



The Journey Towards DNC Compliance

More targeted and effective marketing for businesses. Greater confidence from consumers in the use of their personal data. These are some of the outcomes that organisations have observed as they comply with the Do Not Call (DNC) provisions of the Personal Data Protection Act (PDPA), which came into force in January 2014.

The DNC Provisions of the PDPA

Under the PDPA, a DNC Registry was set up by the Personal Data Protection Commission (PDPC) for subscribers to register their Singapore telephone numbers if they wish to opt out of receiving unsolicited telemarketing messages in the form of voice call, text message or fax. In general, organisations need to check the DNC Registry before sending marketing messages to a Singapore mobile or fixed-line telephone number, unless exceptions apply.

“With the setting up of the DNC Registry,

organisations can now focus more efficiently on consumers who are interested to receive information on products and services. Consumers will also have the flexibility to decide if and how they want to receive telemarketing messages,” said Mr Leong Keng Thai, Chairman of PDPC, in the lead-up to the Registry’s launch in 2014.

Mr Vincent Chua, IT Administrator and Data Protection Officer (DPO) of real estate company HuttonsAsia, recalled that when the DNC provisions first took effect, its agents found some difficulty in adapting to the new requirements. However, as time went by, they became accustomed to it. “Our telemarketers get less negative feedback from cold calling as it (the DNC Registry) has helped to filter out those people who do not wish to receive marketing calls or messages”, said Mr Chua. He also noted that compliance with the DNC provisions has given consumers a better sense of security, as observed from the tremendous decrease in requests to unsubscribe from their database.

Likewise, Singapore Post (SingPost), has found the DNC useful in helping the company reach out to customers who are genuinely keen on its products and services. As a result, marketing efforts are now more targeted, said Mr Pang Kok Meng, Senior IT Compliance Manager and DPO.

Obligations of Telemarketers under the DNC

Under the DNC provisions, telemarketers have to check with the DNC Registry before calling or sending out specified messages that involve offers, advertisements or promotions of goods and services, land or business/investment opportunities. These include messages that advertise or promote the suppliers of these products, services or opportunities. In most instances, a marketing message of a commercial nature would be a specified message within the meaning of the PDPA. Organisations which breach the DNC provisions are liable to a fine of up to \$10,000 for each offence.

An invitation to a parenting seminar, for example, could be considered a specified message under the PDPA if the event is linked to an offer, promotion or advertisement such as tuition or childcare services. A message sent to a Singapore telephone number to obtain consent for the sending of specified messages would itself also be considered a specified message.

However, a sender need not check the DNC Registry if he or she has obtained "clear and unambiguous consent" to the sending of the specified message to the telephone number.

Clear and Unambiguous Consent

"Clear and unambiguous consent" is obtained when a user or subscriber has provided clear and specific consent to the sending of the telemarketing messages to his Singapore telephone number. It is a good practice for organisations to indicate clearly how the user or subscriber will be contacted, e.g. by SMS, phone call or both, especially when more than one contact information of the user or subscriber is being collected. Further, consent must be evidenced in writing or any other form so as to be accessible for subsequent reference. A mere failure to opt out through inaction on the part of the individual is unlikely to be construed as clear and unambiguous consent.

Generally speaking, where consent was obtained by way of a physical document, the organisation should retain the original document as evidence. Where consent was obtained through electronic means, the organisation should retain documentation or system logs capturing the individual's choice; date and time when the individual expressed his choice;

the webpage/pop-up/online form (or equivalent) that the individual was referring to when providing consent; and the clauses which the individual consented to.

Examples of Excluded Messages

Several types of messages are excluded from the meaning of "specified messages" and are therefore not covered by the DNC provisions. Examples of such messages include any message in which the sole purpose was to conduct a market survey or market research, any message sent to a business entity for any purpose of the business entity, and any message sent by an individual acting in a personal or domestic capacity.

Exemption for an Organisation That Is in an Ongoing Relationship with the Recipient

An Exemption Order is granted for organisations in an "ongoing relationship" with the individual to send text or fax messages to the individual, where the purpose of such messages is related to the subject of the ongoing relationship.

At SingPost, for example, consumer marketing that is carried out by its Philately business is targeted at those who have a standing order with the company, as well as an agreement to call them on stamp promotions, said Mr Pang.

The Exemption Order can apply to a commercial or non-commercial relationship such as a subscription, membership, account, loan or a relationship involving the ongoing purchase or use of goods and services supplied by the sender to the individual. In such cases, the telemarketer may send a text or fax message (but not voice call) that is related to the subject of the ongoing relationship, without having to check the DNC Registry. However, other DNC provisions, as well as the conditions in the Exemption Order, will have to be complied with, such as providing an opt-out facility within the body of the message. Upon an opt-out, organisations can no longer rely on the exemption and have to stop sending such messages to that individual's Singapore telephone number 30 days after the individual has opted out.

Carrying Out DNC Registry Checks

To carry out a check on Singapore telephone numbers with the DNC Registry, a telemarketer or

organisation simply creates an account at the DNC web site (www.dnc.gov.sg) and submits the list of telephone numbers online. A one-time fee of \$30 applies for the creation of an account with the DNC Registry (\$60 for organisations based overseas). Each organisation or individual is allowed to apply only for one main account, but one or more sub-accounts may be created to allow more than one user in the organisation to perform telephone number checks against the DNC Registry.

From the same web site, organisations can also purchase credits which are required for the checking of telephone numbers. The DNC Registry allows organisations to check 1,000 telephone numbers for free each year, after which one credit is required for the checking of each number.

Ensuring DNC Compliance

One way to drive compliance with the DNC provisions of the PDPA is to have the DPOs constantly working with employees and telemarketers to ensure that they are aware of their obligations under the Act. At SingPost, for example, all telemarketers are briefed thoroughly on DNC and Data Protections provisions of the PDPA, said Mr Pang. "We have a PDPA champion in each department for consultation, and we run a train-the-trainer programme to educate the marketing team."

SingPost's Data Protection Handbook is also available on the Intranet, and the marketing team attends events organised by the PDPC to keep themselves up to date with the latest developments in personal data protection.

At Huttons Asia, notices are put up around the office to remind agents and staff of the PDPA and DNC, and trainings are conducted regularly

to update all staff on developments related to the PDPA. The company has also installed a DNC filtering software on its office phones to block calls to telephone numbers found on the DNC Registry as an additional safeguard.

Conclusion

The DNC Registry has gained strong traction since its launch. As of end July 2016, more than 6,480 organisation accounts have been created and some 1.227 billion telephone numbers have been checked.

Compliance and accountability, however, remain an ongoing journey. Organisations that ensure continued vigilance among their telemarketers and employees in respecting individuals' preferences and protecting personal data, will stand to gain their customers' trust.



Obligations of Telemarketers Under the DNC

Before an organisation sends any marketing message to a Singapore telephone number, it should check that:

- **the telephone number is not registered with the DNC Registry;**
- **clear and unambiguous consent for receiving the message is obtained from the individual;**
- **the message it is sending contains clear and accurate information identifying the organisation, its contact details, as well as how individuals can opt-out of such messages; and**
- **if making a phone call, the telephone number it is making the call from is not concealed.**

