Do Not Call Register (Administration and Operation) Determination 2017

The Australian Communications and Media Authority makes the following Determination under subsection 18(1) of the *Do Not Call Register Act 2006*.

Dated: 8 September 2017

Richard Bean
[signed]
Member

James Cameron
[signed]
Member/~~General Manager~~

Australian Communications and Media Authority

Part 1 - Preliminary

1   Name of Determination

This is the *Do Not Call Register (Administration and Operation) 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 18(1) of the *Do Not Call Register Act 2006*.

4   Repeal of the *Do Not Call Register (Administration and Operation) Determination 2007*

The *Do Not Call Register (Administration and Operation) Determination 2007* (F2007L01220) is repealed.

5   Definitions

In this Determination:

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

bulk application means an application in respect of 21 or more Australian numbers submitted at the same time by the same applicant.

fax number means an Australian number which is used or maintained exclusively for transmitting and/or receiving faxes.

> Note: A number of other expressions used in this Determination have the meanings given by section 4 of the Act, including the following:
>   (a)   ACMA
>   (b)   Australian number
>   (c)   contracted service provider
>   (d)   Do Not Call Register
>   (e)   emergency service number
>   (f)   fax
>   (g)   government body
>   (h)   nominee
>   (i)   relevant account-holder.

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 instrument or writing as in force from time to time.

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 – Administration and operation of the Do Not Call Register

7 Applications for registration and applications to check entries on the Do Not Call Register

(1) A relevant account-holder, or a nominee of a relevant account-holder, may apply in accordance with the Act to register an Australian number on the Do Not Call Register, and may apply to access the Do Not Call Register to check whether a number of the relevant account-holder has been registered.

(2) Subject to subsections (3), (4), (5), (6) and (7), an application by a relevant account-holder or a nominee of a relevant account-holder to register an Australian number on the Do Not Call Register, or an application by a relevant account-holder or a nominee of a relevant account-holder to check an entry on the Do Not Call Register, may be made using the following application methods:

   (a) by telephone; or

   (b) via the internet; or

   (c) by post; or

   (d) by fax; or

   (e) by e-mail; or

   (f) in any other way approved by the ACMA and specified:

      (i) on the ACMA's website; or

      (ii) 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.

(3) A relevant account-holder may only apply to register a fax number by telephone, or to check an entry relating to a fax number by telephone if the ACMA so approves that method in respect of such applications and that approval is 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.

(4) A bulk application by a relevant account-holder to register Australian numbers, or to check entries on the Do Not Call Register, may only be made by telephone, post, fax or e-mail if the ACMA so approves that method in respect of such applications and that approval is 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.

(5) Unless the nominee is making a bulk application, a nominee of a relevant account-holder may only apply to register an Australian number, or to check an entry on the Do Not Call Register, by telephone or via the internet, if the ACMA so approves that method in respect of such applications and that approval is 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.

(6) If a nominee is making a bulk application to register Australian numbers on the Do Not Call Register, or to check entries on the Do Not Call Register, the nominee may only do so by telephone, post, fax or e-mail if the ACMA so approves that method in respect of such applications and that approval is 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.

(7) An application by a relevant account-holder, or nominee of a relevant account-holder, to register an Australian number on the Do Not Call Register, or to check an entry on the Do Not Call Register, using any of the application methods set out in this section, must be made in accordance with any written procedure approved by the ACMA and include any information reasonably required by the ACMA as 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.

(8) Following an application to register an Australian number made in accordance with this Determination, the ACMA or the contracted service provider must enter the Australian number(s) sought to be registered, including the area code, if any, on the Do Not Call Register.

> Note 1: The ACMA or the contracted service provider is not required to obtain confirmation of intention to register an Australian number, before registering that Australian number on the Do Not Call Register.
>
> Note 2: The ACMA and the contracted service provider (if any) are both bound by the *Privacy Act 1988*.
>
> Note 3: No fee is payable for registration.
>
> Note 4: Giving false or misleading information may be an offence under section 137.1 of the *Criminal Code*.

(9) Following an application made in accordance with this Determination to check an entry on the Do Not Call Register, the ACMA or the contracted service provider must advise the applicant as soon as practicable, whether the number(s) sought to be checked is registered on the Do Not Call Register.

> Note 1: The ACMA and the contracted service provider (if any) are both bound by the *Privacy Act 1988*.

Note 2:   No fee is payable for accessing the Do Not Call Register to check whether a number has been registered.

Note 3:   Giving false or misleading information may be an offence under section 137.1 of the *Criminal Code*.

8   Applications for correction of entries made on the Do Not Call Register

(1) A relevant account-holder, or nominee of a relevant account-holder, may apply to correct an entry relating to a number of the relevant account-holder on the Do Not Call Register.

(2) Subject to subsections (3), (4) and (5), an application by a relevant account-holder, or nominee of a relevant account-holder, to correct an entry on the Do Not Call Register may be made using the following application methods:
    (a) by telephone; or
    (b) via the internet; or
    (c) by post; or
    (d) by fax; or
    (e) by e-mail; or
    (f) in any other way approved by the ACMA and specified:
        (i) on the ACMA's website; or
        (ii) if the Do Not Call Register is kept by a contracted service provider – on the website of the contracted service provider.

(3) Unless the application is a bulk application, a relevant account-holder, or nominee of a relevant account-holder, may only apply to correct an entry by telephone or via the internet if the ACMA so approves such a method in respect of such applications and that approval is 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.

(4) If the application is a bulk application, a relevant account-holder, or nominee of a relevant account-holder, may only apply to correct entries by telephone, post, fax or e-mail if the ACMA so approves such a method in respect of such applications and that approval is 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.

(5) An application by a relevant-account holder, or nominee of a relevant account-holder, to correct an entry on the Do Not Call Register, using any of the application methods set out in this section, must be made in accordance with any written procedure approved by the ACMA and include any information reasonably required by the ACMA as 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:   The ACMA or the contracted service provider is not required to obtain confirmation of
intention to correct an entry, before correcting that entry on the Do Not Call Register.

Note 2:   The ACMA and the contracted service provider (if any) are both bound by the *Privacy
Act 1988*.

Note 3:   No fee is payable for correction of the Do Not Call Register.

Note 4:   Giving false or misleading information may be an offence under section 137.1 of the
Criminal Code.

9   Correction of the Do Not Call Register

(1) The ACMA or the contracted service provider may check the correctness
of an entry on the Do Not Call Register at any time, and must do so if it
receives an application under section 8 in relation to that entry.

(2) If the ACMA or the contracted service provider determines that an entry
on the Do Not Call Register is incorrect, the ACMA or the contracted
service provider must:

(a) before any correction is made, make reasonable efforts to inform the
person identified by the ACMA or the contracted service provider as
the relevant account-holder for the number associated with the entry
that the entry is to be corrected; and

(b) correct the entry.

10   Applications for removal of entries from the Do Not Call Register

(1) A relevant account-holder, or nominee of a relevant account-holder, may
apply to remove an entry for a number of the relevant account holder from
the Do Not Call Register.

(2) Subject to subsections (3), (4), (5), (6) and (7), an application by a
relevant account-holder, or nominee of a relevant account-holder, to
remove an entry on the Do Not Call Register may be made using the
following application methods:

(a) by telephone; or

(b) via the internet; or

(c) by post; or

(d) by fax; or

(e) by e-mail; or

(f) in any other way approved by the ACMA and specified:

(i)   on the ACMA's website; or

(ii) if the Do Not Call Register is kept by a contracted service
provider – on the website of the contracted service provider.

(3) Where an application is not a bulk application, and does not relate to a fax number, a relevant account-holder may only apply to remove an entry via the internet if the ACMA so approves such a method in respect of such applications and that approval is 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.

(4) Where an application is not a bulk application, and relates to a fax number, a relevant account-holder may only apply to remove an entry by telephone or via the internet if the ACMA so approves such a method in respect of such applications and that approval is 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.

(5) Where an application is not a bulk application, a nominee of a relevant account-holder may only apply to remove an entry by telephone or via the internet if the ACMA so approves such a method in respect of such applications and that approval is 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.

(6) If a relevant account-holder or nominee of a relevant account-holder is making a bulk application to remove entries from the Do Not Call Register, the relevant account-holder or nominee may only do so by telephone, post, fax or e-mail if the ACMA so approves such a method in respect of such applications and that approval is 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.

(7) An application by a relevant-account holder or nominee of a relevant account-holder to remove an entry from the Do Not Call Register, using any of the application methods set out in this section, must be made in accordance with any written procedure approved by the ACMA and include any information reasonably required by the ACMA as 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.

(8) Following an application made in accordance with this section, the ACMA or the contracted service provider must remove the entry from the Do Not Call Register.

Note 1:   The ACMA or the contracted service provider is not required to obtain confirmation of intention to remove a number, before removing that number from the Do Not Call Register.

Note 2:   The ACMA and the contracted service provider (if any) are both bound by the *Privacy Act 1988*.

Note 3:   No fee is payable for removal of a number from the Do Not Call Register.

Note 4:   Giving false or misleading information may be an offence under section 137.1 of the *Criminal Code*.

11   Removal of ineligible numbers from the Do Not Call Register

(1) The ACMA must remove, or require the contracted service provider to remove, an entry from the Do Not Call Register if the ACMA is satisfied that:

(a) the number associated with that entry is not eligible to be entered on the Do Not Call Register; or

(b) the person who applied to register the number associated with that entry was not eligible, under section 15 of the Act, to register the number on the Do Not Call Register.

(2) Before removing an entry from the Do Not Call Register under subsection (1), the ACMA or the contracted service provider must make reasonable efforts to inform the person identified by the ACMA or the contracted service provider as the relevant account-holder for the number associated with the entry that the entry is to be removed from the Do Not Call Register.

12   Handling of complaints when the Do Not Call Register is kept by a contracted service provider

(1) This section applies if the Do Not Call Register is kept by a contracted service provider.

(2) The contracted service provider must deal with complaints and enquiries about the administration and operation of the Do Not Call Register.

(3) The contracted service provider must refer to the ACMA any complaints about a breach of:

(a) the Act; or

(b) any regulations made under the Act; or

(c) any code made, or standard registered, under the *Telecommunications Act 1997* that relates to the Do Not Call Register.