

UNDERSTANDING THE DO NOT CALL REGISTER

FOR EVERY FITNESS BUSINESS OWNER OR MANAGER the issue of sales is a priority. Sales can obviously assume many guises, but telemarketing often plays an important role in growing membership at fitness facilities. For this reason, it is important to understand the basics of the Australian government's newly created Do Not Call Register (DNCR).

What is the Do Not Call Register?

The Do Not Call Register has been established to address concern regarding unsolicited telemarketing calls. An initiative of the Australian Government, it gives Australians the opportunity to opt out of receiving certain telemarketing calls.

It is administered by the Australian Communications and Media Authority (ACMA), the Department of Communications, IT and the Arts (DCITA), senior department advisers and the DNCR outsourced operator Service Stream Solutions Pty Ltd.

The legislative arrangements that establish the register include, among others:

- the *Do Not Call Register Act 2006* (Cth) (the Act), which establishes the register, outlines rules for making certain telemarketing calls and provides exceptions to the rules;
- the *Do Not Call Register Regulations 2006* (Cth) (the regulations), which specify the types of calls that are not telemarketing calls and the persons who are deemed to be nominees of a relevant account holder;
- the Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007 (the industry standard), which sets rules for people who make telemarketing and research calls, about when and how they can make certain calls.

The register and the new industry standard took effect on 31 May 2007, meaning that people can now list their home and mobile telephone numbers on the register provided that they are Australian numbers; used exclusively or primarily for private or domestic purposes and not used exclusively for faxes.

It is illegal for unsolicited telemarketing calls to be made to a number listed on the register unless the person has consented to being called, or the nature of the call is exempt under the Act or the regulations. Consent may also be inferred in the case of existing business relationships, although this consent may be withdrawn at any time. It is advisable to create your own in-house 'do not contact' list which holds details of everyone who has asked to be taken off your mailing, telephone, e-mail or fax lists. Any marketing campaign or

customer communication that you do should be 'washed' against this list.

The DNCR also applies to overseas businesses that make calls to Australian telephone numbers, and to Australian businesses that use overseas-based telemarketers to solicit sales. Your business may be fined up to \$110,000 if you are in any way involved, either knowingly or otherwise, in contravening the prohibition against calling a number on the register.

Does your business undertake telemarketing calls that are exempt from the DNCR Act?

Running a fitness business you probably won't find yourself exempt from the DNCR. However, a few types of telemarketing call are exempt, including those authorised by government bodies, religious organisations, charitable institutions, political parties, independent members of parliament and political candidates, and educational institutions in certain instances.

When is a call not a telemarketing call?

Some of the calls your business makes are not considered 'telemarketing', in which cases, the DNCR does not apply. These include product recalls, fault verifications, appointment rescheduling and reminders, calls relating to payments and solicited calls relating to orders, requests or customer enquiries.

If you aren't exempt then you need to comply with the new requirements

Any business that makes telemarketing calls (or has them made on its behalf) is affected by the new requirements. Most fitness businesses will fall into this category, undertaking telemarketing calls to prospects, and referrals.

To avoid falling foul of the requirements, you need to 'wash' your calling list against the register. You can do this by paying a fee and sending your lists to the register operator, Service Stream Solutions Pty Ltd, through the Telemarketer Access Portal or by posting in a CD-ROM.

B2B telemarketing lists must be washed too!

If your business calls other businesses then the DNCR affects you too. Although it appears that the DNCR was not set up with this intention, the Australian Direct Marketing Association (ADMA) has estimated that at least 50,000 business numbers are listed on the register, including some of Australia's top 500 companies.

Industry standards

The DNCR Act creates 'industry standards' setting minimum levels of conduct by all telemarketers and research callers. These standards cover:

- when telemarketing and research calls can not be made;
- information that must be provided during a telemarketing or research call;
- when calls must be terminated; and
- the use of calling line identification.

This means that a person making a telemarketing call must provide contact information, including their name or staff identifier, and outline the purpose of their call. They must also reveal, if asked, the source from which they obtained the telephone number. The caller must also terminate a call when asked and must ensure that calling line identification is enabled when they make a call.

CALLS MUST NOT BE MADE ON:

	Research calls	Telemarketing calls
Weekdays	before 9am or after 8:30 pm	before 9am or after 8pm
Saturday	before 9am or after 5pm	before 9am or after 5pm
Sunday	before 9am or after 5pm	Calls prohibited
National public holidays	Calls prohibited	Calls prohibited

If consent has been given by the call recipient in advance, then calls may be made during the prohibited period.

It is important to note that the industry standard applies to any businesses intending to make (or arranging for someone else to make) telemarketing or research calls, regardless of whether it is exempt from the Act.

Facts and figures

There are over 1.5 million numbers registered on the DNCR, and from an initial surge of 150,000 a week, registrations average 55,000 numbers a week.

More than 30 per cent of the numbers on the DNCR are for mobiles and approximately 20 per cent of fixed line numbers are in the (02) number range and 20 per cent in the (03) range.

The information above is not intended to be legal advice, and should be treated simply as information. For more information about the DNCR visit www.donotcall.gov.au or www.acma.gov.au or call the industry assistance line on 1300 785 749. ■

The online version of this article at www.fitnessnetwork.com.au contains references.



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References and further reading

www.donotcall.gov.au

www.acma.gov.au

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