Explanatory Statement

Issued by the authority of the Australian Communications and Media Authority

DO NOT CALL REGISTER (ACCESS TO REGISTER) DETERMINATION 2007

Do Not Call Register Act 2006

Background and Legislative Basis

Under subsection 13(1) of the Do Not Call Register Act 2006 (the Act), the Australian Communications and Media Authority (ACMA) must keep or arrange for another person (the contracted service provider) to keep on behalf of ACMA a register of telephone numbers for the purposes of the Act. The register is to be known as the Do Not Call Register.

The Do Not Call Register will allow individuals to ‘opt out’ of receiving certain unsolicited telemarketing calls by registering their home or mobile telephone numbers that are primarily used for private or domestic purposes.

It may be an offence under section 11 of the Act to make, or to cause to be made, telemarketing calls to telephone numbers registered on the Do Not Call Register. However, the Act allows ‘access-seekers’ to submit lists of telephone numbers to ACMA or the contracted service provider for checking against the Do Not Call Register (section 19 of the Act). ACMA or the contracted service provider must then inform the access-seeker which numbers (if any) on the access-seekers’ list are (or are not) registered on the Do Not Call Register. This process of ‘washing’ access-seekers’ lists will help access-seekers to avoid breaching the Act (see subsection 11(3) of the Act).

Under subsection 20(1) of the Act, ACMA may make a determination about the way in which access-seekers may submit a list of telephone numbers for washing and the manner in which ACMA or the contracted service provider is to provide the information to the access-seeker. The determination may also provide for any other matter relating to access to the Do Not Call Register.

ACMA has made the Do Not Call Register (Access to Register) Determination 2007 (‘the determination’) under subsection 20(1) of the Act.

Consultation

ACMA consulted with the telemarketing industry, other interested parties and the general public before making the determination. As part of this consultation, ACMA published a media release and invitation to comment seeking feedback on a draft determination and also wrote to selected stakeholders. Twelve submissions were received. Changes made to the draft determination following consultation included providing an additional method for submitting and returning lists to access-seekers.
Notes on the Sections and Subsections

Section 1 – Name of Determination
Section 1 provides that the determination is the Do Not Call Register (Access to Register) Determination 2007.

Section 2 – Commencement
Section 2 sets out that the determination commences on 25 May 2007.

Section 3 – Definitions
Section 3 defines ‘Act’ to mean the Do Not Call Register Act 2006. Other words and phrases used in the determination may be defined in section 4 of the Act.

Section 4 – Manner in which submission under section 19 of the Act is to be made
Subsection 4(1) states that section 4 sets out the manner in which an access-seeker is to submit a list under section 19 of the Act.

Subsection 4(2) requires each telephone number included in the list to be 10 digits long and to start with a zero. For example, acceptable telephone numbers may take the form ‘0355556666’ (home phone numbers with an area code) or ‘0412345678’ (mobile phone numbers).

Subsection 4(3) requires an access-seeker to register with ACMA. A registration procedure will be set out on the ACMA website or the website of the contracted service provider. Registration will allow the simple payment of fees under any determination made under section 21 of the Act.

Subsection 4(4) allows registered access-seekers to submit a list via a secure path in Comma Separated Variable (CSV) format to the website of ACMA or the contracted service provider. CSV format is a plain text representation of spread-sheet data. The values are separated by commas, to indicate the separating points for columns. The access-seeker may compile its list in CSV format and submit the list by uploading it following the instructions set out on the ACMA website or the website of the contracted service provider.

Subsection 4(5) allows registered access-seekers to submit a list by saving the list onto a CD-ROM in CSV format and then sending the CD-ROM by certified mail to an address available from the website of ACMA or the contracted service provider’s website. Access-seekers and others should note that obligations relating to the recording and provision of personal information under the Privacy Act 1988 may apply to the lists.

Subsection 4(6) allows registered access-seekers to submit a list by entering up to 10 numbers at a time directly onto the website of ACMA or the contracted service provider’s website, in accordance with arrangements approved by ACMA. The determination does not limit the number of times the access-seeker may repeat this process.
Subsections 4(7) allows registered access-seekers to submit a list in any other way approved by ACMA that is specified on ACMA’s website. This will provide ACMA with the option to specify other methods of list submission. It is likely that ACMA would consult with industry and other interested parties (for example, the Federal Privacy Commissioner) before specifying any other method of submitting numbers.

Subsection 4(8) prevents an access-seeker from submitting a list in any other way. That is, section 4 sets out the only ways in which an access-seeker may submit a list.

Section 5 – Informing access-seeker about numbers registered on the Do Not Call Register

Subsection 5(1) states that section 5 explains how ACMA or the contracted service provider may inform an access-seeker, under subparagraph 19(2)(d)(i) of the Act, which numbers (if any) on the access-seekers’ list of telephone numbers are registered on the Do Not Call Register.

Subsection 5(2) applies if the access-seeker uploaded the list via a secure path in CSV format to the website of ACMA or the contracted service provider (under subsection 4(5) of the determination). In this case, ACMA or the contracted service provider must make a list of the access-seeker’s numbers that are registered on the Do Not Call Register available for download from the website of ACMA and the contracted service provider on a secure path in CSV format. The access-seeker will be instructed on how to do this on the relevant website.

Subsection 5(3) applies if the access-seeker saved the list onto CD-ROM in CSV format and sent the CD-ROM by certified mail to ACMA or the contracted service provider (under subsection 4(6) of the determination). In this case, ACMA or the contracted service provider must save a list of the access-seeker’s numbers that are registered on the Do Not Call Register onto a CD-ROM in CSV format and must send this CD-ROM by certified mail to the access-seeker.

Subsection 5(4) applies if the access-seeker submitted up to 10 numbers at a time directly onto the website of ACMA or the contracted service provider, in accordance with any arrangements approved by ACMA (under subsection 4(7) of the determination). In this case, ACMA or the contracted service provider must inform the access-seeker by displaying the numbers that are registered on the Do Not Call Register on that website as soon as practicable after the numbers are entered.

Subsection 5(5) applies if the access-seeker submitted their list in any other way approved by ACMA and specified on ACMA’s website (under subsection 4(8) of the determination). In this case, ACMA or the contracted service provider must inform the access-seeker by saving a list of the access-seekers’ numbers that are registered on the Do Not Call Register onto a CD-ROM in CSV format and then sending this CD-ROM by certified mail to the access-seeker; alternatively, ACMA or the contracted service provider may inform the access-seeker by another manner approved by ACMA and specified on ACMA’s website.
Section 6 – Informing access-seeker about numbers not registered on the Do Not Call Register

Subsection 6(1) states that section 6 explains how ACMA or the contracted service provider may inform an access-seeker, under subparagraph 19(2)(d)(ii) of the Act, which numbers (if any) on the access-seekers’ list are not registered on the Do Not Call Register.

Subsection 6(2) applies if the access-seeker uploaded the list via a secure path in CSV format to the website of ACMA or the contracted service provider (under subsection 4(5) of the determination). In this case, ACMA or the contracted service provider must make a list of the access-seeker’s numbers that are not registered on the Do Not Call Register available for download from the website of ACMA or the contracted service provider on a secure path in CSV format. The access-seeker will be instructed on how to do this on the relevant website.

Subsection 6(3) applies if the access-seeker saved the list onto CD-ROM in CSV format and sent the CD-ROM by certified mail to ACMA or the contracted service provider (under subsection 4(6) of the determination). In this case, ACMA or the contracted service provider must save a list of the access-seeker’s numbers that are not registered on the Do Not Call Register onto a CD-ROM in CSV format and then send this CD-ROM by certified mail to the access-seeker.

Subsection 6(4) applies if the access-seeker submitted up to 10 numbers at a time directly onto the website of ACMA or the contracted service provider (under subsection 4(7) of the determination). In this case, ACMA or the contracted service provider must display the numbers that are not registered on that website as soon as practicable after the numbers are entered.

Subsection 6(5) applies if the access-seeker submitted its list by any other way approved by ACMA and specified on ACMA’s website (under subsection 4(8) of the determination). In this case, ACMA or the contracted service provider must save a list of the access-seekers numbers that are not registered on the Do Not Call Register on a CD-ROM in CSV format and then send this CD-ROM by certified mail to the access-seeker; alternatively, ACMA or the contracted service provider may inform the access-seeker by another manner approved by ACMA and specified on ACMA’s website.

Section 7 – Return of list

Subsection 7(1) allows ACMA or the contracted service provider to return a list submitted under section 4 to an access-seeker in accordance with any of the methods set out in sections 5 and 6.

Subsection 7(2) requires ACMA or the contracted service provider to return the list in a way that shows:

(a) which numbers in the list are registered; and
(b) which numbers in the list are not registered; and
(c) which numbers (if any) have not been treated as telephone numbers.

A number may not be treated as a telephone number for the purposes of registration; for example, a number may not be a telephone number, or it may not begin with a zero.
Subsection 7(3) requires that ACMA or the contracted service provider must give the access-seeker the following information at the same time as returning the list:

(a) a unique reference number for the list;
(b) the total number of telephone numbers that the access-seeker submitted;
(c) the total number of telephone numbers on the list submitted that were registered;
(d) the total number of telephone numbers on the list submitted that were not registered;
(e) the total number of purported numbers that have not been treated as telephone numbers;
(f) the date on which, and the time at which, ACMA or the contracted service provider received the list from the access-seeker;
(g) the date on which, and the time at which:
   (i) the access-seeker was informed, in accordance with section 5, about the numbers that were registered on the Do Not Call Register; and
   (ii) the access-seeker was informed, in accordance with section 6, about the numbers that were not registered on the Do Not Call Register.