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Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 1903

Mr S S Zondo (IFP) to ask the Minister of Trade, Industry and Competition:

Whether, given that the amended regulations are aimed at protecting consumers from intrusive marketing, there has been any studies and/or data collected on the effectiveness of similar registries in other countries that could inform the strategy for implementing the National Opt-Out Registry; if not, why not; if so, (a) what penalties are being proposed for noncompliance by direct marketers and (b) how will his department ensure that the specified penalties are enforced? NW3231E

REPLY:

The National Consumer Commission (Commission) is charged with the responsibility to implement and enforce the Consumer Protection Act, 2008 ('the Act'). In 2018, the Commission outsourced a feasibility study to inform the regulations and benchmarks were conducted in the following jurisdictions that have similar mechanisms such as Australia, Canada, European Union and United Kingdom.

- (a) Any person affected by intrusive marketing in terms of the amended regulations must in the prescribed manner and form, lodge a complaint with the Commission specifying the inconsistent manner of the direct marketer in terms of the Act. The Commission will on its own accord on receipt of the complaint, initiate an investigation into the alleged contravention of the Act and its regulations. The undue conduct if found after investigation, will constitute prohibited conduct in terms of the Act and the National Consumer Tribunal (Tribunal) may impose appropriate administrative fine.

The Tribunal may impose an administrative fine that may not exceed the greater of 10% of the supplier annual turnover or R 1 000 000.00.

- (b) The Ministers' powers in terms of the Act are limited to policy direction and the Act provides for competent creatures of statute that enforce the provisions of the Act. Therefore, the orders issued by the Tribunal enjoy the same status as the High Court and failure on the part of the supplier to comply with such an order constitutes an offence. An offence attracts a fine or imprisonment for a period not exceeding 12 months or both a fine and imprisonment imposed by a Magistrate Court that has jurisdiction.

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