

EXPLANATORY STATEMENT

Do Not Call Register Act 2006

Do Not Call Register (Duration of Registration) Specification (No. 1) 2010

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

Purpose

The Do Not Call Register (Duration of Registration) Specification (No. 1) 2010 (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). The Specification is a legislative instrument for the purposes of section 5 of the *Legislative Instruments Act 2003*.

The purpose of the Specification is to specify five years as being the period of time for which numbers registered on the Do Not Call Register (the Register) remain in force.

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.

Numbers that were registered soon after the establishment of the Register 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 Legislation Amendment Bill 2009* (the Amendment Bill), and to the statutory review of the DNCR Act undertaken by the Department of Broadband, Communications and Digital Economy (the Department), expressed the view that the registration period should be extended – some also advocated permanent registration. The Committee (in its Report tabled 25 February 2010) also recommended that the Department consider in its statutory review of the DNCR Act extending the registration period.

Subsequently, the *Do Not Call Register Legislation Amendment Act 2010* (the Amendment Act) 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.

The Specification extends to five years the period for which numbers on the Register remain in force, 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 five years from the date of their registration; and
- provide that numbers registered subsequent to the commencement of the Specification have a registration period of five years.

The Specification commences at the same time as Schedule 1 to the Amendment Act commences, namely 30 May 2010 (which is the date fixed by proclamation). This date ensures 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 five 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 five years from the date of the most recent registration entry.

It is considered that, by extending the registration period under the Specification, no persons will be deprived of any rights and nor will the 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.

It is intended that further work will be undertaken to identify an alternative method of maintaining the Register's accuracy without the need for periodic re-registration. If a suitable alternative approach can be found to keep the Register current, the Government may consider extending the registration period further.

Consultation

Consultation regarding extending the registration period for numbers entered on the Register was conducted as part of the wider consultation undertaken by the Department in its statutory review of the Do Not Call Register Scheme and through the Committee's inquiry into the Amendment Bill. Further consultation was undertaken with key stakeholders prior to the passage of the Amendment Bill through Parliament, including with peak consumers groups and the Australian Communications and Media Authority.

Notes on Clauses

Clause 1 provides that the name of the Specification is the Do Not Call Register (Duration of Registration) Specification (No. 1) 2010.

Clause 2 provides that the Specification commences at the same time as Schedule 1 to the Amendment Act commences.

Clause 3 is a definitions clause.

Clause 4 is the main operative clause.

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.

Under the Specification, the Minister has specified a period of five years for the purposes of subparagraph 17(1)(b)(ii) of the DNCR Act.