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TELECOMMUNICATIONS ACT

**Bill to Amend—Second Reading
of Bill C-37**

Speech by:

The Honourable Claudette Tardif

Thursday, October 27, 2005

THE SENATE

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TELECOMMUNICATIONS ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Claudette Tardif moved second reading of Bill C-37, to amend the Telecommunications Act.

She said: Honourable senators, I am pleased to rise today to commence the process of second reading of Bill C-37, to amend the Telecommunications Act.

The amendments being proposed to the Telecommunications Act strengthen the role of the Canadian Radio-television and Telecommunications Commission, the CRTC, under the act with respect to the regulation of telecommunications facilities for unsolicited telecommunications to prevent undue inconvenience or nuisance.

The goal of this bill is to create a smart and right regulatory environment for sensible, smart telemarketing. We want to safeguard the privacy of Canadians and their right to choose with whom they wish to communicate.

[*Translation*]

The need to make changes to the Telecommunications Act was identified by the CRTC itself and by the Canadian Telemarketing Association. The government then decided that it needed to intervene in order to resolve the problems in the current system by introducing this bill to facilitate the establishment of a national do-not-call list. To this end, the bill proposes the creation of a legislative framework that would help solve the problem of unsolicited telemarketing, by creating a national do-not-call list.

The bill will enable the Canadian Radio-television and Telecommunications Commission, or the CRTC, to do three things: first, impose fines for non-compliance; second, establish a third party administrator to operate a database; and third, set fees to recover the costs associated with maintaining the list.

Unsolicited phone calls have become an inconvenience and a nuisance for many Canadians.

[*English*]

In an Environics survey conducted in 2003 for Industry Canada, fully 97 per cent of respondents reported a negative reaction to unsolicited calls. Of those, 38 per cent said they tolerate the calls; 35 per cent reported being annoyed by them; and 24 per cent said they hated receiving them. The majority of respondents, almost 80 per cent, supported the creation of a national do-not-call list; some 66 per cent indicated they would likely sign up for a do-not-call service. This evidence is supported by yet another survey, the Ekos survey, which estimated that 61 per cent of respondents want to stop receiving telemarketing calls.

The CRTC, the federal agency responsible for regulating unsolicited telemarketing, receives thousands of complaints a year from Canadians frustrated with their inability to

control unwanted calls. Last year alone, the CRTC received some 9,000 calls from dissatisfied Canadians on the subject. Under the present regulatory regime, enforcement is ineffective because it is difficult to establish proof of registration on company-specific lists and because, as the CRTC itself has recognized, telemarketers appear undeterred by the present regulations.

[*Translation*]

I would like to remind honourable senators that the CRTC imposed limitations on telemarketing in 1994. These limitations included a requirement that telemarketers maintain individual do-not-call lists. This provision, however, required consumers to enlist with each telemarketer separately, and there may be hundreds of telemarketers. The consumer has no way of knowing when his or her number may find its way onto another telemarketing list. For example, as a senator with easy access to all legislation, I was not aware that under the current provisions of the legislation, I could ask a telemarketer to strike my name off his calling list. I imagine the average consumer might not have known that either.

It is not surprising, therefore, that many consumers consider this solution unsatisfactory. I would also like to point out to honourable senators that following public consultations, the CRTC itself found that the existing regulatory system was inadequate to allow it to establish a list, impose fines for non-compliance and to establish a third party administrator to operate a database. The legislation needs to be amended in order to give the CRTC the authority to create and maintain such a list.

[*English*]

Other countries have introduced regulations to protect customers from unwanted telemarketing calls. In 2003, the U.S. federal trade commission launched a national do-not-call registry. Some 62 million Americans subscribed to the registry in the first year. By the end of the second year, 92 million Americans had signed up.

Honourable senators, the bill before us is premised on the proven experience of the United States. It provides the CRTC with the necessary powers to implement and enforce a national do-not-call list. It will enable the CRTC to impose fines for non-compliance, establish a third party administrator to operate a database, and to set fees to recover the costs associated with running the list.

The CRTC has long-standing experience in managing telemarketing. It has been doing so since 1994. The CRTC also has proven experience in delegating to an administrator and engaging third parties, and it is a quasi-judicial regulator with some judicial powers.

With the proposed three amendments, both the CRTC's role and general enforcement of the Telecommunications Act would be strengthened. The amendments propose penalties of \$1,500 per offending call for individuals and \$15,000 per offending call for corporations or telemarketers who do not respect the list.

• (1510)

This bill provides the CRTC with guidance on the telemarketing activities that should be subject to a national do-not-call list. In particular, the bill provides exemptions for certain groups. These include registered charities; companies with whom the client has had an existing business relationship; survey and polling activities; political activities, such as registered political parties, nomination or leadership candidates or candidates of a political party; and newspapers.

These exemptions are similar to those identified in the United States. During committee hearings, it was agreed upon that without exemptions, certain organizations such as registered charities would lose a major part of their fundraising activities and resources. Experience in the United States has shown that with similar exemptions, unsolicited calls dropped from 30 to 6 per month for those who subscribed to the list.

[*Translation*]

Honourable senators, Canadians are expecting to be provided with a service that will easily and efficiently curb unsolicited telemarketing. To ensure this, the bill includes review mechanisms to determine whether the national list is meeting expectations.

Under this bill, the CRTC would be required to report yearly to the Minister of Industry on the operation of the national do-not-call list. The bill also provides that, after three years, a committee of the House of Commons, of the Senate or of both Houses of Parliament would be established to review the administration and operation of the national do-not-call list.

The list will be administered at no extra cost to Canadian taxpayers. If the bill is passed, it is expected that the costs will be recovered from the telemarketing sector. This means that the telemarketers will be the ones paying.

[*English*]

It is not only consumers that support the establishment of a national do-not-call list. Many telemarketers prefer a national list over the current regime. The Canadian Marketing Association believes a compulsory do-not-call service for all companies that use the telephone to market their goods and services to potential customers is the most effective means to curtail consumer annoyance with telemarketers.

Honourable senators, the Privacy Commissioner of Canada also advocates the creation of a meaningful, mandatory, national do-not-call list. In her address to the Standing Committee on Industry, Natural Resources, Science and Technology, the Privacy Commissioner of Canada, supported by nine of the provincial-territorial information and privacy commissioners, highlighted the importance of establishing a national do-not-call list to help Canadians protect their privacy.

[*Translation*]

By passing this bill, we will enable the CRTC to move quickly on this issue. It will undertake further consultations on the fees to be collected, the selection of the organization responsible for administering the list, and other matters.

Telemarketing has become increasingly widespread. There is no indication that it is just a passing fad. In addition, the inability to control a telemarketer's access to phones in our homes and businesses has become a source of frustration for a large percentage of Canadians.

[*English*]

With this bill, we provide a responsible framework for a Canadian do-not-call regime. It equips the CRTC with the necessary tools to implement and enforce a national do-not-call list. In this way, we will give Canadians an easy, effective way to curtail intrusive calls. We will take steps to protect their privacy. I urge you, honourable senators, to support this bill.

Hon. Senators: Hear, hear!

Hon. Pierrette Ringuette: May I ask a question? I appreciate the statement by the honourable senator.

[*Translation*]

However, we must not forget that the CRTC has jurisdiction solely in Canada. Most telemarketing firms, which influence consumers to some extent, are not located in Canada. Last week, I got a telephone call from India. The CRTC would have no jurisdiction over these firms. However, in New Brunswick, for example, jobs are being created by some credible telemarketing firms.

Right now, I have some concerns that this may threaten jobs in New Brunswick because New Brunswickers are bilingual. Ultimately, not all telemarketing being conducted in Canada originates in Canada and will not come under the CRTC's jurisdiction. That is my fear.

Senator Tardif: I want to thank Senator Ringuette for her question. In fact, on June 8, the Privacy Commissioner indicated that a number of countries shared their data. The commissioner was referring, above all, to the United States, and the fact that the do-not-call lists were shared.

My information indicates that the majority of call centres receive inbound calls, meaning that individuals call to ask questions about a product or a service they already have and to obtain additional information. Most of these are inbound call centres, and not outbound call centres trying to make unsolicited sales.

On motion of Senator Tkachuk, debate adjourned.