EXPLANATORY STATEMENT

Issued by the authority of the Minister for Broadband, Communications and the Digital Economy

Do Not Call Register Legislation Amendment Act 2010

Proclamation

Subsection 2(1) of the Do Not Call Register Legislation Amendment Act 2010 (the Act) provides that Schedule 1 of the Act commences on a single day to be fixed by Proclamation. However, if any of the provisions of Schedule 1 do not commence within the period of six months beginning on the day the Act receives the Royal Assent, they commence on the day after the end of that period.

The Act received the Royal Assent in May 2010 and all provisions of the Act, other than Schedule 1, commenced on the date of Royal Assent.

The Act expands the Do Not Call Register (the Register) to enable Australian emergency service and government telephone numbers and all Australian fax numbers to be registered.

The Proclamation fixes 30 May 2010 as the day on which Schedule 1 to the Act, which contains the operative provisions of the Act, commences.

Schedule 1 of the Act amends the Do Not Call Register Act 2006 (the DNCR Act) to:

- extend the numbers eligible to be registered on the Register to include emergency service and government telephone numbers and all Australian fax numbers;
- prohibit the sending of unsolicited marketing faxes to an Australian number which is registered on the Register, subject to certain exemptions;
- ensure that agreements for the sending of unsolicited marketing faxes are required to comply with the DNCR Act;
- include civil penalty provisions for breaches of the new provisions;
- confer power on the Australian Communications and Media Authority (ACMA) to make a determination about the circumstances in which consent will be inferred for sending unsolicited marketing faxes to business numbers;
- enable the Minister for Broadband, Communications and the Digital Economy (the Minister) to extend, by legislative instrument, the period of time for which numbers may remain on the Register; and
- enable the Minister to reinstate, by legislative instrument, numbers that have ceased to be on the Register prior to the commencement of Schedule 1 to the Act, due to their lapsing at the end of the current three year registration period regime.

Schedule 1 of the Act also makes consequential amendments to Part 6 of the Telecommunications Act 1997 to enable an industry code to be developed relating to
fax marketing activities and for the ACMA to determine an industry standard relating to the fax marketing industry.

The Register established under the DNCR Act commenced on 31 May 2007 with a registration period of three years. Initial registrations begin to automatically fall off the Register from 31 May 2010 if they have not been re-registered. A number of submissions to the Senate Environment, Communications and the Arts Legislation Committee (the Committee) inquiry into the Do Not Call Register Amendment Bill 2009 canvassed the extension of the registration period. The Committee in its Report (tabled 25 February 2010) recommended that the Department of Broadband, Communications and Digital Economy consider in its statutory review of the DNCR Act extending the registration period.

The commencement date allows the Minister the opportunity to extend, by legislative instrument, the period of time for which numbers remain on the Register before the expiry of the three year anniversary and so avoid the need for any persons to re-register their numbers. If an individual should decide they do not wish to have their number retained on the Register, the DNCR Act allows the individual to cancel their registration at any time.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

**Authority:** Subsection 2(1) of the *Do Not Call Register Legislation Amendment Act 2010*