

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Telecommunications Act 1997*

## Telecommunications (Telemarketing and Research Calls) Industry Standard 2017

### Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Telecommunications (Telemarketing and Research Calls) Industry Standard 2017 (the standard)* under subsection 125A(1) of the *Telecommunications Act 1997 (the Act)* and subsection 33(3) of the *Acts Interpretation Act 1901 (the AIA)*.

Subsection 125A(1) of the Act provides that, prior to the commencement of Part 2 of the *Do Not Call Register Act 2006 (the DNCR Act)*, the ACMA must determine a standard that:

- (a) applies to participants in each section of the telemarketing industry; and
- (b) deals with the following matters relating to the telemarketing activities of those participants:
  - (i) restricting the hours and/or days during which telemarketing calls may be made or attempted to be made;
  - (ii) requiring that a telemarketing call must contain specified information about the relevant participant;
  - (iii) requiring that, if a person other than the relevant participant caused a telemarketing call to be made, the call must contain specified information about the person who caused the call to be made;
  - (iv) requiring the relevant participant to terminate a call if a specified event happens;
  - (v) requiring the relevant participant to ensure that calling line identification is enabled in respect of the making of a telemarketing call.

Subsection 125A(4) of the Act requires the ACMA to ensure that a standard is in force under subsection 125A(1) at all times after the commencement of Part 2 of the DNCR Act. Part 2 of the DNCR Act commenced on 31 May 2007.

Subsection 33(3) of the AIA provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### Purpose and operation of the instrument

Under Part 4 of Chapter 3 of the *Legislation Act 2003 (the LA)*, most legislative instruments ‘sunset’ (that is, they are automatically repealed), 10 years after they are registered. Subsection 50(1) of the LA “repeals a legislative instrument on the first 1 April or 1 October falling on or after the tenth anniversary of registration of the instrument...”.

The *Telemarketing and Research Industry Standard 2007 (the 2007 standard)* was scheduled to sunset on 1 April 2017. The standard remakes the 2007 standard with some minor changes.

As noted above, the remaking of the 2007 standard was required by subsection 125A(4) of the Act.

The Register kept under the DNCR Act enables persons who do not wish to receive unsolicited telemarketing calls to submit their number for inclusion on the Register. In general, persons undertaking telemarketing activities must not call numbers included on the Register to make telemarketing calls without consent from either the account-holder or the account-holder’s nominee.

The standard establishes a minimum set of requirements for telemarketing and research calls. It applies to all participants in each section of the telemarketing industry and to the following types of calls to Australian numbers:

- telemarketing calls as defined in the DNCR Act; and
- telemarketing calls that are voice calls to conduct opinion polling or to carry out standard questionnaire-based research (known as **research calls**, and defined in paragraph (b) of the definition of “telemarketing call” in the Act).

Under the DNCR Act, telemarketing calls authorised by certain parties are designated exempt from the general prohibition on the making of telemarketing calls to numbers listed on the Register (these are **designated telemarketing calls** as defined in the DNCR Act). The parties who may authorise a call that is a designated telemarketing call include registered charities, registered political parties, independent Members of Federal and State parliaments and the legislative assemblies of the Northern Territory and the Australian Capital Territory, independent local government representatives, educational institutions (calling their current or former students) and government bodies.

The standard, however, applies to all telemarketing (and market research) calls, including designated telemarketing calls. This means that even if a particular call, such as a call from a charitable organisation, is exempt from the requirements of the DNCR Act, it must still meet the requirements contained in the standard.

By setting out the minimum requirements for telemarketing calls, the standard:

- provides consumers with greater certainty about the minimum standards of conduct they can expect from unsolicited telemarketing and research callers; and
- minimises compliance and administrative costs for industry and regulators through consistent national minimum requirements in relation to calls.

When remaking the standard the ACMA made some minor changes, the nature of which:

- rationalised and clarified some requirements of the standard;
- removed some requirements on industry which were identified as delivering little or no consumer benefit;
- enhanced the information provided to consumers during a call; and
- made drafting improvements.

A provision-by-provision description of the standard is set out in the notes at **Attachment A**.

The standard is a legislative instrument for the purposes of the LA.

### **Documents incorporated by reference**

The standard incorporates various definitions from the Act and the DNCR Act. The standard does not otherwise incorporate any document by reference.

### **Consultation**

Before the standard was made, the ACMA undertook consultation on a draft standard, in accordance with section 17 of the LA and sections 132, 133, 134, 135 and 135A of the Act.

In accordance with section 132 of the Act, the ACMA sought submissions on a draft standard and a consultation paper titled *Proposal to remake the Telemarketing and Research Industry Standard 2007*

**(the consultation paper)** by way of an advertisement in a newspaper of national circulation. The ACMA also posted information on-line about the consultation on its website and alerted key stakeholders to the consultation, including relevant industry associations.

The public consultation period ran for more than 30 days, therefore meeting the time period for public consultation required by section 132.

In accordance with the Act, the ACMA also specifically sought submissions from:

- the Australian Competition and Consumer Commission (subsection 133(1));
- the Australian Communications Consumer Action Network (**ACCAN**), a body representing the interests of consumers (section 135);
- each of the States, the Australian Capital Territory, and the Northern Territory (section 135A); and
- the Office of the Australian Information Commissioner (**OAIC**) (section 134).

The ACMA received 12 submissions from:

- a private individual (one submission);
- telemarketers or companies which employ third parties to conduct telemarketing on their behalf (four);
- two bodies representing the interests of consumers – CHOICE and ACCAN;
- the Association for Data-Driven Marketing and Advertising;
- the Fundraising Institute of Australia ;
- the Research Industry Council of Australia;
- two government agencies – the Australian Charities and Not-for profits Commission and the OAIC.

To enhance its understanding of the operation of the 2007 standard, the ACMA also commissioned a limited survey in 2016 to examine consumers' attitudes to telemarketing calls (**the survey**).<sup>1</sup>

The consultation paper proposed a number of minor changes to the 2007 standard. Most of these either were supported in the submissions in response to the consultation paper or drew no comment.

The following proposed changes received submissions representing varying views. The ACMA's consideration of the submissions and outcomes are detailed below.

*1. Calls made during prohibited calling times – express consent required.*

The ACMA proposed that calls made during times prohibited by the standard should only be made where express consent to call outside the allowed times exists.

This proposal received positive feedback from consumer representatives. Submissions from telemarketers generally reflected that the proposed change replicated current, best practice. One submission suggested that articulating current practice in the standard could increase the regulatory burden, by creating the need for records of consent. The ACMA notes that, while there is no separate requirement to create records of consent, such records may assist in demonstrating that consent has been obtained if a question of compliance arises. That would be the case whether consent is express or implied.

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<sup>1</sup> ACMA Research Report - Telemarketing Calls In Australia 2017

The ACMA included the change in the standard.

2. *Provision of the given name of the caller only relevant to voice calls*

The ACMA proposed to specify that the requirement to provide the given name of the caller at the beginning of a call not apply where the call is made solely using a recorded or synthetic voice.

One submission opposed this change (directed towards automated or “robo” calls) on the basis that it might increase the use of calls using synthetic voice.

The ACMA was unable to establish any relationship between the proposed change and a likely increase in non-voice calls. In any case, the ACMA is of the view that providing a given name where a call is made solely using a recorded or synthetic voice does not provide any tangible benefit to consumers.

The ACMA included the change in the standard.

3. *Movement of the requirement to provide the name of the business making the call from ‘immediately on request’ to ‘as soon as the call starts’*

In the 2007 standard, callers were required to provide the name of the business making the call if it was requested by the call recipient.

In the survey, consumers demonstrated a clear preference to receive this information during a call. The ACMA also formed the view that receiving this information at the start of the call would enhance the ability of call recipients to make informed choices about how to manage telemarketing calls.

The ACMA’s proposal to require that this information be provided as soon as the call starts drew many comments representing varying views. Most submissions supported this proposal, noting that the inclusion of the name of the business making the call would increase the transparency of calls made, and benefit consumers. One submission suggested that this requirement could create an additional burden on the telemarketing industry, and along with three other submissions, argued that this additional information may confuse consumers.

Whilst the change will result in a small increase in additional information which callers will need to provide at the beginning of a call, as opposed to on request, the ACMA considers that the additional information will benefit consumers by enabling them to more readily identify who is calling them. Further, if the information is presented clearly there is no reason that consumers should be confused by the additional information being provided at the start of a call instead of on request during the course of a call. Additionally, as this information must already be made available upon request, the change for industry is likely to be minimal.

The ACMA decided to include the proposed change in the standard.

4. *Removal of the requirement that the caller provide ‘the name and contact details of any entity that disclosed to the caller the number and/or name of the person for whom the call was intended’ within a reasonable time (not exceeding 7 days) if requested*

The broad intent of this provision from the 2007 standard was to provide consumers with information to enable them to request removal from relevant marketing lists.

However, the ACMA’s analysis of consumer complaints suggests that the provision of the relevant information, by itself, does not provide an effective consumer protection and obligations in relation to providing details about the entity calling and/or who caused the call to be made are much more

effective and applicable. The provisions also duplicated, in some key aspects, the protections provided by Australian Privacy Principle (APP) 7, contained in Schedule 1 to the *Privacy Act 1988*.

The ACMA also considers that the requirement for the ‘caller to provide the name of the person the call was intended for’ did not assist consumers or the ACMA in its compliance activities in any meaningful way. Therefore, the ACMA proposed that this requirement be removed to rationalise the information that callers are required to provide, without adverse impact on consumers.

One submission recommended that the change not proceed or that an alternative regulatory solution be proposed by the ACMA, noting that the consumer protections provided by APP 7 only extend to APP entities (which generally excludes callers who are small business operators)<sup>2</sup>. However, the ACMA considers that the information to be provided during a call and in return telephone contact by a call recipient using the calling line identification is sufficient to assist consumers to direct a request for removal from calling lists, and to otherwise obtain information that will assist them to manage telemarketing calls in an effective and timely manner.

Accordingly, the ACMA included the change in the standard.

*5. Clarification of how call recipients might indicate that they wish to discontinue a call by providing additional examples (by way of a note in the standard)*

Section 7 of the 2007 standard required that a caller must terminate a call in certain circumstances, including where the call recipient asks for the call to be terminated or otherwise indicates that they do not want the call to continue. Feedback provided to the ACMA from consumer complaints indicated some apparent misalignment between call recipients and callers about indicators ‘that the call recipient does not want the call to continue’.

The ACMA proposed to insert a note in section 13 of the standard comprising examples which may indicate to the caller that a person no longer wishes for a call to continue and termination should occur. The examples were sourced from the Explanatory Statement to the 2007 standard.

Two submissions supported this change in the interests of addressing this misalignment. However, submissions from others demonstrated that the examples presented in the form of a note could not be presented in sufficient detail to assist callers intending to comply with the requirements of section 13.

As a consequence, the ACMA has decided not to proceed with this proposal. However, detailed examples are provided in the Notes relevant to section 13 in this Explanatory Statement. The additional detail is intended to confirm the meaning of the requirements in section 13 and illustrate how callers might recognise and instigate termination procedures in response to different indicators that a call recipient may wish to terminate a call.

*6. Specification of the information that must be obtainable if a call recipient makes a return call to the calling line identification number (CLI) transmitted during a call (as required under subsection 14(1) of the standard)*

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<sup>2</sup> APP entities are businesses and not-for-profit organisations with an annual turnover of more than \$3 million and businesses that buy and sell personal information.

Section 8 of the 2007 standard required callers to ensure that calling line identification (CLI) is enabled when making or attempting to make a call. Callers must also ensure that the transmitted CLI number is ‘a telephone number, which is suitable for return telephone contact by a call recipient’.

The ACMA noted potential ambiguity surrounding the interpretation and application of ‘return telephone contact’, so it proposed a requirement that would clearly set out the minimum information that should be available to a call recipient when using the CLI to make return contact.

Three submissions raised concerns about the ability of callers to meet these requirements, particularly in circumstances where the caller makes calls on behalf of a number of entities for different purposes including customer service, sales and research.

Further discussion between telemarketer submitters and the ACMA suggested that in these circumstances callers are able to source the specified information but may encounter difficulties providing the required information immediately.

To respond to these concerns, the proposed change was modified so as to specify that the required information to be provided “within a reasonable timeframe”. Examples of how the provision can be met are provided in the Notes relevant to section 14 in this Explanatory Statement.

### **Regulatory impact assessment**

A preliminary regulatory impact analysis process was considered by the Office of Best Practice Regulation (OBPR). OBPR determined that the proposed regulatory changes to the 2007 standard were minor or machinery in nature and has therefore verified that no further regulatory impact analysis was necessary (reference number: ID 21191).

### **Statement of compatibility with human rights**

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

### ***Overview of the instrument***

The standard complements the rules set out in the DNCR Act. The arrangements outlined in the DNCR Act and the *Do Not Call Register (Consequential Amendments) Act 2006* (which inserted section 125A into the Act), were brought about in response to community concern about the impact of unsolicited telemarketing calls and industry concerns about the inconsistency in the making of telemarketing calls.

The standard comprises a minimum and consistent set of requirements for telemarketing and research calls. As noted above, this provides consumers with greater certainty about the minimum standards of conduct they can expect from telemarketing and research callers. By providing consistent national minimum requirements in relation to calls, the compliance and administrative costs for industry are also minimised.

### ***Human rights implications***

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

### *Right to privacy*

The standard engages the right to privacy in a limited way. Subsections 9(2) and 10(2) of the standard contain requirements that may involve a caller providing personal information to a call recipient. For example, paragraphs 9(2)(a) and 10(2)(a) require that individuals making a telemarketing call provide their given name to the call recipient, and paragraphs 9(2)(b) and (c) and paragraphs 10(2)(b) and (c) contain requirements to identify the employer of the caller to the call recipient. There are otherwise certain requirements to provide certain contact details on request (for example, see subsections 9(4) and 10(5)). These details may include personal information. Requiring that personal information be provided limits the right to privacy (Article 17 of The International Covenant on Civil and Political Rights). However, these provisions of the standard are directed towards ensuring that call recipients are provided with information about telemarketing calls that they receive, so that they may manage the receipt of such calls. In the case of employees that are making calls on behalf of their employer, it is only required that a given name be provided. Where contact details of an employer or of another person who has caused a call to be made must be provided to the call recipient, such details are relevantly associated with the business that the person is carrying on by way of making telemarketing calls, or using telemarketing calls in connection with business activities. The personal information required to be given is not sensitive.

### ***Conclusion***

The standard is compatible with human rights because, to the extent that it may limit the right to privacy, the limitations are reasonable, necessary and proportionate.

**Notes to the *Telecommunications (Telemarketing and Research Calls) Industry Standard 2017***

**Part 1–Preliminary**

**Section 1 Name**

This section provides for the standard to be cited as the *Telecommunications (Telemarketing and Research Calls) Industry Standard 2017*

**Section 2 Commencement**

This section provides for the standard to commence at the start of the day after it is registered on the Federal Register of Legislation.

The Federal Register of Legislation may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

**Section 3 Authority**

This section identifies the provision of the Act that authorises the making of the standard, namely subsection 125(1) of the *Telecommunications Act 1997*.

**Section 4 Repeal of the *Telemarketing and Research Industry Standard 2007***

This section provides that the *Telemarketing and Research Industry Standard 2007* (Registration No. F2007L00815) is repealed.

**Section 5 Persons to which this industry standard applies**

This section identifies the persons to whom the standard applies.

**Section 6 Definitions**

This section defines a number of key terms used throughout the standard.

A number of other expressions used in the standard are defined in the Act or in the DNCR Act.

**Section 7 References to other legislative instruments**

This section provides that in the standard, unless the contrary intention appears, a reference to another legislative instrument is a reference to that other legislative instrument as in force from time to time. This is facilitated by section 589 of the Act.

**Part 2–Standards**

**Section 8 Prohibited calling times**

Subsections 8(1) to (3) set out the times and days during which telemarketing and research calls are prohibited from being made or attempted.

Subsection 8(4) clarifies that the time of day referenced in subsections 8(1) (2) and (3) is the time of day at the usual residential address of the relevant account-holder.



A telemarketer would not be in breach of subsections 8(1), (2) or (3) if they made a telemarketing call at a time which is a permitted time at the call recipient's usual residential address, even if the call recipient is at a location where the time was outside the hours set out in subsections 8(1), (2) or (3). For example, a call might be made at 7pm Australian Western Standard Time on a weekday, to a Perth resident currently located in Sydney, where the time is between 2 and 3 hours later (depending on the application of daylight savings). If that person receives the call (e.g. the call might be to a mobile, or call forwarding arrangements might be in place), and assuming that it is not one of the public holidays specified in subsection 8(3), there would be no contravention of section 8 even though the call is received at a later time than would otherwise be allowed by subsections 8(1) or (2). However, as indicated in the note to subsection 8(4), section 13 of the standard will apply if the caller receives information that would indicate to a reasonable person that the call recipient is actually in a location where calls would be prohibited by section 8, if that location were the call recipient's usual address. In such a case, section 13 requires the caller to terminate the call immediately unless the call recipient expressly states that they would like the call to be continued.

Subsection 8(5) allows for calls to be made or attempted within the prohibited calling times if the relevant account-holder or their nominee has given express consent in advance to receiving a call at the time or day at which a call is made or attempted to be made. In this respect, the standard does not intend to inconvenience consumers by preventing them from consenting to or requesting calls within the otherwise prohibited hours. For example, if a telemarketer called on a weekday when the called party was having dinner, the called party may request that the caller terminate the call but also agree to the caller making another telemarketing call after 8pm.

## **Section 9 Provision of information during telemarketing calls other than research calls**

Section 9 sets out the information which must be provided by a caller making a call other than a research call. This information is intended to facilitate choices for the call recipient to continue the call and/or seek further information about the call. Certain information must be provided immediately after the call commences, whilst other information must be provided immediately upon request from the call recipient.

Subsection 9(2) specifies the information that must be provided as soon as the call starts.

Paragraph 9(2)(a) requires the caller to provide their given name but does not require the disclosure of the caller's full or family name. This provision only refers to live voice calls.

Paragraphs 9(2)(b) and (c) require a caller who is making a call as an employee or who is self-employed to provide certain details by which the employer can be identified. This will ensure that information is provided to call recipients about the parties involved in the call. In many cases a separate telemarketing business will be involved in making relevant telemarketing calls. The standard specifies that the name provided must be the company name, registered business name or another readily identifiable name.

Paragraph 9(2)(d) requires the caller to provide the name of the person causing the call to be made, if that has not already been provided. As mentioned above, many telemarketing calls are made through companies or organisations that specialise in the making of such calls. In such a case, it is the telemarketing company or organisation whose name would be provided under paragraph 9(2)(b). Paragraph 9(2)(d) ensures that the call recipient is also required to be provided with the name of the person or entity that ultimately caused the call to be made.

Paragraph 9(2)(e) requires the caller to provide the purpose of the call. This will assist call recipients in deciding how to manage the call at the outset.

Subsection 9(3) provides that the information to be provided as soon as the call starts (as specified in subsection 9(2)) does not need to be provided if the call is terminated by the call recipient before the information can be provided, or in the circumstance where the caller terminates the call within 5 seconds, without speaking to the call recipient. This might occur when the caller employs auto-dialler equipment (also known as predictive-dialler equipment). This equipment calculates how long it will take for an operator to become available and dials numbers in anticipation. If no operators are subsequently available, the auto-dialler may terminate the call before an operator can speak with the call recipient.

Subsection 9(4) details information that the caller must provide, or cause to be provided, immediately after being requested by the call recipient. The provision of such information on request will assist call recipients to assess and manage telemarketing calls.

## **Section 10 Provision of information during a research call**

Section 10 sets out the information which must be provided by a caller making a research call.

Subsection 10(2) specifies the information that must be provided as soon as the call starts. The information to be provided is the same as to be provided in relation to telemarketing calls that are not research calls (see subsection 9(2)), with the exception that callers making research calls do not have to disclose the name of the person who caused the call to be made at the start of the call. The reason for this difference is that the disclosure of the person who caused the call to be made may potentially affect the responses of the call recipient and, as a consequence, affect the validity of the research undertaken. Nevertheless, paragraph 10(5)(b) requires the caller to provide this information immediately if the call recipient requests it.

Subsection 10(3) has the same effect as subsection 9(3) in respect of research calls – that is, the obligation to provide information at the start of a call does not apply in certain circumstances where the call is terminated early.

Subsection 10(4) provides for the circumstance where revealing the name of the caller or the caller's employer would also reveal the name of the person who caused the call to be made. Such a circumstance may arise where an entity is conducting research for itself, or through a related entity. As discussed above, revealing the name of the entity that has caused the call to be made may undermine the research purpose of the call. Therefore, subsection 10(4) provides that the information specified in paragraphs 10(2)(b) or (c) (i.e. the details of the employer of the person making the call) does not need to be provided at the start of a call if doing so would also reveal who *caused* the call to be made. However, the information must still be provided:

- immediately (if requested by the recipient); or if not requested
- before the end of the call, unless the call recipient terminates the call before the information can be provided.

Subsection 10(5) details the information that the caller must provide during research calls if requested by the call recipient. The provision of such information on request will assist call recipients to assess and manage research calls.

## **Section 11 Contact details**

Subsections 9(4) and 10(5) provide that a caller must provide the call recipient with various contact details on request.

Section 11 details that the contact details must include a name, an Australian number suitable for receiving voice calls during normal business hours, and at least one accurate and current address. The name provided must be the company name or registered business name or, if these details do not exist, a name by which the organisation can be readily identified (such alternative names may include trading, non-registered business or well-known brand names). This requirement is intended to address difficulties experienced by consumers and the ACMA in identifying the particular legal entity or entities involved in making a telemarketing call.

## **Section 12 Calls that involve a recorded or synthetic voice**

Section 12 provides that for calls that are not delivered by a live operator, the caller must enable (through a means of its own choice) a mechanism by which the call recipient can obtain the information described in subsection 9(4) or 10(5) (whichever is applicable).

An example of such a mechanism is the option for recipients of calls using recorded or synthetic voices to press a number on their keypad to speak to a live operator to obtain the information described in subsections 9(4) and 10(5).

## **Section 13 Terminating a call**

Section 13 sets out circumstances in which a caller must terminate a telemarketing or research call, or cause the call to be terminated - specifically:

- if the person making the call receives information that would lead a reasonable person to conclude that the call recipient is not at the relevant telephone account-holder's usual residential address, and the time at the place the call recipient is located would not meet the requirements of subsection 8(1), (2) or (3); and
- if the call recipient asks for the call to be terminated or otherwise indicates that they do not wish to continue the call.

Some examples of statements that call recipients may use to indicate that they do not want the call to continue may include:

- I'm not interested
- I'm on the Do Not Call Register
- Now is not a good time
- I want to talk to someone about it first
- I can't afford it
- I don't want to receive these types of calls.

In determining compliance with paragraph 13(1)(b), the context in which such statements are made by call recipients will determine whether the statement is an indication that the person does not wish to continue the call. For example:

- A call recipient who says “Now is not a good time” hurriedly, and at the commencement of the call, is clearly indicating that they do not wish for the call to continue. However, should the call recipient say “Now is not a good time”, but immediately follow that with a question about the goods or services offered, then it may not be clear that the person has indicated that they wish for the call to be discontinued at that time.
- The statement “I’m on the Do Not Call Register” is likely to indicate a strong preference on the part of the call recipient for the call in question to be terminated. However, if other statements are made that indicate that the person is genuinely enquiring why they are receiving the call (and seeking an answer), then it may not be clear that the person has indicated that they wish for the call to be discontinued at that time.

The above statements do not constitute an exhaustive list of statements that may indicate that a person does not wish for a call to continue. Callers must be alert to other statements that indicate that a call recipient does not wish for the call to continue.

Subsection 13(2) ensures that a called person may continue to receive a telemarketing call in the circumstances listed at 13(1)(a) if they expressly consent to the call continuing.

#### **Section 14      Enabling calling line identification for a call**

Subsection 14(1) provides that a caller must ensure that calling line identification is enabled at the time that the caller makes, or attempts to make, a call, or causes a call to be made.

Subsection 14(2) provides that callers must ensure that certain information can be obtained by the call recipient if that call recipient calls the number transmitted to the calling number display of the receiver terminal.

All of the information referred to in subsection 14(2) must be able to be obtained by a call recipient within a reasonable timeframe. There is no requirement for the information to be provided to the call recipient immediately, nor for all of the information to be provided at the one time.

Examples of ways this information may be provided include:

1. A recorded message which advises the call recipient of the name of the caller, the name of the entity that caused the call to be made (if different) and the purpose of the call.
2. A recorded message which provides some of the detail above, but provides a different, additional mechanism (for example, the ability for a call recipient to leave a voice message), to enable the caller to provide the remaining details on the next business day by return phone call.
3. A live operator who, in response to an enquiry from the call recipient, provides details of the caller and the entity that caused the call to be made. If the live operator is immediately unable to advise of the purpose of the original call, he/she could provide this additional detail by return call the next business day.

Subsection 14(3) provides that the caller must ensure that there is a reasonable likelihood that any telephone number transmitted to the calling number display on a receiver terminal is capable of receiving the return phone call described at subsection 14(2) for a period of at least 30 days from when the call was made to the call recipient.

#### **Section 15      Operation of State and Territory Laws**

This section provides that the industry standard is not intended to exclude the operation of a law of a State or Territory to the extent that the law is capable of operating concurrently with the industry standard. The example is given of a State or Territory setting out more restrictive calling hours than those in subsections 8(1), 8(2) or 8(3). In those circumstances the State or Territory law will continue to operate.