

Working Paper on Cross-Border Telemarketing

41st meeting, 12-13 April 2007, St. Peter Port (Guernsey)

Background

Based on the early work of this Working Group, many territories have now implemented legislative measures that respect the right of individuals to prevent the receipt of unsolicited telemarketing calls.

These measures have included the 1991 and 2002 Telecommunications Directives of the European Union, which resulted in the setting up of do-not-call registries in some EU Member States and in the establishment by the US Federal Trade Commission of the US Do-not-call-registry, while other jurisdictions have implemented opt-in regimes or mixes of opt-in and opt-out.

These registries and the associated enforcement powers vested in domestic authorities have, in general, proved quite effective in preventing the receipt of unwanted telemarketing calls that originate from within the subscribers own country or territory, but have been largely ineffective in preventing calls that originate from elsewhere.

With the falling cost of international telephone calls and in particular the exploitation of Voice over Internet Protocol, it is anticipated that the prevalence of cross-border telemarketing calls is likely to increase.

The situation is aggravated by the fact that many telemarketing calls, especially those from abroad tend not to include any Caller Identity information that would permit their identification by the called party. Furthermore, it would appear that Caller Identity information is not always transmitted between domestic and international networks.

There do not appear to be mechanisms at present whereby the operators of all national do-not call registries are able to collaborate in order to facilitate the use of their databases by international telemarketers in a privacy-friendly manner.

In any case, without the creation of binding international instruments, it may prove very difficult to enforce the right not to receive unwanted telemarketing calls from abroad; accordingly, alternative technical and administrative measures need to be devised.

Recommendations

The Working Group recommends that:

- telemarketing companies should inform themselves about the applicable regime (opt-in and/or opt-out) in the countries in which they are operating and respect the respective regulations.
- telemarketing companies should be required to include Caller Identity information in all marketing calls such that a called subscriber is able to identify the caller and to request removal from the marketers call list as applicable, or to file complaints with the relevant authorities e.g. in jurisdictions where opt-in is required;
- telecommunications service providers should cooperate to ensure the transmission of Caller Identity information relating to marketing calls between domestic networks, international networks and voice over IP networks;
- telecommunications service providers should provide a mechanism for subscribers to complain about unsolicited telemarketing calls and ensure that such complaints are forwarded to the appropriate authorities in the country in which the calls appear to originate;
- telecommunications service providers should enable telephone subscribers to have a simple technical means to signal a rejection of an incoming telemarketing call and, if the called person so wishes such a rejection should be transmitted to the caller and used as an indicator that further calls to that subscriber are to be suppressed;

The International Working Group calls upon Data Protection and privacy authorities worldwide to intensify their efforts to co-operate with each other and with telecommunications regulators in order to limit the activities of unsolicited telemarketing organisations operating across country borders.