



# Compliance and Enforcement Regulatory Policy CRTC 2014-341

PDF version

Route reference: Compliance and Enforcement Notice of Consultation 2013-527

Ottawa, 25 June 2014

File number: 8665-C12-201313030

## Permanent number registration

*The Commission eliminates the finite registration period pertaining to telecommunications numbers on the National Do Not Call List (DNCL), and thus the need for Canadians to renew or re-register their numbers on the list. Further, the Commission encourages the industry to continue working within the CRTC Interconnection Steering Committee to periodically re-examine the options concerning a mechanism to remove disconnected and reassigned numbers from the National DNCL in order to enhance its accuracy. The Commission will continue its efforts to promote the National DNCL program and to educate Canadians about the program.*

## Introduction

1. The Commission regulates unsolicited telecommunications pursuant to sections 41 to 41.7 and 72.01 to 72.15 of the *Telecommunications Act* (the Act). In Telecom Decision 2007-48, the Commission established a framework for telemarketing calls and other unsolicited telecommunications received by Canadians.<sup>1</sup> The framework includes rules for a National Do Not Call List (DNCL), as well as rules regarding telemarketing and the use of automatic dialing-announcing devices (ADADs). Collectively, these rules are referred to as the Unsolicited Telecommunications Rules (UTRs).
2. The National DNCL program was launched on 30 September 2008. Within the first three months of the program's launch, approximately 5 million Canadians registered their number on the National DNCL. This number has steadily increased over time, and today, there are more than 12 million numbers registered on the National DNCL.
3. In Telecom Decision 2007-48, the Commission noted that failure to remove disconnected and reassigned telecommunications numbers from the National DNCL might result in Canadians who have obtained a new telecommunications number being prevented from receiving telecommunications that they may wish to receive. The Commission considered that these concerns could be mitigated through the

---

<sup>1</sup> The Commission most recently reviewed and modified its framework for telemarketing calls and other unsolicited telecommunications received by consumers in Compliance and Enforcement Regulatory Policy 2014-155.

establishment of a finite registration period at the end of which a registered number would automatically be deregistered if the individual did not renew the registration. A three-year registration period for telecommunications numbers registered on the National DNCL was established. This registration period was subsequently extended to five years in Telecom Regulatory Policy 2009-200.

4. In that same decision, the Commission
  - concluded that, if registrations on the National DNCL were made permanent, an efficient and cost-effective process would need to be established to remove disconnected and reassigned numbers from the National DNCL; and
  - requested that the CRTC Interconnection Steering Committee (CISC) identify and evaluate options with regard to the processes and procedures that would be required to ensure that disconnected and reassigned numbers are removed from the National DNCL, and that CISC submit a report outlining its findings and recommendations regarding this matter.
5. On 22 October 2009, the CISC Business Practices Working Group (BPWG) informed the Commission that the development and implementation of the necessary processes and procedures for permanent number registration,<sup>2</sup> accompanied by a method and process for removing disconnected or reassigned telecommunications numbers from the National DNCL (referred to in this decision as a scrubbing mechanism), would be extremely time consuming, costly to implement, and unnecessary.
6. In 2011, the Commission retained the organization responsible for removing disconnected and reassigned numbers from the United States Do Not Call Registry, PossibleNow Inc. (PossibleNow), to conduct a feasibility study to examine methods of removing disconnected and reassigned numbers from the National DNCL, in a fashion similar to that employed in the United States. The PossibleNow study, released in March 2012, concluded that a regime similar to that used in the U.S. was achievable.
7. The Commission requested that the BPWG evaluate the findings and conclusions of the PossibleNow report. In August 2012, the BPWG concluded that an efficient and cost-effective process to remove disconnected and reassigned numbers from the National DNCL could not be developed, citing data limitations as well as concerns over cost and accuracy.
8. The BPWG did identify two options for the Commission to consider, one of which would be to make the DNCL permanent without a scrubbing mechanism.

---

<sup>2</sup> Throughout this decision and previously-released Commission documents, reference is made to the term “permanent number registration.” The Commission notes that Canadians can deregister their residential, wireless, voice over Internet Protocol, or fax number from the National DNCL free of charge and at any time by calling the National DNCL Service Line.

9. With the issuance of Compliance and Enforcement Notice of Consultation 2013-527, the Commission initiated a proceeding to consider the appropriateness of implementing permanent number registration.<sup>3</sup> In that notice, the Commission set out a preliminary view that permanent number registration could be feasible without a scrubbing mechanism, and that concerns over the accuracy of the list could be addressed by (a) continuing to provide Canadians with the ability to remove their telecommunications numbers from the National DNCL, (b) better informing Canadians of the alternatives available to them to register and deregister their numbers, and (c) seeking means to simplify or better facilitate that process.
10. The Commission has identified the following issues to be addressed in this decision:
- Should the registration of telecommunications numbers by Canadians on the National DNCL be made permanent?
  - What measures should be taken, and by whom, to educate Canadians on the alternatives available to them to register or deregister their telecommunications numbers on the National DNCL in the event of permanent number registration?
  - Should changes be made to the existing number registration and deregistration processes?
11. The Commission received interventions from over 40 individuals and the following companies and organizations: Bell Aliant Regional Communications, Limited Partnership, Bell Canada, and Saskatchewan Telecommunications (collectively, Bell Canada et al.); Bragg Communications Inc., carrying on business as Eastlink (Eastlink); the Canadian Bankers Association (CBA); the Canadian Life and Health Insurance Association (CLHIA); the Canadian Marketing Association (CMA); the DiversityCanada Foundation and the National Pensioners and Senior Citizens Federation (collectively, DiversityCanada); MTS Inc. and Allstream Inc. (collectively, MTS Allstream); the Public Interest Advocacy Centre and the Council of Senior Citizens' Organizations of British Columbia (PIAC/COSCO); Rogers Communications Partnership (RCP); Shaw Communications Inc. (Shaw); TBayTel; and TELUS Communications Company (TCC).
12. The public record of this proceeding, which closed on 14 November 2013, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the file number provided above.

---

<sup>3</sup> While initiating the process to consider the appropriateness of permanent number registration, the Commission was aware that registrations would begin expiring on 1 October 2013. With that in mind, the Commission also extended existing and future registrations of telecommunications numbers on the National DNCL to six years (see Compliance and Enforcement Decision 2013-528). This was done to ensure that registrations do not begin to expire prior to the conclusion of the proceeding initiated by Compliance and Enforcement Notice of Consultation 2013-527.

## **Should the registration of telecommunications numbers by Canadians on the National DNCL be made permanent?**

13. All individuals who commented on this issue were in favour of making the registration permanent. PIAC/COSCO and DiversityCanada also expressed support for permanent number registration.
14. Bell Canada et al., the CBA, the CLHIA, the CMA, Eastlink, MTS Allstream, Shaw, TBayTel, and TCC opposed making registration permanent.
15. RCP expressed a general aversion to outcomes which would result in increased expenditures or fees for telemarketers.
16. DiversityCanada argued that it is highly unlikely that Canadians who have expressed a desire not to be contacted by telemarketers by registering with the National DNCL will change this preference over time. DiversityCanada also submitted that both the current and proposed approaches to registration allow Canadians to, at any point, exercise choice and remove their number from the National DNCL.
17. Both DiversityCanada and PIAC/COSCO characterized the re-registration requirement as a burden on Canadians. DiversityCanada argued that the renewal requirement was not widely known by Canadians. PIAC/COSCO submitted that the burden was not merely the process of re-registering, but of needing to remember to do so, which in their view placed a particular burden on the elderly.
18. PIAC/COSCO submitted that there has been a trend in privacy law toward requiring positive consent from individuals. DiversityCanada and PIAC/COSCO critiqued the current National DNCL regime as being a hybrid of both positive and negative consent mechanisms, i.e., first requiring Canadians to opt-in to the National DNCL program, but then automatically opting them back out after a period of time, undoing that conscious choice unless Canadians take positive steps to re-assert it.
19. Parties who argued against permanent number registration argued that new recipients of a registered number might not be aware it is registered on the National DNCL, and that without a finite registration period, registration would continue irrespective of whether the new user might have made the same choice as the previous user. They submitted that the elimination of a finite registration period will lead to contamination of the list with numbers that have been disconnected or reassigned. As a result, the list will not reflect the choices made by Canadians and the number of telecommunications numbers to which telemarketing calls can be placed will be reduced.
20. Bell Canada et al., the CBA, and the CMA argued that there was no evidence which would support permanent number registration, given that to date registrations on the National DNCL have never been allowed to expire. Both Bell Canada et al. and the CMA raised comparisons to their experiences with internal DNCLs, and the Do Not Call program previously run by the CMA, and noted a lack of complaints arising from the re-registration requirements under both of those initiatives. The CMA

further submitted that a re-registration requirement allows the Commission to maintain and build awareness of the National DNCL program.

21. The CMA was also critical of the availability of deregistration from the National DNCL as an option that might mitigate the effects of permanent number registration. It argued that it was not reasonable to make the new user of a telecommunications number to opt out of a previous user's choice and that requiring positive action from Canadians in this position would lead to inaction on the part of those without strong opinions – to the disadvantage of businesses which might otherwise be able to call them. The CBA and TCC similarly commented that there was no incentive for Canadians to deregister their number.
22. Bell Canada et al., Eastlink, and TCC commented that re-registration on the National DNCL is relatively easy for Canadians, compared to the hardship which would be imposed on telemarketers in the event that re-registration is eliminated.
23. Bell Canada et al., the CMA, Eastlink, Shaw, and TCC considered that the impact of permanent number registration would be too disproportionate and unbalanced to be consistent with the Policy Direction.<sup>4</sup> Bell Canada et al., Shaw, and TCC also raised concerns with regard to whether the proposal to implement permanent number registration gives due regard to freedom of expression, provided for in section 41 of the Act and section 2(b) of the *Canadian Charter of Rights and Freedoms* (the Charter). TCC argued that the effective removal of vast quantities of otherwise contactable numbers would, over time, equate to a permanent ban on telemarketing. In TCC's view, such a restriction would prevent commercial expression even to those Canadians who might have no issue with receiving telemarketing calls, contrary to the Charter.
24. Bell Canada et al. proposed that, in the event that permanent number registration is implemented, the Commission should also direct the CISC BPWG to periodically re-examine the options for a mechanism to remove disconnected or reassigned numbers, as a viable option may later come to light. Bell Canada et al. and MTS Allstream also suggested that a system could be implemented wherein telecommunications service providers (TSPs) would have the option of voluntarily reporting numbers that have been assigned to them, and which the TSP is aware have been reassigned or disconnected.

#### **Commission's analysis and determinations**

25. The Commission considers that the preference of Canadians who have registered their telecommunications numbers on the National DNCL to not receive unsolicited telecommunications is unlikely to change over time. However, under the current regime of automatic deregistration of numbers, many Canadians would see their

---

<sup>4</sup> The Governor in Council's *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, which came into force on 14 December 2006, requires the Commission to, among other things, rely on market forces to the maximum extent feasible to achieve the policy objectives set out in section 7 of the Act.

telecommunications numbers removed from the list and would thus receive telemarketing calls which they expressly requested to no longer receive. This problem would be exacerbated by the 31-day grace period for DNCL registrations, which would result in Canadians receiving unwanted telemarketing telecommunications for a period of time even after having re-registered. The Commission therefore considers that permanent number registration would alleviate the nuisance and inconvenience associated with a resumption in calls for many Canadians.

26. While certain parties have argued that the process of re-registration is not particularly cumbersome, the Commission considers that the burden is not merely the process of re-registration, but the need to remember a decision made years earlier and the consequences for those who fail to act.
27. With respect to concerns that permanent number registration without a mechanism to scrub disconnected or reassigned numbers would over time erode the accuracy of the National DNCL, the Commission notes that consumers always have the ability to request that their telecommunications numbers be removed from the list. The Commission considers that better communicating the availability of the list, and options to both register and deregister, would mitigate these effects. Further, as noted by Bell Canada et al., the implementation of permanent number registration would not preclude the future identification and implementation of an effective scrubbing mechanism.
28. With respect to the arguments that permanent number registration would be contrary to the Policy Direction, section 41 of the Act, and/or the Charter, the Commission considers that permanent number registration would have no impact on a significant portion of overall telemarketing activity, such as calls made pursuant to an existing business relationship, which are exempted from the National DNCL Rules. While permanent number registration would shift the presumption for numbers which have already been registered, it would not preclude Canadians from deregistering their numbers in the event they wished to receive unsolicited calls. Other means of commercial communication such as mail and broadcast advertisements remain available to reach Canadians. The Commission finds that implementing permanent number registration without a mechanism to scrub the list of disconnected or reassigned numbers balances the intent of section 41 of the Act and the protection of individual privacy against the need to permit legitimate uses of telemarketing telecommunications. Furthermore, the Commission considers that it respects the objectives of the National DNCL program and the choices made by Canadians, while allowing the industry to continue to explore cost-effective and efficient means of implementing such a mechanism.
29. In light of these considerations, the Commission **determines** that the finite registration period pertaining to telecommunications numbers on the National DNCL is **eliminated**. Canadians who wish to remain on the National DNCL will no longer have to renew or re-register their telecommunications numbers, but are in no way

precluded from deregistering their telecommunications numbers from the National DNCL at any time.

30. The Commission further encourages the industry to explore the suggestions made by Bell Canada et al. and MTS Allstream to examine a system for the voluntary reporting of disconnected or reassigned numbers, and to follow the CISC recommendation of periodically re-examining options for a scrubbing solution.

**What measures should be taken, and by whom, to educate Canadians on the alternatives available to them to register or deregister their telecommunications numbers on the National DNCL in the event of permanent number registration?**

31. The CBA, the CMA, Eastlink, Shaw, and TCC submitted that the educative measures undertaken by the Commission to date are a positive step, arguing that the Commission should continue to take the lead on making Canadians aware of the program and the means by which they can register for it. Shaw offered suggestions for improvements to the Commission's website as well as the website for the National DNCL Operator. PIAC/COSCO also provided comments regarding the degree of information already available to Canadians when they register with the National DNCL, including suggestions for improvements.
32. DiversityCanada proposed that the Commission did not have to bear the burden of educating Canadians alone, and that it could require TSPs to periodically provide information to Canadians about the National DNCL (including the options to register or deregister) in bill inserts, either targeted to new accounts, or annually to all customers. Eastlink, RCP, and TCC were vocal in their opposition to this proposal. RCP raised concerns over imposing any new costs, while Eastlink and TCC both argued that while TSPs engage in telemarketing, they represent only a fraction of the telemarketing industry as a whole. Eastlink also took the view that if the Commission was to mandate bill inserts of this nature, the requirement should be flexible and should allow service providers to use a form and manner consistent with their capabilities.

**Commission's analysis and determinations**

33. The Commission notes the feedback provided with respect to its efforts to inform Canadians about the National DNCL to date has been mostly positive. These efforts have included providing information about telemarketing on the Commission's website and the website of the National DNCL Operator. The Commission will continue to work to ensure that the Canadian public is adequately informed about the National DNCL program in light of its decision to eliminate the finite registration period, and will strive to make Canadians more aware that they can remove their telecommunications numbers from the list at any time.
34. The Commission considers that most Canadians have a relationship with at least one TSP, and considers that these relationships routinely involve at least some degree of communication, whether about billing, service quality or changes, or account

notifications. TSPs are uniquely situated to facilitate communication with Canadians on this issue.

35. However, the Commission further considers that while most TSPs engage in some form of telemarketing, and provide the infrastructure through which most telemarketing typically takes place, they only represent a part of the overall telemarketing industry. As such, a proposal for bill inserts about the National DNCL, as advanced by DiversityCanada, could not be implemented in a competitively neutral manner, since it would leave only a subset of telemarketers disproportionately shouldering the cost and burden of such a measure.
36. The Commission therefore **determines** that it will not impose any requirements on parties with respect to educating Canadians about the National DNCL.

### **Should changes be made to the existing number registration and deregistration processes?**

37. While several parties to this proceeding have called attention to information provided to Canadians when they register with the National DNCL, and a few have proposed changes or additions to this information, no party advocated for a change to the underlying system of registering or deregistering from the National DNCL, or the methods through which these processes take place. MTS Allstream and RCP advocated against making any such changes.
38. The Commission considers that allowing Canadians to both register and re-register with the National DNCL both online and over the phone has proven effective over time, and that no issues with this practice have been reported or raised. The Commission considers that allowing Canadians to deregister from the National DNCL only over the phone has been similarly effective, and provides a safeguard against potential abuses of the deregistration process.
39. The Commission therefore **determines** that it will not implement any changes to the registration or deregistration processes at this time.

### **Policy Direction**

40. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the Act in accordance with paragraphs 1(a), (b), and (c) of the Policy Direction.
41. In reaching its conclusions in this proceeding, the Commission was guided by the need to fulfil the intent of section 41 of the Act<sup>5</sup> and to achieve the policy objective

---

<sup>5</sup> Section 41 of the Act states that “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.”

set out in paragraph 7(i) of the Act, namely to contribute to the protection of the privacy of persons. The Commission considers that adopting a permanent registration for the National DNCL is an efficient means of promoting the privacy of Canadians. Further, by continuing to give Canadians the choice of registering or deregistering their numbers from the National DNCL, the Commission's approach is proportionate to its purpose under paragraph 7(i) of the Act. The Commission also considers that the measures implemented in this decision are applied to the industry in a symmetrical and competitively neutral manner.

Secretary General

### **Related documents**

- *Review of the Unsolicited Telecommunications Rules*, Compliance and Enforcement Regulatory Policy CRTC 2014-155, 31 March 2014
- *Extension of telecommunications number registrations on the National Do Not Call List*, Compliance and Enforcement Decision CRTC 2013-528, 30 September 2013
- *Permanent number registration*, Compliance and Enforcement Notice of Consultation CRTC 2013-527, 30 September 2013
- *Modifications to some Unsolicited Telecommunications Rules*, Telecom Regulatory Policy CRTC 2009-200, 20 April 2009
- *Unsolicited Telecommunications Rules framework and the National Do Not Call List*, Telecom Decision CRTC 2007-48, 3 July 2007, as amended by Telecom Decision CRTC 2007-48-1, 19 July 2007