EXPLANATORY STATEMENT

Do Not Call Register Act 2006
Acts Interpretation Act 1901

Do Not Call Register (Duration of Registration) Amendment Specification 2013 (No. 1)

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

Purpose

The Do Not Call Register (Duration of Registration) Amendment Specification 2013 (No. 1) (the Specification) is made by the Minister for Broadband, Communications and the Digital Economy (the Minister) under subsection 17(1A) of the Do Not Call Register Act 2006 (the DNCR Act) and subsection 33(3) of the Acts Interpretation Act 1901.

The purpose of the Specification is to amend the Do Not Call Register (Duration of Registration) Specification (No. 1) 2010 (the Principal Specification) to specify eight years as being the period of time for which numbers on the Do Not Call Register (the Register) remain in force.

Subsection 33(3) of the Acts Interpretation Act 1901 relevantly allows the Minister to amend the Principal Specification.

The Specification is a legislative instrument for the purposes of section 5 of the Legislative Instruments Act 2003.

Background

The Register established under the DNCR Act commenced on 31 May 2007 and the Act prescribed numbers entered on the Register were to remain in force for three years. The purpose of setting the three year registration period was to maintain the accuracy of the Register and ensure disconnected and reassigned numbers would be removed from the Register periodically.

The Do Not Call Register Legislation Amendment Act 2010 amended the DNCR Act to, among others things, enable the Minister to specify, by legislative instrument, a longer period of time for which numbers may remain on the Register. On 15 March 2012, in accordance with that amendment, the Minister specified six years as the period of time for which numbers on the Register remain in force. In accordance with a six year registration period, numbers will begin to automatically fall off the Register from 31 May 2013 if they are not re-registered.

The Specification amends the Principal Specification to extend the period for which numbers on the Register remain in force to eight years, and operates to:

- automatically extend the registration period for numbers on the Register at the time the Specification commences so that their registration remains in force for eight years from the date of their registration; and
• provide that numbers registered subsequent to the commencement of the Specification have a registration period of eight years.

The Specification commences the day after it is registered on the Federal Register of Legislative Instruments and is intended to commence before 31 May 2013. Commencement of the Specification before 31 May 2013 will ensure those persons with numbers already on the Register are not required to re-register their numbers for the time being. Where a person has not yet re-registered their number, the registration will remain in force for eight years from the date the number was entered on the Register. Where a person has already re-registered their number, the number will remain on the Register for eight years from the date of the most recent registration entry.

It is considered that, by amending the Principal Specification to extend the registration period, no persons will be deprived of any rights and nor will the amended Principal Specification impose any liabilities. 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.

Feedback received by the Department of Broadband, Communications and the Digital Economy (the Department) as part of the statutory review of the DNCR Act undertaken in 2010 indicated that most stakeholders would prefer numbers on the Register to remain in force for an indefinite period, rather than requiring periodic re-registration. An extension of the registration period will allow the Department to conduct additional consultation with industry, privacy groups and consumer groups on the optimal duration of registration for numbers on the Register (including indefinite registration). Extending the registration period will also allow the telemarketing and fax marketing industry to assist in the design and implementation of any mechanism to maintain the accuracy of the Register.

Consultation

Consultation regarding the extension of the registration period was conducted as part of the wider consultation undertaken by the Department in its statutory review of the Do Not Call Register Scheme. The Australian Communications and Media Authority (the ACMA) and the Association for Data-driven Marketing and Advertising (the ADMA) have been consulted in relation to extending the registration period by a further two years. The ACMA support the extension of the registration period. The ADMA has raised concerns about maintaining the accuracy of the Register.

Statement of Compatibility with Human Rights

This statement of compatibility is prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

The Specification amends the Principal Specification by extending the period for which numbers on the Register remain in force from six years to eight years. The primary purpose of the amendment is to allow numbers on the Register that are nearing the end of their period of registration to remain in force on the Register while the Government conducts additional consultation on the optimal duration of registration for numbers on the Register and examines options for maintaining the Register’s accuracy without the need for periodic re-registration. The amendment does not make any substantive changes to the law.

The Specification is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act. It does not engage any of the applicable rights or freedoms and does not raise any human rights issues.
Notes on Sections

Section 1 provides that the name of the Specification is the Do Not Call Register (Duration of Registration) Amendment Specification 2013 (No. 1).

Section 2 provides that the Specification commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 provides that the Principal Specification is amended as set out in the Schedule to the Specification.

The Schedule sets out the amendments made to the Principal Specification by the Specification.

Subsection 17(1A) of the DNCR Act gives the Minister the power to specify a period longer than three years as the period for which numbers entered on the Register remain in force.

If no period is specified under subsection 17(1A), then numbers entered on the Register remain in force for three years by virtue of subparagraph 17(1)(b)(i). If the Minister specifies a period longer than three years under subsection 17(1A), then numbers entered on the Register remain in force for that longer specified period.

Item [1] of the Schedule to the Specification amends the period set out in section 4 of the Principal Specification for which numbers on the Register remain in force. Under the amended Principal Specification, the Minister has specified a period of eight years for the purposes of subparagraph 17(1)(b)(ii) of the DNCR Act.