Canadian Radio-television and Telecommunications Commission
Conseil de la radiodiffusion et des télécommunications canadiennes

Compliance and Enforcement Regulatory Policy CRTC 2014-155

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Review of the Unsolicited Telecommunications Rules

File numbers: 8665-C12-201304485 and 8662-C131-201115832

The Commission denies the Canadian Marketing Association's application requesting that the use of an automatic dialing-announcing device (ADAD) be permitted for telemarketing when there is an existing business relationship between the telemarketer or client of the telemarketer and the called party.

In addition, the Commission reviews and modifies its framework for unsolicited telemarketing calls and other unsolicited telecommunications received by consumers. This framework includes rules for the National Do Not Call List (DNCL) as well as rules regarding telemarketing and ADADs (collectively, the Unsolicited Telecommunications Rules [UTRs]).

In order to facilitate better communication between consumers and telemarketers, this decision modifies several sections of the rules which called for the provision of a postal mailing address, and gives telemarketers the option of substituting an electronic mailing address instead, provided that address can receive and process do not call requests from consumers. Telemarketers and other parties subject to the UTRs will also now be required to ensure that any contact information provided to consumers as a requirement under these rules remains valid for a minimum of 60 days. In addition, the UTRs have been modified to reduce the grace period within which telemarketers must process requests from consumers to be placed on an organization's internal do not call list from 31 days to 14, in order to further reduce the volume of unwanted telemarketing telecommunications received.

The change to the grace period for internal do not call requests will take effect on ***30 June 2014****, and will apply to all requests made on that day forward. The remaining modifications to the UTRs take effect immediately.*

Introduction

1. The Commission regulates unsolicited telecommunications pursuant to sections 41 to 41.7 and 72.01 to 72.15 of the *Telecommunications Act* (the Act). Section 41 of the Act specifies 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.

2. The Commission, in Telecom Decision 2007-48, established the Unsolicited Telecommunications Rules (UTRs), which is a comprehensive framework for the regulation of unsolicited telecommunications. The UTRs include the National Do Not Call List (DNCL) Rules, the Telemarketing Rules, and the Automatic Dialing-Announcing Device (ADAD) Rules. The UTRs and the National DNCL came into operation on 30 September 2008.

3. The National DNCL Rules and the Telemarketing Rules apply only to "telemarketing," or the use of telecommunications facilities to make unsolicited telecommunications for the purpose of solicitation. Part I of the UTRs defines "solicitation" as the selling or promoting of a product or service, or the soliciting of money or money's worth, whether directly or indirectly and whether on behalf of another party. The ADAD Rules are broader in scope as they include restrictions even in circumstances where there is no attempt to solicit.

4. The Commission received an application from the Canadian Marketing Association (CMA), dated 6 December 2011, in which the CMA proposed changes to the ADAD Rules. By letter dated 23 December 2011, the proceeding initiated by CMA's application was suspended pending consideration of whether the matters raised by the application should be reviewed in a broader context.

5. In Compliance and Enforcement Notice of Consultation 2013-140, the Commission initiated a proceeding to review (i) a number of areas relating to the UTRs that it considered would benefit from public consultation, and (ii) the matters raised in the CMA's application. The Commission noted that since the implementation of the UTRs, there had been a steady increase in the number of consumer telecommunications numbers registered on the National DNCL and a significant volume of consumer complaints received about telemarketing calls, indicating significant public interest in the program. The Commission noted that with the benefit of several years' experience in the administration and enforcement of the UTRs, it had been able to identify a number of areas that would benefit from further review and public consultation, beyond the scope of those matters raised in the CMA's application. Accordingly, the Commission invited comments, with supporting rationale, on the following:

    I. ADAD Rules

    II. Caller name display

    III. Record keeping

    IV. Duration and scope of an internal do not call request

V. Grace period for a do not call request

VI. Application of the Telemarketing Rules regarding internal DNCL requests to telecommunications whose purpose is not solicitation

VII. Business-to-business exemption

VIII. Period of validity of contact information

IX. Other changes to the UTRs

6. The Commission also stated that it seeks to craft its rules and enforcement practices in a manner that is the least-intrusive necessary to achieve its objectives and would carefully weigh the benefit of any proposed rules or modifications against the administrative burden that may result, particularly for small businesses. The Commission further stated that it would review the matters in this proceeding in light of the policy objectives set out in section 7 of the Act.

7. The Commission received interventions from 107 individuals and the following companies and organizations: Bell Aliant Regional Communications, Limited Partnership; Bell Canada; Bell ExpressVu Limited Partnership; Bell Media Inc.; Bell Mobility Inc.; Northwestel Inc.; Télébec, Limited Partnership; and their affiliates (collectively, Bell Canada et al.); Bragg Communications Inc., operating as Eastlink (Eastlink); Campaign Research Inc. (Campaign Research); the Canadian Association of Direct Relationship Insurers (CADRI); the Canadian Bankers Association (CBA); the Canadian Blind Sports Association (CBSA); the Canadian Life and Health Insurance Association Inc. (CLHIA); the CMA; the Canadian Network Operators Consortium Inc.; the Canadian Wireless Telecommunications Association (CWTA); Cogeco Cable Inc. (Cogeco); the Consumers Council of Canada (Consumers Council); Elections Canada; iMarketing Solutions Group Inc. (iMarketing); the Insurance Bureau of Canada (IBC); the Marketing Research and Intelligence Association; Mouvement Desjardins (Desjardins); MTS Inc. and Allstream Inc. (collectively, MTS Allstream); the Office of the Privacy Commissioner of Canada (OPC); the Public Interest Advocacy Centre, the Consumers' Association of Canada, and the Council of Senior Citizens' Organizations of British Columbia (collectively, PIAC/CAC/COSCO); Quebecor Media Inc. (QMI); Rogers Communications Partnership (RCP); Shaw Communications Inc. (Shaw); TBayTel; TELUS Communications Company (TCC); and Ventriloquist Customer Communication Solutions (Ventriloquist). The public record of this proceeding, which closed on 25 June 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided above.

I. ADAD Rules

8. Part IV, section 2 of the UTRs states that a telemarketer shall not initiate, and a client of a telemarketer shall make all reasonable efforts to ensure that the telemarketer does not initiate, a telemarketing telecommunication via an ADAD unless express consent has been provided by the consumer to receive a telemarketing

telecommunication via an ADAD from the telemarketer or the client of that telemarketer.

9. Part IV, section 4 of the UTRs sets out the requirements for ADAD telecommunications where there is no attempt to solicit. For instance, the telecommunication must begin with a clear message identifying the person on whose behalf the telecommunication is made and include a mailing address and a local or toll-free telecommunications number at which a representative of the originator can be reached.

Positions of parties

The CMA's application and related proposals

10. In its application, the CMA proposed that the use of ADADs be permitted for telemarketing when there is an existing business relationship, as defined in subsection 41.7(2) of the Act, between the telemarketer or client of the telemarketer and the called party, if the called party has not made an internal DNCL request to the organization on whose behalf the call was made.

11. The CMA submitted that advances in ADAD technology, in particular, the ability for consumers to interact with live agents, should remove the concerns expressed by the Commission in previous decisions that ADAD telecommunications are more intrusive and present a greater nuisance than do telemarketing calls made to consumers by live agents.

12. The CMA indicated that technological advances include the following potential features:

    - customizable messages, personalized to the recipient of the call;
    - proper party verification, prompting consumers to confirm that they are the intended recipient of a call;
    - opt-out features, allowing consumers to register the called number on the telemarketer's or telemarketer's client's internal DNCL; and
    - direct connection during the call to a live agent or a voice mail system.

13. The CMA noted that the Commission has undertaken enforcement actions in relation to ADAD-generated calls by Bell Canada, RCP, and TCC to their respective prepaid wireless service customers. These calls provided a notification related to the status of the customer's account and indicated that the customer could purchase more minutes to avoid a service interruption. The CMA characterized these calls as providing good customer service by anticipating problems before they occurred, avoiding customer complaints about such problems, and providing information to the customer as to how to correct the situation.

14. The CMA concluded that the Commission's enforcement staff must have inferred that the purpose of these calls was to make a sale and, as such, they were telemarketing calls, which are not permitted under the ADAD Rules unless express

consent is obtained. The CMA submitted that such apparent differences in interpretation create significant uncertainty for organizations that need to reach their customers with service-related messages and could be viewed as an expansion to the original intent of the rules.

15. The CMA argued that allowing the use of ADADs for telemarketing calls only to persons with whom the telemarketer has an existing business relationship establishes a clearer and more objective measure that can be readily assessed for enforcement purposes, would not be susceptible to conflicting interpretations, and would result in improved compliance.

16. In addition, the CMA submitted that businesses will want to avoid annoying their customers or increasing the number of internal DNCL requests, factors that will impose discipline with respect to how ADADs are used for solicitation.

17. The CMA considered that allowing businesses to use cost-effective technologies to support good customer service would benefit consumers, and that the associated calls would not likely cause the type of nuisance the Commission has sought to prevent through previous decisions.

18. Bell Canada et al. and the CMA submitted that implied consent to be contacted is created by an existing business relationship, and accepting this in place of express consent would be consistent with other legislation, including Canada's Anti-Spam Legislation (CASL),[1] and with their interpretation of the existing UTRs. RCP argued that the requirement for express consent is not consistent with the Policy Direction.[2]

19. Bell Canada et al. and TCC argued that the requirement for express consent, as well as the current interpretation of "solicitation" in relation to the ADAD Rules, are both contrary to the right to freedom of expression under section 2(*b*) of the *Canadian Charter of Rights and Freedoms* (the Charter). Bell Canada et al. submitted that the existing ADAD Rules do not minimally impair protected expression, as the CMA's proposal would.

20. Ventriloquist argued that the current UTRs prevent consumers from exercising greater control over the calls they receive through the interactive features offered by ADADs, and impede the use of newer technologies. They further submitted, as did Bell Canada et al. and RCP, that consumer frustration is largely caused by rogue telemarketers that knowingly violate the UTRs or have no business relationship with

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[1] *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act*, S.C. 2010, c. 23

[2] The Governor in Council's *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, which came into force on 14 December 2006, requires the Commission to, among other things, rely on market forces to the maximum extent feasible to achieve the policy objectives set out in section 7 of the Act.

the called party, and not by the types of calls that would be allowed under the CMA proposal.

21. TBayTel and TCC referenced the Commission's Wireless Code,[3] which places an obligation on service providers to provide notifications in certain circumstances. They argued that this obligation is in conflict with the current UTRs, which prohibit the use of ADADs for solicitation purposes, without express consent. Bell Canada et al. argued that used responsibly, ADADs generate benefits for consumers in the form of timely service reminders.

22. RCP supported the CMA's proposal, but also encouraged the Commission to, at a minimum, relax the rule requiring express consent for what the company characterized as "dual-purpose calls," where there is an existing business relationship. RCP defined dual-purpose calls as calls that are primarily service-related or informational in purpose but may require or afford an opportunity to the consumer to take action of a commercial nature. RCP proposed that such a call should not constitute either direct or indirect solicitation, provided that the call relates to a product or service already supplied to the customer, that the organization's name is displayed on the call recipient's caller identification (ID) display, and that the ADAD has the functionality to either connect the call recipient instantly to a live agent, or to process an internal DNCL request.

23. TCC offered a similar proposal that would allow for promotional messages for products or services to which customers already subscribe. The company submitted that contacting customers about service interruptions, account status, or usage levels are messages that should not be considered as solicitation. It indicated that this was a particular issue for prepaid wireless customers who do not have data plans or have not provided an email address at which they can be contacted.

24. Individual interveners submitted that no matter what the technological changes associated with ADADs, the calls will continue to present a nuisance. Some individuals noted that some businesses already use these technologies to offer choices to consumers, but that these choices are often at the end of a very long message, and thus offer no alleviation from nuisance.

25. The Consumers Council argued that there was insufficient evidence to support the proposed changes to the ADAD Rules, which would result in a higher volume of telemarketing calls, to which consumers would not be receptive. It referred to a 2004 Environics survey that found that 97 percent of respondents had a negative reaction toward unsolicited calls, and a 2013 Insights West survey where 91 percent of respondents were opposed to automated calls, with 74 percent being strongly opposed, and only 2 percent somewhat in favour. PIAC/CAC/COSCO referred to a 2001 EKOS survey, which found that 61 percent of respondents would prefer to stop receiving all telemarketing calls, even if it meant missing out on good opportunities.

[3] The Commission established the Wireless Code, a mandatory code of conduct for providers of retail mobile wireless voice and data services, in Telecom Regulatory Policy 2013-271.

26. The Consumers Council drew a parallel with Telecom Regulatory Policy 2012-183, in which the Commission concluded that unsubscribe mechanisms for electronic communications should be consumer-friendly and that consumers clearly benefit from not having to opt out of being contacted.

27. The OPC opposed the CMA's application, submitting that telemarketing calls raise privacy concerns. In 2011, 88 percent of respondents to an OPC survey indicated that they were concerned or somewhat concerned about organizations sending unwanted emails, faxes, letters, or phone calls. In 2009, 84 percent of respondents to an OPC survey indicated that they were not comfortable providing personal information to a telemarketer, a number which the OPC noted was higher than the level of discomfort expressed over online transactions, loyalty programs, or social networking sites.

28. PIAC/CAC/COSCO argued that, as consumers have many business relationships with various organizations, the aggregate volume of ADAD calls would be very high, imposing a greater burden on consumers to manage a greater number of internal DNCL requests.

29. PIAC/CAC/COSCO also noted that in 2008, the U.S Federal Trade Commission rejected the idea that reputational harm would act as a sufficient break on the nuisance of ADAD telemarketing, and both it and the U.S. Federal Communications Commission have revoked the existing business relationship exemption for ADADs. RCP noted in reply however that this revocation by the Federal Communications Commission was not absolute, and maintained an exemption specifically targeted at facilitating communications between wireless carriers and their customers.

30. PIAC/CAC/COSCO further noted that the Commission has already found on numerous occasions that the ability to decline the message and request not to be contacted via an ADAD is not sufficient to alleviate consumer inconvenience or nuisance.

31. PIAC/CAC/COSCO also submitted that none of the technological improvements promoted by the CMA have changed human nature. They argued that there is an assumption on the part of consumers that a human voice on a telephone call emanates from a human caller, and that the realization that a call is actually automated is a key component of why consumers find ADAD calls disturbing.

32. The Consumers Council criticized the CMA's proposed rule that would allow telemarketers the option of connecting consumers to either a live agent or routing them to a voice mail system. The CMA's application had framed the voice mail option as a less costly alternative for small businesses, and the Consumers Council submitted that most telemarketers would choose to rely on the least costly option. It was joined by TCC in submitting that the rules should be applied symmetrically, and that the options available should not change with the size of a business.

33. The OPC noted that although it supported the creation of the National DNCL, it was concerned about the number of exemptions, including the existing business relationship exemption, contained in the Act. In the OPC's view, the use of ADADs in situations where live agents are not available to answer questions or note complaints is not acceptable.

Other proposed changes to the ADAD Rules

34. TCC, supported by Campaign Research, Cogeco, and the CWTA, also made two proposals regarding the requirement for contact information in non-solicitation ADAD messages: allowing an email address to be supplied rather than a mailing address, and allowing contact information to be placed at any point in the call rather than the beginning, as is currently required. The Consumers Council supported the proposal to permit contact information at any point in the call when an ADAD is used for survey purposes.

35. With respect to the requirement in the ADAD Rules that contact information be placed at the beginning of an ADAD message, interveners raised the propensity of consumers to hang up or terminate the call before understanding the purpose of the message, which may be service-related. They proposed allowing contact information to be placed at any point in the call rather than the beginning.

36. Campaign Research and TBayTel proposed that the UTRs permit call recipients to be referred to a subordinate message (via a key press) for contact information. QMI argued that non-solicitation ADAD messages should only have to identify the party on whose behalf the call is made, without providing contact information.

37. iMarketing and Ventriloquist also proposed that registered charities or public-benefit non-profit organizations be allowed to use ADADs to communicate with their supporters. iMarketing further suggested that virtual town hall meetings initiated by an ADAD should be seen as creating an existing business relationship, which would dispense with the need to obtain consent from participants for the purpose of soliciting donations.

38. PIAC/CAC/COSCO opposed the use of ADADs for all solicitation calls. They submitted that the Commission had concluded in past decisions that there was no evidence that consumers expected to be solicited by ADADs or live calling when an existing business relationship had been established with the calling party.

Commission's analysis and determinations

The CMA's application and related proposals

39. The Commission notes that it previously considered in Telecom Decision 94-10 that ADAD calls cause greater inconvenience and nuisance than live voice calls, and are more likely to be perceived as an intrusion because they do not permit the called party to interact with the caller. The Commission maintained this position in

Telecom Decisions 2004-35 and 2007-48, rejecting proposals that would have relaxed the restrictions on ADAD calls.

40. Specifically, in Telecom Decision 2007-48, the Commission noted that no party had provided specific evidence of technological advances with ADADs and the effect such technology would have on alleviating the inconvenience or nuisance experienced by consumers. The Commission considered that the ability to decline the message and request not to be contacted via an ADAD was not sufficient to alleviate consumer inconvenience or nuisance.

41. In establishing its requirements regarding the use of ADADs, the Commission has sought to balance the intent of section 41 of the Act and the protection of individual privacy against the need to permit legitimate uses of telemarketing telecommunications. The considerations that follow are particularly relevant to evaluating this balance with respect to the proposals to relax the restrictions on telemarketing telecommunications using ADADs.

a) Developments in ADAD technology

42. The Commission notes the ADAD technological features put forward by the CMA and others to address concerns raised by the Commission in past decisions. However, the Commission considers that none of these features would address the basic characteristic of ADAD technology, i.e. a pre-recorded message that prevents the called party from immediately interacting with the caller and causes consumer inconvenience or nuisance.

43. In addition, the Commission considers that it is not evident that the advanced technological features promoted by the CMA would necessarily be applied if the proposed rule changes were implemented. For instance, the Commission notes that the CMA's proposal would not require that telemarketers offer features such as customizable messages or proper party verification during ADAD calls.

44. The CMA's proposal that consumers be given an opportunity to connect to a live agent during an ADAD call would not be imposed as a strict requirement either, as telemarketers could allow consumers to connect to a voice mail system instead. While RCP proposed that instantaneous connection to a live agent be mandatory, the Commission considers that there is insufficient evidence on the record of this proceeding with respect to how many telemarketers could successfully meet such a standard. Other parties did not generally support making connection to a live agent mandatory or creating different standards depending on the size of the telemarketer.

b) Impact on the number of telemarketing calls received by consumers

45. The Commission notes TCC's submission that an ADAD call is a thousand times more cost efficient to place than a similarly messaged live voice call. As such, the Commission considers that there is a strong incentive for telemarketers to substitute ADAD calls for live calls and other marketing channels, and use ADADs to potentially exploit existing business relationships that do not, at present, lead to

telemarketing calls because employing live agents is cost prohibitive. The Commission therefore considers that under the above-noted proposal, consumers would likely receive substantially more telemarketing telecommunications in general, a higher proportion of which would be ADAD calls as compared to live-voice calls.

46. The Commission notes that parties in favour of relaxing the ADAD Rules did not provide evidence that consumers would be receptive to an increase in ADAD calls. Apart from anecdotal references that consumers appreciate and would benefit from the types of calls referred to in various submissions, the Commission considers that no substantive evidence was submitted in this proceeding on which to base any such conclusion.

47. Conversely, the Commission notes that those opposed to a rule change presented survey data suggesting that consumers would not be receptive to receiving more telemarketing calls, and a large majority of individuals commenting on this issue in this proceeding expressed opposition to the CMA's proposal.

48. Further, the Commission notes that under the existing rule, parties can use ADADs for the purpose of telemarketing provided they obtain express consent from consumers to do so. Neither the CMA nor any other party in favour of relaxing the ADAD Rules provided evidence that the various means of obtaining express consent from customers are onerous or prohibitive. The Commission considers that this absence of evidence may be because there is a lack of consumer demand to receiving telemarketing calls via an ADAD.

49. The Commission also considers that the CMA's proposal is ambiguous with respect to whether a DNCL request processed by an ADAD would be limited to further ADAD messages, or would apply to all telemarketing telecommunications. In the case of the former, this would require the compilation of two internal lists, and necessitate other changes to the UTRs relating to internal DNCL requests, with an underlying possibility that consumers may not understand the distinction and may find such a system confusing.

c) Dual-purpose calls and indirect solicitation

50. The Commission notes that some parties suggested that the UTRs, or the Commission's interpretation of them, should be modified to permit calls using an ADAD which can be classified as "dual-purpose" or involving only indirect solicitation. Some parties argued that the Wireless Code obligations, which require wireless service providers to provide notifications to their customers in certain circumstances, create uncertainty or conflict with the existing ADAD Rules.

51. The Commission considers that it would be impractical to treat some ADAD calls containing solicitation as non-solicitation calls, as it would be extremely difficult to determine the point from which solicitation is the primary or direct purpose of a call

and thus requires express consent. The Commission considers that this would cause confusion among both consumers and businesses.

52. The Commission is also concerned that telemarketers could circumvent the rule by crafting their messages to give the false impression that solicitation is not the primary or direct purpose of the ADAD call. The Commission considers that the current definition of solicitation presents the advantage that it is clear that an ADAD telecommunication involving any solicitation is not permitted, whether direct or indirect, unless express consent has been provided.

53. To the extent that businesses consider that consumers would benefit from receiving these ADAD telecommunications, the Commission notes that businesses are free to explain to consumers the value of these calls and seek express consent to make them under the existing rule.

54. With respect to compliance with the Wireless Code, the Commission notes that in Telecom Regulatory Policy 2013-271, it did not specify the means by which the notifications must be delivered and notes that there are various ways by which wireless service providers can satisfy the requirements for notification.

d) Compliance with the Policy Direction and the Charter

55. With respect to arguments by certain parties that the current rules governing ADADs are contrary to the Policy Direction and the Charter, the Commission notes that the UTRs do not prohibit the use of ADADs for telemarketing purposes, but rather give the consumer the choice to receive these ADAD calls by providing their express consent. Given the submissions received in this proceeding and its experience in the administration and enforcement of the UTRs, the Commission considers that the existing rule is efficient and proportionate to its purpose of reducing undue consumer nuisance and inconvenience. The Commission also considers that the current rule is applied symmetrically and in a competitively neutral manner across the industry.

56. The Commission considers that if the existing ADAD Rules were found to be a restriction on freedom of expression under the Charter, the limit is reasonable pursuant to section 1. The Commission considers that its rules are minimally impairing and proportionate: they do not limit the content of the message, which can be delivered by other means such as through a live call, but how that message is delivered through a particular technology. The restriction only applies in circumstances where express consent has not been obtained. The Commission considers that its existing ADAD Rules for telemarketing telecommunications appropriately balance the objectives of the Act against the need to permit legitimate uses of telemarketing telecommunications, and is consistent with the Charter.

57. In light of all the above, the Commission **denies** the CMA's application and similar requests from other parties to change the ADAD Rules relating to the use of ADADs for telemarketing.

Other proposed changes to the ADAD Rules

58. With respect to the position taken by PIAC/CAC/COSCO that ADADs should be banned for all telemarketing calls, as noted above, the Commission is of the view that the current rule requiring express consent for ADAD telemarketing telecommunications strikes the appropriate balance. Accordingly, the Commission **denies** the proposal by PIAC/CAC/COSCO to institute a ban on the use of ADADs for telemarketing.

59. Regarding the provision of contact information during an ADAD call, the Commission is aware that some consumers rely on the postal address provided as part of the identification message to verify the legitimacy of a calling party and that not all consumers have access to the Internet. However, the Commission is of the view that, on balance, allowing calling parties the option of including either a postal address or an email address, in addition to a valid telephone number, would provide consumers with sufficient means to contact the caller if needed.

60. Further, the Commission is of the view that allowing the calling party to identify itself and briefly state the purpose of the call at the beginning of an ADAD message would meet many of the concerns expressed in the submissions about consumers prematurely terminating calls containing important service notifications, while still providing consumers with the necessary contact information at the beginning of the call.

61. In light of the above, the Commission modifies the UTRs as follows (changes are indicated in bold italics):

- Part III, section 17(b), relating to the initiation of a voice telemarketing telecommunication by a telemarketer, is replaced with the following:

  the name and ***electronic mail address or postal mailing*** address of an employee or other representative of the telemarketer to whom the consumer can write for the purpose of asking questions, making comments about the telemarketing telecommunication, or making or verifying a do not call request.

- Part III, section 19(e), relating to the initiation of a fax telemarketing telecommunication by a telemarketer, is replaced with the following:

  the name and ***electronic mail address or postal mailing*** address of an employee or other representative of the telemarketer and, where applicable, the client of the telemarketer, to whom the consumer can write for the purpose of asking questions, making comments about the fax, or making or verifying a do not call request.

- Part IV, section 4(d), relating to the identification message required for non-solicitation ADADs, is replaced with the following:

such telecommunications shall begin with a clear message identifying the person on whose behalf the telecommunication is made ***and a brief description of the purpose of the telecommunication***. This identification message shall include ***an electronic mail address or postal*** mailing address and a local or toll-free telecommunications number at which a representative of the originator of the message can be reached. In the event that the actual message relayed exceeds sixty (60) seconds, the identification message shall be repeated at the end of the telecommunication;

II. Caller name display

62. Part III, section 25 of the UTRs requires that, except where the number display is unavailable for technical reasons, a telemarketer initiating a telemarketing telecommunication shall display on the call recipient's caller ID the originating number or an alternate number where consumers can reach the telemarketer. There is no requirement that the name of the caller be displayed.

Positions of parties

63. Several parties commented on this requirement, with most supporting a rule change to implement mandatory caller name display. Bell Canada et al. submitted that such a change would promote consumer privacy by allowing unwanted calls to be screened, which would increase consumers' confidence in knowing who they are communicating with, thereby reducing customer complaints. Eastlink similarly argued that such a requirement would be beneficial to telemarketers because consumers would be more likely to answer a call if they recognized from whom it is coming. RCP supported a rule change, noting the common and low-cost nature of caller ID technologies, and the minimal nature of any costs that such a change would impose on organizations.

64. TCC argued that the proposed change was an efficient and proportionate balancing of interests, but noted, in addition to comments by Eastlink, Shaw, and Ventriloquist, that caller name display technology is not universal and is prone to technical limitations, including those with carriers and networks that may not be within the control of the telemarketer. Ventriloquist noted that in its experience, "last mile" telecom delivery companies have a variety of widely different protocols, which makes consistently inserting caller name display information an erratic and unreliable process.

65. PIAC/CAC/COSCO supported displaying intermittently the name of both the telemarketer and the client, arguing that without an associated name, the displayed telephone number has no obvious meaning. However, many parties who supported a rule change argued that it would be more meaningful to consumers to display the name of the party or the "brand behind the call," as opposed to the name of a telemarketing firm. RCP argued that it might not be possible to display both names due to space limitations, and might create confusion about who is calling.

66. CLHIA submitted that most consumers already screen incoming calls by answering calls from familiar names, and letting other calls go to voice mail. It also suggested that the inconsistent application of name display due to technological limitations would place an added burden on the Commission, which would have to investigate complaints. Desjardins submitted that consumers would find the names confusing if they were unfamiliar, and that additional confusion would result if, for example, the telemarketer's number was displayed, but the client's name was used.

67. The IBC expressed concern that this proposal would require significant and costly upgrades to existing telephone systems, and the CBA was concerned about uniformly implementing such a requirement, given the variety of numbers from which telemarketing calls can be made.

68. Cogeco submitted that the proposed change was redundant, noting that the existing UTRs already require telemarketers to identify themselves at the start of a call. It also took the view that the proposed change was inconsistent with the rationale set out in Telecom Decision 2007-48, in which number display was considered necessary to enable consumers to file complaints, obtain more information, or make internal DNCL requests; not as a screening mechanism, as suggested by other parties.

Commission's analysis and determinations

69. In the Commission's view, the UTR objective of reducing undue inconvenience and nuisance and protecting the privacy of Canadians is furthered when Canadians are able to determine who is calling them before they choose to answer a call. The Commission considers that the information most useful to consumers on call display would, in many cases, be the name of the party on whose behalf the call is made, rather than the name of the telemarketer.

70. However, the Commission is concerned that the technical limitations noted by various parties surrounding the delivery of caller name display may not allow the expected benefits of a requirement relating to caller name display. In particular, the Commission is concerned about implementing a requirement that may not be consistently applicable, and might rely on technological factors beyond the control of telemarketers. The Commission is also of the view that there is currently insufficient evidence to fully evaluate the technical aspects of such a requirement.

71. The Commission further considers that the implications of such a proposed rule would need to be more carefully considered within the context of caller ID spoofing, in which inaccurate, false, or misleading caller ID information is transmitted to consumers, giving a name or number other than the one that is the source of the call. The Commission notes that a growing number of complaints received from consumers relate to this problem, and considers that even in the context of such a rule, caller names might still be falsified or misrepresented to consumers. The Commission takes note of the efforts undertaken by various stakeholders to address

caller ID spoofing, but considers that the proposed rule would not have enough of an impact in light of the technical limitations noted above.

72. In light of the above, the Commission determines that it will not require telemarketers initiating telemarketing telecommunications to display a caller name at this time.

III. Record keeping

73. Under the existing UTRs, telemarketers and clients of telemarketers are required to maintain records showing that they have registered with the National DNCL operator, proof of any subscriptions they have purchased, and records of their abandonment rates, if using predictive dialers.

Positions of parties

74. Several parties argued that as a general matter, the Commission should avoid making changes to the UTRs unless there is compelling rationale or solid evidence that there is a problem to be addressed. Most argued that the existing UTRs related to record keeping are generally sufficient and that the status quo should be maintained. Parties including Bell Canada et al., Cogeco, Shaw, and TCC submitted that expanding the record-keeping requirements would impose an undue burden on telemarketers in relation to increased costs relating to changes to internal business practices. They also raised privacy issues regarding data retention. MTS Allstream noted that the Commission already has the authority to impose specific record-keeping requirements on individual companies, for instance, where there is a prevalence of complaints or repeated violations.

75. Ventriloquist submitted that telemarketers and/or their clients should be required to create and maintain full detailed records such as calling logs, citing its own practice of retaining information for a period of five years. In its view, these requirements are a cost of doing business and that the same rule should be applied regardless of the size of telemarketer, client, or the nature of the campaign.

76. RCP acknowledged that calling logs, when available, would ensure more timely resolution of consumers' complaints, and suggested that it would be reasonable for the Commission to impose additional requirements with respect to calling logs and scripts, so long as they do not create onerous operational complexities and costs.

77. TCC submitted that there did not appear to be an outcome in which increased record keeping translated into a benefit for consumers in a manner that would outweigh the administrative and financial burdens on telemarketers.

78. CLHIA and IBC submitted that if record-keeping requirements are expanded, they should be scaled to the operation of the telemarketer.

79. PIAC/CAC/COSCO was not opposed to expanding the requirements. They argued, however, that consumers should be notified when a conversation is recorded at the

outset of the call and be given the option to continue the call without it being recorded. PIAC/CAC/COSCO suggested a retention period of two years.

80. The Consumers Council also supported the suggestion that the Commission should be able to direct or order telemarketers to collect, retain, and provide additional information on an individual basis, as required for an investigation.

Commission's analysis and determinations

81. In Telecom Decision 2007-48, the Commission considered that a failure to keep records does not itself give rise to nuisance telecommunications, and that many other records that might be relevant to a telemarketer's conduct would likely be kept in the ordinary course of business. Moreover, the Commission considered that the ability to establish a defence of due diligence regarding any alleged violation of the UTRs would serve as an incentive for telemarketers and clients of telemarketers to keep records of their unsolicited telecommunication activities.

82. The Commission notes that pursuant to section 72.05 of the Act, a designated person can require that a person submit information that is necessary for the administration of section 41 of the Act. The Commission also notes that designated persons can obtain relevant information through on-site inspections conducted pursuant to section 72.06 of the Act. The Commission notes that these are broad information-gathering powers that allow the Commission's enforcement staff to effectively obtain relevant information regarding compliance with the UTRs in a targeted manner.

83. In addition, the Commission is concerned that adopting additional uniform record-keeping requirements would have a disproportionately negative impact on smaller businesses that may be subject to unique cost or technological limitations. The Commission considers that imposing new record-keeping requirements that vary depending on the size of a business would be difficult to determine and would depart from the Commission's approach of creating rules of general application.

84. In light of the above, the Commission determines that it would not be appropriate to alter the UTRs to impose any additional record-keeping requirements on telemarketers and their clients.

IV. Duration and scope of an internal DNCL request

85. Currently, a consumer's name and number remain valid on the internal DNCL of a telemarketer for three years following the initial 31-day grace period. Telemarketers and their clients are not required to place consumers' names and numbers on the internal DNCL of their affiliates.

86. Recently, in Compliance and Enforcement Decision 2013-528, the Commission extended the registration period for telecommunications numbers on the National DNCL from five to six years. The Commission also initiated a proceeding in

Compliance and Enforcement Notice of Consultation 2013-527 to consider the appropriate duration of registrations on the National DNCL.

Positions of parties

87. Most parties that submitted comments on this issue argued to retain the existing three-year period for internal DNCL requests. The OPC, PIAC/CAC/COSCO, and Ventriloquist argued for a five-year period to align with the National DNCL registration period in effect at that time. TCC initially proposed reducing the period to two years, but in reply stated that the current period is a proportionate regulatory measure. The Consumers Council submitted that there should be a mechanism to notify consumers that their internal DNCL requests would expire soon.

88. Only PIAC/CAC/COSCO supported automatically extending internal DNCL requests to affiliates. Parties opposed to such an extension noted the costs that would be involved, privacy issues, and the fact that affiliates may cross into separate unrelated industries that a consumer might not be aware of.

89. TCC supported offering consumers the choice at the time of the call to include affiliates in an internal DNCL request. However, other parties again expressed concerns about costs, privacy issues, and affiliates' participation in other industries.

Commission's analysis and determinations

90. The Commission notes that the majority of parties commenting on this issue supported maintaining the current duration for an internal DNCL request. The Commission notes that unlike registration with the National DNCL, an internal DNCL request prevents telemarketing even to consumers with whom the telemarketer has an existing business relationship. The Commission therefore considers that the three-year period for internal DNCL requests continues to strike the appropriate balance between the privacy interests of consumers and the ability of businesses to market goods and services through telemarketing.

91. The Commission also considers the Consumers Council's proposal that telemarketers be required to notify consumers that their internal DNCL registrations are about to expire would be too costly to implement and could lead to more unsolicited telecommunications to consumers.

92. With regard to automatically extending an internal DNCL request to all affiliates, the Commission considers that, in many instances, consumers would not be aware of the full extent of their request. The Commission also acknowledges the objections raised by parties with respect to cost and privacy issues. The Commission considers that the financial, privacy, and organizational concerns cited by parties for not automatically extending an internal DNCL request to affiliates would similarly apply where a consumer is provided with the option of doing so during a call.

93. In light of the above, the Commission finds it appropriate to maintain the three-year validity period for internal DNCL requests, and will not require that these requests be automatically or optionally extended to telemarketers' affiliates.

V. Grace period for a do not call request

94. Telemarketers are afforded an administrative grace period of 31 days following a consumer's registration of their telecommunications number with the National DNCL. To ensure compliance, telemarketers are obligated to use a version of the list obtained from the National DNCL operator no more than 31 days prior to the date that any telemarketing telecommunication is made. The grace period for an organization to process an internal DNCL request is aligned at 31 days as well.

Positions of parties

95. A majority of parties commenting on this issue argued that the current rule should be maintained. They submitted that there was insufficient evidence of consumer harm arising from the 31-day grace period or that shortening the period would benefit consumers. They also argued that this period allowed for the operational requirements of processing the requests and disseminating lists to call centres and third-party vendors. Some parties submitted that introducing different grace periods for National DNCL versus internal DNCL requests would result in additional complexity and cost.

96. PIAC/CAC/COSCO supported maintaining the 31-day grace period for the National DNCL, but advocated 48 hours for internal DNCL requests. MTS Allstream noted that a 10-to-14-day period might be feasible for internal DNCL requests. The OPC submitted that after several years of experience with the UTRs, the 31-day grace period seemed excessive, and recommended shortening it.

97. The Consumers Council and Ventriloquist submitted that there should be a separate grace period for internal DNCL requests in respect of ADAD calls, suggesting 5 and 10 days, respectively.

98. Elections Canada noted that federal election campaigns are typically 36 days long, and submitted that the grace period should be shortened to a maximum of 3 or 4 days to better respect the preferences of voters not wanting to receive unsolicited political calls.

Commission's analysis and determinations

99. The Commission notes that many parties supported maintaining the 31-day grace period for National DNCL requests, and that most submissions were focused on whether to reduce the internal DNCL request grace period.

100. The Commission notes that while parties opposed to shortening the grace period commented on the costs involved, they provided little to no detail on the nature and magnitude of those costs.

101. The Commission considers that consumers should be assured that when they make an internal DNCL request it will be implemented as quickly as possible. The Commission considers that a period of 14 days to process such requests reflects an appropriate balance of meeting consumer expectations with the costs associated with adding telecommunications numbers to internal DNCLs more frequently. The Commission considers that in light of this determination, and its decision not to change the requirement for express consent where ADADs are used for telemarketing, it is unnecessary at this time to implement a shorter grace period for internal DNCL requests in respect of ADAD calls.

102. With respect to Elections Canada's request to shorten the grace period for calls made by political entities during election periods, the Commission notes that no other elections regulator or other political stakeholders filed interventions in this proceeding. The Commission also notes that the circumstances noted by Elections Canada in support of its proposed rule change are unique to political campaigns and do not apply to most unsolicited telecommunications. The Commission further notes that the *Fair Elections Act* currently tabled before Parliament (Bill C-23) includes legislative provisions which, if passed into law, would establish rules with respect to voter contact calls. Accordingly, the Commission finds that it would not be appropriate to amend the rules in this regard at this time.

103. In light of the above, the Commission makes the following modifications to the UTRs, which take effect on **30 June 2014** (changes are indicated in bold italics):

- Part III, section 8, is amended as follows:

  A telemarketer initiating a telemarketing telecommunication on its own behalf shall maintain its own do not call list and shall keep a consumer's name and telecommunications number on the list for a period of three (3) years and ***fourteen (14)*** days from the date of the consumer's do not call request.

- Part III, section 9, is amended as follows:

  A client of a telemarketer shall maintain its own do not call list and shall keep a consumer's name and telecommunications number on the list for a period of three (3) years and ***fourteen (14)*** days from the date of the consumer's do not call request.

- Part III, section 11, is amended as follows:

  A telemarketer initiating a telemarketing telecommunication on its own behalf shall add a consumer's name and telecommunications number to its do not call list within ***fourteen (14)*** days of the consumer's do not call request.

- Part III, section 12, is amended as follows:

A telemarketer initiating a telemarketing telecommunication on behalf of a client shall make all reasonable efforts to ensure that the client adds a consumer's name and telecommunications number to the client's do not call list within ***fourteen (14)*** days of the consumer's do not call request.

- Part III, section 13, is amended as follows:

  A client of a telemarketer shall add a consumer's name and telecommunications number to the client's do not call list within ***fourteen (14)*** days of the consumer's do not call request.

VI. Application of the Telemarketing Rules regarding internal DNCL requests to telecommunications whose purpose is not solicitation

104. In their current form, the rules relating to internal DNCL requests only apply to telemarketing telecommunications. Conversely, subsection 41.7(4) of the Act creates internal DNCL requirements for exempt entities (registered charities, political parties, riding associations and candidates, newspapers of general circulation, and organizations with whom a consumer has an existing business relationship) that are not limited to telemarketing telecommunications.

Positions of parties

105. Parties generally opposed any change to the scope of internal DNCL requests. Many argued that expanding internal DNCL requests to apply to non-solicitation calls would restrict calls that are essential and beneficial to consumers. The examples proposed included arranging or modifying service call appointments, notifications related to safety or health, service disruptions, warranties, credit card fraud alerts, and high data usage warnings. A number of parties submitted that if a particular problem was identified by the Commission relating to political entities, as suggested by Compliance and Enforcement Notice of Consultation 2013-140, that the Commission's response should be narrowly constructed to address that particular issue, rather than introducing a new, broad restriction.

106. PIAC/CAC/COSCO considered that broadening the internal DNCL requirement to include non-solicitation calls would be consistent with the objectives of the Act, but joined the majority in cautioning against restricting the ability of service providers to communicate with customers about their service. Elections Canada and the OPC supported including non-solicitation calls within the scope of the internal DNCL rules. However, Ventriloquist argued that the nature of the call should not be relevant if the recipient does not wish to hear further from the individual or organization.

Commission's analysis and determinations

107. The Commission notes that political entities have been identified as making unsolicited telecommunications for purposes other than solicitation, such as polling and messaging, which has led to some consumer complaints regarding internal

DNCL requests. The Commission also notes concerns raised by parties regarding expanding the scope of the internal DNCL requirements to capture other exempt entities in the absence of complaints or other evidence of a need to do so.

108. The Commission considers that there is an insufficient basis upon which to amend the rules to expand the internal DNCL requirements.

109. In light of the above, the Commission does not find it appropriate to impose the requirements regarding non-solicitation telecommunications in the UTRs to internal DNCL requests.

VII. Business-to-business exemption

110. In Telecom Decision 2007-48, the Commission determined that the National DNCL Rules should not apply to telemarketing telecommunications made to business consumers, noting that little evidence had been received of undue inconvenience or nuisance to business consumers as a result of receiving telemarketing telecommunications. The Commission undertook to monitor complaints from businesses to determine whether it was necessary to revisit this issue in the future.

111. Since the implementation of the UTRs in 2008, the Commission has received several thousand complaints from the business sector, focusing primarily on the receipt of unwanted faxes, and the receipt of telemarketing calls on lines for home-based businesses that serve both business and private residential purposes (dual-purpose lines).

Positions of parties

112. There was a broad consensus among the organizations that made submissions on this issue that there should be no overall removal of the exemption which now exists, and that any changes which are made should be targeted toward specific issues.

113. iMarketing argued that a removal of the overall exemption would jeopardize the efforts of charities to solicit support from businesses.

114. In this regard, several organizations suggested tailored responses to the problems identified by the Commission in relation to unsolicited faxes. Shaw proposed allowing businesses to put their fax numbers on the National DNCL. RCP suggested conditions including a requirement that faxes be sent to a specific and named individual in the business, that the product be one that would ordinarily be useful to the business, and that unsolicited faxes not be sent during regular business hours.

115. Eastlink raised a number of practical concerns, including who from a business would have authorization to register on the National DNCL if that were permitted, and how telemarketers would go about determining the size of a business, were that a consideration in the UTRs.

116. The OPC and RCP further argued that in the situation of dual-purpose lines and home-based businesses, the associated telecommunications numbers should be allowed to be registered on the National DNCL, and that this could be achieved through a clarification of, rather than an actual change to, the UTRs. The OPC also supported limiting the business exemption for both live and fax telecommunications to products or services that would ordinarily be used by the business contacted.

117. Bell Canada et al., Cogeco, Shaw, and TCC suggested that the issues in question impact a small percentage of companies and businesses, and that affected businesses still have the option of making an internal DNCL request to specific telemarketers. The CBA, CMA, Desjardins, Eastlink, iMarketing, RCP, and Ventriloquist all similarly pointed out that the internal DNCL rules provide a viable solution within the current framework for the UTRs.

Commission's analysis and determinations

118. In Telecom Decision 2007-48, the Commission considered that while certain business consumers may view all telemarketing telecommunications as a source of inconvenience or nuisance, they do not, in general, experience the same inconvenience and nuisance as residential consumers.

119. The Commission notes the lack of submissions from the small-business community on these issues as part of this proceeding, and finds that while complaints have been received from the business community about unsolicited faxes, and telecommunications on dual-purpose lines, the evidence available is inconclusive that such practices are presenting a significant impact on businesses in general. As such, the Commission is of the view that the findings set out in Telecom Decision 2007-48 regarding the level of nuisance or inconvenience as a result of these telemarketing telecommunications continue to be valid.

120. In light of the above, the Commission considers it appropriate to maintain the current business-to-business exemption set out in the UTRs.

VIII. Period of validity of contact information

121. The UTRs require that telemarketers proactively disclose or provide upon request certain contact information that consumers may use to make inquiries or comments, and to make or verify internal DNCL requests. However, the UTRs do not set any time period during which the contact information must remain valid.

Positions of parties

122. A majority of the parties that commented on this issue, including major telecommunications service providers, the CMA, Elections Canada, and the OPC, supported setting out an explicit period during which contact information would remain valid. Sixty days was commonly recommended, which several parties noted aligned with requirements under CASL. TCC and iMarketing recommended 30 and 31 days, respectively.

123. Shaw supported retaining contact information for a set period of time, but argued that it was unrealistic to require that information for individual agents be maintained, given the possibility of staff turnover. Bell Canada et al. and QMI suggested maintaining contact numbers. TCC offered detailed comments on the nature of the information that should be covered by the rule, effectively identifying all instances in which contact information is required by both the Telemarketing Rules and the ADAD Rules. This would include the names of telemarketers and clients, telecommunications numbers displayed or provided upon request, and mailing addresses.

124. The CBA and IBC opposed requiring an explicit time period for the maintenance of contact information. They submitted that, unlike electronic communications, telemarketing occurs in real time and consumers have the opportunity to ask questions or make or verify an internal DNCL request during or immediately following the call, rendering it unnecessary to specify an explicit time period for which contact information must remain valid. They further suggested that it was reasonable to expect that telemarketers will already ensure that contact numbers remain valid for an appropriate period of time, and that this determination should be left to individual businesses, rather than being a requirement of the UTRs.

Commission's analysis and determinations

125. The Commission notes that there appears to be a broad consensus for maintaining the validity of contact information for a specified period. Several parties supported aligning the period with the provisions set out in CASL, which the Commission considers to be reasonable. iMarketing and TCC did advocate for a shorter period, but neither made reference to any specific impediments to maintaining the information for a longer period of time.

126. In light of the above, the Commission modifies the UTRs as follows:

- The following is added as Part III, section 31 of the Rules:

  A telemarketer who initiates a telemarketing telecommunication and a client of a telemarketer – if different – shall ensure that the electronic mail addresses, postal mailing addresses, and local or toll-free telecommunications numbers referred to in sections 17, 19, 20, 21, and 25 are valid for a minimum of sixty (60) days after the telecommunication has been initiated.

- The following is added as Part IV, paragraph 4(j) of the Rules:

  the person making the telecommunication and the person – if different – on whose behalf the telecommunication is made shall ensure that the electronic mail address, postal mailing address, and local or toll-free telecommunications number referred to in paragraphs (d) and (e) are valid

for a minimum of sixty (60) days after the telecommunication has been made.

IX. Other suggested changes to the UTRs

127. In addition to the CMA's application and the issues specifically set out in Compliance and Enforcement Notice of Consultation 2013-140, the Commission invited interested persons to comment on what changes, if any, should be made to the UTRs. The CBSA, iMarketing, and a number of individual interveners made other suggestions, including those requiring legislative amendments or other action by the Commission falling outside the scope of the notice. Suggestions relating to changes to the UTRs are discussed below.

Registered Canadian amateur athletic associations (RCAAAs) and all other incorporated not-for-profit organizations whose activities are deemed to be charitable should be exempt from the National DNCL

128. The Commission considers that the *Income Tax Act* provides that RCAAAs have as their primary purpose the promotion of amateur athletics in Canada on a nationwide basis. Registered charities have as their primary purpose the promotion of charitable purposes. RCAAAs may be subject to a similar level of oversight, but there is no indication in any of the submissions that they have the same status as registered charities. As such, the Commission is not persuaded that the proposed change is appropriate. The Commission therefore **denies** the requests by the CBSA and iMarketing to create a broader exemption for other non-profit organizations.

Lengthen the period of time used in the definition of an existing business relationship

129. The Commission considers that the proposed change would constitute a significant shift from the status quo, and significantly increase the number of telemarketing telecommunications received by consumers. The Commission therefore **denies** the request by iMarketing to modify the definition of an existing business relationship.

Allow registration on a telemarketer's internal DNCL through websites

130. The Commission considers that this suggestion reflects a good business practice for telemarketers that have adopted it, but that there is insufficient information in this proceeding to evaluate the impact of this proposal, including the costs that would be borne by businesses. The Commission notes that under the changes being implemented to contact information requirements, an email address can be substituted for a postal mailing address provided that the email address can facilitate an internal DNCL request.

131. The Commission considers that enabling businesses to choose this approach where it is appropriate to their operations is a more balanced alternative. Accordingly, the Commission **denies** the proposal that telemarketers be required to facilitate internal DNCL requests through their websites.

Treat any termination of a telemarketing call by a consumer as a DNCL request

132. The Commission considers that such a rule would be overly broad. The Commission considers that there may be many reasons for terminating a call, and that doing so is not a clear indication that a consumer does not wish to be contacted by that business again. The current practice of requiring some positive indication from consumers that they wish to be placed on an internal DNCL is a fair balancing of interests. Accordingly, the Commission **denies** the proposal that any termination of a telemarketing call by a consumer should be interpreted as a DNCL request.

Ban telemarketing and automated calls to mobile phones

133. The Commission considers that a ban on telemarketing or automated calls to mobile phones would be overly broad. Further, number portability has blurred the distinction between wireless and wireline numbers, which would make it difficult for telemarketers to identify which numbers they were or were not permitted to call. The Commission therefore **denies** the proposal to ban telemarketing and ADAD calls to mobile phones.

Institute alternative calling hours

134. The Commission recognizes that many consumers have different periods throughout the day when receiving a phone call may be particularly disruptive. However, tailoring the restriction to the least-permissive hours tolerable to all consumers would result in a complete ban on telemarketing, and would not be reasonable. The Commission therefore **denies** the proposals from individual interveners to modify the permitted calling hours.

135. The Commission further considers that establishing different rules for calling hours based on the intended recipient of a telemarketing call could create significant confusion among both consumers and businesses. The Commission therefore **denies** iMarketing's proposal to extend the permitting calling hours for calls to businesses.

Ban the use of predictive dialers

136. The Commission notes that the existing UTRs already address the use of predictive dialers by telemarketers, and require that call abandonment be kept to a reasonable rate and that calls not be placed to numbers registered on the National DNCL. The Commission considers that implementing a complete ban on predictive dialers would unreasonably preclude businesses from using a cost-saving and effective technology, and accordingly **denies** this proposal.

Require telemarketers to leave a message for the consumer, instead of calling back

137. The Commission notes that a rule requiring telemarketers to leave a message instead of calling back would in effect impose a one-call rule on the industry. The Commission considers this would be too restrictive and considers that many consumers would find managing a greater number of voice mails as disruptive as or

more disruptive than simply ignoring and choosing not to answer such calls. The Commission therefore **denies** this proposal.

Secretary General

Related documents

- *Extension of telecommunications number registrations on the National Do Not Call List*, Compliance and Enforcement Decision CRTC 2013-528, 30 September 2013

- *Permanent number registration*, Compliance and Enforcement Notice of Consultation CRTC 2013-527, 30 September 2013

- *The Wireless Code*, Telecom Regulatory Policy CRTC 2013-271, 3 June 2013

- *Review of the Unsolicited Telecommunications Rules*, Compliance and Enforcement Notice of Consultation CRTC 2013-140, 20 March 2013, as amended by Compliance and Enforcement Notice of Consultation CRTC 2013-140-1, 31 May 2013

- *Electronic Commerce Protection Regulations (CRTC)*, Telecom Regulatory Policy CRTC 2012-183, 28 March 2012

- *Modifications to some Unsolicited Telecommunications Rules*, Telecom Regulatory Policy CRTC 2009-200, 20 April 2009

- *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

- *Review of telemarketing rules*, Telecom Decision CRTC 2004-35, 21 May 2004

- *Use of telephone company facilities for the provision of unsolicited telecommunications*, Telecom Decision CRTC 94-10, 13 June 1994