



# Real estate industry targeted in anti-spam and Do Not Call Register education initiative

Members of the real estate industry have been put on notice by ACMA with an awareness campaign aimed at raising the industry's understanding of, and compliance with, the *Spam Act 2003* (the Spam Act) and the *Do Not Call Register Act 2006* (the DNCR Act).

The campaign is being conducted in response to consumer complaints to ACMA about unwelcome telephone, SMS and email marketing by real estate agents.

'The Spam and Do Not Call Register Acts are in place to protect consumers,' said Grant Symons, Executive Manager of ACMA's Converging Services Branch. 'Real estate agents should respect consumers' rights and make sure that they direct their telephone and electronic marketing only to those who wish to receive it.'

'It is important that real estate agents understand that much of their marketing activity may be subject to these two acts. This campaign will provide members of the real estate industry with the information they need to review current practices and ensure that their future telephone and electronic marketing activities are fully compliant,' Mr Symons said.

ACMA has already received a positive response to this initiative from leading bodies in the real estate industry—the national and state real estate institutes and major real estate franchisors—many of whom have offered their support through endorsing industry information sessions.

ACMA will continue to monitor complaints against members of the real estate industry. Individual businesses that give rise to complaints may be subject to a full investigation and penalties, including pecuniary penalties.

## The Spam Act

The Spam Act regulates unsolicited commercial electronic messaging in Australia. These may be emails or SMS, MMS, instant messaging or any other similar messages.

Under the Spam Act, a commercial electronic message must have all of the following features:

- **Consent.** It must be sent with the recipient's consent, whether express or inferred from their conduct and existing business or other relationships.

- **Identification.** It must give accurate information about the person or organisation that authorised the sending of the message.
- **Unsubscribe facility.** It must have a functional 'unsubscribe' facility to allow the recipient to opt out from receiving messages from that source in the future.

## The DNCR Act

Under the DNCR Act, individuals can list their Australian fixed line or mobile telephone numbers on the Do Not Call Register, provided those numbers are used primarily for private or domestic purposes (for example, calls to family and friends).

**This campaign will provide the real estate industry with the information it needs to review current practices and ensure that its future telephone and electronic marketing activities are fully compliant.**

To register a number is to opt out of receiving a wide range of unsolicited telemarketing calls. Registrations are valid for three years, and can be withdrawn at any time. To register, consumers can go to [www.donotcall.gov.au](http://www.donotcall.gov.au) or phone **1300 792 958**.

From 31 May 2007 it became unlawful, in the absence of consent, for any telemarketer in Australia or overseas to make non-exempt telemarketing calls to a number listed on the register. ACMA is responsible for overseeing the operation of the register and for investigating breaches of Do

Not Call legislation, including the DNCR Act and the Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007.

## Penalties

Both the Spam Act and the DNCR Act provide ACMA with a range of enforcement options, including:

- issuing a formal warning
- accepting enforceable undertakings
- issuing an infringement notice, which specifies a financial penalty
- commencing proceedings in the Federal Court or Federal Magistrates Court.

Further information about the Spam Act and DNCR Act, including information sheets for the real estate industry, is available at [www.spam.acma.gov.au](http://www.spam.acma.gov.au) and [www.donotcall.gov.au](http://www.donotcall.gov.au).

ACMA will hold information sessions about the two acts according to regional demand. Members of the real estate industry interested in attending a presentation in their region should contact [kate.redman@acma.gov.au](mailto:kate.redman@acma.gov.au).