



Do-Not-Call IMPROVEMENT ACT OF 2007

REPORT TO CONGRESS:
REGARDING THE ACCURACY
OF THE DO NOT CALL REGISTRY

FEDERAL TRADE COMMISSION
OCTOBER 2008



NATIONAL
DO NOT CALL
REGISTRY

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FEDERAL TRADE COMMISSION

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I. INTRODUCTION

On February 15, 2008, Congress passed the Do-Not-Call Improvement Act of 2007 (“2007 DNCIA”)¹. According to the 2007 DNCIA, the Federal Trade Commission (“FTC” or “Commission”) “shall periodically check telephone numbers registered on the national ‘do-not-call’ registry against national or other appropriate databases and [remove] from such registry those telephone numbers that have been disconnected and reassigned.” In addition, the 2007 DNCIA eliminated the automatic removal of numbers from the National Do-Not-Call Registry (“National Registry” or “Registry”) every five years. The 2007 DNCIA also mandates that, no later than nine months after the law’s enactment, the Commission submit a report describing the efforts it has taken to improve the accuracy of the Registry. This Report from the Commission describes the efforts taken to ensure the accuracy of the Registry and outlines the newly implemented procedure being used to remove reassigned numbers from the Registry.

II. OPERATION OF THE NATIONAL REGISTRY

On January 29, 2003, the FTC issued final amendments to the Telemarketing Sales Rule (“Amended TSR”), which, *inter alia*, established the National Do-Not-Call Registry.² The Registry permits consumers to express their preference not to receive certain telemarketing calls by placing their phone number(s) on a national registry via either a toll-free telephone call or the Internet. In the Statement of Basis and Purpose to the Amended TSR, the Commission discussed its plans for implementing the Registry, including its plans for maintaining the Registry’s accuracy on an ongoing basis.³

From its implementation and throughout the history of the Registry, the Commission has sought to balance the ease of use of the Registry with its accuracy. Consumers can register their telephone numbers through two simple methods: either by calling a toll-free number from the telephone number(s) they wish to register, or by using the Do-Not-Call website (<http://www.ftc.gov/donotcall>). The process is fully automated, takes only a few minutes, and requires consumers to provide minimal personally identifiable information.⁴ As of July 31, 2008, there were over 168 million numbers registered.

¹ Pub. L. No. 110-187, 122 Stat. 633 (2008).

² 16 C.F.R. Part 310.

³ Statement of Basis and Purpose for Final Amended Telemarketing Sales Rule (“SBP”), 68 Fed. Reg. 4580, 4638-4640 (Jan. 29, 2003).

⁴ In the case of registration by telephone, the only personal information provided is the telephone number to be registered. In the case of Internet registration, a consumer must provide, in addition to the telephone number(s) to be registered, a valid email address to which a confirmation email message can be sent. Once the confirmation is complete, however, the email address is encrypted and no longer used.

Consumers also have the ability to verify their registration status and to remove their number(s) from the Registry. As is the case for registering a phone number, verifying a registration can be done either over the phone, by calling the toll-free number from the registered telephone number, or over the Internet. However, to delete a registered phone number from the Registry, consumers must call from the number that they want to remove. Not allowing deletions to be done online helps maintain the accuracy of the Registry by ensuring that a consumer's phone number is not removed without the consumer's consent. As of July 31, 2008, 75,446 numbers had been deleted from the Registry by consumers since the inception of the National Registry, approximately 0.04% of the numbers currently registered.

Sellers and telemarketers have to update their call lists—that is, delete all numbers in the National Registry from their lists—at least every 31 days. Telemarketers and sellers can access the Registry numbers and pay the appropriate fee, if any, for that access through an Internet website dedicated to that purpose. The only information about consumers that companies receive from the National Registry is the registered telephone numbers. Those numbers are sorted and available for download by area code. Companies also may check a small number of telephone numbers at a time via interactive Internet pages.

Consumers who receive unwanted telemarketing calls can register a complaint either via a toll-free telephone number, using an interactive voice response system, or via the Internet. Law enforcement officials can review these complaints, as well as other data in the National Registry, including consumer registration information and telemarketer access information. Access to Registry data is provided to the law enforcement community through the Consumer Sentinel Network, a secure Internet website maintained by the FTC.⁵

III. EVALUATING THE REGISTRY'S ACCURACY

A. FEEDBACK REGARDING THE ACCURACY OF THE REGISTRY

During the comment period for the Amended TSR, numerous comments were submitted regarding ways to maintain the Registry's accuracy. Some commenters were concerned that consumers could be registered without their consent. The Commission addressed this issue by requiring that consumers call from the number they want to register or provide a verification email address if registering online. In addition, the Commission limited the number of registrations that could be done via each verification email address.⁶ Other concerns focused on

⁵ In addition to storing National Registry complaints and registry information, the Consumer Sentinel Network contains millions of consumer complaints, including fraud and identity theft complaints, that can be accessed by law enforcement officials on their desktops over a secure Internet connection.

⁶ SBP, 68 Fed. Reg. at 4639.

the method that would be used to remove numbers that were no longer accurately registered.⁷ These concerns were also addressed by the Commission through its plan to periodically purge disconnected or reassigned numbers from the Registry.⁸ In addition, the Commission provided a simple means for subscribers to remove their own numbers from the Registry.⁹

Early in the operation of the Registry, however, the Commission learned that relying on disconnect or reassignment data alone would result in many consumers' numbers being removed mistakenly from the Registry. For example, a temporary disruption in service due to a consumer's vacation or late payment might be coded as a disconnect. Furthermore, changes in billing plans or long distance carriers might result in a telephone number being coded as reassigned, even when the consumer had not changed telephone numbers. Thus, after extensive examination of the data issues, the Commission developed a process to purge a telephone number from the Registry only when the number has been disconnected **and** subsequently reassigned.

B. TESTS CONDUCTED TO ENSURE THE ACCURACY OF THE REGISTRY

Since the implementation of the National Registry, and as part of an ongoing process to improve the accuracy of the Registry, FTC staff has met on numerous occasions with representatives from industry, including the Direct Marketing Association ("DMA") and the American Teleservices Association ("ATA"), to discuss their specific concerns regarding the accuracy of the National Registry. Industry's primary focus has been its desire to remove disconnected telephone numbers more quickly. For example, DMA has contended that, at any time, there might be five to fifteen million numbers on the Registry that should be removed. This figure was based on an initial examination of reassignment data conducted by a DMA contractor.

To examine DMA's contention more fully, the Commission requested that DMA provide its contractor's data. DMA submitted a sample list of 20,000 numbers it claimed had been disconnected and reassigned since the time they had been registered. However, these numbers were designated as "reassigned" based mainly on whether the last name of the account holder

⁷ In April 2002, some commenters stated that 16% of all telephone numbers (with no indication as to whether the cited percentage included only land-line numbers or also included cell phone numbers) change each year and that 20% of all Americans move each year. *Id.* at 4640. (See <http://www.ftc.gov/os/publiccomments.shtm#63> for public comments.) According to the U.S. Census Bureau, however, 65% of individuals who moved during 2006 to 2007 stayed within the same county (see <http://www.census.gov/population/www/socdemo/migrate/cps2007.html>, Detailed Table #1, United States). Moreover, according to the subcontractor now overseeing the purging process of the Registry, research shows that 10-15% of movers retain the same phone number.

⁸ *Id.*

⁹ *Id.*

had changed. A test was done to determine if any of these records were actually still active registrations. The result of the test showed that if all 20,000 records identified had been removed from the Registry, 16% would have been scrubbed in error.

After being notified of these test results, DMA's contractor refined its scrubbing process to tighten the definition of reassigned numbers and re-analyzed the numbers it had submitted to DMA. Using its refined scrubbing process, the contractor determined that close to 42% (8,374 of the initial 20,000 records) should still be treated as active registrations. After reviewing the results from the refined scrubbing process, the primary contractor in charge of the National Registry selected DMA's contractor as the subcontractor for overseeing the Registry purging process. The new subcontractor, which began overseeing the purging process of the Registry in October, began using a new procedure which will be outlined below.

IV. NEW PROCEDURE FOR MAINTAINING THE ACCURACY OF THE REGISTRY

The new National Registry subcontractor is implementing a process that purges telephone numbers from the Registry only when there is a high degree of confidence that the telephone number has been disconnected and reassigned to a new customer. The process begins with the subcontractor gathering connection information from the National Directory Assistance ("NDA") database.¹⁰

The NDA database has the most accurate and up-to-date information on the names and addresses associated with phone numbers. State regulatory bodies require U.S. phone companies to maintain accurate directory assistance information on their customers' telephone numbers. The NDA data feed contains data from over 2,600 different telephone companies representing 99.97% of the land lines in the U.S. Phone companies are also required to update their directory assistance data within a very short period (often within 24 hours). Updates of approximately one to two million records are received daily. The complete up-to-date directory assistance database contains over 120 million current listings and more than one billion historical listings dating back to 2002.

The managers of the NDA database perform significant analysis of the raw data reported from the phone companies to catch and correct improperly reported data. In addition, because the data are queried at high volumes for directory assistance, there is a built-in self-correcting process to catch and fix errors in the database. Independent audits are performed regularly on the database, and, in 2007, it was found to be 99.6% accurate.

¹⁰ The previous subcontractor obtained its data from Local Exchange Carriers.

The new National Registry subcontractor analyzes the history of a phone number in the NDA database and in the daily database updates of disconnected and newly connected numbers to identify phone numbers that have undergone a complete household turnover. The analysis starts with numbers registered as “new connects” in the NDA database. A disconnect order alone is not sufficient to trigger an analysis because, until the number is reconnected, confirmation that the number has been turned over to a new party is not possible.

For each telephone number coded as a new connect, the subcontractor follows a two-step process to ensure that the telephone number belongs to a new customer. First, if the new connect is for a phone number that previously existed in the NDA database, then the street address associated with that number is checked. If the number has been reconnected to the same address, the new connect is not considered a reassign. This process eliminates new connects that are the result of billing issues or of seasonal disconnects that are reconnected later to the same party. It also removes new connects that may be due to changes in phone service. For example, a phone number may be designated as a new connect in the NDA database because the subscriber changed to a phone service whose provider is not required to report its data to the NDA, but then changed again to a phone service run by a provider that is required to report. In such situations, the subscriber’s number is entered into the NDA database as newly connected, even though it may be the same number as the subscriber had originally. These new connects are not considered valid reassigns by the subcontractor.

Checking the address associated with the number also enables the subcontractor to identify new connects that are simply caused by a phone company account being transferred from one household member to another. During the comment period for the Amended TSR, some commenters suggested that only the line subscriber or person who is billed for the telephone line be allowed to register that number in the National Registry. The Commission determined that this approach was not realistic. Because numerous people in a household often share a common telephone number, the Commission believes that the decision to be part of the Registry does not rest with the line subscriber (or any single resident) alone. In such a shared-number situation, the privacy rights of all are affected by unwanted telemarketing calls. Thus, the decision to register the household telephone number in the National Registry is a joint decision of all household members. The Commission’s telephone registration system accepts the registration from any member of the household, but does remind consumers that they are registering on behalf of all household members.¹¹

Once the subcontractor has determined that the number has not been reconnected to the same address, it checks the last name on the account against all prior last names historically associated with the phone number going back to 2002, the first year for which the subcontractor

¹¹ SBP, 68 Fed. Reg. at 4639.

has reliable data. If the last name is the same as any last name historically associated with the number, the new connect is not considered a reassign. This step eliminates new connects that are the result of a household making a local move but keeping its phone number.

Thus, new connects are not designated as reassignments unless the phone number is moved to a different address and all of the last names associated with the number at the new address are different from all of the prior last names that were ever associated with the number, based on the NDA historical data. In addition, the date that the number was entered into the Registry is considered; if the registration occurred a short period before the reported new connect date, the number is not purged because it is likely that a new party obtained and registered the number before the new connect date was reported.

Once a month, the Registry is compared against the database of numbers maintained by the subcontractor to remove those telephone numbers that have been coded as disconnected and subsequently reassigned. The Commission has examined the possibility of increasing the frequency of the purging process but has determined that, given the complexity of the process, a more frequent purging process would not increase the accuracy of the Registry. The Commission believes that the Registry's current purging process effectively balances the need to remove reassigned telephone numbers as quickly as possible with ensuring that telephone numbers are not removed in error.

By using the process described above, the subcontractor has determined that approximately 5% of the land-line numbers that are currently on the Registry and that were registered prior to December 1, 2007, are no longer valid and will be removed from the Registry.¹² This percentage should decrease as the Registry is scrubbed with the procedure outlined above. Moreover, this scrubbing process will keep the Registry clean and will prevent the build up of numbers that should be removed. Thus, only numbers that have been reassigned to a new party within the previous one month will need to be purged. The subcontractor estimates that the percentage of those numbers is probably only about 0.25%–0.50% of the list per month.

In addition to acquiring data from NDA and performing the above process, the subcontractor is actively working with the wireless telecommunication carriers in an effort to obtain from them cell phone connection data. Wireless carriers are not required to provide information to the NDA related to their disconnected or reconnected telephone numbers. Fortunately, it has become easier in recent years for consumers to keep their cell phone numbers when they change wireless carriers, which should reduce the rate of number reassignments. FTC staff will continue to work with the subcontractor on ways of addressing the accuracy of cell phone registrations. FTC

¹² The total number of phone numbers already purged from the Registry as of July 31, 2008 was 7,907,466, approximately 4.6% of the numbers currently registered.

staff will also continue discussions with industry representatives regarding new approaches to improving the Registry's accuracy.¹³

V. CONCLUSION

FTC staff continues to work closely with the contractor overseeing the Registry to ensure that the integrity of the Registry is maintained. In addition, the FTC will continue to have ongoing discussions with DMA, ATA, and others in industry regarding potential ways that the accuracy of the Registry could be further improved. Since the inception of the Registry, the Commission has sought to maintain the accuracy of the Registry to ensure that consumers' preference not to receive telemarketing calls is honored. Any potential modifications to the scrubbing procedure will be fully tested and evaluated to ensure that telephone numbers that consumers registered are not mistakenly removed from the Registry.

¹³ One approach that emerged from these discussions, but ultimately was determined to be ineffective, involved removing numbers that had been disconnected for at least 90 days, regardless of whether they had been reassigned. After reviewing this proposal with the subcontractor, FTC staff decided against implementing it. According to information received by the staff, a surprisingly high percentage of disconnected numbers are subsequently reconnected to a party from the original household. There are seasonal disconnects, billing-related disconnects, transfers of a phone account from one party in a household to another party in the same household, local moves involving a household moving to a nearby house but keeping the same number, and disconnects resulting from a party changing phone service but keeping the same number. Thus, purging any number based solely on a disconnect status could be problematic.



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