



Telecom Decision CRTC 2009-688

Ottawa, 3 November 2009

All Points Solutions Inc. – Violations of the Unsolicited Telecommunications Rules

File number: PDR 9174-410

In this decision, the Commission imposes administrative monetary penalties totalling \$7,000 on All Points Solutions Inc. for initiating seven telemarketing telecommunications to consumers whose telecommunications numbers were registered on the National Do Not Call List, in violation of the Unsolicited Telecommunications Rules.

1. Between 6 October 2008 and 21 May 2009, the Commission received numerous complaints in relation to telemarketing telecommunications made by All Points Solutions Inc. (All Points). On 12 August 2009, a notice of violation, along with a copy of the Commission's investigation report (the Report), was issued to All Points pursuant to section 72.07 of the *Telecommunications Act* (the Act). The notice informed All Points that it had initiated 10 telemarketing telecommunications to consumers whose numbers were registered on the National Do Not Call List (DNCL), in violation of Part II, section 4 of the Commission's Unsolicited Telecommunications Rules (the Rules).¹
2. All Points was given until 14 September 2009 to pay the administrative monetary penalties (AMPs) set out in the notice of violation or to make representations to the Commission with respect to the violations.
3. The Commission received representations from All Points, dated 8 September 2009, in accordance with the notice of violation.
4. In its representations All Points stated its view that it was exempt from the Rules because it was strictly a business-to-business fax telemarketer. All Points further stated that it purchases its calling lists from a third party that supplies lists of business numbers.
5. The Commission finds that All Points sent seven fax telecommunications to residential numbers listed on the National DNCL and that these were not telemarketing telecommunications to business consumers.² The Commission also finds that All Points initiated the seven telemarketing telecommunications to telecommunications numbers registered on the National DNCL without obtaining express consent from the consumer to do so, in violation of Part II, section 4 of the Rules.

¹ Part II, section 4 of the Rules provides that a telemarketer shall not initiate a telemarketing telecommunication to a consumer's telecommunications number that is on the National DNCL, unless express consent has been provided by such consumer to be contacted via a telemarketing telecommunication by that telemarketer.

² Part II section 2 of the Rules provides that the National DNCL Rules do not apply to a telemarketing telecommunication made to a business consumer.

6. In response to the representations of All Points, the Commission found that three of the numbers included in the Report belong to businesses and considers, therefore, that calls to these numbers were not a violation of Part II, section 4 of the Rules.
7. The Commission notes that although All Points purchases its calling lists from a third-party supplier, it is the responsibility of All Points to ensure that the telecommunication numbers receiving faxes are exclusively business numbers and not consumer numbers listed on the National DNCL.
8. All Points also submitted that the fax numbers listed in the report had not received repeat faxes, but first-week faxes and, as per CRTC regulations, anyone calling in to their removal system is removed within seven business days.
9. The Commission notes that the seven violations relate to faxes sent to residential numbers listed on the National DNCL. The Commission considers that it is irrelevant whether it was the first time the residential number had received a fax from All Points. In addition, the Commission notes that there is no Unsolicited Telecommunications Rule pertaining to first-week faxes or seven-day removal as indicated by All Points.
10. In light of the representations made by All Points regarding 3 of the 10 numbers associated with the violations in the Report, the Commission is imposing AMPs totalling \$7,000, instead of the original amount of \$10,000 set out in the notice of violation.
11. However, the Commission notes that two of the three business numbers called were healthcare facilities. The Commission, through this decision, is issuing a formal warning to All Points that calls to healthcare facilities violate the Rules³ and that All Points should act to prevent further violations in the future.
12. The Commission hereby notifies All Points of its right to apply to the Commission to review and rescind or vary this decision under section 62 of the Act and to appeal this decision to the Federal Court of Appeal under section 64 of the Act. Any review and vary application under section 62 of the Act must be made within 30 days of the date of this decision and the Commission will place all related documentation on its website to allow public participation in accordance with Part VII of the CRTC Telecommunications Rules of Procedure. An appeal from this decision may be brought in the Federal Court of Appeal with the leave of that Court. Leave to appeal must be applied for within 30 days of the date of this decision or within such further time as a judge of the Court grants in exceptional circumstances.

³ Part III, section 28 of the Rules provides that a telemarketer shall not initiate, and a client of a telemarketer shall make all reasonable efforts to ensure that the telemarketer does not initiate, a telemarketing telecommunication to any emergency line or healthcare facility.

13. The amount of \$7,000 is due by **3 December 2009** and is to be paid in accordance with the instructions contained in the notice of violation. For any amount owing that is not paid by **3 December 2009**, interest calculated and compounded monthly at the average bank rate plus three percent will be payable on that amount and will accrue during the period beginning on the due date and ending on the day before the date on which payment is received.
14. If payment of the debt has not been received within 30 days of the date of this decision, the Commission intends to certify the unpaid amount and register the certificate with the Federal Court in order to collect the amount owing.

Secretary General

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