



Telecom Public Notice CRTC 2007-15

Ottawa, 22 August 2007

Proceeding to consider the delegation of the Commission's investigative powers with regard to Unsolicited Telecommunications Rules complaints

Reference: 8665-C12-200711756

In this Public Notice, the Commission initiates a proceeding to consider its intent to delegate its investigative powers with regard to Unsolicited Telecommunications Rules complaints.

Introduction

1. In Bill C-37, *An Act to amend the Telecommunications Act* (the amendment to the Act), which came into force 30 June 2006, Parliament amended the *Telecommunications Act* (the Act) to grant the Commission the powers required to establish a National Do Not Call List (National DNCL). The Act empowers the Commission with the authority to administer databases or operational systems for a National DNCL or to delegate to any person its powers in relation to a National DNCL. The Act allows the Commission to delegate any of its powers to conduct investigations to determine whether there has been a contravention of any prohibition or requirement of the Commission under section 41 of the Act.¹ The Act also allows the delegate to charge rates for exercising delegated powers. In addition, the Act allows the Commission to regulate the rates charged by the delegate and to regulate the manner in which the delegate exercises any of the delegated powers.
2. In Telecom Decision 2007-47, the Commission accepted the consensus and non-consensus reports filed on 26 July 2006 by the CRTC Interconnection Steering Committee Do Not Call List Operations Working Group (the DOWG). These reports provided recommendations on issues related to the management of the National DNCL database and to accessing the list contained within it.
3. In Telecom Decision 2007-48, the Commission set out its determinations on the proceeding initiated by Telecom Public Notice 2006-4. In that Decision, the Commission established a comprehensive framework for the creation of a National DNCL and set out the Unsolicited Telecommunications Rules (which include the National DNCL Rules, the Telemarketing Rules, and the Automatic Dialing-Answering Device Rules).
4. In Telecom Decision 2007-47, the Commission concluded that complaints with regard to all Unsolicited Telecommunications Rules received by the operator of the National DNCL (National DNCL operator) that are assessed to be a *prima facie* violation of those rules, as well as complaints that the National DNCL operator is unable to assess because of their complexity, will be forwarded to the Commission for investigation.

¹ Section 41 of the Act states that "The Commission may, by order, prohibit or regulate the use by any person of the telecommunications facilities of a Canadian carrier for the provision of unsolicited telecommunications to the extent that the Commission considers it necessary to prevent undue inconvenience or nuisance, giving due regard to freedom of expression."

5. In Telecom Decision 2007-47, the Commission approved the recommendation made by the DOWG that the Commission retain the responsibility for determining whether a notice of violation should be issued. The Commission also considered it appropriate that it would conduct further investigations, if required, to determine whether a notice of violation should be issued.

Delegation of the Commission's investigative powers

6. The Commission intends to delegate its investigative powers to a third party, other than the National DNCL operator. The Commission notes that this third party may charge rates, pursuant to subsection 41.4(1) of the Act, for exercising delegated powers. The Commission may, pursuant to section 41.5 of the Act, regulate such rates.
7. The Commission also intends to require all telemarketers and clients of telemarketers, regardless of whether they are making telecommunications that are exempt from the National DNCL Rules, to register with, and provide their organization's information to, the National DNCL operator in order to facilitate the investigation of complaints and the remittance of rates that may be charged by the Commission's delegate.
8. The Commission intends to retain the responsibility to issue notices of violation with regard to the Unsolicited Telecommunications Rules pursuant to subsection 72.07(1) of the Act.

Call for comments

9. The Commission therefore invites parties to comment on the following:
 - a. the Commission's intent to delegate its investigative powers with regard to Unsolicited Telecommunications Rules complaints to a third party who will be able to charge rates for exercising these powers;
 - b. the third party that the Commission would delegate its investigative powers to; and
 - c. the Commission's intent to establish a rule to require all telemarketers and clients of telemarketers, including those exclusively making telecommunications that are exempt from the National DNCL Rules, to register with, and provide information to, the National DNCL operator and to pay fees that may be charged by the third party who will be responsible for the investigation of Unsolicited Telecommunications Rules complaints.
10. In Telecom Public Notice 2007-16, the Commission initiated a proceeding to review and approve the organization and mandate of the Commissioner for Complaints for Telecommunications Services Inc. (CCTS). Among the issues to be considered in that proceeding is whether the CCTS would be an appropriate third party to which the Commission could delegate its investigative powers with regard to Unsolicited Telecommunications Rules complaints. The record of the Telecom Public Notice 2007-16 proceeding as it relates to the issues outlined in this Public Notice will form part of the record of this proceeding.

11. Persons interested in participating in this proceeding (including receiving copies of all submissions) must notify the Commission of their intention to do so by filling out the on-line form, or by writing to the Secretary General, CRTC, Ottawa, Ontario, K1A 0N2, or by faxing to: 819-994-0218 by **11 September 2007** (the registration date). Parties are to provide their email address, where available. If parties do not have access to the Internet, they are to indicate in their notice whether they wish to receive disk versions of hard copy filings.
12. The Commission will post on its website, as soon as possible after the registration date, a complete list of interested parties and their mailing addresses (including their email addresses, if available), identifying those parties who wish to receive disk versions.
13. All parties may file with the Commission, serving a copy on all other parties, comments with regard to the above-noted issues by **1 October 2007**.
14. Any person who wishes merely to file written comments in this proceeding, without receiving copies of any other submissions, may do so by writing to the Commission, at the address or fax number noted in paragraph 11, or by filling out the online form, by **1 October 2007**.
15. All parties may file with the Commission, serving a copy on all other parties, reply comments by **11 October 2007**.
16. The Commission expects to issue a decision on the issues raised in this proceeding by **29 February 2008**.
17. The Commission will not formally acknowledge comments. It will, however, fully consider all comments, and they will form part of the public record of the proceeding.
18. Where a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date.
19. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
20. Electronic submissions should be in HTML format. As an alternative, those making submissions may use "Microsoft Word" for text and "Microsoft Excel" for spreadsheets.
21. Each paragraph of all submissions should be numbered. In addition, the line *****End of document***** should be entered following the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
22. The Commission also encourages parties to monitor the record of this proceeding (and/or the Commission's website) for additional information that they may find useful when preparing their submissions.

Important notice

23. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be

posted on the Commission's website. This information includes your personal information, such as your full name, email address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.

24. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
25. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
26. Please note that the information you provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the webpage of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.

Location of CRTC offices

27. Submissions may be examined or will be made available promptly upon request at the Commission offices during normal business hours:

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Central Building

Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Metropolitan Place

99 Wyse Road, Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West, Suite 504
Montréal, Quebec H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East, Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

Kensington Building
275 Portage Avenue, Suite 1810
Winnipeg, Manitoba R3B 2B3
Tel.: 204-983-6306 – TDD: 204-983-8274
Fax: 204-983-6317

Cornwall Professional Building
2125 – 11th Avenue, Suite 103
Regina, Saskatchewan S4P 3X3
Tel.: 306-780-3422

10405 Jasper Avenue, Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

580 Hornby Street, Suite 530
Vancouver, British Columbia V6C 3B6
Tel.: 604-666-2111 – TDD: 604-666-0778
Fax: 604-666-8322

Secretary General

Related documents

- *Proceeding to consider the organization and mandate of the Commissioner for Complaints for Telecommunications Services*, Telecom Public Notice CRTC 2007-16, 22 August 2007
- *Unsolicited Telecommunications Rules framework and the National Do Not Call List*, Telecom Decision CRTC 2007-48, 3 July 2007, as amended by Telecom Decision CRTC 2007-48-1, 19 July 2007
- *CRTC Interconnection Steering Committee Do Not Call List Operations Working Group Reports*, Telecom Decision CRTC 2007-47, 3 July 2007
- *Proceeding to establish a national do not call list framework and to review the telemarketing rules*, Telecom Public Notice CRTC 2006-4, 20 February 2006, as amended by Telecom Public Notice CRTC 2006-4-1, 13 March 2006

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>