

22 January 2010

Committee Secretary
Senate Standing Committee on Environment, Communications and the Arts
Inquiry into the Do Not Call Register Legislation Amendment Bill
PO Box 6100
Parliament House
Canberra ACT 2600

By email eca.sen@aph.gov.au

Dear Sir/Madam,

DO NOT CALL REGISTER LEGISLATION AMENDMENT BILL 2009

We refer to your inquiry into the *Do Not Call Register Legislation Amendment Bill 2009 (the Amendment Bill)* and take this opportunity to express our concerns in relation to the Amendment Bill as an interested organisation.

Salmat supports the overall principle of the national Do Not Call Register with national standards to regulate telemarketing practices. Furthermore, Salmat supports the extension of the Do Not Call Register to emergency services and fax numbers. As a publicly listed entity and one of the largest Australian outsourced contact centre service providers, Salmat is committed to a high standard of service delivery and maintaining the integrity of the contact centre industry. Our Customer Contact Solutions division is certified to the International Standards Organisations 9001:2008 series.

We have pro-actively been involved in the introduction of the Do Not Call Register including being a Panel Member on the Australian Communications and Media Authority (**ACMA**) industry education forums in Queensland and Victoria when the Do Not Call Register was first introduced. We have invested considerable resources to ensure our Customer Contact Solutions division complies with the Do Not Call Register and have implemented conservative measures to ensure we screen any business numbers that are dialled as part of any telemarketing campaign in circumstances where no consent or exemption applies.

In relation to the Amendment Bill we are not so concerned with the impact on traditional telemarketing, rather we are concerned about the impact this Amendment Bill will have on our ability to grow and expand our business and the legitimacy of the registration process.

About Salmat

1. Salmat is in the business of providing customer contact services for business in a variety of industries. Salmat was established in 1979 and through innovation, commitment and the strategic use of different communication channels Salmat has grown into a large publicly listed company employing over 6,900 people nationally with operations in eight countries around the world. In addition, Salmat subcontracts a network of approximately 18,000 walkers to distribute retailer catalogues to almost seven million Australian homes. We have three regional contact centre sites in Wagga Wagga, Geelong and Bundaberg and engage approximately 261 home based contractors who work from areas as remote as Geraldton in regional Western Australia and George Town in regional Tasmania. Salmat also contracts approximately 1,105 field sales contractors nationally.
2. Salmat offer a range of service offerings to assist in engaging with customers offering businesses cost effective one to one communication solutions. This includes, for example, letterbox and

telephone communication services. We have also developed a reputation for being early adopters of proven emerging technologies enabling us to deliver clients services that are technologically advanced.

3. We have clients in a range of industries including telecommunications, banking, infrastructure, government, energy, entertainment, technology, consumer electronics and appliances, travel, loyalty programs and insurance. The tenure of our client relationships range from 1 month to 15 years. As an outsourced service provider Salmat's work is sourced from a number of channels including word of mouth, direct and indirect marketing and advertising, lead generation through our new business team and referrals from our existing and long standing client base to name a few.
4. Today, Salmat delivers more than 60% of all business to consumer communications in Australia.
5. The ability to freely communicate with businesses to advise them of our service offerings (which enable specialised customer communication solutions, whilst clients focus on their core business) has been instrumental to our considerable business expansion and growth.

Concerns with the Amendment Bill

a. Minimises the ability to use legitimate and cost-effective communication channel

6. Salmat has reviewed the Amendment Bill and is concerned that the Amendment Bill has unintentionally impacted on calls which are not in the category of traditional telemarketing.
7. The Amendment Bill in its current form will have an adverse impact on legitimate business to business communication and marketing. Telephone communication is a genuine means of doing business and forms an integral part of business to business communication particularly for new businesses or businesses seeking to expand their market and service offerings. Whilst we note that the second reading speech to the Amendment Bill states "*This change is not intended to impinge on business-to-business communications which are an important part of everyday business activity*"¹ Salmat is concerned that the effect of the Amendment Bill is that businesses that are committed to growth and expansion will no longer be able to telephone other businesses regarding their service offerings if the prospective business is registered on the Do Not Call Register and that prospective client has not elected to 'opt in' to being contacted by the industry in which the caller is calling from. To date, calls of this nature have been considered an accepted part of everyday business. The ability to pick up the telephone and contact a business to tell them we can help them communicate with their customers more effectively and efficiently has been instrumental in Salmat's growth over the past 30 years.
8. It is imperative that it be acknowledged that in order to be able to grow, Australian businesses need to be able to promote their goods and services in a cost effective manner. Whilst considerable focus has been placed on the inconvenience caused to small businesses in receiving telemarketing calls it is worthwhile noting that small businesses, along with medium and larger businesses, regularly make calls to other businesses in order to explore growth opportunities, for example, the local take away store might call the local mechanics to see if they are interested in a lunch run. A green grocer might call a local restaurant to offer their produce at discounted prices. To date, all of these calls have been considered to be legitimate business calls, notwithstanding that there is no existing relationship or consent to call.
9. Whilst there has been considerable emphasis on the telemarketing industry throughout the debate leading to the creation of the Amendment Bill, Salmat note that the impact of the Amendment Bill will be far wider than the telemarketing industry alone. Technically, if any Chief Executive Officer or Business Development Manager calls another business to discuss their service offerings, they risk

¹ *Do Not Call Register Legislation Amendment Bill 2009, Second Reading Speech page 1.*

breaching the Amendment Bill if they do not first screen that number against the Do Not Call Register. This is not a practical or realistic requirement.

10. Salmat note that businesses are involved in the activity of trading and therefore any communication that may occur over the telephone be it solicited or unsolicited, is not interfering with personal or private time.
11. In response to concerns raised about *"the losses in productivity caused by responding to unsolicited telemarketing calls"*² the Amendment Bill will require all businesses to ensure they do not make a call to another business for a legitimate purpose without first screening that number against the Do Not Call Register. It is worthwhile noting that one of the arguments being made to support the Amendment Bill is that small business don't have time to deal with telemarketing calls yet, the effect of the Amendment Bill will be that small businesses will need to invest time introducing compliance frameworks to ensure they comply with the requirements of the Amendment Bill or otherwise risk being exposed to substantial fines and penalties for, what has been regarded to date, as ordinary business to business communication. This includes spending time and incurring expenses in screening numbers against the Do Not Call Register before making any call with a commercial focus to people who are not existing customers.
12. The reported inconvenience of receiving these calls needs to be balanced with the need to encourage commerce, business growth and in turn, employment opportunities.
13. It is important to acknowledge that business to business telephone marketing opportunities invariably lead to opportunities for businesses to be more productive and profitable and/or obtain products and/or services at more cost effective prices. For example, in the case of Salmat's printing services, a catalogue that costs a retailer approximately 20 cents to print and distribute has the potential to generate up to \$5 in revenue, making it a powerful sales tool. Independent research has shown that 70% of Australian households that received and read a catalogue from a grocery retailer went on to visit a store. In addition, 43% of household that received and read a catalogue from a department store had gone on to make a purchase³.
14. As a large employer and a publicly listed entity we have serious concerns that this Amendment Bill will adversely impact our future growth and our commitment to generate future employment opportunities. In the past calendar year we have placed 4177 people in jobs by virtue of our business expansion. Growth and innovative solution development together with increasing our traditional market penetration continue to be part of our operational objectives for this financial year as reported to our shareholders in our 2009 Annual Report.⁴ Our operational goals for 2010 include to further evolve our product and service offerings to new and existing customers and to secure new customer contracts.

b. Registration process

15. Given the significant impact of allowing businesses to register telephone numbers on the Do Not Call Register, Salmat are concerned to ensure the integrity of the Do Not Call Register is maintained. As a minimum, measures will need to be implemented to ensure those registering numbers on behalf of businesses have the requisite authority to submit that registration.
16. It remains unclear who within a business will have the authority to register the business telephone number. For example, will any Salmat employee be entitled to register our general reception

² *Do Not Call Register Legislation Amendment Bill 2009*, Second Reading Speech page 1.

³ Unaddressed Mail Research by Sweeney Research and commissioned by Australian Catalogue Association, July 2009.

⁴ Salmat Limited 2009 *Shareholder Review Annual Report* page 12.

telephone number on the Do Not Call Register and prevent us from receiving calls from suppliers? Whilst our receptionist may find it inconvenient to answer telemarketing calls from cleaning suppliers, our facilities management department may be interested in special offers on cleaning products that may reduce our cleaning costs.

17. Furthermore, Salmat query what measures will be implemented by the regulator to ensure only legitimate business registrations are processed (e.g. so that competitors do not place numbers on the register?).

c. Opt-in proposal

18. The second reading speech states *“Businesses can still contact other businesses with whom they have a relationship under the current inferred consent provisions. Businesses that have given express consent to receive calls or faxes may also continue to be contacted. However, cold calls and marketing faxes to businesses that do not fall under the express or inferred consent provisions in the act will be prohibited for numbers that are listed on the Do Not Call Register”*⁵. Whilst Salmat appreciate the intention to address the need to preserve legitimate business to business communication we do not consider the proposed ‘opt-in’ scheme adequately addresses the issue of legitimate business to business calls nor do we consider this to be practical.
19. It is unlikely that businesses will spend time genuinely considering what products/services their business may need in the future and the proposed ‘opt-in’ arrangement only adds unnecessary complexity to the register.

Recommendations

20. For the reasons noted above Salmat’s preference is that the extension to business numbers is removed from the Amendment Bill.
21. Alternatively, Salmat recommend that the *Do Not Call Register Regulations 2006 (Cth)* (**the Regulations**) should be amended to include specific exemptions to recognise accepted and legitimate business to business telephone calls are not deemed to be “telemarketing” calls for the purposes of the *Do Not Call Register Act 2006 (Cth)* – similar to the existing exemptions for legitimate consumer calls contained in Regulations⁶.
22. We have set out below the exemptions we consider necessary to protect accepted and genuine business to business communication for consideration by the Senate Committee:

(a) *Calls Incidental to Business Functions/Activity*

A voice call is not a telemarketing call if the primary purpose of the call is to offer products or services to a business that are relevant to the work-related functions, trade or duties of the business or incidental to the business activity of the potential customer/call recipient.

Examples

1. A call to a veterinarian clinic offering pet supplies.
2. A call to a bank offering to print bank statements.

(b) *Calls to Promote/Market the Call Recipient’s Business*

A voice call is not a telemarketing call if the primary purpose of the call is to offer goods or

⁵ *Do Not Call Register Legislation Amendment Bill 2009*, Second Reading Speech page 1.

⁶ See *Do Not Call Register Regulations (Cth) 2006* section 4.

services to a business that are designed to market, promote or advance the business of the potential customer/call recipient.

Examples

1. A call to a shop offering business cards.
2. A call to a business regarding advertising in the local newspaper.

23. Salmat consider that expanding the scope of the Regulations will ensure that customary calls may continue that are relevant and applicable to the operations of a business. Furthermore, we submit that this alternative will avoid unwanted telemarketing calls being made to a business regarding products/services for personal/domestic use and will go some way to ensuring that legitimate accepted business to business communication is retained.
24. In respect of concerns in relation to the authenticity of registrations, Salmat recommend consideration should be given to name and number registrations for business registrations. Furthermore, registration should be limited to the director or principal of the business who has appropriate authority to make decisions that are binding on the entire business. Confirmation of registrations should also be provided to businesses to ensure they are aware of registrations that are made on behalf of their business to avoid unauthorised registrations.
25. Restricting registration to account holders will not necessarily address concerns with the legitimacy of business registrations given in many cases account holders may be employees within the company who are charged with responsibility for paying suppliers (rather than making binding decisions on behalf of the company).

Conclusion

26. Restricting all businesses from communicating via telephone is not the way to tackle the problem of unscrupulous telemarketers. Imposing such restrictions on legitimate business to business communication is an unnecessary restraint on free trade. Given the current global economic climate Australian businesses should be encouraged to implement initiatives to expand and grow their businesses and generate employment opportunities. The Amendment Bill should not hinder the growth opportunities for Australian businesses.
27. In its current form, the Amendment Bill imposes unreasonable restrictions on businesses for how they can go about getting new customers and accessing new markets. We respectfully request that the Senate Committee re-consider the implications of the Amendment Bill in relation to business to business communication and consider amending the Amendment Bill and the Regulations to address well founded and well intended business concerns with these proposed reforms.
28. We note that ACMA have released a *Do Not Call Register Compliance Guide* to educate businesses on industry best practice which includes, maintenance of internal do not contact lists. We encourage ACMA to continue promoting this useful best practice guide.
29. We take this opportunity to confirm that Salmat supports the submission put forward by the Australian Direct Marketing Association to the Senate Standing Committee on the Amendment Bill.

Yours sincerely,

Andrew Hume
Head of Customer Contact Solutions
Salmat Limited
