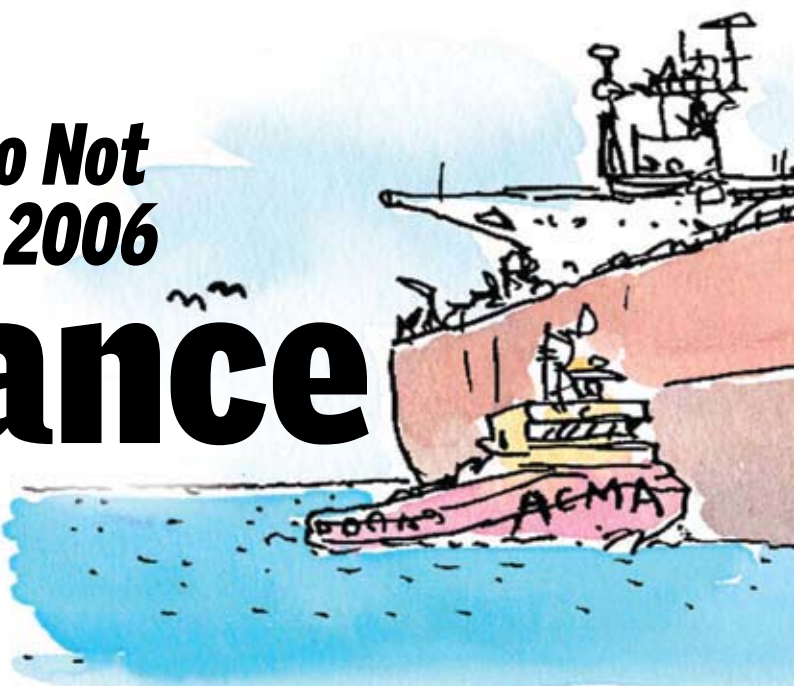


# ACMA releases *Do Not Call Register Act 2006* Compliance Guide



ACMA has produced a compliance guide to help telemarketers comply with the *Do Not Call Register Act 2006* (DNCR Act).

ACMA developed the *Do Not Call Register Act 2006 Compliance Guide* through consultation with telemarketers who have implemented thorough and effective compliance systems, as well as information collected under ACMA's investigations into non-compliance.

Put simply, ACMA has looked to industry for what *does* work, and has observed through its investigations what *doesn't* work.

The compliance guide complements the range of education and enforcement activities ACMA has undertaken since the DNCR Act took effect to make telemarketers aware of their obligations under the legislation. Grant Symons, Executive Manager of ACMA's Converging Services Branch, believes that the guide will play a key role in enhancing industry compliance with the DNCR Act: 'People place their numbers on the register to reduce the unwanted telemarketing calls they receive, and it is ACMA's job to make sure that happens. This compliance guide is a one-stop shop for complying with the DNCR Act. It encourages telemarketers to aim for best practice, and tells them precisely how they can go about achieving it.'

**PURPOSE**

The purpose of the compliance guide is to provide telemarketers with advice about measures they can take to comply with the requirements of the DNCR Act.

The guide is intended neither as a statement of things that telemarketers must do to comply with the DNCR Act nor as a listing of measures that, if applied, would necessarily ensure a

person's compliance. Its primary objective is to help telemarketers to meet their regulatory obligations under the DNCR Act, and thereby reduce the number of prohibited calls made to registered numbers.

The compliance guide was designed for use by participants across all segments of the telemarketing industry. Depending on the type of business they conduct, individual telemarketers may find some parts of the guide more relevant to their needs than other parts.

**WHO NEEDS TO COMPLY?**

Anyone involved either directly or indirectly in making telemarketing calls should be aware of their responsibilities under the DNCR Act, and have appropriate compliance arrangements in place.

It is important to note that the requirements of the DNCR Act apply to both a person who makes a call and a person who causes a call to be made.

A person who makes a call may be either:

- a business that makes its own calls
- a person (for example, a call centre) contracted by a business to make calls under a telemarketing agreement.

A person who causes a call to be made may be any person who enters into an agreement with another person under which the other person undertakes to make telemarketing calls or have its agents make telemarketing calls. For example:

- a business that contracts a call centre to make calls under a telemarketing agreement
- a business (Business A) that arranges

for one or more 'dealers' to market its products to consumers (for example, a telecommunications carrier or a supplier of holiday packages that arranges for a dealer to promote and sell its services in the market), including where the dealer in turn engages a call centre to actually make the calls

- a dealer that arranges for one or more other parties to market Business A's products to consumers, including where the other party in turn engages a call centre to actually make the calls.

**KEY COMPLIANCE ISSUES**

The compliance guide provides guidance about 10 key issues.

**1 Telemarketing agreements**

A 'telemarketing agreement' includes a contract, an arrangement or understanding under which a person undertakes to make telemarketing calls or have any of their employees or agents make telemarketing calls.

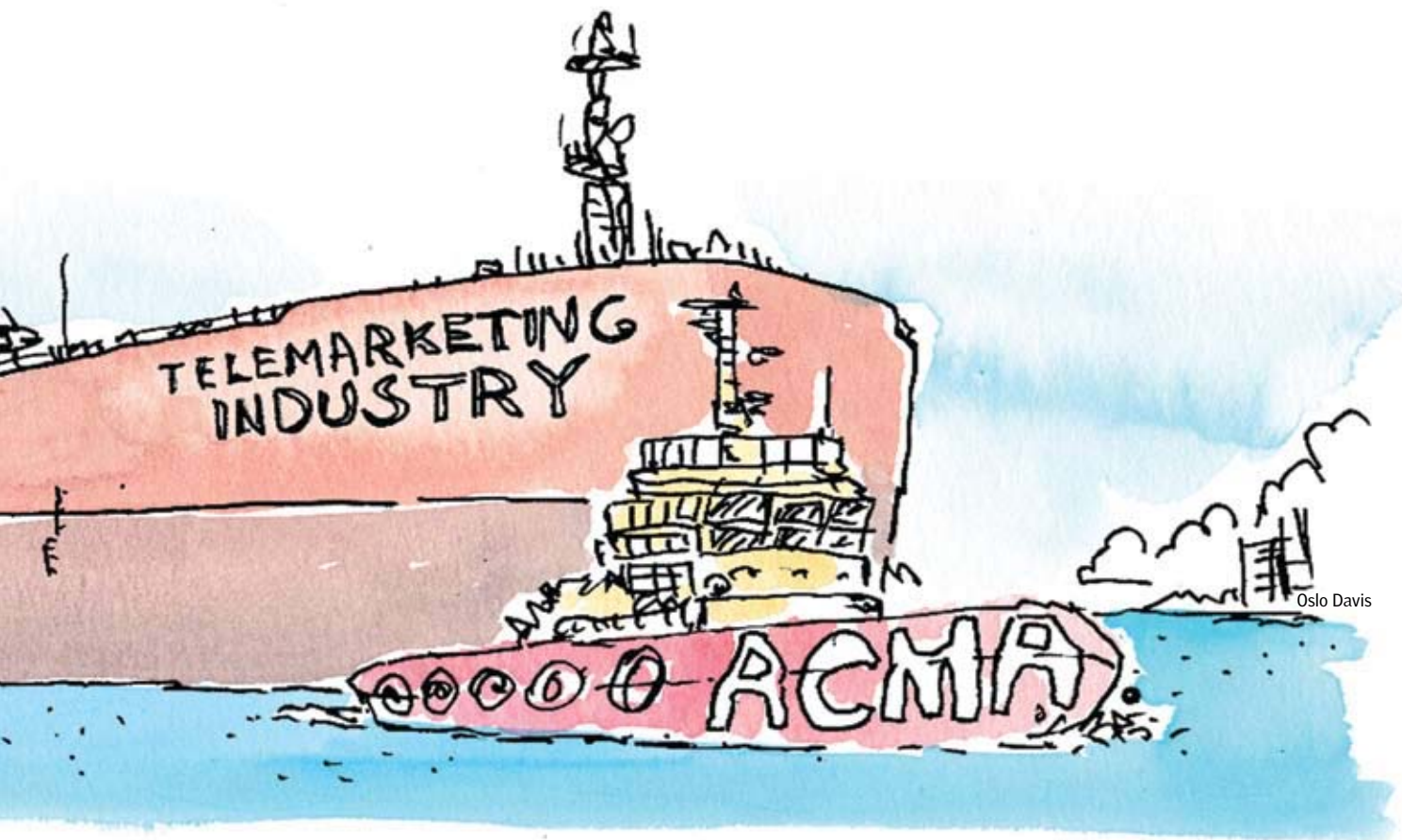
Telemarketing agreements are important because responsibility for telemarketing calls that contravene the DNCR Act rests with both the person who makes the calls and any other person with whom they enter into a telemarketing agreement.

The compliance guide helps telemarketers ensure that their agreements include all provisions necessary to require that each party to the agreement complies with the DNCR Act, and to make sure that the agreements are enforced.

**2 Washing calling lists: General guidance**

Washing calling lists against the register provides telemarketers with the best protection against calling registered numbers.

The information in the guide is intended to help telemarketers ensure that their calling lists remain in a valid washed state, and



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that the washing activity they perform is comprehensively documented.

### 3 Washing calling lists: Pre-washed lists

The compliance guide identifies risks associated with using calling lists obtained from another person (for example, a commercial supplier of consumer data) on the understanding that the lists have already been washed.

It also gives advice on how telemarketers can protect themselves against such risks.

### 4 Keeping records

Implementing and maintaining sound record-keeping practices is a good way to identify and resolve compliance problems and avoid repeating them. Good record-keeping also enables telemarketers to deal more effectively with consumer complaints and makes it less likely that consumers will complain about them to ACMA.

The compliance guide gives advice about the most useful information to record about each outgoing call, each calling campaign, each case of consent that is relied on to call a registered number, consumer 'opt-out' requests and consumer complaints.

### 5 Consent: Keeping internal 'opt-out' lists

If a consumer advises a telemarketer that he or she no longer wishes to receive telemarketing calls from that business, the telemarketer can no longer rely on any previous consent from the consumer to call them on a registered number.

The compliance guide gives advice about maintaining internal opt-out lists to record such requests, and how to make sure that consumers who have made such requests are not called.

### 6 Staff training

Ensuring that staff are thoroughly trained in relevant aspects of the DNCR Act enables telemarketers to maintain a positive, informed and professional image among consumers, and minimise the likelihood of consumers making

complaints to ACMA.

The compliance guide gives advice about which staff should be trained in particular aspects of the legislation, and how to assess the effectiveness of the training.

### 7 Handling internal complaints

Documenting procedures for receiving, resolving and recording consumer complaints helps telemarketers to maintain a responsive and professional image among consumers, by resolving their complaints promptly and efficiently, and to identify and respond to internal compliance problems as they arise.

The compliance guide gives advice about implementing effective complaints-handling procedures.

### 8 Calls returned to the calling line identification number

Consumers who cannot access helpful information when they return a call to the calling line identification (CLI) number associated with a missed call frequently make complaints to ACMA about having received a telemarketing call on a registered number.

The compliance guide gives advice about the benefits of providing helpful information to people who call a telemarketer's CLI number and the information to give to such callers.

### 9 Handling external complaints

When ACMA receives an initial complaint about a telemarketer, it usually contacts the telemarketer in writing to provide them with an opportunity to take whatever corrective action is necessary to ensure compliance.

The compliance guide gives advice about the steps that telemarketers can take when they receive such contact from ACMA in order to identify and resolve compliance problems quickly and prevent formal action by ACMA.

### 10 Overseas call centres

Calls made by overseas call centres on behalf of

Australian businesses account for a significant proportion of consumer complaints to ACMA about contraventions of the DNCR Act.

The compliance guide discusses the importance to Australian businesses that engage overseas call centres of adopting the practices it sets out, particularly those that relate to the content of telemarketing agreements.

### BENEFITS OF COMPLIANCE

Contraventions of the DNCR Act may incur a range of penalties, including formal warnings, injunctions and financial penalties of up to \$220,000 per day.

Telemarketers can also benefit from compliance by:

- upholding the public reputation of the telemarketing industry, that is, by demonstrating that the industry accepts and supports laws introduced in response to community concerns
- improving the focus of telemarketing campaigns, that is, by avoiding 'wasted' calls to consumers who are not likely to be receptive to telemarketing
- gaining a competitive advantage, that is, by helping call centres to attract telemarketing contracts through demonstrating sound compliance arrangements that will safeguard a client's reputation and liability.

### LAUNCH

ACMA will be launching the Do Not Call Register Act 2006 Compliance Guide at industry events during early July.

Following its launch, the compliance guide will be available on the Do Not Call Register website [www.donotcall.gov.au](http://www.donotcall.gov.au) and the ACMA website [www.acma.gov.au](http://www.acma.gov.au).

For further information about the compliance guide or launch events please email [DNCInvestigations@acma.gov.au](mailto:DNCInvestigations@acma.gov.au).