



Consumer Credit
Legal Centre NSW

January 2010

Senate Inquiry

Do Not Call Register Legislation Amendment Bill 2009

Consumer Credit Legal Centre (NSW) Inc

Consumer Credit Legal Centre (NSW) Inc (“CCLC”) is a community-based consumer advice, advocacy and education service specialising in personal credit, debt and banking law and practice. CCLC operates the Credit & Debt Hotline, which is the first port of call for NSW consumers experiencing financial difficulties. We provide legal advice and representation, financial counselling, information and strategies, and referral to face-to-face financial counselling services, and limited direct financial counselling. CCLC also operates the Insurance Law Service, a national service assisting consumers with disputes with their insurance company. CCLC took over 15,000 calls for advice or assistance during the 2008 financial year.

A significant part of CCLC’s work is in advocating for improvements to advance the interests of consumers, by influencing developments in law, industry practice, dispute resolution processes, government enforcement action, and access to advice and assistance. CCLC also provides extensive web-based resources, other education resources, workshops, presentations and media comment.

I. Introduction

CCLC is pleased to provide comment on the Do Not Call Register Legislation Amendment Bill 2009 (the “Bill”).

CCLC supports the Do Not Call Register as a vital mechanism to protect consumer privacy. CCLC supports the amendments proposed. CCLC supports the inclusion of organisations in the register.

CCLC recommends the following further amendments:

- The scheme is widened to include more flexibility to include some of the current exemptions on the register.
- That all registrations in the scheme are permanent and no review or term for registrations applies in the future.

2. Opt-in

The Do Not Call Register should be an opt-in scheme. That is, a consumer’s privacy should be respected and they should not be called unless they have agreed to be called. The Register should be a Do-Call Register with any consumer not opting to be called not receiving unsolicited calls from marketing companies, charities etc.

The current logic that we have opt-out because this may have poor economic consequences directly undermines the principles behind respecting privacy. Simply because there may be economic consequences of a decision does not mean that the principle should not be legislated. It also remains unclear what the economic consequences would be. There does not appear to be any good evidence quoted on this point. The onus is on the telemarketing industry to provide sufficient and incontrovertible evidence of harm. Even then, this harm has to be balanced with the social and business costs of receiving unwanted calls and faxes.

It is also illogical to ask consumers to breach their own privacy (by giving their details) simply to get some privacy.

The result is that the opt-out register is a compromise. It does not represent best practice privacy. As a result of it being a compromise it is essential that the Do Not Call Register be as far reaching as possible to ensure consumers get as much privacy as possible from their compromise. So the Do Not Call Register should be considerably expanded to ensure that consumers get a fair exchange for what is a massive compromise in privacy.

3. Expanding the register

CCLC supports the inclusion of businesses in the Do Not Call Register. There is a clear cost to business in efficiency of receiving of unwanted business calls and faxes. Unwanted

calls are disruptive to productivity. Unwanted faxes tie up fax machines which can interfere with the receipt of wanted faxes.

CCLC has direct experience with the costs of these unwanted calls and faxes. CCLC receives at least 3-4 unwanted faxes a week. This unnecessarily uses our paper and time in processing these unwanted faxes. Of even more concern is that some of these faxes are clearly scams.

CCLC runs an advice line for the public. CCLC regularly receives unwanted calls through our advice line seeking to sell goods or services. This advice line is very busy and the unwanted calls mean that consumers with genuine need for financial counselling and/or legal advice may not be able to get through.

CCLC strongly supports the inclusion of business in the Do Not Call Register as a key measure to improve efficiency by cutting down on unwanted calls.

4. Emergency Numbers

CCLC strongly supports allowing emergency numbers to register on the Do Not Call Register. It would be a travesty if a person with a genuine emergency had help delayed due to an unwanted call to the emergency number. This change is urgent.

5. Faxes

There is a real cost to organisations in unwanted faxes. The same arguments apply as above. CCLC strongly supports the inclusion of fax numbers in the Do Not Call Register.

6. Registration Period

CCLC strongly believes that the registration period of 3 years undermines the aims and objectives of the Do Not Call Register. Many consumers (and organisations in the future) will simply not remember to reregister.

CCLC contends that the registration period must be permanent. Consumers who don't want unwanted calls are very unlikely to change their mind about this.

As the three year registration period comes to an end, the Government will need to spend money in advising the public of the need to reregister. This expense would not be necessary if the registration was permanent. CCLC is aware (as is everyone) that the Federal Government has a large deficit that they wish to reduce. As a matter of common sense this is clearly an area where costs could be saved.

If the Government spends money on a wide marketing campaign, this will need to be extensive as consumers were generally not aware of the need to reregister.

Emergency numbers are a real area of risk. These numbers must be listed permanently. Organisations running emergency numbers should not have to remember to register that they do not wish to receive unwanted calls.

CCLC strongly urges a review of the 3 year renewal requirement to be replaced with permanent registration.

7. Exceptions

The Bill does not address the problems with the current exemptions. If consumers do not want to be contacted by political parties, charities etc they should not have to receive those calls.

It is both unfair on the consumer and the unwanted caller to have an interruption from someone you simply do not wish to talk to.

The exemptions should be revoked immediately so consumers can choose to have comprehensive cover from intrusive calls or, at minimum consumers should at least have the option to nominate one or more of the current exemptions to be included.