



**Sent Via registered mail**

**File Number: 9174-1464**

10 September 2014

Frank Graves  
President and Chief Executive Officer  
Probit Inc.  
359 Kent Street, Suite 102  
Ottawa, ON K2P 0R6

To Mr. Graves:

**Re: Request for information - Mandatory response required for alleged violations of the Unsolicited Telecommunication Rules**

The Commission has received complaints with regard to telemarketing telecommunications that appear to have been made by, or on behalf of, your organization.

The Canadian Radio-television and Telecommunications Commission (the Commission) regulates unsolicited telecommunications pursuant to section 41 of the *Telecommunications Act* (the Act). The Unsolicited Telecommunications Rules (the Rules), which include the National Do Not Call List (DNCL) Rules, are set out at <http://www.crtc.gc.ca/eng/trules-reglest.htm>.

Commission staff has initiated an investigation. It is essential to provide the requested information by the end of **8 October 2014**. In order to pursue the investigation of the alleged violations, Commission staff endeavors to determine whether or not a violation has occurred and what the nature of these violations may be, the number and frequency of complaints, incentive for compliance and the potential for future violations.

The complaints we have received relate to telemarketing telecommunications made between 1 October 2012 and 4 September 2014 (the relevant period).

These complaints allege that your organization or an organization acting on your behalf:

- *made telemarketing telecommunications to consumers whose numbers are registered on the National DNCL, in violation of Part II, section 4 of the Rules;*

- *made telemarketing telecommunications on behalf of a client which is not a registered subscriber of the National DNCL, in violation of Part II, section 7 of the Rules;*
- *failed to process consumers' internal do not call requests at the time of the telemarketing telecommunication, in violation of Part III, section 10 of the Rules;*
- *failed to place consumers' names and telecommunications numbers on its internal do not call list, or to make all reasonable efforts to ensure that consumers' names and telecommunications numbers are placed on its clients' do not call lists within 31 days of the request, in violation of Part III, sections 11 and 12 of the Rules;*
- *made telemarketing telecommunications to consumers who are or should be on its or its clients' internal do not call list, in violation of Part III, sections 14 and 15 of the Rules;*
- *made telemarketing telecommunications to consumers outside of the allowable hours, in violation of Part III, section 23 of the Rules;*
- *made calls that were abandoned, possibly in excess of the allowable abandonment rate, in violation of Part III, section 29 of the Rules;*
- *Made telecommunications via an Automatic Dialing-Announcing Device (ADAD) without providing a brief description of the purpose of the telecommunication. This identification message should include an electronic mail address or postal mailing address and a local or toll-free telecommunications number at which a representative of the originator of the message can be reached, in violation of Part IV, section 4 (d) of the Rules.*

Please note: The complaints we have received indicate that telecommunications made by your organization include an offer to win a monetary prize for participation in a survey.

The Rules define solicitation as the selling or promoting of a product or service, or the soliciting of money or money's worth, whether directly or indirectly and whether on behalf of another person.

Based on this definition, Commission Staff have determined that your offer of a monetary prize is solicitation, and therefore all calls made that contain this offer are telemarketing in nature.

**Accordingly, you are required to submit the following information:**

- 1) Provide the most recent audited financial statements for Probit Inc. If audited financial statements are unavailable, provide unaudited financial statements signed by a senior officer of your organization attesting to the accuracy of the financial statements.

- 2) Provide a description of your organization's structure, with the following details including organization names:
- Are there any other names under which your organization operates, or has operated in the past?
  - Are there any parent organizations or holding companies to which your organization belongs?
  - Are there any related businesses owned by a common parent organization or holding company with which your organization does business?
  - Are there any subsidiary or partner businesses owned or operated in whole or in part by your organization?
- 3) Confirm your registration and subscription with the National DNCL operator. If your organization is not already registered or subscribed, the following link will provide you with registration and subscription instructions; it also provides telemarketers with answers to frequently asked questions regarding the registration and subscription process: <https://www.lnnte-dncl.gc.ca/ind/accueil-home-eng>.
- 4) Confirm whether your organization or another organization acting on your behalf, used, displayed or provided the telecommunications numbers listed below as numbers where the consumer could reach a representative, when making telemarketing telecommunications.

|              |                                    |
|--------------|------------------------------------|
| 519-800-8397 | 1 October 2012 to 4 September 2014 |
| 613-288-2102 | 1 October 2012 to 4 September 2014 |
| 613-288-2484 | 1 October 2012 to 4 September 2014 |
| 613-688-2961 | 1 October 2012 to 4 September 2014 |
| 647-775-6098 | 1 October 2012 to 4 September 2014 |
| 647-775-9068 | 1 October 2012 to 4 September 2014 |
| 778-372-0299 | 1 October 2012 to 4 September 2014 |
| 800-211-8881 | 1 October 2012 to 4 September 2014 |
| 800-388-2813 | 1 October 2012 to 4 September 2014 |
| 800-388-2873 | 1 October 2012 to 4 September 2014 |
| 806-211-8881 | 1 October 2012 to 4 September 2014 |
| 855-288-4825 | 1 October 2012 to 4 September 2014 |
| 855-288-4925 | 1 October 2012 to 4 September 2014 |
| 855-288-4932 | 1 October 2012 to 4 September 2014 |
| 855-288-4992 | 1 October 2012 to 4 September 2014 |
| 866-211-8801 | 1 October 2012 to 4 September 2014 |
| 866-211-8811 | 1 October 2012 to 4 September 2014 |
| 866-211-8881 | 1 October 2012 to 4 September 2014 |
| 866-221-8881 | 1 October 2012 to 4 September 2014 |
| 866-758-1081 | 1 October 2012 to 4 September 2014 |
| 877-889-2024 | 1 October 2012 to 4 September 2014 |
| 886-211-8881 | 1 October 2012 to 4 September 2014 |

|              |                                    |
|--------------|------------------------------------|
| 888-388-2873 | 1 October 2012 to 4 September 2014 |
| 888-688-0709 | 1 October 2012 to 4 September 2014 |
| 905-720-0975 | 1 October 2012 to 4 September 2014 |

- 5) Provide any other telecommunications numbers that were used, displayed or provided as call-back numbers by your organization or by an organization acting on your behalf when making telemarketing telecommunications during the relevant period.
- 6) Provide the name and contact information of any entity which performed telemarketing telecommunications on your behalf during the relevant period.
- 7) Provide a copy of all scripts that were used by, or on behalf of, your organization during telemarketing calls to consumers during the relevant period.
- 8) Provide the calling records for all telecommunications made by or on behalf of your organization for the following dates: 1 October 2012 until 4 September 2014. The file should be in electronic format (if possible in CSV format) with the following information:
  1. Date of call;
  2. Time of call;
  3. Phone number called;
  4. Phone number displayed on consumer's call display;
  5. Originating telecommunication number;
  6. The script associated with each call as requested in point 7; and
  7. Whether each call was live or made via an ADAD
- 9) Provide the monthly abandonment rate as a percentage for all telecommunications made by or on behalf of your organization for the months of 1 October 2012 to 4 September 2014 (Note: Pursuant to Part III, section 30 of the Rules, a telemarketer and a client of a telemarketer are required to maintain records of abandonment rates for a period of 3 years from the date each monthly record is created.)
- 10) Explain the policy put in place by your organization to process a consumer's request to be put on your own internal do not call list or the internal do not call list of your client, as applicable. An "internal do not call list" contains the name and telecommunications number of every person who has requested to no longer receive telemarketing telecommunications made by, or on behalf of, an organization.
- 11) Please add the names and telecommunications phone numbers found in **Appendix 1** to your internal do not call list, and **confirm in your reply letter that these names and phone numbers have been added to your own "internal do not call list"** For your convenience these names and phone numbers have also been provided in electronic format on the CD enclosed with this request for information letter.

The information required in this letter can be submitted electronically at [LNTE-NDNCL-investigation@crtc.gc.ca](mailto:LNTE-NDNCL-investigation@crtc.gc.ca). Alternatively, should your organization be unable to send such correspondence electronically, you can send your correspondence to the Commission via the Commission's mailing address listed below:

CRTC  
Attn: Christina Munro  
Telecommunications Enforcement  
Compliance and Enforcement Sector  
Ottawa, Ontario  
Canada, K1A 0N2  
Fax: 819-994-5610

This required information must be received by the Commission, not merely postmarked/sent, by the date indicated.

Section 72.05 of the Act requires a person in possession of information necessary for the administration of the Rules to submit the information upon request to the person authorized to issue notices of violation of the Rules. Failure to properly respond to this letter is an offence as it represents a failure to do something required under a provision of the Act. Pursuant to Section 73(3)(b) of the Act, every person who fails to do anything required under a provision of the Act is guilty of an offence punishable on summary conviction and liable, in the case of an individual, to a fine not exceeding five thousand dollars for a first offence or ten thousand dollars for a subsequent offence, and in the case of a corporation, to a fine not exceeding fifty thousand dollars for a first offence or one hundred thousand dollars for a subsequent offence.

Finally, the information conveyed in this letter with respect to the complaints in question is to be used solely for the purpose of complying with the Rules.

Yours sincerely,



Christina Munro  
Enforcement Officer, Telecommunications Enforcement  
[LNTE-NDNCL-Investigation@crtc.gc.ca](mailto:LNTE-NDNCL-Investigation@crtc.gc.ca)  
819-953-2337

For more information, see:

**The Telecommunications Act:**

Government of Canada, Department of Justice Canada. *Telecommunications Act*. See section 41, "Unsolicited Telecommunications", in <http://laws.justice.gc.ca/PDF/Statute/T/T-3.4.pdf> or at <http://laws.justice.gc.ca/eng/T-3.4/page-2.html#anchorbo-ga:l III-gb:s 41>.

**Current Rules:**

*Unsolicited Telecommunications Rules framework and the National Do Not Call List*: <http://www.crtc.gc.ca/eng/trules-reglest.htm>

**Decisions establishing the Unsolicited Telecommunications Rules:**

*Unsolicited Telecommunications Rules framework and the National Do Not Call List*, Telecom Decision CRTC 2007-48, 3 July 2007, as amended by Telecom Decision CRTC 2007-48-1, 19 July 2007. <http://www.crtc.gc.ca/eng/archive/2007/dt2007-48.htm>  
<http://www.crtc.gc.ca/eng/archive/2007/dt2007-48-1.htm>

*Regulatory policy - Delegation of the Commission's investigative powers with regard to Unsolicited Telecommunications Rules complaints*, Telecom Decision CRTC 2008-6-1, 20 October 2008. <http://www.crtc.gc.ca/eng/archive/2008/dt2008-6-1.htm>

*Modifications to some Unsolicited Telecommunications Rules*, Telecom Regulatory Policy CRTC 2009-200, 20 April 2009 <http://www.crtc.gc.ca/eng/archive/2009/2009-200.htm>, and Compliance and Enforcement Regulatory Policy CRTC 2014-155, 31 March 2014. <http://www.crtc.gc.ca/eng/archive/2014/2014-155.htm>

**Other information:**

Legal information related to the *Personal Information Protection and Electronic Documents Act* (PIPEDA): [http://www.priv.gc.ca/leg\\_c/leg\\_c\\_p\\_e.cfm#contenttop](http://www.priv.gc.ca/leg_c/leg_c_p_e.cfm#contenttop)

CRTC Privacy & Confidentiality Statement related to the National Do Not Call List: <https://www.lnnte-dncl.gc.ca/notimp-impnot-eng>