-tax entry cost would be in the range of \$3800.<sup>3</sup>

5. Based on Advocis and ContactNB estimates, a more accurate range of “mandatory hidden costs” to every telemarketer for a downloadable DNCL may be developed. These are the mandatory “client side” costs incurred by every single telemarketer which directly accesses a downloadable DNCL, as opposed to the “server side” costs (those incurred by the DNCL Operator as already estimated by The GOTTLIEB GROUP Inc.)
6. Client side costs have been variously quoted as either a fixed cost, or a periodic cost, either annual or monthly. We will annualize the costs, and then multiply by 2 million Canadian businesses to facilitate comparison.
7. If telemarketers typically choose the fixed cost approach to providing computing infrastructure for a downloadable DNCL, the range is \$3,800 to \$25,000 per telemarketer yielding a range of **\$7.6 Billion to \$50 Billion**. This cost range is exclusive of any fees telemarketers pay to the DNCL Operator, internet access, and ongoing maintenance and upgrade of hardware and software.
8. If telemarketers typically choose the periodic cost for subscribing to a 3<sup>rd</sup> party software service to process a downloadable DNCL, the range is \$280 per year to \$995 per year per user, or **\$560 Million to \$1.99 Billion per year, assuming only a single user per telemarketing**

<sup>1</sup> [www.salesboom.com](http://www.salesboom.com), \$249/year for Solo edition, maximum one user; \$40/month/user for Professional edition; [www.salesforce.com](http://www.salesforce.com), \$995/year for Team edition, maximum five users; \$65/month/user for more advanced solutions

<sup>2</sup> [www.scrubdnc.net](http://www.scrubdnc.net)

<sup>3</sup> [www.dell.ca](http://www.dell.ca), A home office entry level Dell Dimension 3100 desktop priced at \$799, Dell Laser 1710 printer priced at \$249; [www.bell.ca](http://www.bell.ca), Bell Business Internet High Speed priced at \$54.95/month with one year contract, \$100 self-install Internet connection setup kit; Salesboom \$249 for Solo edition CRM; Scrubnet DNCL support at \$49USD license fee, \$125US/month at CDN/USD exchange rate of 1.12

**organization**. This cost is also exclusive of any equipment, software, and internet the telemarketers must provide to transmit and receive data to and from the service.

9. The client side costs of a Downloadable DNCL are an enormous and prohibitive barrier to widespread use of the DNCL by telemarketers. In contrast, a **National DNCL Service** which accepts telephone numbers from telemarketers, then simply signals that the proposed call is either “Accepted” or “Denied” has a total *mandatory* client side cost to the telemarketers of exactly **\$ZERO**. This allows the resources to be applied where they do the most good – a robust and efficient **National DNCL Service**.
10. If a telemarketer accesses the **National DNCL Service** via IVR, the only required client side equipment is a telephone. This completely removes the entry barrier, and allows every single telemarketer to access the DNCL regardless of their size and technical capabilities. It makes it easy and efficient for telemarketers of all stripes to do the right thing.
11. It is expected that many telemarketing businesses will find it more efficient to access the **National DNCL Service** via web browser, with equipment and internet access they provide at their own expense. The important distinction is that they would *not be required* to do so.
12. For IVR and web browser access to the DNCL to query individual numbers, one at a time, we propose that **National DNCL Service** access be free of charge. This will allow ‘Martha’s Flower Store’, for example, to quickly check the 25 numbers they intend to call. Or perhaps a real estate agent, on the road, can quickly check one number from their handheld wireless device. This easy compliance will result in widespread adoption, and minimize the number of complaints and investigations.
13. Free IVR and web browser access also would allow telephone subscribers to verify the DNCL status of their own number.
14. Free IVR and web browser access would also allow any conscientious telemarketer which is currently exempt to check the

- DNCL before calling. This would help them maximize the efficiency of their calls, and avoid wasting their resources calling people who do not want to be called.
15. Ideally, telemarketers would be categorized so that a subscriber could, for example, deny calls from businesses, but still indicate they would be willing to accept calls from volunteers working for charities
  16. Larger telemarketers may wish to purchase “confirmation numbers”, which correspond to confirmation records kept by the DNCL Operator. The confirmation numbers and records are of extreme value to large telemarketers for the purpose of defending against any complaints. This would be the primary revenue source to fund the **National DNCL Service**.
  17. If each confirmation number is valid for a limited time, and only for a specific telemarketer to call a specific subscriber number on behalf of a specific seller, then there will be no possibility of an illegitimate use of the DNCL information. It will not be possible to avoid paying the DNCL Operator for the confirmation numbers provided.
  18. It would be possible for telemarketing firms to provide new value-added services to sellers. The value a professional telemarketing organization could provide would be to automate and streamline the use of the list for sellers, while maintaining records of the confirmation numbers in case the sellers must defend against a complaint.
  19. It would also be possible for carriers to provide the value-added service by acting as billing intermediaries for mid-sized **National DNCL Service** users. Carriers may also charge the telemarketing industry for the service of removing disconnected numbers which the carriers again control.
  20. It is expected that larger telemarketers may wish to automate their use of the **National DNCL Service** by means of a “web service” – a computer to computer information exchange protocol which makes the web browser and user involvement unnecessary. Again, the important distinction is that any equipment and software the

telemarketer chooses to use for this purpose is not mandated by the structure of the DNCL system.

21. It is also expected that large telemarketers would be willing to pay a higher rate to the DNCL Operator for the convenience of a web service, and a higher rate still if the **National DNCL Service** were to process more than one proposed number per transaction.
22. An important characteristic of the **National DNCL Service** is that if the DNCL is treated as proprietary information, it may be sold on a per-use basis to ensure cost recovery. This kind of service could be provided at far less cost to the telemarketing industry than the Billions of dollars in mandatory hidden client side costs of a downloadable DNCL. If even a tiny fraction of these Billions were instead used to properly fund the **National DNCL Service**, it would be entirely self-sustaining, including both ongoing and startup costs.
23. If provided as a **National DNCL Service** rather than a downloadable DNCL, then additional legislative and regulatory activities would not be required to police the proper use of downloaded DNCL data.

### **Some notes on who we represent, and also on whom some other parties really represent...**

24. "97% of the People of Canada is an organization composed of three kinds of membership.
25. The first kind of membership is as "opt-out" members which we represent by virtue of the statement the CRTC quotes at the beginning of CRTC PN2006-4: "[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....](#)" They continue to be members unless they explicitly deliver notice that they do not wish to be. There are over 32 million opt-out members.
26. The second kind of membership in "97% of the People of Canada" is an "opt-in" membership. This is a large and growing

collection of people who have explicitly and verifiably authorized 97% of the People of Canada to speak on their behalf in this matter. A large portion of these are current employees or shareholders of “collectively, the Companies” or their subsidiaries. We will not reveal their personally identifiable information, but we can prove they exist.

27. (By the way – it took about 2 hours for our organization to set up the website for our opt-in registrations. This kind of real-time data system is not the rocket science that the telemarketing industry makes it out to be...)

(soex) Ontario, Toronto, Canada, 0 returning visits		
Date	Time	WebPage
[REDACTED]	2006 12:20:41	[REDACTED] /agree.html [REDACTED] /CanadaDNCL.html
(Bell Nexxia (prod)) Ontario, Toronto, Canada, 0 returning visits		
Date	Time	WebPage
[REDACTED]	2006 12:15:16	[REDACTED] /agree.html [REDACTED] /CanadaDNCL.html
mail.phantomfiber.com (Pathway Communications) Ontario, Toronto, Canada, 0 returning visits		
Date	Time	WebPage
[REDACTED]	2006 12:08:21	[REDACTED] /agree.html [REDACTED] /CanadaDNCL.html
toronto-HSE [REDACTED].sympatico.ca (Sympatico Hse) Ontario, Ottawa, Canada, 0 returning visits		
Date	Time	WebPage
[REDACTED]	2006 12:05:43	[REDACTED] /agree.html [REDACTED] /CanadaDNCL.html
mail.trangosoft.com (Allstream Corp. Corporation Allstream) Ontario, Toronto, Canada, 0 returning visits		
Date	Time	WebPage
[REDACTED]	2006 11:56:38	[REDACTED] /agree.html [REDACTED] /CanadaDNCL.html
tor149 [REDACTED].dedicated.rogerstelecom.net (Rogers Telecom Inc) Ontario, Toronto, Canada, 0 returning visits		
Date	Time	WebPage
[REDACTED]	2006 11:35:39	[REDACTED] /agree.html [REDACTED] /CanadaDNCL.html
mail.asteridial.com (Allstream Corp. Corporation Allstream)		



VISITOR ANALYSIS	
Referring Link	http://[REDACTED] /CanadaDNCL.html
Host Name	[REDACTED].qc.sympatico.ca
IP Address	65.94 [REDACTED]
Country	Canada
Region	Ontario
City	Toronto
ISP	Bell Nexxia (prod)
Returning Visits	0
Visit Length	0 seconds
VISITOR SYSTEM SPECS	
Browser	MSIE 6.0
Operating System	Windows XP
Resolution	1280x1024
Javascript	Enabled

Navigation Path

Date	Time	WebPage
[REDACTED]	2006 12:15	[REDACTED] /agree.html [REDACTED] /CanadaDNCL.html

28. In the image above, we have obscured any unique, personally identifiable information such as the IP address of the computer they registered from and the path they took on the web. We intend to continue complying with PIPEDA, and hope other parties to this proceeding will do the same. Note, however, that some of our members, recorded on the above image, have chosen to register from their place of employment; places such as Bell, Rogers, and Allstream.
29. Remember – corporations absolutely do not speak unanimously on behalf of their employees or shareholders, and they certainly do not represent the subscribers.
30. The third kind of membership in “97% of the People of Canada” is as a party to the PN2006-4 proceeding. There are, for reasons of efficient representation and fear of retribution, few of these, but certainly more than one. These people have, without financial compensation by anyone, staked their reputation on publicly representing their constituency, despite the risk of retaliation for having publicly stated the collected views of our membership.
31. During the course of this proceeding, the reputation of our delegate to the PN2006-4 public consultation has been attacked publicly by a certain other party. That party submitted that “there is no evidence that ██████████ represents anyone other than himself.” This statement was made in a document which they knew would be published by the CRTC on the CRTC web site, and the document names the individual they have accused of misrepresentation.
32. It has been well documented that this assertion was, at that time, and continues to be, false. The accuser has been given notice of that fact, and ample time to withdraw the statement. So far, they have chosen not to do so.
33. We would encourage the Commission to evaluate the accuser’s statement as to whether it constitutes an attempt to intimidate and coerce a witness to this proceeding through malicious use of libel or slander. When taken with the harassment reported on Halton Regional Police Occurrence number 06-36608, this is, in our opinion, a serious pattern of behaviour.



34. Let's now take a look at who some other parties purport to represent versus who they really represent. At the beginning of this proceeding, "collectively, the Companies" was purported to be a collection of 8 separate companies:

“ Aliant Telecom Inc.  
Bell Canada  
MTS Allstream Inc.  
NorthernTel, Limited Partnership  
Northwestel Inc.  
Saskatchewan Telecommunications  
Télébec, Société en commandite  
TELUS Communications Company ”

35. In their submission document regarding costs, there are now exactly 6 companies listed:

“ Aliant Telecom Inc.,  
Bell Canada,  
NorthernTel, Limited Partnership,  
Northwestel Inc.,  
Saskatchewan Telecommunications  
Télébec ”

36. What happened to the other two? Why is their “membership” shrinking?

37. We note that there was only one reported signature on the accusation of misrepresentation. We would suggest that, given the seriousness and falsehood of that accusation, each of the remaining five companies be given the opportunity to confirm or deny their involvement.

38. It is reasonable to ask; Exactly what are “collectively, the Companies”? We submit that it is an ill-defined, dwindling collection of mere corporations.

39. It is also reasonable to ask; Exactly whom does each corporation represent? They certainly do not represent the unanimous opinions of their shareholders or employees, particularly the ones which belong to our organization. So, whom do they represent? Exactly one legal entity



per corporation, plus whichever persons have given them explicit permission to represent their views in this matter. Period.

40. The Commission has before it a clearly defined choice. We submit that the CRTC must choose between a downloadable DNCL and a non-downloadable **National DNCL Service**. There is no middle ground on this issue.
41. Before you make that judgment, we ask that you perform a simple test of reasonableness. Ask your neighbours. Ask your families, and yes, ask some strangers who you may meet on a bus, in a mall, at a hockey game, or in the street. Ask them if they would object to their confidential, unlisted and cell phone numbers being downloaded from the DNCL by telemarketers. We have done so, and the results are overwhelmingly opposed to a downloadable DNCL.
42. We request that the CRTC expediently make a clear judgment in this issue. Do not hide behind a commercial RFP process. Do not allow self-interested, soulless corporations to decide this important matter of public policy. Do the right thing, and then be proud of the system you build. The DNCL shall not be downloaded. Canadians' privacy is far too valuable for the CRTC to sell.

The following is a direct quotation from CRTC 2006-4: "[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....](#)" This submission is on behalf of the 97% of Canadians who find all forms of telemarketing annoying, and want it stopped, immediately and permanently. 97% of the population of Canada is 31,517,269 Canadians. Please listen to us.

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