



Galexia

- Do Not Call Register Legislation
Amendment Bill 2009 Inquiry -

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Galexia



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Document Control

Document Purpose

This document has been prepared for the Senate Standing Committee on Environment, Communications and the Arts' inquiry for the Do Not Call Register Legislation Amendment Bill 2009.

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1. Overview

Galexia welcomes the opportunity to comment on the *Do Not Call Register Legislation Amendment Bill 2009*. The proposed amendments will be of great benefit to businesses wishing to eliminate time wasted fielding unwanted marketing phone calls and faxes, and will bring Australia into further alignment with international best practice. We support the legislation.

2. Expansion of registration (repealing S14 of the Act)

Allowing business organisations to register on the Do Not Call Register relieves a burden on organisations that receive direct marketing calls; furthermore, this would provide a benefit to direct marketers, who would be able to wash their lists of organisations that have demonstrated, by registering, that they would be unreceptive to marketing calls.

Although there is a recognised need for businesses to promote their products and services, this does not necessitate the use of disruptive and costly direct marketing techniques. The targets of direct marketing (whether individuals or organisations) should be able to go about their own business, rather than losing their time to others.

Concerns raised by direct marketing associations during previous rounds of consultation should be effectively dealt with by allowing organisations to opt in to receive calls from specific industry classifications. It is appropriate that this ‘registered consent’ operates on an opt-in basis.

Galexia submits that:

- (i) Allowing organisations to register relieves a burden on organisations that receive direct marketing calls;
- (ii) There is a benefit to direct marketers in being able to wash their lists of those organisations who will be unreceptive to their calls; and
- (iii) Government regulation is necessary to achieve these benefits.

Galexia is particularly concerned about the costs for organisations in dealing with unsolicited marketing calls – both the direct cost of the extra resources (including employees) needed to respond to these calls, and the indirect cost of business opportunities lost through the unavailability of these resources. These costs were noted in the case of small businesses (where they are felt most strongly) in the Explanatory Memorandum to the *Do Not Call Bill 2006*:

Many small businesses indicated that unsolicited telemarketing call approaches are time consuming and costly for their businesses as they use valuable resources that congest fax and telephone lines potentially resulting in loss of business opportunities.¹

Galexia's own experience is that *on no occasion* have we availed ourselves of any product or service offered through an unsolicited marketing call. An overwhelming proportion of the calls we receive offer telecommunications or information systems services, both of which we have long since obtained – through known and trusted suppliers with whom we have long-standing relationships. Presumably, this is the case for the majority of established organisations.

Moreover, it is often difficult to distinguish initially between an unsolicited marketing call and a genuine, desirable call (including personal calls, potential clients, etc). Finally, many unsolicited marketing calls are deceptive, rude, or evasive, failing to directly state the purpose of the call, and refusing to elaborate when asked.

3. Emergency numbers

Repealing Section 14 also allows emergency organisations to register. This is, of course, a matter of common sense, and it is somewhat disturbing that legislation has been required to prevent the waste of emergency services' resources.

Tying up phone lines used for emergency services creates an unacceptable risk to those who would use the services for their intended purpose – potentially resulting in injuries, deaths, or property damage that might otherwise have been avoided.

Furthermore, it is unrealistic for a direct marketer to expect to find a willing customer when calling an emergency number. An attempt to sell a product or service to an emergency organisation would be better directed towards the management of that organisation, not the emergency call operators.

¹ Do Not Call Register Bill 2006, Explanatory Memorandum, page 12, <[http://www.comlaw.gov.au/ComLaw/Legislation/Bills1.nsf/0/775239055212937DCA25717E000D3103/\\$file/06068em.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/Bills1.nsf/0/775239055212937DCA25717E000D3103/$file/06068em.pdf)>.

4. Faxes (the proposed Part 2A of the Act)

The same arguments for allowing registration of all telephone numbers apply to allowing registration of fax numbers. Although organisations may lose less person-hours to faxmarketing (since an unwanted offer can simply be dropped into a recycling bin) there is an additional cost in fax paper and toner – both in monetary and environmental terms.

There may also be an additional benefit to direct marketing businesses in allowing registration of fax numbers – marketing faxes are more easily disposed of than marketing phone calls, and so the likelihood of successfully marketing to unwilling organisations by fax is even smaller than the likelihood of successfully marketing to these organisations by phone. Allowing registration of fax numbers thus improves the efficiency of faxmarketing just as allowing registration of telephone numbers improves the efficiency of telephone marketing.

5. Registration period

It is unfortunate that, under the proposed amendments, the registration period would remain at three years. The three year renewal requirement seems unnecessary as a person is unlikely to change their preferences regarding telemarketing.

On this point, the Australian Do Not Call Register compares poorly with other jurisdictions. In the US the renewal requirement was dropped in 2007 and registration is now permanent. Registration is also permanent in India, Spain and the UK.

A major problem with the renewal requirement is that it adds regulatory burden, complexity and expense to a system that is supposed to be simple and inexpensive. For example, Australia is approaching the third anniversary of the establishment of the Do Not Call Register and the Government will have to undertake an expensive education campaign to remind consumers to renew their registration. There will also be substantial costs and complexity in authenticating users who attempt to renew, especially where they have changed their email address or have forgotten which email address they used to register.

This process will be very ineffective and inefficient, as it is unlikely any registered consumers will suddenly wish to receive telemarketing calls. (In any case, a consumer can remove their number from the Register at any time if they have a change of heart about telemarketing).

It is also a significant concern that in a 2009 ACMA study of community awareness regarding telemarketing and spam, consumers were clearly not aware of the renewal requirement.²

Overall, the renewal requirement has the potential to damage the reputation and good standing of the Do Not Call Register – for no obvious gain. Australia faces the same situation as that faced in the United States, where it was decided to abandon the renewal requirement shortly before the relevant anniversary of their scheme. This was a recognition of the costs and complexity that would result and the potential damage to the register (which is extremely popular in the US).

² Australian Communications and Media Authority, *Community Attitudes to Unsolicited Communications*, 24 August 2009, <http://www.acma.gov.au/webwr/assets/main/lib310210/unsolicited_communications_report.pdf>.

In other jurisdictions, the issues of obsolete information and relocating consumers are dealt with by simple updating tools – without the need for a complex renewal requirement. This means that only a few thousand numbers need to be reviewed each year, rather than millions. There is no evidence that any of the Do Not Call Registers in jurisdictions without renewals have become ‘clogged’ with obsolete information.

6. International comparison

Galexia has previously reported on international trends in Do Not Call Registers. We draw your attention to the findings of that study:

Connolly C and Vierboom A, *Emerging Best Practice in Do Not Call Registers*, September 2009, <http://www.galexia.com/public/research/assets/do_not_call_best_practice_2009/>.