

**SYMANTEC'S COMMENTS ON AUSTRALIA'S
DO NOT CALL REGISTER LEGISLATION AMENDMENT BILL 2009**

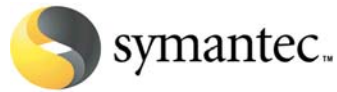
1. Symantec welcomes the opportunity to provide comments to the Senate Standing Committee on Environment, Communications and the Arts on the proposed extension of the Do Not Call Register (DNCR) Act.
2. Symantec supports the application of the DNCR to emergency service numbers, as any interruption of these essential services would be clearly detrimental. We also support retaining provisions in the DNCR Act requiring telephone numbers to be re-registered every three years, in order to keep the registry updated.
3. Symantec is however concerned by the extension of DNCR regime to include business numbers for the sending of telemarketing calls and marketing faxes. While the DNCR has benefited consumers, the same would not apply for businesses as the regime would pose market access problems and cause businesses losses for both large and small businesses alike, which is detrimental in the current economic climate.

Costs far outweigh benefits to businesses

4. We note that the proposed extension of the DNCR to businesses was meant to address issues like the growth of unsolicited marketing faxes and rising community concerns about the inconvenience and intrusiveness of telemarketing and fax marketing. In the business-to-consumer context, it is understandable that Australian citizens are protected from such "inconvenience" and "intrusiveness" - the DNCR clearly protects the privacy and reduces unsolicited costs for consumers, with the compliance costs being borne by businesses.
5. However, such considerations apply poorly to business-to-business communications. This is because most, if not all, businesses not only receive telemarketing materials, they also deliver their own marketing materials to clients or potential clients. Any benefits to businesses would be completely eliminated by the increased compliance costs of their marketing activities and more importantly the loss of revenue due to restrictions placed on the customers and industry segments that these businesses can reach out to.
6. Moreover, the costs of compliance can be significant, which several studies conducted by the Council of Small Business of Australia¹ and Access Economics² have highlighted. The Access Economics report also states that "the resulting costs will outweigh any benefits in large measure, including a loss in market efficiency". Some alarming statistics and estimates as raised in these studies include:

¹ See <http://www.cosboa.org.au/news.aspx?newsID=55>

² See <https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=7eb26d44-d65f-4697-a57b-5bdf5f8a95c8>



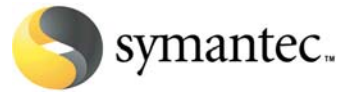
- 78% of small businesses do not have the resources to manage the proposed amendments to the DNCR
- 45% of small businesses believe the overall cost of operating their business will increase
- 22% of small businesses gained new business through phone calls and will be adversely affected
- Total compliance costs are estimated to be \$71 – \$108 million in the first year of operation, and then \$47 – \$84 million in each subsequent year

Lack of clarity on new 'registered consent' under DNCR

7. Under the extended DNCR, 'registered consent' is introduced to give new registrants the option of consenting to receive telemarketing calls or marketing faxes relating to particular industry classifications. By default, registrants opt out of all telemarketing calls and marketing faxes, unless they take positive action to opt-in to receive certain types of telemarketing calls and marketing faxes. ACMA is to determine the industry classifications.
8. It is unclear how this new consent mechanism would be operated. The 'specific industry classification' could eventually turn out to be a complex and badly-understood framework, which could confuse new registrants and result in them opting out of ALL forms of telemarketing calls and marketing faxes. This not only closes off business opportunities for marketer-senders, but also deprives business-recipients of potentially advantageous deals that they may not be aware of .
9. A more balanced approach would be a deliberate one where there is no default position (i.e. registrants do not opt-out of all calls) and registrants must take positive action to select the types of calls/faxes that they do not wish to receive. This approach would be consistent with the revised DNCR policy intent and simultaneously, allow for mutual economic benefits to be realised by both recipients and senders.

Duration of registration for business-to-business applications

10. Under the existing DNCR Act, the registration of a phone number on the Do Not Call Register remains in force for 3 years. While this duration can still remain for individuals' registered numbers, it would be too long a period for business registrations particularly since the allocation of phone numbers is quite dynamic for businesses, e.g. many companies may fold within a short period and the registered numbers are then re-allocated to other companies who may in fact wish to receive such telemarketing materials.
11. Moreover, a 3-year lock-out period may prove to be too draconian when the DNCR scheme is still very nascent in the business context. A more reasonable approach



would be to shorten the duration of registration for businesses to 12 months or less, with the option of reviewing the duration and its effectiveness when the scheme subsequently matures.

Conclusion

12. All in all, Symantec is of the view that the DNCR should not be extended to apply to businesses. It is doubtful that businesses will actually benefit from the DNCR and many businesses may encounter severe detrimental impacts on their bottom line revenue due to the increased operational costs of compliance. Moreover, there are still many aspects like the 'registered consent' and registration duration that need to be more deeply studied in order that the regime does not lead to more harm than good for the Australian economy. It is also suggested that more extensive deliberations with the private sector should be conducted before the DNCR is revised.

22 February 2010