

Telemarketing Regulations - CANADA

as per the Canadian Radio-television Telecommunications Commission

National Do Not Call List checklist

If you engage in telemarketing for the purpose of solicitation, or hire an agency to do so for you, then you must subscribe to the List. Remember:

- Non-compliance can result in significant financial penalties-so be sure you understand your responsibilities fully before September 30, 2008.
- You are responsible for making sure any numbers you call are not registered on the National DNCL.
- If you think your calls may be among those exempted from the List, refer to the full details on exemptions at <http://www.LNNTTE-DNCL.gc.ca>.
- The National DNCL does not eliminate your responsibility to maintain your own do not call list.
- Every call made to consumers must follow Canada's Unsolicited Telecommunications Rules.

Why a National Do Not Call List?

Many Canadian consumers have a strong desire to protect their privacy. The National Do Not Call List (DNCL) helps them do so by preventing unwanted telemarketing calls. Consumers must sign up to have their cellular, home phone or fax numbers included on the National DNCL, and must renew their registration every three years. Once consumers register to be on the National DNCL, their information is added within 24 hours. For each new registration, telemarketers have a 31-day grace period to update their own calling lists.

Do all telemarketers have to subscribe to the National DNCL?

As of September 30, 2008, subscription is mandatory by law for every organization engaged in telemarketing, including those who hire a third party to make calls for them. In addition, telemarketers must make sure their own calling lists are current and accurately capture the information in the National DNCL, which is updated continually.

Are any organizations not required to subscribe?

Many kinds of calls are exempted from the National DNCL-those for charitable donations, political parties, public-opinion surveys and calls for newspaper subscriptions, for example. As well, if an organization has done business with a consumer in the last 18 months, it is free to call that individual even if he or she has registered their number on the National DNCL. Once 18 months have passed since the last transaction, however, this expires unless the consumer consents to further calls. Importantly, organizations making exempted calls often also make calls that do fall under the National DNCL, and in those cases they must subscribe. It's not the organization but rather the type of call that is either exempt or not. Learn more about exemptions by reading Telecom Decision CRTC 2007-48.

How do I subscribe?

As of September 30, 2008, go to <http://www.LNNTTE-DNCL.gc.ca> and register your organization. You may subscribe to the complete List or just to the area codes of regions where you wish to conduct business; you may choose to download updates daily, annually or at another interval of your choosing. The subscription models are flexible, and your fees will depend on the specifics of the one you choose.

Do I need to maintain my own do not call list?

Yes. Even if you are making exempt calls based on a business relationship, the consumer can ask not to be contacted-at which time you must add their number to your own do not call list. According to Canada's Unsolicited Telecommunications Rules, you are obligated to respect the consumer's wishes and maintain your own do not call list.

What are the Unsolicited Telecommunications Rules?

The CRTC has had rules governing unsolicited telecommunications since 1984. These remain in effect in addition to the National DNCL-with new enhancements coming into force on September 30, 2008. The Unsolicited Telecommunications Rules include time-of-day restrictions, calling protocols such as informing consumers who you are and why you're calling, and also cover the use of Automatic Dialing and Announcing Devices. You can find the full set of rules at <http://www.LNNTTE-DNCL.gc.ca>.

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What are the consequences if I don't comply?

Under the National DNCL, the CRTC has new enforcement powers and can penalize telemarketers found to be in violation of the National Do Not Call List legislation or the Unsolicited Telecommunications Rules. Penalties of up to \$1,500 for an individual and up to \$15,000 for a corporation per infraction may be levied. If you are able to show that you exercised due diligence to prevent the violation, the judgment may be overturned. You are also entitled to take your case to the Federal Court. For more information on the appeal process, you can download *Telecom Decision CRTC 2007-48* at <http://www.LNNTÉ-DNCL.gc.ca>.

How to subscribe <http://www.LNNTÉ-DNCL.gc.ca>.

Key Differences between the Canadian and American Regulations

The Canadian Do Not Call list was originally modeled after the American version. Generally, the two bills are similar. If you're making calls in Canada, here are some similarities in the Canadian Do Not Call list laws:

The "Existing Business Relationship" clause. Like the American version, the Canadian Do Not Call list includes an exemption for an "existing business relationship" (EBR). According to Canadian Do Not Call list law, you have an EBR with anyone who has bought, leased, or rented anything from your company in the last 18 months, or who has made an inquiry in the last six months.

The exceptions. Organizations unaffected by the Canadian Do Not Call list include nonprofits, polling companies, and politicians. Originally, Canadian consumer-advocacy groups objected to the exceptions in the Canadian Do Not Call list. However, they mostly mirrored those in the United States, and pressure from advocacy groups was not enough to remove them from the Canadian Do Not Call list.

In-house do-not-call. If your company is calling Canadian numbers, you must maintain an in-house do not call list. If you call a number not on the Canadian Do Not Call list, and that person asks not to be called again, their number is now off-limits. This requirement applies to organizations that are not affected by the Canadian Do Not Call list as well.

You're responsible for your telemarketing firm's compliance. If you outsource your calling campaign to an outside telemarketing firm, you are responsible for their compliance-and your business could wind up paying if they violate Canadian Do Not Call list rules. If you're calling in Canada, you must make sure your telemarketing firm is familiar with the Canadian Do Not Call list rules.

The Canadian Do Not Call list, however, is not a mirror image of the American. Here are the significant differences:

Newspapers can call. With the Canadian Do Not Call list, there is an exception for newspapers calling to solicit subscriptions. The Canadian government argues that newspapers deserve an exception because they are vital to the public discourse in their country.

The EBR time window. The Canadian Do Not Call list gives you twice the amount of time to contact someone who has made an inquiry with your business. In America, the window is three months-but the Canadian Do Not Call list gives you six months. This makes it important, if you're making calls in Canada, to keep track of whom you've had contact with and when.

Your telemarketing script. The Canadian Do Not Call list requires you to disclose the purpose of your call, and the company or individual on whose behalf you're calling, right away. Companies calling in Canada must make sure their telemarketing team have an appropriate script to satisfy Canadian Do Not Call list requirements.