



## Telecom Decision CRTC 2010-86

Ottawa, 12 February 2010

### **Sayed Hyder (operating as Hydro Power Saver) – Violations of the Unsolicited Telecommunications Rules**

File number: PDR 9174-456

*In this decision, the Commission imposes administrative monetary penalties totalling \$7,000 on Sayed Hyder, operating as Hydro Power Saver, for initiating five telemarketing telecommunications to consumers whose telecommunications numbers were registered on the National Do Not Call List (DNCL), for initiating the five telecommunications without having registered and having paid all applicable subscription fees to the National DNCL operator, and for failing to display the originating or an alternate telecommunications number when initiating four of the telemarketing telecommunications, in violation of the Unsolicited Telecommunications Rules.*

1. Between 29 October 2008 and 14 August 2009, the Commission received numerous complaints in relation to telemarketing telecommunications made by Sayed Hyder, who operates a sole proprietorship registered as "Hydro Power Saver" pursuant to the Ontario *Business Names Act*.
2. On 29 October 2009, a notice of violation was issued to Mr. Hyder pursuant to section 72.07 of the *Telecommunications Act* (the Act). The notice informed Mr. Hyder that he had initiated five telemarketing telecommunications to consumers whose numbers were registered on the National Do Not Call List (DNCL), in violation of Part II, section 4 of the Commission's Unsolicited Telecommunications Rules (the Rules);<sup>1</sup> that he had initiated these five telecommunications without having paid all applicable subscription fees to the National DNCL operator, in violation of Part II, section 6 of the Rules;<sup>2</sup> and that he had failed to display the originating or an alternate telecommunications number when initiating four of the five telecommunications, in violation of Part III, section 25 of the Rules.<sup>3</sup>
3. The notice of violation was delivered to Mr. Hyder's home address by courier, process server, and Canada Post registered mail, as well as by e-mail.

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<sup>1</sup> Part II, section 4 of the Rules provides that a telemarketer shall not initiate a telemarketing telecommunication to a consumer's telecommunications number that is on the National DNCL, unless express consent has been provided by such consumer to be contacted via a telemarketing telecommunication by that telemarketer.

<sup>2</sup> Part II, section 6 of the Rules provides that a telemarketer shall not initiate telemarketing telecommunications on its own behalf unless it is a registered subscriber to the National DNCL and has paid all applicable fees to the National DNCL operator.

<sup>3</sup> Part III, section 25 of the Rules provides that a telemarketer initiating a telemarketing telecommunication shall display the originating telecommunications number or an alternate telecommunications number where the telemarketer can be reached.

4. Mr. Hyder was given until 30 November 2009, subsequently amended to 7 January 2010, to either pay the administrative monetary penalties (AMPs) of \$7,000 set out in the notice of violation, or to provide representations to the Commission.
5. The Commission notes that Mr. Hyder neither paid the AMPs specified in the notice of violation nor made representations in accordance with the notice. Accordingly, pursuant to subsection 71.08(3) of the Act, Mr. Hyder is deemed to have committed the violations outlined in the notice of violation dated 29 October 2009.
6. In the circumstances of this case, the Commission considers that a penalty of \$500 for each of the five violations of Part II, section 4 of the Rules; each of the five violations of Part II, section 6 of the Rules; and each of the four violations of Part III, section 25 of the Rules is appropriate. The Commission therefore imposes AMPs totalling \$7,000 on Mr. Hyder.
7. The Commission hereby notifies Mr. Hyder of his 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 of the Act 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.
8. The amount of \$7,000 is due by **15 March 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 **15 March 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.
9. If payment of the debt has not been received within 30 days of the date of this decision, the Commission intends to certify the unpaid amount and register the certificate with the Federal Court in order to collect the amount owing.

Secretary General

*This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.*