



Do Not Call Register (Access to Register) Determination 2017

The Australian Communications and Media Authority makes the following Determination under subsection 20(1) of the *Do Not Call Register Act 2006*.

Dated 29 June 2017

James Cameron
[signed]
Member

Jennifer McNeill
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

Part 1—Preliminary

1 Name of Determination

This is the *Do Not Call Register (Access to Register) Determination 2017*.

2 Commencement

This Determination commences at the start of the day after it is registered on the Federal Register of Legislation.

Note: The Federal Register of Legislation may be accessed at www.legislation.gov.au.

3 Authority

This Determination is made under subsection 20(1) of the *Do Not Call Register Act 2006*.

4 Repeal of the *Do Not Call Register (Access to Register) Determination 2007*

The *Do Not Call Register (Access to Register) Determination 2007* (F2007L01218) is repealed.

5 Definitions

In this Determination:

Act means the *Do Not Call Register Act 2006*.

information to be provided to the access-seeker means the information to be provided to the access-seeker under subsection 19(2) of the Act.

Note: A number of other expressions used in this Determination are defined in the Act, including the following:

- (a) *Australian number*; and
- (b) *contracted service provider*.

terms and conditions means the terms and conditions referred to in subsection 7(4) of this Determination.

6 References to other instruments or writing

In this Determination, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument or writing is a reference to that other instrument or writing as in force from time to time.

Section 6

- Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.
- Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Part 2—Access to the Do Not Call Register

7 Manner in which submission under section 19 of the Act is to be made

- (1) For paragraph 20(1)(a) of the Act, this section explains how a list of Australian numbers is to be submitted to the ACMA or the contracted service provider under subsection 19(1) of the Act.

Note: The list is confined to Australian numbers. It must not contain other information.

- (2) Each number included on the list must:
- (a) be no longer than 10 digits long and start with a one or a zero; or
 - (b) be 11 digits long and start with a six followed immediately by a one.
- (3) An access-seeker must register with the ACMA, by completing the registration procedure approved by the ACMA and published on the website of the ACMA or the contracted service provider, before being eligible to submit a list of Australian numbers under this section.

Note: The website of the ACMA is www.acma.gov.au. The website of the contracted service provider is www.donotcall.gov.au.

- (4) An access-seeker that is registered under subsection (3) must comply with such terms and conditions approved by the ACMA specified:
- (a) on the ACMA's website; or
 - (b) if the Do Not Call Register is kept by a contracted service provider – on the website of the contracted service provider.

Note: The website of the ACMA is www.acma.gov.au. The website of the contracted service provider is www.donotcall.gov.au.

- (5) If an access-seeker's account becomes inactive as defined in the terms and conditions, the ACMA may deregister or suspend an access-seeker in accordance with the procedures set out in the terms and conditions.
- (6) An access-seeker that is registered under subsection (3) may submit a list by uploading the list via a secure path in Comma Separated Variable (*CSV*) format, available:
- (a) on the ACMA's website; or
 - (b) if the Do Not Call Register is kept by a contracted service provider – on the website of the contracted service provider.

Note: The website of the ACMA is www.acma.gov.au. The website of the contracted service provider is www.donotcall.gov.au.

- (7) An access-seeker that is registered under subsection (3) may submit a list by entering up to 10 of the numbers in the list at a time on a facility located:
- (a) on the ACMA's website; or
 - (b) if the Do Not Call Register is kept by a contracted service provider – on the website of the contracted service provider;
- in accordance with arrangements approved by the ACMA and published:

- (c) on the ACMA's website; or
- (d) if the Do Not Call Register is kept by a contracted service provider – on the website of the contracted service provider.

Note 1: The access-seeker is not limited as to the number of times it may repeat this process. The arrangements approved by the ACMA will explain the way in which the series of entries will be treated as one list.

Note 2: The website of the ACMA is www.acma.gov.au. The website of the contracted service provider is www.donotcall.gov.au.

- (8) An access-seeker that is registered under subsection (3) may submit a list in another manner that is approved by the ACMA and specified:
 - (a) on the ACMA's website; or
 - (b) if the Do Not Call Register is kept by a contracted service provider – on the website of the contracted service provider.

Note 1: Sections 11 and 12B of the Act, and the *Do Not Call Register Regulations 2017*, relate to obligations relating to making telemarketing calls and sending marketing faxes to Australian numbers that are registered on the Do Not Call Register.

Note 2: Under subsection 19(2) of the Act, a fee may be payable in relation to the submission of a list of Australian numbers. That fee is set by the *Do Not Call Register (Access Fees) Determination 2017*.

- (9) An access-seeker may not submit a list in any other way.

8 Informing access-seekers about numbers registered or not registered on the Do Not Call Register

- (1) For paragraph 20(1)(b) of the Act, this section explains how the ACMA or the contracted service provider may provide to an access-seeker, under paragraphs 19(2)(d), 19(2)(e) and 19(2)(f) of the Act, the information to be provided to the access-seeker.
- (2) If the access-seeker submitted the access-seeker's list in accordance with paragraph 7(6)(a), the ACMA must inform the access-seeker by making the information to be provided to the access-seeker available for download on a secure path in CSV format from the ACMA's website.
- (3) If the access-seeker submitted the access-seeker's list in accordance with paragraph 7(6)(b), the contracted service provider must inform the access-seeker by making the information to be provided to the access-seeker available for download on a secure path in CSV format from the contracted service provider's website.
- (4) If the access-seeker submitted the access-seeker's list by entering numbers on a facility on a website in accordance with paragraph 7(7)(a), the ACMA must inform the access-seeker by displaying the information to be provided to the access-seeker on the ACMA's website as soon as practicable after the numbers are entered.

Note: The expression *information to be provided to the access-seeker* is defined in section 5 of this Determination.

- (5) If the access-seeker submitted the access-seeker's list by entering numbers on a facility on a website in accordance with paragraph 7(7)(b), the contracted service provider must inform the access-seeker by displaying the information to be provided to the access-seeker on the contracted service provider's website as soon as practicable after the numbers are entered.

Note: The expression *information to be provided to the access-seeker* is defined in section 5 of this Determination.

- (6) If the access-seeker submitted the access-seeker's list in accordance with paragraph 7(8)(a), the ACMA must inform the access-seeker in:
- (a) the manner specified in subsection (2); or
 - (b) another manner that is:
 - (i) approved by the ACMA; and
 - (ii) specified on the ACMA's website.
- (7) If the access-seeker submitted the access-seeker's list in accordance with paragraph 7(8)(b), the contracted service provider must inform the access-seeker in:
- (a) the manner specified in subsection (3); or
 - (b) another manner that is:
 - (i) approved by the ACMA; and
 - (ii) specified on the contracted service provider's website.

9 Return of list

- (1) If an access-seeker submits the access-seeker's list in accordance with section 7, the party to whom the list was submitted must 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 purported numbers (if any) have not been treated as Australian numbers.

Note: A purported number may not be treated as an Australian number for the purposes of registration:

- (a) because it does not meet the specifications in subsection 7(2); or
 - (b) because the information that relates to the purported number shows that it is not an Australian number; or
 - (c) for another reason.
- (2) A person who is obliged to return a list under section 8 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 Australian numbers that the access-seeker submitted;
 - (c) the total number of Australian numbers on the list submitted that were registered at the time the list was checked against the Do Not Call Register;
 - (d) the total number of Australian numbers on the lists submitted that were not registered at the time the list was checked against the Do Not Call Register;
 - (e) the total number of purported numbers that have not been treated as Australian numbers;

- (f) the date on which, and the time at which, the ACMA or the contracted service provider received the list from the access seeker;
- (g) the date on which, and the time at which the access-seeker was provided with information under section 8.

Part 3— Savings and Transitional Arrangements

10 Transitional - registration

Registrations in force under subsection 7(3) of the *Do Not Call Register (Access to Register) Determination 2007 (the old Determination)* immediately before the commencement of this Determination continue in force under subsection 7(3) of this Determination, and are subject to subsections 7(4) and (5) of this Determination.

11 Lists submitted under the old Determination, but not returned

- (1) A list that was submitted under subsection 4(4) of the old Determination, and which had not yet been responded to in accordance with subsection 5(2) and section 7 of the old Determination immediately prior to the commencement of this Determination, is to be treated as having been submitted under paragraph 7(6)(b) of this Determination.

Note: At the time of making this Determination, all lists are submitted via the contracted service provider's website. The website of the contracted service provider is www.donotcall.gov.au.

- (2) If a list was submitted under subsection 4(5) of the old Determination, and which had not yet been responded to in accordance with subsection 5(3) and section 7 of the old Determination immediately prior to the commencement of this Determination, the ACMA or the contracted service provider (as the case may be) must respond to the submitted list as though subsection 5(3) and section 7 of the old Determination still apply.

- (3) A list that was submitted under subsection 4(6) of the old Determination, and which had not yet been responded to in accordance with subsection 5(4) and section 7 of the old Determination immediately prior to the commencement of this Determination, is to be treated as having been submitted under paragraph 7(7)(b) of this Determination.

Note: At the time of making this Determination, all lists are submitted via the contracted service provider's website. The website of the contracted service provider is www.donotcall.gov.au.

- (4) A list that was submitted under subsection 4(7) of the old Determination, and which had not yet been responded to in accordance with subsection 5(5) and section 7 of the old Determination immediately prior to the commencement of this Determination, is to be treated as having been submitted under paragraph 7(8)(b) of this Determination.

Note: At the time of making this Determination, all lists are submitted via the contracted service provider's website. The website of the contracted service provider is www.donotcall.gov.au.