

March, 2013

CRTC Proceeding to Review its Unsolicited Telecommunications Rules:

Response to CMA Request for Expanded Use of Auto-Dialers

On March 20, 2013, the CRTC initiated a proceeding¹ to review its “Unsolicited Telecommunications Rules” (“UTRs”). Enacted in 2007, under the authority of the *Telecommunications Act*, the UTRs include the National Do Not Call List (“DNCL”) Rules, the Telemarketing Rules, and the Automatic Dialing-Announcing Device (“ADAD”) Rules. As a general matter, the CRTC reviews its policies and rules periodically, to ensure that they remain relevant.

In this case, there was an additional reason to initiate a review of the 2007 UTRs, an application filed by the Canadian Marketing Association (“CMA”) at the end of 2011, requesting changes to the ADAD Rules. As noted at paragraphs 12 to 15 of the call for comments, the CMA has asked that the ADAD Rules be revised to permit the use of ADADs, even where a consumer’s phone number is listed on the National DNC List, where there is “an existing business relationship” and where the consumer has not asked that his/her number be included on an internal DNC list. This change is predicated on the use of ADADs that support interactive features. The CMA’s December 6, 2011 application² is being made a part of this new CRTC proceeding.

As noted by the CRTC (paragraphs 5 and 7 of the call for comments), there are now over 11 million numbers listed on the National DNC List and the Commission has the benefit of over four years of experience with the UTRs. On the basis of this experience and the CMA application, it is now appropriate to review and seek public comment on the UTRs. One of the primary goals in this review proceeding is to ensure that the

¹ The regulatory proceeding was initiated by a call for comments, which is posted on the CRTC web site: <http://www.crtc.gc.ca/eng/archive/2013/2013-140.htm>.

² The CMA’s December 6, 2011 application is posted on the CRTC web site, at http://www.crtc.gc.ca/public/part1/2011/8662/c131_201115832/1647573.pdf.

CRTC's UTRs and its enforcement practices do not impose an undue administration burden on businesses. There is a special concern for the potential impact of any rule changes on small businesses.

Specific questions to be addressed by parties to the proceeding are included in the call for comments:

- Section 1, ADAD Rules (paragraph 17);
- Section II, Caller Name Display (paragraph 20);
- Section III, Record Keeping (paragraph 24);
- Section IV, Duration and Scope of a DNC Request (paragraph 28);
- Section V, Grace Period for a DNC Request (paragraph 32);
- Section VI, Application of the Telemarketing Rules Regarding Internal DNCL Requests to Telecommunications Whose Purpose is Not Solicitation (paragraph 35);
- Section VII, Business-to-Business Exemption (paragraph 39);
- Section VIII, Period of Validity of Contact Information (paragraph 42); and
- Additional Comments: para. 43.

If you wish to participate in this proceeding and file comments addressing any of the questions posed in the CRTC's call for comments, or provide any other comments, that work should be done during the month of April. The deadline to file comments is May 6, 2013. Comments relating to the submissions of other parties are due June 3, 2013 and final reply comments are due June 18, 2013.

Please address any questions about the CRTC's UTRs or any related matters to Carol Anne O'Brien at caob@caobrienlaw.com, or (416) 640-7270.

Carol Anne O'Brien's law practice is focused on regulatory matters including communications law (broadcasting and telecommunications), competition law, advertising and marketing, Internet domain names and privacy.
