

October 24, 2006

By Electronic Mail

Gerald Lylyk
Director, Consumer Affairs
Canadian Radio-Television and Telecommunications Commission
Ottawa, ON, K1A 0N2

Dear Mr. Lylyk:

Re: Telecom Public Notice CRTC 2006-4: Proceeding to establish a national do not call list framework and to review the telemarketing rules – Application for Costs

Thank you very much for your letter dated September 14, 2006. The detail you provide regarding CRTC's historical interpretation of its discretion to award costs to participants in a proceeding is very helpful.

Canadian Marketing Association (CMA) has determined that it will not proceed with an application for costs in this instance. This is despite the fact that CMA is a not-for-profit organization, and that our contribution to the public consultations and CISC proceedings have represented a significant taxation of limited resources.

While we have made this decision, we remain concerned about the other side of the equation; the Commission's power to determine who will pay the costs of accepted interveners. Through answers to cost submissions, several regulated telecom and communications carriers have apparently suggested that it would be appropriate for other organizations with a commercial interest in the proceedings to pay some of the costs of approved interveners. In this regard they refer to the CMA. With respect, CMA believes that it is totally inappropriate to assign costs to any interested parties that do not enjoy the benefits of a regulated marketplace; this is particularly true in the case of not-for-profit organizations, like the CMA, which already represent a cost to their membership in the interests of making this type of representation to governments.

As per Section 44 (1) of the *CRTC Telecommunications Rules of Procedure* (the Rules) the Commission may award costs to be paid by companies "that it regulates". CMA is not a regulated company as defined in section 2 of the Rules. CMA is neither a telecommunications carrier, nor a broadcaster. Further, the CMA is not a telemarketer, nor does the Association represent all telemarketers operating in Canada.

In fact, it is not the 800 or so businesses and non-profit organizations represented by CMA that have necessitated regulation: our members have been responsibly using CMA's Do Not Contact program for 17 years and operating in accordance with other Association

rules surrounding marketing by telephone, including limited calling times and caller identification requirements. CMA's voluntary participation in the regulatory process has been prompted by our desire to assist in creating the new government mandated service necessitated by the poor telemarketing practices of certain organizations not associated with the CMA.

Finally, CMA submits that if the CRTC intends to allocate costs to unregulated interveners, it should at the commencement of proceedings, notify all respondents with commercial interests that their contribution to the proceedings may result in their being assigned some responsibility for the costs of other interveners .

However, the Commission should consider that to preclude cost applications while potentially burdening not-for-profit organizations with the costs of other interveners could discourage some not-for-profits from participating in CRTC processes.

Accordingly, while we have withdrawn our notice of intent to file for costs, the CMA respectfully submits, further to the arguments set out in this letter, that neither CMA nor any other not-for-profit organizations that have contributed to this process should be assigned any costs in the matter.

Sincerely,



Wally Hill
Vice President, Public Affairs and Communications

Copy: Ms. Diane Rhéaume, Secretary-General, CRTC
All Interested Parties to Telecom PN CRTC 2006-4