

22 January 2010

Dr Ian Holland
Secretary
Standing Committee on Environment,
Communications and the Arts

By Senate online system

Dear Dr Holland

**INQUIRY INTO THE DO NOT CALL REGISTER LEGISLATION AMENDMENT
BILL**

Thank you for your letter of 18 December 2009 addressed to Optus' Chief Executive Officer, Mr Paul O'Sullivan, inviting submissions to the above enquiry.

Whilst Optus supports the proposed amendments to allow both emergency service and fax numbers on the register, we do have concerns about other changes and are opposed to the fundamental concept of expanding the scope of the register to include business and government numbers.

Optus' concerns, which are shared by other small and large businesses and members of the Direct Marketing industry, are articulated in depth in the Australian Direct Marketing Association (ADMA) submission to this enquiry. Optus is a member of ADMA, the peak industry body for the Australian direct marketing industry. Optus endorses ADMA's submission along with its accompanying report from Access Economics, "Economic impacts of an extension of the Do Not Call Register".

Optus supports the extension of the DNCR to include emergency service call centre numbers and considers it important that telemarketing activity should not inadvertently hinder access to these vital services. Fax numbers should also be able to be included on the register given the high costs involved in resources to print potentially unwanted material.

While we understand that by allowing the inclusion of business numbers on the register, the legislation is intended to reduce the cost to business of unwanted calls, it is not clear that this objective can be achieved without also adversely affecting necessary day-to-day business communications and adding costs and red-tape to all business communications activity. Based on its analysis of the Bill, Optus considers that these costs and the burden across the entire business community and economy will substantially outweigh any of the supposed benefits gained. Further, the

practicalities of converting the concept into legislation and the associated definitions appear likely to lead to a number of unintended and adverse consequences.

Optus anticipates an impact on competition and a restriction on the flow of information leading to higher lead generation costs, which is explained in Access Economics report. It is impossible for Optus accurately assess the full impact of the legislation on activity (because it is dependant on take up rates) it is clear that there will be additional cost borne through initial establishment as well as in the ongoing compliance costs.

Optus' concerns include the following:

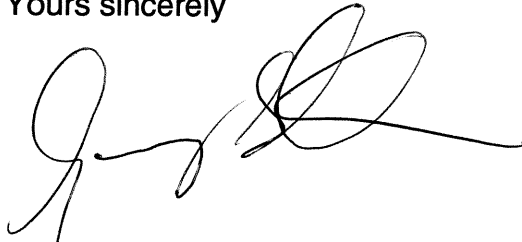
- a) *The costs, economic impact and administrative burden outweighs the potential benefits of expanding the scope of the register to include business numbers.* The proposed legislation will impose substantial costs and requirements on Optus as a commercial entity in its day-to-day commercial dealings with other businesses, both as a supplier and as a customer. Optus will need to implement new administrative processes, record keeping and internal education and training. This is in addition to implementation costs, IT changes, lost marketing opportunities and associated potential job losses relative to a diminished marketing pool. These burdens do not balance against the supposed benefit of potentially avoiding a few telemarketing calls – the cost-benefit equation does not stack up in favour of this legislation.
- b) *There needs to be a realistic implementation period.* In the event it proceeds with the current scope, the legislation needs to provide for a realistic implementation period of 12 months. The obligations proposed are a complex set of regulatory requirements. When the DNCR was initially introduced it affected Optus' consumer business and the 12 month implementation period provided for was required and appropriate. In this instance, the proposed obligations will extend to different parts of Optus' commercial operations - the Optus Small and Medium Business commercial division and the Optus Business (OB) commercial division. A full 12 month implementation period is required.
- c) *Optus supports an opt-out only model as opposed to the proposed opt out/in model.* Optus offers a wide range of products and may inadvertently be precluded from marketing to a small business who may not understand the wider implications of registering. For example, while a small business may not receive marketing calls they also may not hear about a viable solution which may realise significant cost savings.
- d) *In the event it proceeds with the current scope, the legislation needs to provide for clear rules about who has the authority to place a business or government numbers on the register.* Under the current rules and implementation model no authorisation qualification is required other than ticking a box to claim that the registrant is the account holder. Optus shares the concern expressed in ADMA's submission that:

“...a DNCR that allows business and government numbers to be registered must have suitable protections to stop various employees of organisations registering a companies’ number and/or their direct dial number contrary to company policy and without the appropriate authorisation”..

- e) *Loss of usefulness of pre-purchased call lists.* Dependant on take up rates the efficacy of lists Optus has already paid for may be diminished 20%-30%, resulting is an associated loss.

In conclusion, Optus considers that while there may be some benefits brought about by this legislation there will greater and perhaps unintended adverse consequences. The economic ramifications are made clear in the Access Economics report accompanying the ADMA submission. Optus supports the detailed elements of the ADMA submission and, in particular, we recommend that the scope of the legislation be substantially reduced to exclude business telephone numbers from being included on the Do Not Call Register.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gary Smith', with a stylized flourish extending to the right.

Gary Smith

General Manager, Regulatory Compliance and Self Regulation