

## Do-Not-Call List FAQs



Please note that this document has been compiled based on the best information available to CREA. It should not be construed as legal advice. In the case of any uncertainty, it is important to obtain legal advice.



### Who has to buy a subscription to the Do-Not-Call List – the brokerage, or each individual REALTOR® member?

The CRTC has informed CREA that it is the broker, and not individual sales representatives, who should get a subscription to the Do-Not-Call List. This is because the brokerage is the legal entity that signs all the contracts, and there is a principal-agent relationship between the salesperson and the brokerage. When a salesperson makes a call, he or she is not calling on his or her own behalf, but rather - as a matter of law - on behalf of the brokerage.

This is further supported by subsection 72.02 of the Telecommunications Act which states:

*“A person is liable for a violation [of the Commission’s Unsolicited Telecommunications Rules] that is committed by an employee, or an agent or mandatary, of the person acting in the course of the employee’s employment or the scope of the agents or mandatary’s authority, whether or not the employee, agent or mandatary who actually committed the violation is identified or proceeded against in accordance with this Act.”*



### My brokerage has three offices. Do I have to subscribe to the Do-Not-Call List 3 times, or can I subscribe once and share between the offices?

The CRTC has informed CREA that, as a general proposition, a broker only needs one subscription to the Do-Not-Call List, and CAN share the List with “branch offices” as long as those offices have the same ownership and are not separate legal entities. If the different offices have different owners or have been set up as separate legal entities, they must each have their own subscription. Brokers are encouraged to consult their own legal counsel to determine whether this exception applies to their circumstances.

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**We would like to access and download the National DNCL subscriptions, but then hire the services of a company to make sure we are following the Do-Not-Call-List rules. Is this allowed?**

Yes. The National DNCL Rules allow a subscriber to share the National DNCL, or any portion thereof, with a third party who provides services to help you comply with the National DNCL Rules. You still need to register with the National DNCL Operator and purchase a subscription. Each broker office will then have to provide the third party service provider with their Registration Access Number, as well as the Subscription Access Number and Download Key for each subscription that they will access on your behalf.

The services these companies are offering is not a “list-sharing” facility, but a technology solution to deal with the lists. Every telemarketer (with the exception of the exempted groups set out in the regulations) must register with the DNCL Operator, must subscribe to the National DNCL, and must pay the subscription fees for the list. They must do this whether or not they also decide to retain a company offering compliance assistance services.

What these companies provide is software that “manages” the list. For example, if a REALTOR® member tries to call a number that is on the National DNCL, the software will not let him do it. So it is really an internal list-management service. Remember that does not relieve them of their obligations to register and pay subscription fees for the lists.



**A private seller has a telephone number posted on a public sign, advertising the property for sale. They obviously want people to call them – can I do that, even if their name is on the Do-Not-Call List?**

REALTOR® members call FSBOs for 2 reasons -to try and list their property or if they have a potential buyer. The first one is prohibited if the telephone number is on the DNCL as it is clearly solicitation under the law.

A REALTOR® member could, however, contact the FSBO if they have a potential buyer. The purposes of the unsolicited call in that case would not be “solicitation”. That assumes, of course, that there is a real buyer and it’s not an excuse to sell services.

REALTOR® members should also be aware of the existing business relationship exemption. If this FSBO had at some time in the past contacted the REALTOR® member to make an inquiry about his fees or services, the REALTOR® member can call the FSBO within 6 months of that inquiry, even if the FSBO is on the DNCL.



### **What is an office or “internal” list for, and why does my brokerage have to have one, in addition to the national list?**

The National Do-Not-Call List requires a telemarketer to not only subscribe to the national list, but to maintain an internal office list as well. This is because of situations where an individual may not want their number added to the national list, but they do not want to be contacted by representatives of a specific company.

Each office is required to keep the telephone number on the Internal Office List for 3 years and 14 days. There is an EXCEL form provided on REALTOR Link® as a template for broker offices to use, if required, to build and maintain the local office do-not-call list.



### **If a client gives me a referral and the referral telephone number is not registered on the National DNCL, may I call this referral?**

Personal referrals are not considered to be express consent. However, as this person’s number is not registered on the National DNCL, you are able to call them.



### **If someone went to our website and emailed a question about one of our products through the site, is that considered as an inquiry?**

Yes, that would be considered as an inquiry and you would be able to follow up with them for six months following the time the inquiry was made.



### **What happens if someone contacts us after asking that their name be put on the office Do-Not-Call List? Does that inquiry override the internal do not call request?**

The exemption for existing business relationship only applies to a telephone number registered on the National DNCL. It does not apply to a specific request to be put on an organization’s internal do not call list.

You must respect a request by a consumer not to be called until the consumer asks to be removed from your internal do not call list, or after three years and 14 days have passed. If you ask the consumer at the time of that second inquiry if you can call them back and the consumer consents, then the consent overrides the internal do not call request.



## **How do we get access to, or subscribe to the National DNCL list?**

All telemarketers must register with the National DNCL operator. Telemarketers then should subscribe to the National DNCL if they plan on conducting any telemarketing calls that are not exempted from the National DNCL Rules.

Once a telemarketer has registered, you will be assigned a Registration Access Number, a Subscription Access Number and a Download Key, which will allow a download of the National DNCL. You can download the information for the area codes you subscribed to up to three times a day.

More information on the file formats for the National DNCL can be found at [www.lnnte-dncl.gc.ca/ind/accueil-home-eng](http://www.lnnte-dncl.gc.ca/ind/accueil-home-eng).



## **Why can't CREA or a provincial association, or even a real estate Board with many members who make telemarketing calls register and pay for one subscription to share with members?**

The National DNCL Rules prohibit subscribers from selling, renting, leasing, publishing or otherwise disclosing the National DNCL or any portion thereof to any person outside their organization, including any affiliate. Members of an association are usually separate legal entities from the association and are considered to be outside of the association as a business organization. Each member is required to register and purchase their own subscription.

CREA approached the CRTC with this request in hopes that we could get the list and share with our members. The answer was no. The reason for this is that the operation of the list is funded by subscriptions. The CRTC requires every company to register in order to sustain the subscription levels. If sharing were permitted, the subscription base would erode and the subscription costs would skyrocket.