



## National DO NOT CALL LIST (DNCL) and Canadian Charities

By Mark Blumberg (September 30, 2008)

Canadians love to be interrupted when they are having dinner with their family by a telemarketer. After all following a long day at work, they really do not want to hang out with their family anyway!

Charities may not be aware of September 30, 2008. Today is the day that millions of Canadians have been anxiously awaiting. September 30, 2008 the National Do Not Call List will begin. Canadians who do not wish to receive calls from telemarketers will be able to call 1-866-580-DNCL (1-866-580-3625) or visit <http://www.lnnte-dncl.gc.ca/index-eng.html> and add their name to the National Do Not Call List.

Under section 41.7 of the Telecommunications Act, the National DNCL Rules do not apply to a Canadian registered charity. So why should a charity care?

Here are my top 6 reasons why a registered charity should be following and concerned with new telecommunication rules:

- 1) **Charities may be considered telemarketers.** Charities are considered to be telemarketers if they make calls or send faxes to sell or promote a product or service, or to request donations. As well, if a charity hires a contractor to make the calls then the charity and agency must follow the Unsolicited Telecommunications Rules.  
(<http://www.crtc.gc.ca/archive/ENG/Decisions/2008/dt2008-6.htm#m1>)
- 2) **Registration.** Charities, even if they are only making exempt calls or sending exempt faxes, according to the CRTC must still register with the National DNCL at [www.LNTE-DNCL.gc.ca](http://www.LNTE-DNCL.gc.ca) or <https://www.lnnte-dncl.gc.ca/ind/insorg-regorg-eng>. It is a free registration. According to the CRTC, a charity "does not have to

purchase a subscription to, or download, the National DNCL if you only make calls and faxes that are exempted”. But you still have to register. They say it takes about 10 minutes if you have all the information that is required.

- 3) **Canadians may assume charities must comply with the DNCL.** Yes, ignorance of the finer points of this legislation may be costly for charities if donors think that the charity is calling them in contravention of the rules. The charity may not be fined, but it may lose donors and it may hurt good will. Charities need to understand the rules so that they can explain them. Charities had better be careful who they call – or they could suffer a backlash because some donors will assume that charities should not be calling them.
- 4) **Private Charity Do Not Call List.** Although registered charities are exempt for the National DNCL, individuals can specifically request that a charity remove them from their list. The charity should maintain its own private DNCL and comply with that request. If a person asks not to be contacted, you have 31 days to add them to your private DNCL and not call them thereafter. Charities need to maintain that database and work diligently to avoid people who have asked not to be called. The private DNCL must be up to date and also include home, cell and fax numbers if requested. Many charities have systems in place to record donor preferences; others will need to implement systems.
- 5) **Charities must comply with Telemarketing Rules.** Charities need to comply with the Telemarketing rules about times of day you can call etc. See [Telemarketing Rules](#). For example, you can only make calls and send faxes at certain times of the day, and you must identify yourself at the beginning of every call. You must be registered irrespective of whether you are exempt. A charity or telemarketer making a call **must provide** the following according to the CRTC:

(a) the name or fictitious name of the individual making the telecommunication;

(b) the name of the telemarketer, whether the telemarketing telecommunication is made on its own behalf or on behalf of a client of the telemarketer; and

(c) the name of the client, when the telemarketing telecommunication is being made on behalf of a client of the telemarketer.

As well **if requested** the charity or telemarketer has to provide:

(a) a voice telecommunications number that allows access to an employee or other representative of the telemarketer for the purpose of asking questions, making comments about the telemarketing telecommunication, or making or verifying a “do not call” request; and

(b) the name and address of an employee or other representative of the telemarketer to whom the consumer can write for the purpose of asking

questions, making comments about the telemarketing telecommunication, or making or verifying a “do not call” request.

- 6) **Violation of CRTC rules is contrary to public policy and may result in revocation.** Just a reminder that CRA takes the position in its recently released Fundraising Policy consultation: “Making a fundraising solicitation that does not comply with Canadian Radio television and Telecommunications Commission directives, the Commission's telemarketing rules, or other established government policy may be considered contrary to public policy and is also prohibited.” Just a reminder that prohibited activities can result in revocation of your charitable status.

Some important exceptions:

- The National DNCL Rules do not apply to calls and faxes to businesses.
- As well, it does not apply to a person if there is an "existing business relationship" and the person has not put their name on the DNCL.
- Political parties, general circulation newspapers, polling companies are also exempted from the National DNCL. The Telemarketing Rules also do not apply to calls made solely for emergencies and debt collection.

### **Consequences of Non-Compliance**

As of September 30, 2008, the CRTC can levy penalties. For an individual this can be up to \$1,500 for each violation. For a corporation this can be up to \$15,000 for each violation.

Charities need to ensure that they carefully consider whether their actions and fundraising contracts with telemarketers are consistent with the obligations discussed in this article. As well with the contracts they should also be vetted in terms of the CRA's fundraising guidelines. The real consequence for not complying with the letter and spirit of the rules is that a charity could cause a backlash against itself and the rest of the charity sector if they are not careful and considerate in dealing with this issue that many Canadians are concerned with.

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