

**Canadian Radio-television and
Telecommunications Commission**

**Report on the
Operation of the National Do Not Call List
for the period ending
March 31, 2009**

**Presented to:
The Honourable Tony Clement
Minister of Industry**

September 30, 2009

Executive Summary

Background

Pursuant to section 41.6 of the *Telecommunications Act* (the Act), this report to the Minister of Industry summarizes the establishment and operation of the National Do Not Call List (DNCL) for the period ending March 31, 2009.

In 2005, the Parliament of Canada amended the Act to provide for the creation, administration, and enforcement of a national do not call list. The Canadian Radio-television and Telecommunications Commission (CRTC) initiated a public process in February 2006 to establish a framework for the creation and operation of such a list. During the proceeding, the CRTC received submissions from a wide range of parties, including telecommunications companies, public advocacy groups, companies that conduct telemarketing, and members of the public.

In July 2007, the CRTC established a comprehensive framework for the National DNCL. After issuing a request for proposals, in December 2007 the CRTC awarded Bell Canada a five-year contract to develop and operate the National DNCL.

In February 2008, the CRTC issued a request for proposals (RFP) to find a complaints investigator delegate. However, none of the respondents met the mandatory requirements set out in the RFP and, as a result, the CRTC is currently carrying out investigations internally.

The National DNCL was successfully launched as planned on September 30, 2008, with the goal of reducing the number of unwanted telemarketing calls and faxes made to Canadians. It allows Canadians to easily register landline, wireless, and fax numbers to a central list via the National DNCL website or fax, or over the telephone through a live operator or an interactive voice response system.

National DNCL results to March 31, 2009

By March 31, 2009, six months after the launch, Canadians had registered nearly 6.7 million numbers. In addition, more than 5,800 telemarketers had registered their business or organization information with the National DNCL operator. Telemarketers had also purchased approximately 2,500 subscriptions, allowing them to update their calling lists by “scrubbing,” or removing, registered phone numbers.

The Commission had received over 77,000 complaints concerning potential violations of the Unsolicited Telecommunications Rules as of March 31, 2009.

Bell Canada's costs associated with developing and operating the list were approximately \$12.31 million as of March 31, 2009. These costs are to be recovered through fees charged to telemarketers who purchase subscriptions to the list. The CRTC's costs associated with its activities related to the development, implementation, and operation of the list were approximately \$1.12 million in fiscal year 2007-2008 and \$2.12 million in fiscal year 2008-2009, for a total of approximately \$3.24 million.

The CRTC considers that the list has been effective in reducing unwanted telemarketing phone calls and faxes. An independent survey conducted in January and February 2009 by the Marketing Research and Intelligence Association shows that 80 percent of Canadians who had registered their numbers with the National DNCL reported having noticed a reduction in unwanted telemarketing calls, which suggests that most telemarketers are complying with the National DNCL Rules.

Investigation and enforcement activities

The CRTC has undertaken various compliance and enforcement activities. These include investigating complaints, conducting outreach and education activities, and obtaining compliance through meetings with telemarketers, all of which have resulted in changes to their practices. The CRTC has also issued a number of warning letters to telemarketers that require them to take specific corrective measures to prevent future violations. As of the end of July 2009, the CRTC had issued seven notices of violation to telemarketers and proposed the associated administrative monetary penalties (AMPs).

1. Introduction

1.1 Background

In 2005, the Parliament of Canada amended the *Telecommunications Act* (the Act) to provide for the creation, administration, and enforcement of a national do not call list. The Canadian Radio-television and Telecommunications Commission (CRTC) initiated a public process in February 2006 to establish a framework for the creation and operation of such a list. During the proceeding, the CRTC received submissions from a wide range of parties, including telecommunications companies, public advocacy groups, companies that conduct telemarketing, and members of the public.

Following a comprehensive review of the submissions, the CRTC issued Telecom Decision 2007-48,¹ which set out a framework for dealing with telemarketing calls and other unsolicited telecommunications. This framework includes the Unsolicited Telecommunications Rules, which are composed of the Telemarketing Rules, the National Do Not Call List (DNCL) Rules, and the Automatic Dialing-Announcing Device (ADAD) Rules.

On September 30, 2008, the National DNCL was successfully launched as scheduled. It allows Canadians who do not want to receive unsolicited telemarketing telecommunications to register landline, wireless, and fax numbers to a central list via the National DNCL website or fax, or over the telephone through a live operator or an interactive voice response system.

The CRTC submits this report to the Minister of Industry pursuant to section 41.6 of the Act, which states the following:

- (1) The Commission shall, within six months after the end of each fiscal year, deliver a report to the Minister on the operation of the national do not call list in that fiscal year.
- (2) The report shall set out any costs or expenditures related to the list, the number of Canadians using the list, the number of telemarketers accessing the list, any inconsistencies in the prohibitions or requirements of the Commission under section 41 that are applicable to the operation of the list, and an analysis of the effectiveness of the list.
- (3) The Minister shall cause a copy of the report referred to in subsection (1) to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives the report.

¹ *Unsolicited Telecommunications Rules framework and the National Do Not Call List*, Telecom Decision CRTC 2007-48, July 3, 2007, as amended by Telecom Decision CRTC 2007-48-1, July 19, 2007.

1.2 Policy objectives and the National DNCL

The National DNCL addresses the following Canadian telecommunications policy objectives, which are outlined in section 7 of the Act:

(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

(h) to respond to the economic and social requirements of users of telecommunications services; and

(i) to contribute to the protection of the privacy of persons.

The establishment of the National DNCL has also contributed to ensuring “a fair and secure marketplace”² by providing a greater level of privacy to Canadians who do not wish to receive unsolicited telemarketing telecommunications and by minimizing the inconvenience and nuisance caused by these calls.

1.3 Scope of the report

This report examines the establishment of the National DNCL, as well as its first six months of operation from September 30, 2008 to March 31, 2009. It covers the following:

- Section 2: Costs and expenditures
- Section 3: Canadian number registrations
- Section 4: Telemarketer access
- Section 5: Inconsistencies in the prohibitions or requirements under section 41 of the Act
- Section 6: Effectiveness of the list

The CRTC, Bell Canada (the National DNCL operator), and the Marketing Research and Intelligence Association provided the data included in this report.

² One of the outcomes under the “Whole of Government of Canada Framework,” which is supported by various federal program activities and initiatives.

2. Costs and expenditures

2.1 Establishing and operating the National DNCL

Under subsection 41.3(1) of the Act, the CRTC may delegate the operation of the list to any person, including any body created by the CRTC. Following a request for proposals (RFP) process, in December 2007 the CRTC awarded Bell Canada a five-year contract to develop and operate the National DNCL.

The development phase began in January 2008 and included:

- developing interactive voice response and online systems that allow Canadians to register numbers,
- developing databases and online systems that allow telemarketers to register,
- developing an online purchase/payment system that allows telemarketers to purchase subscriptions,
- designing and implementing bilingual web pages consistent with the Government of Canada's Common Look and Feel standards, and
- establishing and training a team of employees to handle incoming calls from Canadians and telemarketers.

The National DNCL is a fully bilingual system consisting of web, fax, interactive voice response, and live operator access. As the operator, Bell Canada is responsible for:

- registering and deregistering Canadians' numbers,
- collecting complaints,
- forwarding complaints to the CRTC,
- preparing reports and statistical output,
- registering telemarketers' business information,
- processing subscription payments, and
- providing telemarketers with up-to-date versions of the list.

Despite the complexity of the National DNCL system, no major unexpected costs have arisen. However, as of March 31, 2009, subscriptions and associated revenues were not meeting projected levels. The costs associated with the development and operation of the list are to be covered by revenues from telemarketers' subscriptions to the list. Bell Canada's costs associated with these activities for the National DNCL are outlined below.

Bell Canada's costs (\$ million)				
	Fiscal Year 2007-2008	Fiscal Year 2008-2009		Total
	Jan. 1, 2008 – Mar. 31 2008	Apr. 1 2008 – Sept. 30 2008 (prior to launch)	Oct. 1, 2008 – Mar. 31, 2009 (after launch)	Jan. 1, 2008 – Mar. 31, 2009
Capital expenditure	\$0	\$5.49	\$2.32	\$7.81
Cost of goods sold /Expenses	\$0.04	\$1.56	\$2.90	\$4.50
Total	\$0.04	\$7.05	\$5.22	\$12.31

2.2 CRTC costs

The CRTC is responsible for a number of activities related to the National DNCL, including:

- developing policy and rules, including the establishment of, and amendments to, the National DNCL Rules;
- creating awareness among Canadians and telemarketers through information sessions, news releases, interviews, and trade show appearances;
- working with Bell Canada to manage the National DNCL operator contract;
- investigating complaints;
- working with telemarketers to obtain compliance with the National DNCL Rules;
- enforcing the National DNCL Rules by issuing warning letters and/or imposing administrative monetary penalties (AMPs);
- taking measures to collect amounts owed by telemarketers for unpaid AMPs; and
- responding to requests made under the *Access to Information Act*.

Under subsection 41.3(1) of the Act, the CRTC may delegate its powers to conduct investigations to any person, including any body created by the CRTC.

In February 2008, the CRTC issued an RFP to find a complaints investigator delegate. None of the respondents met the mandatory requirements set out in the RFP. Consequently, the CRTC is currently carrying out investigations internally.

The CRTC's expenses associated with its activities listed above for the development, implementation, and operation of the DNCL were approximately \$1.12 million in fiscal year 2007-2008 and \$2.12 million in fiscal year 2008-2009, for a total of approximately \$3.24 million. These amounts include all salary and operations and maintenance (O&M) costs associated with the CRTC's DNCL-related activities.

When amendments were made to the Act to create a legislative framework for the National DNCL, no ongoing funding was provided to the CRTC to perform these new non-discretionary statutory responsibilities. Temporary funding was subsequently approved for the CRTC for a period of three years (fiscal years 2007-2008 to 2009-2010) to assist in the creation and operation of the National DNCL, including investigation and enforcement activities. This temporary funding ends on March 31, 2010. In cooperation with officials at Industry Canada and central agencies, the CRTC is currently exploring a sustainable solution to address ongoing funding pressures related to the National DNCL.

3. Canadian number registrations

In order to ensure awareness of the National DNCL among Canadians, the CRTC issued press releases, participated in media interviews, prepared information brochures and questions and answers, and coordinated with the PhoneBusters anti-fraud call centre to ensure their clients were informed about the list. In addition, the CRTC received support from the Canadian radio industry, which ran public service announcements about the National DNCL.

Canadians responded to the launch of the National DNCL quickly and in large numbers, exceeding all expectations. On September 30, 2008, the day of the launch, Canadians registered close to 790,000 numbers. The website received nine million hits, and Canadians attempted an average of over 1,500 phone calls per minute. At one point, an estimated 80,000 people simultaneously attempted to register via telephone or the Internet.

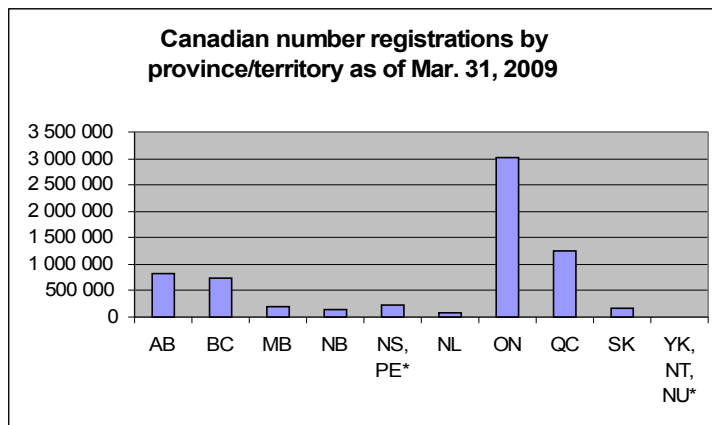
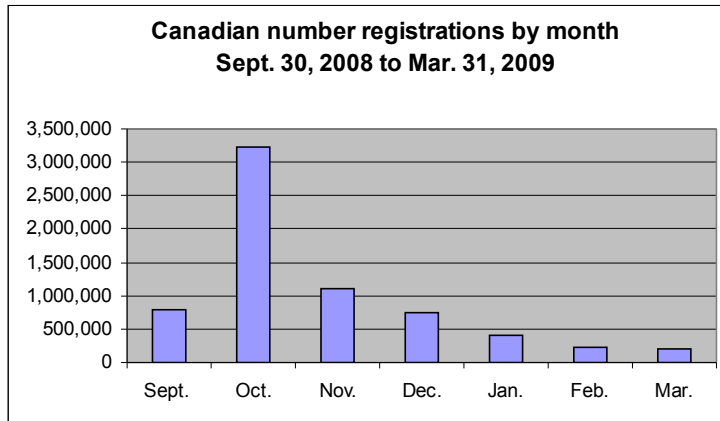
While the large number of people attempting to access the National DNCL website in its first day of operation challenged the system, Bell Canada and CRTC employees resolved the associated problems in a timely manner.

The unexpected number of registrations, particularly in the hours after the list was launched, demonstrates the success of the CRTC's outreach activities prior to launch, as well as Canadians' demand for such a list.

The number of registrations has increased steadily since the launch date. As of March 31, 2009, six months after the launch, Canadians had registered approximately 6.7 million numbers. The National DNCL continues to receive new registrations on a daily basis.

Canadians may also deregister their numbers. By March 31, 2009, approximately 6,900 numbers had been removed from the list. The number of deregistrations, as compared to registrations, is very small and provides further evidence of the strong demand for a National DNCL.

The charts below set out Canadian number registrations by month and by province/territory. Charts showing provincial and territorial registrations as a percentage of total registrations and as a percentage of population are set out in section 1 of the Appendix.



*Data for these locations is not separated since they share one area code (area code 902 in Nova Scotia and Prince Edward Island; area code 867 in Yukon, Northwest Territories, and Nunavut). The total number of registrations for Yukon, Northwest Territories, and Nunavut was 5,364 as of March 31, 2009.

4. Telemarketer access

The CRTC has undertaken a variety of outreach activities to inform telemarketers and their clients about the National DNCL, and to ensure they are aware of their new roles and responsibilities associated with the list. This has included online information sessions, information bulletins, media relations activities that led to over 400 articles in Canadian print media, brochure and fact sheet distribution, speeches and presentations, direct mail to telemarketers, radio public service announcements, letters to Members of Parliament, and appearances at trade shows.

Businesses and organizations that either make telemarketing calls directly or hire third parties to make calls on their behalf must register their information with the National DNCL. They must register their information even if the calls are exempt from the National DNCL Rules.

Telecommunications from or on behalf of the following are exempt from the National DNCL Rules:

- businesses or organizations with whom the person receiving the call or fax has an existing business relationship;
- political parties' members' associations, registered political parties, candidates of those political parties, or independent election candidates;
- registered charities;
- market research companies conducting surveys;
- companies selling newspaper subscriptions; and
- telemarketers calling business consumers.

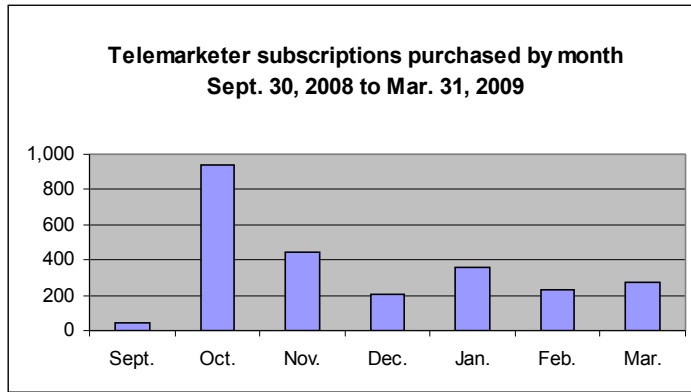
The following table shows the total number of registrations by telemarketer location as of March 31, 2009.

Telemarketer location	Registrations (to March 31, 2009)
Canada	5,686
United States	133
International	69

Tables showing telemarketer registrations by month and by province/territory, as well as the number of registrations by industry, are set out in section 2 of the Appendix.

In addition to registering, telemarketers making non-exempt calls must subscribe to the National DNCL. A wide variety of subscription options is available to the diverse companies and organizations conducting telemarketing. They may select their subscription method based on the number of area codes they call and the number of months in which they will be telemarketing. Once they have subscribed, they use the list to “scrub,” or remove, numbers from their own calling lists. Businesses or organizations targeting a limited number of Canadians may also check specific numbers to find out if they are registered.

Telemarketers had purchased 2,495 subscriptions as of March 31, 2009, with about 40 percent having been purchased in the month after the National DNCL started operations. The number of subscriptions purchased per month is shown below.



5. Inconsistencies in the prohibitions or requirements under section 41 of the Act

After Parliament amended the Act to allow for the creation and operation of a national do not call list, the CRTC initiated a public process to establish a framework for the list. While the CRTC considers that there are no inconsistencies between the rules and the prohibitions or requirements under section 41 of the Act, it did review certain policy issues following the September launch.

As a result of its review, the CRTC made the following modifications to the existing Unsolicited Telecommunications Rules:³

1. The National DNCL Rules no longer apply to telecommunications made by or on behalf of a political candidate as defined in subsection 2(1) of the *Canada Elections Act* or a candidate under provincial law, regardless of whether they are affiliated with a registered political party. Previously, only candidates representing a registered political party were exempt from the rules. The CRTC considered that non-party candidates should have the same ability as candidates of registered parties to contact their constituents and potential voters. It noted that it could see no justification for treating non-party candidates and candidates of registered parties differently for the purposes of the National DNCL Rules.
2. Calling hour restrictions set out in provincial legislation apply to telecommunications made by automatic dialing-announcing devices. Where no provincial legislation exists, the CRTC's restrictions apply. The CRTC considered that there was little evidence to suggest that the application of provincial calling hour restrictions would result in undue inconvenience or nuisance for Canadians. Previously, the CRTC's calling hour limitations applied in all cases where they were more restrictive than provincial calling hour restrictions.
3. The registration period for Canadians' numbers to remain on the National DNCL has been extended from three years to five years. The CRTC Interconnection Steering Committee⁴ was tasked with assessing and reporting back to the CRTC on the feasibility of a permanent registration regime.

³ See *Modifications to some Unsolicited Telecommunications Rules*, Telecom Regulatory Policy CRTC 2009-200, April 20, 2009.

⁴ The CRTC Interconnection Steering Committee is an organization established by the CRTC to assist in developing information, procedures, and guidelines that may be required in various aspects of the CRTC's regulatory activities.

6. Effectiveness of the list

6.1 Feedback from Canadians

The goal of the National DNCL is to reduce the number of unwanted telemarketing telecommunications made to Canadians. Consumer feedback obtained through polling demonstrates that this goal is being achieved.

Public awareness of the National DNCL has been high since its launch. An independent survey⁵ conducted by the Marketing Research and Intelligence Association (MRIA) in August 2007, 13 months before the launch, showed awareness of the National DNCL at 44 percent of adult Canadians. A second MRIA survey⁶ conducted during January and February 2009, approximately four months after the launch, showed that awareness had increased to 84 percent of adult Canadians.

The second MRIA survey also indicated there had been a marked decrease in the number of telemarketing calls to Canadians who had registered a number on the National DNCL. According to the results of the survey:

- 50 percent of those registered reported receiving noticeably fewer or far fewer telemarketing calls;
- 20 percent reported receiving slightly fewer telemarketing calls;
- 10 percent reported receiving no such calls at all; and
- 13 percent reported receiving more telemarketing calls.

The results of this survey demonstrate that, from the perspective of the Canadian public, the list has been effective in reducing the number of unwanted telemarketing calls.

6.2 Complaints

Canadians who believe that a telemarketer has violated the Unsolicited Telecommunications Rules may submit a complaint to the National DNCL operator via a toll-free phone number or online.

The National DNCL operator conducts a preliminary automated assessment of all complaints before they are forwarded to the CRTC for investigation. For example, if the consumer complains that a telemarketer called even though his or her number was on the National DNCL list, the system calculates whether or not the consumer's telephone number has been registered for more than 31 days (the grace period for telemarketers). If not, the consumer receives a message that the complaint will not be investigated.

⁵ [VoxPop survey](#), Marketing Research and Intelligence Association, August 2007.

⁶ [VoxPop survey](#), Marketing Research and Intelligence Association, January -February 2009.

On average, the CRTC received approximately 680 complaints per day from the National DNCL operator between September 30, 2008 and March 31, 2009 concerning potential violations. As of March 31, 2009, the CRTC had received over 77,000 of these complaints.

CRTC employees conduct analysis on incoming complaints and assign them, as appropriate, to investigations. By March 31, 2009, the CRTC had initiated 681 investigations.

6.3 Investigations and compliance

The CRTC's goal is to have all telemarketers comply with its rules for unsolicited telecommunications. Where they do not, the CRTC will take the appropriate enforcement measures to bring them into compliance.

The CRTC has promoted compliance in several ways. Through the course of its investigations, it has sent numerous letters requesting information from telemarketers. These letters state that the telemarketer is under investigation and request specific information. Pursuant to these letters, the CRTC often works with the telemarketer to explain the rules and gain compliance.

In certain cases, the CRTC issues warning letters to telemarketers. The CRTC had issued 70 warning letters as of March 31, 2009. Warning letters identify the alleged violation and require the telemarketer to take specific corrective measures to prevent future violations. Experience has shown that most telemarketers have undertaken the necessary corrective measures outlined in the letters they have received.

In addition, the CRTC has the authority to impose penalties of up to \$1,500 for an individual and up to \$15,000 for a corporation for each violation. As of the end of July 2009, the CRTC had issued seven notices of violation to telemarketers and proposed the associated AMPs. The CRTC will continue to use its authority to impose AMPs on telemarketers who do not comply with the Unsolicited Telecommunications Rules.

The investigation process has been time-consuming due to the complexity of the investigations, the number of complaints involving foreign telemarketers, and the number of telemarketers displaying false numbers on their calling line identification. However, a combination of awareness activities and enforcement actions has been effective in bringing many telemarketers into compliance.

1. Canadian number registrations

Table 1.1

Canadian number registrations Sept. 30, 2008 to Mar. 31, 2009								
	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Total
Alberta	85,426	409,237	159,916	82,213	42,982	24,563	13,719	818,056
British Columbia	72,480	350,307	158,289	83,530	50,753	13,683	11,915	740,957
Manitoba	24,899	104,738	35,764	19,758	13,527	2,973	3,867	205,526
New Brunswick	14,835	70,340	23,234	12,184	9,335	3,477	2,480	135,885
Nova Scotia, Prince Edward Island*	25,948	122,666	33,144	21,760	15,525	5,026	4,214	228,283
Newfoundland and Labrador	9,004	34,082	14,488	6,197	5,458	1,805	1,349	72,383
Ontario	406,117	1,487,314	527,543	273,516	141,348	98,987	94,756	3,029,581
Quebec	138,253	562,416	118,104	217,279	100,269	63,418	62,383	1,262,122
Saskatchewan	12,571	75,737	29,509	28,299	15,919	3,191	2,790	168,016
Yukon, Northwest Territories, Nunavut*	417	2,546	1,204	738	326	68	65	5,364
Total registrations	789,950	3,219,383	1,101,195	745,474	395,442	217,191	197,538	6,666,173

*Data for these locations is not separated since they share one area code (area code 902 in Nova Scotia and Prince Edward Island; area code 867 in Yukon, Northwest Territories, and Nunavut)

Figure 1.1

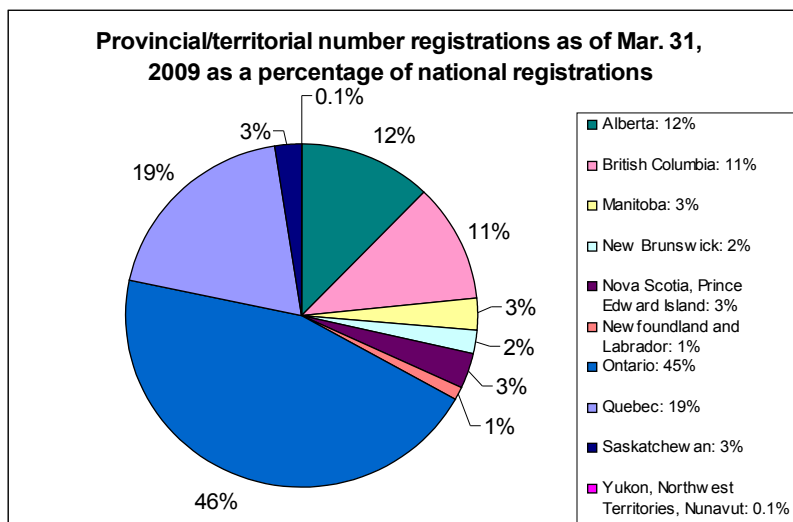
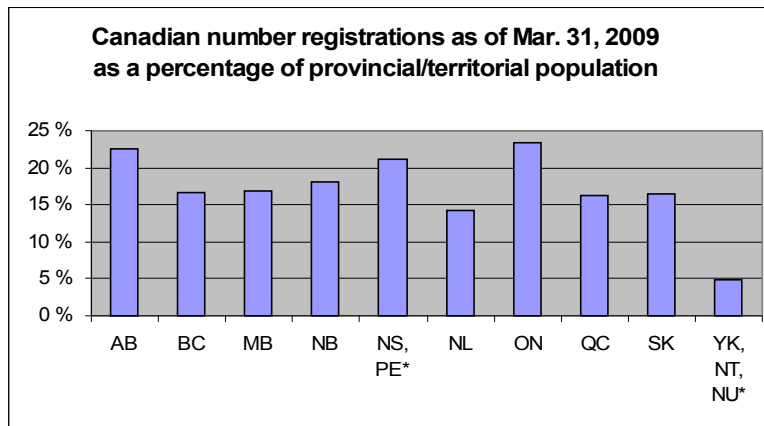


Figure 1.2



* Population data was obtained from the 2006 Census prepared by Statistics Canada.

2. Telemarketer registrations

Table 2.1

Canadian telemarketer registrations by month and by province/territory Sept. 30, 2008 to Mar. 31, 2009								
	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Total
Alberta	12	221	83	28	22	13	17	396
British Columbia	32	370	93	35	47	33	33	643
Manitoba	10	100	28	10	8	10	4	170
New Brunswick	4	64	15	5	6	3	11	108
Newfoundland and Labrador	4	29	8	1	9	3	5	59
Nova Scotia	9	73	27	6	5	4	10	134
Ontario	145	1,268	402	168	169	122	121	2,395
Prince Edward Island	1	5	4	3	1	1	3	18
Quebec	54	889	401	63	122	83	48	1,660
Saskatchewan	6	62	13	5	6	4	3	99
Yukon	0	2	1	0	0	0	1	4
Total – Canada	277	3,082	1,075	324	395	276	257	5,686

Figure 2.1

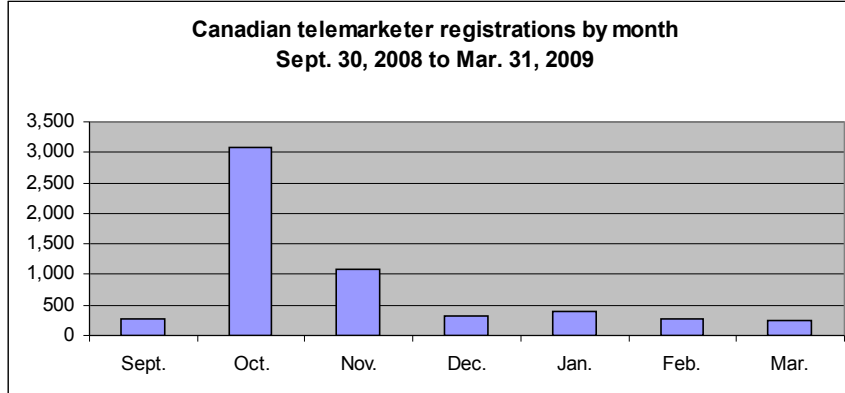


Table 2.2

Telemarketer registrations by industry (where parties have self-identified)	
Industry	Number of registrations as of Mar. 31, 2009
Automotive	128
Banking	37
Business services	252
Communications	88
Construction	42
Education	43
Government	8
Financial services	1,152
Food and beverage	13
Health	51
Insurance	409
Information technology	65
Manufacturing	20
Media	79
Non-registered charity	9
Other	1,008
Pharmaceuticals	6
Primary industry	1
Registered charity	179
Retail	293
Transportation	12
Utilities	13
Wholesale and distribution	49
Not identified	1,723

3. Complaints

Table 3.1

Complaints received concerning potential violations of the Unsolicited Telecommunications Rules Sept. 30, 2008 to Mar. 31, 2009								
	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Total
Complaints	0	3,933	16,221	13,896	14,224	13,692	15,682	77,648