



Telecom Decision CRTC 2010-363

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Ottawa, 10 June 2010

1686496 Ontario Ltd. (carrying on business as 2 The Point Global Marketing) – Violations of the Unsolicited Telecommunications Rules

File numbers: PDR 9174-78 and PDR 9174-768

In this decision, the Commission imposes administrative monetary penalties totalling \$21,000 on 1686496 Ontario Ltd. (carrying on business as 2 The Point Global Marketing) for telemarketing telecommunications initiated on behalf of clients who were not registered subscribers to the National Do Not Call List.

1. Between 30 July and 15 November 2009, the Commission received numerous complaints in relation to telemarketing calls made by 1686496 Ontario Ltd. (carrying on business as 2 The Point Global Marketing) [2 The Point].
2. On 14 January 2010, a notice of violation was issued to the company pursuant to section 72.07 of the *Telecommunications Act* (the Act). The notice informed 2 The Point that it had initiated seven telemarketing telecommunications on behalf of 2 The Point's clients¹ who were not registered subscribers to the National Do Not Call List (DNCL), in violation of Part II, section 7² of the Commission's Unsolicited Telecommunications Rules (the Rules).
3. The company was given until 14 February 2010 to pay the administrative monetary penalties (AMPs) set out in the notice of violation or to make representations to the Commission regarding the violations.
4. The Commission received representations from 2 The Point, dated 22 February 2010, in accordance with an extension to the original deadline that was granted after the notice of violation was issued.
5. The Commission notes that 2 The Point did not address in its representations the specific violations cited in the notice of violation. However, 2 The Point argued that it had demonstrated due diligence in ensuring that numbers on the National DNCL were

¹ In conjunction with this decision, the Commission has issued seven decisions imposing penalties related to these violations on 2 The Point's clients (See Telecom decisions 2010-364, 2010-365, 2010-366, 2010-367, 2010-368, 2010-369 and 2010-370).

² Part II, section 7 of the [Unsolicited Telecommunications Rules](#) states that a telemarketer shall not initiate a telemarketing telecommunication on behalf of a client unless that client is a registered subscriber of the National DNCL and the applicable fees to the National DNCL operator associated with that client's subscription have been paid.

not being called and that the violations had occurred because of a programming error associated with a hosted predictive dialing system.

6. The Commission has reviewed 2 The Point's representations and concludes that 2 The Point initiated seven telemarketing telecommunications on behalf of clients who were not registered subscribers to the National DNCL. The Commission also finds that 2 The Point has failed to demonstrate that it has, as part of its routine business practices, policies, and procedures to ensure that its clients are registered subscribers to the National DNCL prior to making calls on their behalf.
7. The Commission also notes that the system described by 2 The Point, or its representatives, does not provide sufficient evidence of the type of routine business practices that could establish a defence for its clients' violations.³
8. In the circumstances of this case, the Commission considers that a penalty of \$3,000 for each of the seven violations of Part II, section 7 of the Rules is appropriate. The Commission therefore imposes AMPs totalling \$21,000 on 2 The Point.
9. The Commission hereby notifies 2 The Point of its right to apply to the Commission to review and rescind or vary this decision under section 62 of the Act and to appeal this decision to the Federal Court of Appeal under section 64 of the Act. Any review and vary application under section 62 must be made within 30 days of the date of this decision and the Commission will place all related documentation on its website to allow public participation in accordance with Part VII of the *CRTC Telecommunications Rules of Procedure*. An appeal from this decision may be brought in the Federal Court of Appeal with the leave of that Court. Leave to appeal must be applied for within 30 days of the date of this decision or within such further time as a judge of the Court grants in exceptional circumstances.
10. The amount of \$21,000 is due by **12 July 2010** and is to be paid in accordance with the instructions contained in the notice of violation. For any amount owing that is not paid by **12 July 2010**, interest calculated and compounded monthly at the average bank rate plus three percent will be payable on that amount and will accrue during the period beginning on the due date and ending on the day before the date on which payment is received.
11. If payment of the debt has not been received within 30 days of the date of this decision, the Commission intends to take measures to collect the amount owing, which may include certifying the unpaid amount and registering the certificate with the Federal Court.

Secretary General

³ For example, see the criteria set out in Telecom Decision 2007-48, paragraph 526.

Related documents

- *Action Windows and Doors Ltd. – Violations of the Unsolicited Telecommunications Rules*, Telecom Decision CRTC 2010-364, 10 June 2010
- *Casement Limited – Violations of the Unsolicited Telecommunications Rules*, Telecom Decision CRTC 2010-365, 10 June 2010
- *Deluxe Pro Windows and Doors Inc. – Violations of the Unsolicited Telecommunications Rules*, Telecom Decision CRTC 2010-366, 10 June 2010
- *Evrca Enterprises Inc. – Violations of the Unsolicited Telecommunications Rules*, Telecom Decision CRTC 2010-367, 10 June 2010
- *2158519 Ontario Inc. (carrying on business as Lifetime Best Buy Windows and Doors) – Violations of the Unsolicited Telecommunications Rules*, Telecom Decision CRTC 2010-368, 10 June 2010
- *Pride Windows and Doors Inc. – Violations of the Unsolicited Telecommunications Rules*, Telecom Decision CRTC 2010-369, 10 June 2010
- *Royal Deluxe Windows and Doors Industries Inc. – Violations of the Unsolicited Telecommunications Rules*, Telecom Decision CRTC 2010-370, 10 June 2010
- *Unsolicited Telecommunications Rules framework and the National Do Not Call List*, Telecom Decision CRTC 2007-48, 3 July 2007