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**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

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Division of State Government Accountability

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# **Do Not Call Enforcement Efforts**

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## **Department of State**

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Report 2017-S-55

September 2018

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# Executive Summary

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## Purpose

To determine if the Department of State (Department) is fully implementing the enforcement and collection provisions of New York's Do Not Call Law. The audit covers the period January 1, 2014 to April 20, 2018.

## Background

The New York State Do Not Call law (Law) allows consumers to register their personal mobile and landline phone numbers on a central national registry to reduce unsolicited telemarketing calls. The Department's Division of Consumer Protection (Division) is responsible for enforcing the Law, which took effect in 2001. Initially, New York consumers registered their phone numbers on a statewide registry. In 2003, the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC) collaborated to create the National Do Not Call Registry (Registry), and consumers' phone numbers that were previously on the New York registry were transferred to the national Registry. The Division uses the national Registry to retrieve New York complaints and also receives complaints by phone and email. The Law was amended in 2010 to include automated calls, known as robocalls, and again in 2016 to require telemarketers to reveal caller identification information so consumers know who is calling and can take steps to block unwanted calls.

The Division investigates complaints to determine if a violation of law has occurred, takes actions to enforce and resolve complaints, and provides information and outreach to consumers. Violators may be subject to penalties up to a maximum of \$11,000 per violation. The number of Do Not Call complaints has been increasing, both in New York and nationally. According to the Registry, there were 454,100 New York Do Not Call complaints during the federal fiscal year ended September 30, 2017, up from 217,031 in 2014. As of December 31, 2017, the Registry contained more than 14 million New York phone numbers.

## Key Findings

- Our review of the Division's statistics shows that the number of cases referred for enforcement actions has declined in recent years. While Registry complaints by State residents have more than doubled since 2014, the number of cases referred to counsel for further action decreased in each of the two subsequent years, and just one case was referred to counsel in 2017. The decreases could be, in part, related to turnover and vacancies in key positions. For example, the Director of Investigations position, which was devoted nearly full time to Do Not Call, was vacant for approximately 18 months during our audit period.
- We also found that the data maintained by the Division to document its Do Not Call enforcement efforts was sometimes inaccurate, incomplete, or inconsistent with other information the Division maintained. These deficiencies reduce the data's usefulness for enforcement, monitoring, and external reporting purposes.
- The Division may be able to use aspects of the FTC's enforcement process (such as strategies to make the best use of Registry data) to enhance the effectiveness of its Do Not Call enforcement efforts.

## Key Recommendations

- Assess current and planned Do Not Call enforcement activities to determine appropriate staffing levels, identify timing benchmarks for key enforcement efforts, and identify improvement opportunities.
- Develop, implement, and communicate written procedures to Division staff that address the accuracy, completeness, and comparability of internally maintained Do Not Call information.
- Evaluate the potential for using FTC resources and strategies (including expanded use of the FTC's free investigative capabilities) and consumer-friendly alternatives to notarized affidavits to enhance the Division's Do Not Call enforcement capabilities, and document the resulting decisions.

## Other Related Audit/Report of Interest

[Department of State: Monitoring of Not-for-Profit Cemeteries for Fiscal Stability and Adequate Facility Maintenance \(2016-S-79\)](#)

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**State of New York**  
**Office of the State Comptroller**

**Division of State Government Accountability**

September 28, 2018

Ms. Rossana Rosado  
Secretary of State  
Department of State  
99 Washington Avenue, 11th Floor  
Albany, NY 12231

Dear Ms. Rosado:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Do Not Call Enforcement Efforts*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller*  
*Division of State Government Accountability*

## Table of Contents

Background	5
Audit Findings and Recommendations	8
Investigation, Enforcement, and Collection	8
Do Not Call Data Limitations and Weaknesses	10
FTC Enforcement and Consumer Sentinel Network Capabilities	11
Recommendations	12
Audit Scope, Objective, and Methodology	12
Authority	13
Reporting Requirements	13
Contributors to This Report	14
Agency Comments	15

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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The New York State Do Not Call Law (Law) allows consumers to register their personal mobile and landline phone numbers on a central national registry to reduce unsolicited telemarketing calls. The Department of State's (Department) Division of Consumer Protection (Division) is responsible for enforcing the Law, which took effect in 2001. Initially, New York consumers registered their phone numbers on a statewide registry. Then, in 2003, the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC) collaborated to create the National Do Not Call Registry (Registry). The Law authorized transfer of phone numbers on the statewide registry to the national Registry, which the Division uses to retrieve New York's Do Not Call registrations and complaints. A phone number remains on the Registry without expiration unless it's disconnected and reassigned or the consumer chooses to remove it. Do Not Call violations may be enforced by the federal government, by state governments, or by private rights of action.

In addition to the Law's provisions, which fall under the General Business Law, the Executive Law requires the Division to initiate and encourage consumer education programs. To address this, the Division makes information about the Registry available to the public through its website, via Facebook and Twitter, through live seminars to community groups about consumer protection topics (such as senior scam prevention and credit management), and through printed materials.

Under the Law, unsolicited telemarketing sales calls are defined as those (a) not made in response to an express written or verbal request by the customer or (b) not in connection with an established business relationship. The Law and its regulations forbid telemarketers from doing the following:

- Making—or causing—unsolicited telemarketing sales calls to any consumer more than 31 days after the phone number appears on the Registry; and
- Making telemarketing calls outside the hours of 8 a.m. to 9 p.m. without consumer consent.

At the beginning of each sales call, telemarketers must clearly provide their name and the name of the person or entity on whose behalf they are calling, the purpose of the call, and the identity of the goods or services for which a fee will be charged. Some callers, such as those calling from or on behalf of political organizations and charities or those with a prior business relationship with the consumer being called, are exempt from the requirements.

The Division's Do Not Call efforts involve investigation of complaints, enforcement and resolution by a Division attorney, and information and outreach to consumers. Investigation refers to actions that personnel take to review a complaint to attempt to determine if a violation of law has occurred. These actions may include contacting the complainant to obtain more information about a complaint and efforts to determine the source of unwanted calls. Although personnel may receive complaints by phone or email, the primary source of complaint information is the FTC's Consumer Sentinel Network (Sentinel), a free online investigative tool available for government and law enforcement purposes. Sentinel houses the national Registry (which includes the Registry for each state), and enables searches of millions of consumer complaints, covering topics such as

identity theft, telemarketing, and health and weight loss products. To investigate a complaint and pursue enforcement, Division personnel generally take the following steps:

- Determine if there are other complaints against the reported phone number (using Sentinel).
- Verify that the complainant's phone number has been on the Registry for at least 31 days prior to the alleged violation, as required, and that it is not a business phone number.
- Attempt to identify the owner of the caller's phone number, which often includes issuing a subpoena to the phone carrier requesting that information, and gather other information, such as company address, the products the company sells, and other potential phone numbers the phone number owner uses. If the carrier doesn't comply with the subpoena, the Division may request that the Office of the Attorney General initiate a court action to enforce it. However, Division personnel do not always pursue this course, which may result in them not pursuing the case.
- Contact complainants to determine if they are willing to sign an affidavit, have it notarized, and, if necessary, testify at an administrative hearing.
- Send an affidavit to each complainant by mail, requesting that the complainant confirm the information they provided. The complainant must have the affidavit notarized and return it to the Division.
- Review affidavits and response to subpoena, and then summarize the merits of the case and determine whether to close the case or proceed to enforcement.
- Assign the case to an attorney, who serves a Notice of Apparent Liability (NOAL) to the alleged violator and begins negotiations in an attempt to resolve the violation to the satisfaction of both parties. Results could include closing the case without a fine; negotiating a settlement with the alleged violator which, when applicable, includes the amount of any fine imposed; or litigation.

To encourage compliance, violators may be subject to penalties. Each offending call to a phone number is considered a separate occurrence for penalty and enforcement purposes. The maximum penalty in New York is currently \$11,000 per violation. A recently settled New York case involved an investigation alleging that Hilton Grand Vacations Company, LLC (Hilton) made at least 334 unsolicited telemarketing sales calls to at least 133 consumers whose phone numbers were on the Registry. In the resulting 2016 settlement, Hilton agreed to pay a \$250,500 fine to the Department and change its business practices to comply with the Law. Because complaints from consumers are essential to build a case against potential violators, the Division encourages consumers to report each unwanted call.

Changes in technology, such as the use of automated phone calls with prerecorded messages (commonly known as robocalls), have posed challenges in consumer protection efforts. Another technique, known as spoofing, allows a caller to disguise its originating number in the information displayed on the consumer's phone. In response to these developments, the Law was amended in 2010 to include robocalls, and again in 2016 to require telemarketers to reveal caller identification information so consumers know who is calling and then can take steps to block unwanted calls.

Despite these protections, the number of Do Not Call complaints has been increasing, both in

New York and nationally. According to the Registry, 454,100 New York Do Not Call complaints were made during the federal fiscal year ended September 30, 2017, up from 217,031 reported three years earlier. Nationally, 7.2 million complaints were reported during the federal fiscal year ended September 30, 2017, up from 3.2 million reported three years earlier. As of December 31, 2017, more than 14 million New York phone numbers were on the Registry. The Do Not Call program has five staff positions including: a clerk and an investigator devoted full time to Do Not Call; a nearly full-time Director of Investigations; and a Division Director and an attorney, both of whom have other Division responsibilities and devote part of their time to Do Not Call.

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## Audit Findings and Recommendations

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Our review of the Division's case statistics shows that the number of cases referred for enforcement actions has declined in recent years. While Registry complaints by State residents have more than doubled since 2014, the number of cases referred to counsel for further action decreased in each of the two subsequent years, and just one case was referred to counsel in 2017. The decreases could be, in part, related to turnover and vacancies in key positions. For example, the Director of Investigations position, which was devoted nearly full time to Do Not Call, was vacant for approximately 18 months during our audit period. Additionally, the attorney position was vacant since September 2017 and remained vacant as of July 2018. These staffing issues can limit the Division's enforcement efforts and the deterrent effect of any resulting penalties.

We also found that the data maintained by the Division to document its Do Not Call enforcement efforts was sometimes inaccurate, incomplete, or inconsistent with other information it maintained. These deficiencies reduce the data's usefulness for enforcement, monitoring, and external reporting purposes. Finally, the Division should consider using aspects of the FTC's enforcement process, such as strategies to make the best use of the Registry data, to enhance the effectiveness of its Do Not Call enforcement efforts.

### Investigation, Enforcement, and Collection

From an initial population of 13 New York Do Not Call cases settled during the period January 1, 2014 through September 19, 2017, we selected a judgmental sample of 10 and determined whether complainants returned affidavits; whether phone carriers responded to subpoenas issued by the Division; the time to complete selected steps in the complaint and collection process; and whether the fines levied for these 10 cases, which totaled \$159,750, were collected and deposited into the appropriate revenue account. We also evaluated whether the Department maintained appropriate documentation about the cases. Subsequent to our sample selection and testing, the Department notified us that 32 additional cases were settled during the referenced period, for an adjusted total of 45 cases, as presented in the table on page 9.

We found that case records included all relevant correspondence with the alleged violator, including the NOAL stating the amount of the liability, and a signed, dated consent order acknowledging the final settlement amount and when it was to be paid. Of the \$159,750 in fines levied, the Division collected \$115,875 for 9 of the 10 cases, which we traced to the appropriate revenue account. The remaining \$43,875 had not been collected as of the time of our testing, and included \$29,375 for a case that was referred to the State Attorney General's Office for non-payment and \$14,500 from a business that stated it was unable to pay.

Of the 278 affidavits sent to complainants, 145 (52 percent) were returned signed and notarized. The requirement that complainants complete an affidavit and then incur the inconvenience of having it notarized, followed by mailing it back to the Division, can be cumbersome to consumers and may reduce the affidavit return rate. Although not all states have this requirement for substantiating consumer complaints, Department officials assert that the affidavit validates the claim and provides support that there is a basis for the complaint.

### Case Processing Productivity

While the number of Do Not Call complaints by State residents more than doubled from 2014 to 2017, Division records show that the number of cases referred to counsel decreased, and the amount of fines levied decreased significantly each year during that period. In 2017 and 2016 combined, the Division referred two cases to its counsel's office for further enforcement, versus 29 in the combined years 2015 and 2014, which included 14 cases in 2015 alone. The following table presents the Do Not Call Registry and case information for a four-year period.

#### Do Not Call Registry and Case Statistics

	2014	2015	2016	2017
Number of Registered New York Phone Numbers on National Do Not Call Registry* (in millions)	13.3	13.6	13.8	14
Number of Complaints Associated With New York Phone Numbers*	217,031	246,628	360,225	454,100
Cases Referred to Attorney General for Collection	4	2	0	0
Cases Referred to Division Counsel	15	14	1	1
Cases Settled	22	11	10	2
Fines Levied	\$1,902,500	\$835,000	\$338,500**	\$44,000
Settlement Amount Collected	\$220,015	\$81,919	\$351,007	\$48,950
Percent Change in Fines Levied From Previous Year		56	59	87
Percent Change in Fines From 2014 to 2017				98

\*Amounts reported are from the FTC Do Not Call Registry FY 2017 Data Book, and present statistics as of the federal fiscal year ended September 30 of the year listed in the column heading.

\*\*Includes \$250,500 collected in connection with the case against Hilton Grand Vacations Company, LLC.

During the same time period, the staff resources devoted to the Do Not Call program were diminished due to turnover and vacancies in key positions, including the following:

- Director of Investigations – Supervises the Do Not Call unit and all Do Not Call investigations and makes important decisions, such as whether to move forward with a case or close it. This position is devoted nearly full time to Do Not Call, but had been vacant for approximately 18 months beginning in November 2016. Department officials told us the position was filled in May 2018.
- Attorney – Do Not Call duties include drafting NOALs and serving them to alleged violators, prosecuting alleged violators in administrative hearings, and pursuing negotiations. This position is also assigned other Division responsibilities. As of July 2018, the position had been vacant nearly a year, since the attorney was promoted in August 2017 to Division Director. Department officials told us they have been interviewing to fill the position.

- Division Director – Responsible for providing Do Not Call oversight, including assigning cases to an attorney. The attorney promoted to this position in August 2017 continued to perform attorney functions due to the vacancy that resulted from the promotion. Having only one person to fill two Do Not Call roles—in addition to other Division responsibilities—likely hampered the Division’s enforcement capabilities and accomplishments. Division records indicate that the Do Not Call caseload requires dedicated time and attention, and that a litigation attorney is necessary to focus primarily on Do Not Call cases.

Ultimately, the lack of personnel whose time is either fully or partially dedicated to Do Not Call enforcement limits the volume of complaints and cases the Division can effectively pursue and may diminish its ability to safeguard consumers from unwanted phone solicitations. Department officials indicated that, in addition to their hiring efforts, they are examining potential efficiencies, such as using non-attorney personnel to draft NOALs. They also stated that the amount levied may vary significantly from year to year, depending on variables such as the number of investigations that result in legal action and the length of time to obtain settlements.

## Do Not Call Data Limitations and Weaknesses

We found that the data maintained by the Division to document its Do Not Call enforcement efforts was sometimes inaccurate, incomplete, or was inconsistent with other information it maintained. In addition, there were no written procedures that provided direction on how to record and maintain the data. Further, the data was not set up to facilitate meaningful analysis, such as year-to-year comparisons or the timeliness of investigative steps. These limitations diminish the information’s value for use in making informed decisions, reporting results to the public, and effectively evaluating the success of Do Not Call efforts.

Division personnel did not maintain a complete and accurate list of active Do Not Call cases and their associated status. Instead, they maintained multiple spreadsheets of case-related information, such as consumer complaints, affidavits sent and returned, subpoenas issued, quarterly fines and collections, and settlements. This information is used to prepare “dashboard” reports that present a snapshot of Do Not Call statistics for management and annual reports. In reviewing this information for the period January 1, 2014 through September 19, 2017, we identified conflicting and sometimes missing data. For example:

- The dates that cases were referred to the attorney were left blank in most instances.
- In several instances, at least two case numbers were used to identify the same case.
- The fines and collections file included some inaccurate and conflicting information on cases settled and closed.
- Of the 31 cases labeled as open, we identified 14 that were actually settled or otherwise closed.
- For 7 of the 14 settled cases, settlement information, such as the amount, was missing.
- According to the 2016 annual report, staff investigated 92,391 complaints and collected \$351,007 in penalties. However, the staff primarily responsible for compiling this information were unable to provide support for how they arrived at the number of complaints investigated. Furthermore, internal dashboard reports indicated 82,472 complaints investigated in that same reporting period, a difference of 9,919.

Division personnel said that this information is not always updated to reflect the actual status of the cases.

## FTC Enforcement and Consumer Sentinel Network Capabilities

We found that the Division could be using the FTC’s website, personnel, and certain investigative and enforcement strategies more effectively to enhance Do Not Call enforcement efforts in New York. The FTC enforces federal consumer protection laws, maintains the national Registry, and operates Sentinel. Sentinel capabilities include:

- Scheduling a search in advance that will send an email when new results meet search criteria;
- Searching the number of complaints on a given business phone number;
- Sharing complaint data with other Sentinel members; and
- Analyzing data to identify complaint trends and explore relationships among entities.

The FTC also produces an annual Do Not Call Registry Data Book with statistical data about phone numbers on the Registry, telemarketers and sellers accessing phone numbers on the Registry, and consumer complaints about alleged violations (based on unverified information as reported by consumers). According to the FTC, 454,100 complaints were made by New York residents in the federal fiscal year ended September 30, 2017, including 292,331 robocalls (about 64 percent), 154,613 calls from live callers, and 7,156 complaints that did not report a call type. Of the 163,163 complaints that included a call topic, 57,100 were related to the topic of reducing debt, and the fewest number of complaints (2,910) were related to the topics of home improvement and cleaning.

Sentinel is a powerful investigative tool. Using Sentinel, we found the top 20 phone numbers that New York consumers identified in their Do Not Call complaints during the month of February 2018. Our search identified a wide range in the number of complaints per phone number, and included phone numbers associated with hundreds of complaints. With further research, we identified entities potentially associated with two phone numbers for which there were a high number of complaints. Although we didn’t verify whether the complaints were exempt from the Law, the analysis took less than a day and produced two potential law enforcement targets. In presenting this information to Division personnel, we indicated they could pursue similar strategies to identify potential cases. Department officials said that they are incorporating some of Sentinel’s search capabilities into their process, as part of their assessment of operations, staff performance, and enforcement efforts.

Many of the FTC’s steps in building Do Not Call cases are similar to the Division’s practices in New York. However, one significant difference is that the FTC generally uses sworn declarations from consumers that do not have to be notarized, while the Division uses affidavits that must be notarized—an extra step that is generally inconvenient and reduces the likelihood that consumers will respond. Other states also use different methods to collect complaint information from consumers. For example, Florida’s Do Not Call online complaint form includes an official statement about the conditions under which calls are exempt from Do Not Call provisions. Consumers must

indicate that they both read and understood the official statement, and then agree that their online statement legally binds them, just as a paper certification would. In responding to this information, Division officials stated that they have been looking into an alternative to affidavits.

## Recommendations

1. Assess current and planned Do Not Call enforcement activities to determine appropriate staffing levels, identify timing benchmarks for key enforcement efforts, and identify improvement opportunities.
2. Develop, implement, and communicate written procedures to Division staff that address the accuracy, completeness, and comparability of internally maintained Do Not Call information.
3. Evaluate the potential for using FTC resources and strategies (including expanded use of Sentinel capabilities) and consumer-friendly alternatives to notarized affidavits to enhance the Division's Do Not Call enforcement capabilities, and document the resulting decisions.

## Audit Scope, Objective, and Methodology

The objective of our performance audit was to determine if the Department is fully implementing the enforcement and collection provisions of the Law. The audit covers the period January 1, 2014 to April 20, 2018.

To accomplish our objective, we reviewed relevant laws and regulations as well as Department policies and procedures related to enforcing the Law. We met with Department officials to gain an understanding of their role in investigating complaints and taking enforcement actions against alleged violators of the Law. We also examined the Department's internal controls and assessed their adequacy as they related to our objective, and assessed the reliability of data maintained by the Department.

We reviewed the Department's website to identify the information they report publicly about the Do Not Call Registry and the results of their enforcement efforts. We contacted representatives from other states to identify potential best practices in their enforcement of similar laws. We also communicated with FTC personnel to better understand their enforcement process and to identify strategies – including those using Sentinel data – for potential consideration in New York. In addition, we attended Sentinel training sessions and researched and analyzed selected Sentinel data, which is reported by consumers and not validated (unless as part of an investigation).

From an initial population of 13 New York Do Not Call cases that were settled during the period January 1, 2014 through September 19, 2017, we selected a judgmental sample of ten and determined the steps in the investigation and collection process and length of time to accomplish them. We also evaluated whether the Department maintained appropriate documentation about the cases. The ten cases included the one case settled in each of the years 2017 and 2016, totaling two cases; the five highest-dollar settlements of the seven cases settled in 2015; and the

three highest-dollar settlements of the four cases settled in 2014. We selected a proportionate percentage of the cases from each year for 2015 (71.4 percent) and 2014 (75 percent). Subsequent to our sample selection and testing, the Department notified us that there were 32 additional cases settled during the referenced period, including 1 in 2017, 9 in 2016, 4 in 2015, and 18 in 2014, for an adjusted total of 45 cases.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating threats to organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

## Authority

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The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

## Reporting Requirements

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A draft copy of this report was provided to Department officials for their review and formal comment. We considered their comments in preparing this final report and have attached them in their entirety to the end of the report. The Department agreed with our recommendations and noted the steps it is taking to implement them.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Secretary of State shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

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## Contributors to This Report

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## Division of State Government Accountability

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### Vision

A team of accountability experts respected for providing information that decision makers value.

### Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.

# Agency Comments

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ANDREW M. CUOMO  
 GOVERNOR

ROSSANA ROSADO  
 SECRETARY OF STATE

September 6, 2018

Mr. Steve Goss  
 Office of the State Comptroller  
 Division of State Government Accountability  
 110 State Street - 11th Floor  
 Albany, NY 12236-0001

Re: Draft Audit Report 2016-S-79

Dear Mr. Goss:

This letter is written in response to the draft audit findings and recommendations for the Comptroller's audit of the Division of Consumer Protection's Do Not Call Enforcement Efforts.

The Division of Consumer Protection continually strives to improve and provide outstanding service to the public. The Division is committed to assisting, educating, protecting and empowering New York consumers in the ever-changing marketplace. The telemarketing industry is no exception, with many changing and evolving new technologies that continue to emerge. New technologies make it difficult to identify the companies making the unwanted calls, and thereby challenging to enforce Do Not Call laws.

Our comments on the audit report are as follows:

**General Comments:**

- Page 11, third paragraph, "With further research, we identified an entity potentially associated with two phone numbers for which there were a high number of complaints. Though we didn't verify whether the complains were exempt from the Law, the analysis took less than a day and produced two potential law enforcement targets."
  - *Associating complaints and possible violators is only one step toward building a case. Determining valid companies associated with phone numbers is far more complex. Many violators can mask their identities using third party companies, which are often international, to call on their behalf. The bulk of the work is investigating the complaint, determining if the complaint is valid, determining the violator and building evidence to pursue a case.*

**Recommendations:**

**Recommendation 1:** Assess current and planned Do Not Call enforcement activities to determine appropriate staffing levels, identify timing benchmarks for key enforcement efforts, and identify improvement opportunities.



*Department Response:* The Division of Consumer Protection has performed a comprehensive review and risk assessment of the Do Not Call program. We have recently hired a lead investigator to direct investigative efforts and will continue to pursue adding legal staff to the program. In addition, the Division has been working with the FTC and other states to develop best practices for Do Not Call investigation and enforcement as we redefine the Do Not Call process.

**Recommendation 2:** Develop, implement, and communicate written procedures to Division staff that address the accuracy, completeness, and comparability of internally maintained Do Not Call Information.

*Department Response:* Written policies and procedures are being developed as part of the comprehensive review of the program. The Division is committed to increasing the accuracy and completeness of the data maintained by the Do Not Call Program. To address this issue, the Division is developing a database for the Do Not Call program that will assist in ensuring the integrity and usefulness of the information.

**Recommendation 3:** Evaluate the potential for using FTC resources and strategies (including expanded use of Sentinel capabilities) and consumer-friendly alternatives to notarized affidavits to enhance the Division's Do Not Call enforcement capabilities, and document the resulting decisions.

*Department Response:* As mentioned above, DOS has been working with the FTC and other states to develop best practices for Do Not Call investigation and enforcement, and incorporate the best practices in our process. The Do Not Call staff attended training and have been working with FTC's Sentinel Consumer Network staff to best utilize the system for our needs.

At the Department of State, we continually strive to improve our programs. Please do not hesitate to contact us should you have any questions or concerns or need additional information.

Respectfully,



Rossana Rosado  
Secretary of State