



Compliance and Enforcement Notice of Consultation CRTC 2015-144

PDF version

Ottawa, 14 April 2015

File number: 8665-C12-201503285

Call for comments

Amendments to the *Unsolicited Telecommunications Fees Regulations*

Deadline for submission of interventions: 15 May 2015

[\[Submit an intervention or view related documents\]](#)

The Commission calls for comments on the proposed amendments to the Unsolicited Telecommunications Fees Regulations attached to this notice, which include an increase in rates for access to the National Do Not Call List and the correction of inconsistencies between the English and French versions.

Introduction

1. In Compliance and Enforcement Decision 2013-26, the Commission approved and made the *Unsolicited Telecommunications Fees Regulations* (the Regulations) that came into force on 1 April 2013.
2. In this notice, the Commission is proposing various amendments to the Regulations, including an increase to the fees.

Background

3. In 2007, the *Telecommunications Act* (the Act) was amended to allow for the creation of the National Do Not Call List (DNCL).¹ Under the Act, the Commission has the authority to delegate the administration and operation of the National DNCL.
4. The Commission exercised its delegation authority under subsection 41.3(1) of the Act to award a contract to Bell Canada (the List Operator) to operate the National DNCL.
5. The existing contract permits the List Operator to charge rates, as approved by the Commission, to recover the List Operator's administration and operating costs through the sale of subscriptions to telemarketers for access to the National DNCL.

¹ Bill C-37, *An Act to amend the Telecommunications Act*, came into force on 30 June 2007.

6. As a result of further amendments made to the Act in 2012,² the Commission has the authority to (1) make regulations prescribing fees to be paid by any person subscribing to the National DNCL, and (2) delegate the power to collect fees that it has prescribed in such regulations to a delegate.
7. Further to these amendments to the Act, the Commission established a National DNCL cost-recovery regime, effective 1 April 2013, for its investigation and enforcement activities. The Commission delegated to the List Operator the power to collect fees on its behalf. Under this regime, the List Operator is authorized to recover the Commission's investigation and enforcement costs from telemarketers at the same time that it charges them subscription fees to access and download the National DNCL.
8. With this notice, the Commission is proposing a multi-year increase to the rates in the Regulations, to be effective on 1 August 2015, 1 April 2016, and 1 April 2017. The Commission has also proposed various changes to the Regulations to correct inconsistencies between the English and French versions in sections 3 and 4 that were identified by the Standing Joint Committee on the Scrutiny of Regulations.
9. The current rates for access to the National DNCL consist of two components: one component (subscription rates) for funding the List Operator, and a second component (fees) for funding the Commission's investigation and enforcement activities (the Commission's telemarketing regulatory costs).
10. The Commission's telemarketing regulatory costs for fiscal year 2013-2014 were estimated to be \$3,300,000. The Unsolicited Telecommunications Fees revenues collected amounted to \$3,050,595, or 92% of the revenue target.³ The Unsolicited Telecommunications Fees revenues collected for fiscal year 2014-2015 amounts to \$3,090,450, or 94% of the revenue target. It is anticipated that the Commission's telemarketing regulatory costs for fiscal year 2015-2016 will remain stable at \$3.3 million.
11. While measures have been put in place to contain the costs related to the Commission's enforcement activities related to the National DNCL, costs for fiscal years after 2014-2015 are expected to be in excess of fees collected under the current approved fee structure. As a result, the Commission is proposing an increase to the rates set out in the Regulations.
12. As set out in subsection 41.21(3) of the Act, the Commission must conduct a public process in order for it to make fees regulations that require telemarketers to pay subscription fees. The Commission must also give interested persons a reasonable opportunity to make representations with respect to the proposed regulations.

² Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*, came into force on 28 June 2012.

³ Results of the operation of the National DNCL are published annually in a report to the Minister of Industry, which can be accessed at the following location: <http://www.crtc.gc.ca/eng/publications3.htm>

13. The following tables set out the proposed fees to be in effect on 1 August 2015, 1 April 2016, and 1 April 2017, and the proposed breakdown between the Commission's and the List Operator's fee components:

Proposed subscription download fees

Annual

All area codes

Breakdown	1 August 2015	1 April 2016	1 April 2017
Commission*	\$18,793	\$20,672	\$21,706
List Operator**	\$19,512	\$19,512	\$19,512
Total	\$38,305	\$40,184	\$41,218

Single area code

Breakdown	1 August 2015	1 April 2016	1 April 2017
Commission*	\$1,124	\$1,236	\$1,298
List Operator**	\$1,168	\$1,168	\$1,168
Total	\$2,292	\$2,404	\$2,466

6 months

All area codes

Breakdown	1 August 2015	1 April 2016	1 April 2017
Commission*	\$11,438	\$12,582	\$13,211
List Operator**	\$11,882	\$11,882	\$11,882
Total	\$23,320	\$24,464	\$25,093

Single area code

Breakdown	1 August 2015	1 April 2016	1 April 2017
Commission*	\$585	\$644	\$676
List Operator**	\$603	\$603	\$603
Total	\$1,188	\$1,247	\$1,279

3 months

All area codes

Breakdown	1 August 2015	1 April 2016	1 April 2017
Commission*	\$6,178	\$6,796	\$7,135
List Operator**	\$6,418	\$6,418	\$6,418
Total	\$12,596	\$13,214	\$13,553

Single area code

Breakdown	1 August 2015	1 April 2016	1 April 2017
Commission*	\$299	\$329	\$344
List Operator**	\$308	\$308	\$308
Total	\$607	\$637	\$652

1 month

All area codes

Breakdown	1 August 2015	1 April 2016	1 April 2017
Commission*	\$2,088	\$2,297	\$2,412
List Operator**	\$2,168	\$2,168	\$2,168
Total	\$4,256	\$4,465	\$4,580

Single area code

Breakdown	1 August 2015	1 April 2016	1 April 2017
Commission*	\$100	\$110	\$115
List Operator**	\$105	\$105	\$105
Total	\$205	\$215	\$220

* Corresponds with the Appendix to this notice

** Current rates for the List Operator component. These will be adjusted if there is an increase to the List Operator's portion of the rates.

14. In the event that the amount collected exceeds the Commission's telemarketing regulatory costs in any given fiscal year, the Regulations include a refund mechanism. No later than 90 days after the end of each fiscal year, following confirmation from the Commission that fees paid exceed the Commission's costs for that year, the List Operator refunds telemarketers the excess amount. The amount of the excess to be refunded to any telemarketer will be determined by calculating its total amount paid as a percentage of the total amount paid by all telemarketers.
15. Telemarketers using the query by telephone number subscription option (at a rate of \$0.75 per query) do not contribute to the Commission's cost recovery, and are not eligible for a refund should there be excess revenues in any given year. Further, the refund to any particular telemarketer must be at least \$5 because the cost of refunding amounts below this threshold is administratively inefficient and cost prohibitive. It is anticipated that the total number of refunds below the minimal amount of \$5, if any, would be small. Any amounts not refunded are to be reinvested by the List Operator into the operation of the National DNCL system.
16. The Commission notes that the List Operator is seeking an increase to its portion of the subscription fees since it has stated that it has experienced a material change in circumstances affecting the operation of the National DNCL. "Material change" is considered a cumulative change of greater than 10% in revenues received. The Commission will conduct a comprehensive examination through an internal review process of the List Operator's request for an increase in its portion of the subscription fees.

Call for comments

17. The Commission invites comments on the proposed amendments to Regulations attached to this notice.

Procedure

18. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, replies, and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings, where applicable. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and their accompanying documents, which can be found on the Commission's website at www.crtc.gc.ca under "Statutes and Regulations." The *Guidelines on the CRTC Rules of Practice and Procedure*, as set out in Broadcasting and Telecom Information Bulletin 2010-959, provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.

19. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **15 May 2015**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.
20. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.
21. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
22. Submissions must be filed by sending them to the Secretary General of the Commission by using **only one** of the following means:

by completing the
[\[Intervention form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax to
819-994-0218

23. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that service/filing of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file and serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
24. In accordance with the Rules of Procedure, a document must be received by the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
25. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.

Important notice

26. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, etc.
27. The personal information provided will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
28. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
29. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not link directly to the information provided as part of this public process.

Availability of documents

30. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at www.crtc.gc.ca by using the file number provided at the beginning of this notice or by visiting the "Participate" section of the Commission's website, selecting "Submit Ideas and Comments," then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
31. Documents are also available from Commission offices, upon request, during normal business hours.

Commission offices

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Les Terrasses de la Chaudière
Central Building
1 Promenade du Portage, Room 206
Gatineau, Quebec J8X 4B1

Tel.: 819-997-2429

Fax: 819-994-0218

Regional offices

Nova Scotia

Metropolitan Place
99 Wyse Road, Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

Quebec

505 De Maisonneuve Boulevard West, Suite 205
Montréal, Quebec H3A 3C2
Tel.: 514-283-6607

Ontario

55 St. Clair Avenue East, Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

Manitoba

360 Main Street, Suite 970
Winnipeg, Manitoba R3C 3Z3
Tel.: 204-983-6306
Fax: 204-983-6317

Saskatchewan

1975 Scarth Street, Suite 403
Regina, Saskatchewan S4P 2H1
Tel.: 306-780-3422
Fax: 306-780-3319

Alberta

220 – 4th Avenue Southeast, Suite 574
Calgary, Alberta T2G 4X3
Tel.: 403-292-6660
Fax: 403-292-6686

British Columbia

858 Beatty Street, Suite 290
Vancouver, British Columbia V6B 1C1

Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Unsolicited Telecommunications Fees Regulations*, Compliance and Enforcement Decision CRTC 2013-26, 28 January 2013
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

**Appendix to Compliance and Enforcement Notice of
Consultation CRTC 2015-144**

**REGULATIONS AMENDING THE UNSOLICITED TELECOMMUNICATIONS
FEES REGULATIONS**

AMENDMENTS

1. (1) Subsection 3(1) of the *Unsolicited Telecommunications Fees Regulations*⁴ is replaced by the following:

Amount to be paid on subscription

3. (1) On subscribing to the National Do Not Call List, a person must pay to the Commission, or to a person to whom the Commission has delegated the power to collect fees under subsection 41.3(1) of the *Telecommunications Act*, if applicable, the amount set out in column 2 that corresponds to each of the person's subscription types set out in column 1 of

- (a) Schedule 1, if the person subscribes during the period beginning on August 1, 2015 and ending on March 31, 2016;
- (b) Schedule 2, if the person subscribes during the period beginning on April 1, 2016 and ending on March 31, 2017; and
- (c) Schedule 3, if the person subscribes on or after April 1, 2017.

(2) Paragraph 3(2)(b) of the French version of the Regulations is replaced by the following:

- b) si les droits à payer sont inférieurs aux sommes que la personne a versées au cours de cet exercice, lui rembourse, conformément au paragraphe 4(3), les sommes versées en trop.

2. (1) Subsection 4(1) of the English version of the Regulations is replaced by the following:

Fees payable — amounts paid do not exceed costs

4. (1) If the total of all amounts paid under subsection 3(1) in a given fiscal year is less than or equal to the Commission's telemarketing regulatory costs for that fiscal year, the fees payable by a person for that fiscal year are equal to the amounts paid by them under that subsection.

⁴ SOR/2013-7

(2) The portion of subsection 4(2) of the English version of the Regulations before the formula is replaced by the following:

Fees payable — amounts paid exceed costs

(2) If the total of all amounts paid under subsection 3(1) in a given fiscal year exceeds the Commission's telemarketing regulatory costs for that fiscal year, the fees payable by a person for that fiscal year are equal to the amount determined by the formula

(3) The marginal note to subsection 4(2) of the French version of the Regulations is replaced by "Droits à payer — sommes supérieures aux coûts".

(4) Subsections 4(3) and (4) of the Regulations are replaced by the following:

Refund

(3) The difference between the amounts paid by a person under subsection 3(1) in a fiscal year and the fees payable by them under subsection 4(2) for that fiscal year is, if it is at least five dollars, to be refunded to the person.

Telemarketing regulatory costs

(4) The telemarketing regulatory costs of the Commission for a given fiscal year are the portion of the costs of the Commission's activities for that fiscal year, as set out in the Commission's Expenditure Plan published in Part III of the *Estimates* of the Government of Canada and, if applicable, the *Supplementary Estimates* of the Government of Canada, that are attributable to the Commission's responsibilities under section 41.2 of the *Telecommunications Act* and that are not recovered under any regulation made under section 68 of that Act.

3. The schedule to the Regulations is replaced by the Schedules 1 to 3 set out in the schedule to these Regulations.

COMING INTO FORCE

4. These Regulations come into force on August 1, 2015.

SCHEDULE

(Section 3)

SCHEDULE 1

(Paragraph 3(1)(a))

AMOUNTS TO BE PAID (AUGUST 1, 2015 TO MARCH 31, 2016)

Item	Column 1	Column 2
	Subscription type	Amount (\$)
1.	Annual	
	(a) all area codes	18,793
	(b) single area code	1,124
2.	6-month	
	(a) all area codes	11,438
	(b) single area code	585
3.	3-month	
	(a) all area codes	6,178
	(b) single area code	299
4.	Monthly	
	(a) all area codes	2,088
	(b) single area code	100

SCHEDULE 2

(Paragraph 3(1)(b))

AMOUNTS TO BE PAID (APRIL 1, 2016 TO MARCH 31, 2017)

Item	Column 1	Column 2
	Subscription type	Amount (\$)
1.	Annual	
	(a) all area codes	20,672
	(b) single area code	1,236
2.	6-month	
	(a) all area codes	12,582
	(b) single area code	644
3.	3-month	
	(a) all area codes	6,796
	(b) single area code	329
4.	Monthly	
	(a) all area codes	2,297
	(b) single area code	110

SCHEDULE 3

(Paragraph 3(1)(c))

AMOUNTS TO BE PAID (ON OR AFTER APRIL 1, 2017)

Item	Column 1	Column 2
	Subscription type	Amount (\$)
1.	Annual	
	(a) all area codes	21,706
	(b) single area code	1,298
2.	6-month	
	(a) all area codes	13,211
	(b) single area code	676
3.	3-month	
	(a) all area codes	7,135
	(b) single area code	344
4.	Monthly	
	(a) all area codes	2,412
	(b) single area code	115