

**Consultation Paper No. 13 /2012**



**Telecom Regulatory Authority of India**



**Consultation Paper**  
**on**  
**Review of**  
**The Telecom Commercial Communications Customer**  
**Preference Regulations, 2010**

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**Stakeholders are requested to send their comments preferably in electronic form by 18<sup>th</sup> August, 2012 on email Id [advqos@traigov.in](mailto:advqos@traigov.in). For any clarification /information, Shri A. Robert J. Ravi, Advisor (CI & QoS) may be contacted at Tel. No. +91-11-23230404, Fax: +91-11-23213036.**

## **CHAPTER - 1**

### **INTRODUCTION**

1.1. TRAI had reviewed the framework for addressing the problem of Unsolicited Commercial Communications (UCC) and issued “The Telecom Commercial Communications Customer Preference Regulations (TCCCP), 2010” on 1<sup>st</sup> December 2010, which have come into force from 27<sup>th</sup> September 2011. As per the provisions of these regulations, in case a subscriber does not want to receive UCC, he may register his preference with National Customer Preference Register (NCPR). He can opt not to receive any unsolicited commercial communications or he can opt to receive a particular category of commercial communication. As per data available on TCCCP portal, till 10<sup>th</sup> July 2012, 174.84 million subscribers have registered on NCPR with 168.53 million under ‘fully blocked’ category and 6.31 million under ‘partially blocked’ category. With the implementation of these regulations, the number of complaints relating to UCC has reduced considerably specifically unwanted calls. Prior to the implementation of these regulations, on an average 47454 complaints were received per month, averaged over the period March 2010 to March 2011. The total number of complaints lodged by telecom consumers with their service providers from 27<sup>th</sup> September, 2011 to 11<sup>th</sup> July 2012 were only 162879 ( 16907 complaints per month).

1.2. Under “The Telecom Commercial Communications Customer Preference Regulations, 2010”, various provisions have been made to prevent unwanted calls and SMSs. Main features of regulations in this regard are:

- a. Customer options to block all commercial communication or selectively receive SMS from specified preference categories.
- b. Easy registration of the telemarketer.
- c. Sharing of National Customer Preference Register with service providers and telemarketers so that telephone databases can

be effectively scrubbed before initiating telemarketing activities. (Double Scrubbing)

- d. Separate Number Series '140' for Telemarketers to facilitate easy identification of telemarketing voice calls by customers not registered on NCPR.
- e. Filtering and auto-blocking of calls and SMS to customers according to their options, if any.
- f. Security deposit deduction from registered telemarketers and financial disincentive against Access Providers for violations of provisions of the regulations.
- g. Disconnection of telecom resources of defaulting telemarketers and blacklisting (after 6<sup>th</sup> violation) to ensure that they do not get any telecom resources from any other access provider for two years.
- h. Specific SMS headers for promotional and transactional messages for easy identification.
- i. Restriction of 200 SMS per SIM per day in case of pre-paid telephone numbers and 6000 SMS per SIM per month in case of post-paid telephone numbers, to prevent UCC from unregistered telemarketers (10 digit numbers).
- j. Provision for disconnection on second violation in case of Telemarketing Activities from unregistered telemarketers.

1.3. Further, several stakeholders had also expressed that imposition of a termination charge on commercial SMSs would be an effective deterrent to the sending of promotional SMSs. The Authority found that in case of telemarketers, there is a tendency to dump the promotional SMSs, resulting in inconvenience to consumers and congestion of networks. Hence, to further deter the sending of promotional SMSs, the principal regulations were amended specifying a promotional SMS charge of Re. 0.05 (five paise only) payable by an Originating Access Provider to the Terminating Access Provider for each promotional SMS sent by a registered telemarketer from the network of the Originating Access Provider to

- the network of the Terminating Access Provider. TRAI is continuously monitoring the action taken by service providers on UCC complaints and in case of any violation action is being taken against them as per the provisions of the regulations.
- 1.4. After imposing of 5p termination charge for promotional SMSs, several incidences came to the notice of TRAI that promotional SMSs were getting routed through the international routes. Being international SMS these SMS could not be filtered and can be delivered to any customer including the person registered on NCPR irrespective of the time. The issue was deliberated with the Access Providers and International Long Distance (ILD) operators. Based on the deliberations, the Access providers and ILD operators implemented some voluntary measures for controlling the same. A direction regarding blocking of bulk international SMSs was also issued on 20<sup>th</sup> January, 2012, to all Access Providers and ILD operators and a workshop on anti spamming solution for international SMSs was organized on 14<sup>th</sup> February, 2012. As a result of effective involvement and efforts by Access Providers in accordance with the provisions prescribed in the direction, unsolicited messages through the international route were controlled.
  - 1.5. As UCC, to subscribers registered on NCPR through international routes came down to a large extent, it had come to the notice of the Authority that telecom consumers registered on NCPR were receiving unsolicited SMSs from unregistered telemarketer (10 digit numbers) by entities who have not registered themselves with TRAI as telemarketer.
  - 1.6. In the regulations issued in 2010, in order to deter such subscribers (unregistered telemarketers) from sending promotional SMS, the Authority has provided for the following in regulation 12 and regulation 19 of TCCCP regulations:

*“No subscriber, who is not registered with the Authority as a telemarketer under these regulations, shall make any commercial communication”*

*“In case the Originating Access Provider to whom a complaint has been forwarded under sub-regulation (6) finds that the unsolicited commercial communication originated from a subscriber who is not registered with the Authority as a telemarketer, it shall issue a notice to such subscriber to forthwith discontinue the sending of such unsolicited commercial communications and if such subscriber sends a commercial communication to any subscriber on a second occasion, disconnect the telecom resources of such subscriber”.*

- 1.7. As per the provisions of regulations, Access Providers are required to upload the UCC complaints and action taken on such complaints on TCCCP portal [www.nccptra.gov.in](http://www.nccptra.gov.in), on regular basis. As per the data available on TCCCP portal as on 10<sup>th</sup> July 2012, most of the complaints lodged by consumers were against numbers originated from subscribers who have not registered themselves with TRAI as a telemarketer. The service providers have issued notices to such unregistered telemarketers in 79848 cases and telecom resources of unregistered telemarketers have been disconnected in 48383 cases.
- 1.8. The Authority is concerned with the above mentioned issue and is of the view that further stringent measures are required to be adopted for controlling such menace. Hence, it is felt that there is a need to explore new alternatives to further tighten the current regulatory framework. Some of the measures that could address this issue are discussed in Chapter-2 and the issues for consultation are provided in Chapter-3.

**CHAPTER - 2**  
**ADDITIONAL MEASURES TO CURB UNSOLICITED**  
**COMMERCIAL COMMUNICATIONS**

**2.1 Signature verification of SMSs**

- 2.1.1. One of the main reason for the control of bulk promotional SMSs through the international route was because the ILD operators/Access Providers had introduced a solution in the aggregators/gateways for checking that *no incoming international SMS from any source or number, originates more than two hundred SMS per hour, having similar ‘signature’, is delivered through its network”*.
- 2.1.2. The international long distance (ILD) operators have already upgraded their systems to implement above mentioned provision. The signature verification works by specifying character strings or checksum in the SMS aggregators/Gateways that, if matched, indicate undesirable content that needs to be screened. Content may be typically screened for pre-defined keywords or checksum.
- 2.1.3. Similar solution may be incorporated in the local SMS aggregators/gateways for effective screening of the same. Since unregistered telemarketers generally send bulk promotional SMS as a SMS blast, restricting the delivery of such SMS from source or number or entities sending more than a specified number of SMS per hour with similar signatures in the network, may be a deterrent against such activity. The solution will enable the service providers to monitor all SMS coming from different source or number or entity sending more than a specified number of SMS per hour with similar signatures. Depending upon the type of signatures – all SMS with promotional type of signature can

be identified and blocked. As and when such SMSs are blocked the sender will be notified through SMS about the non-delivery of the message. This will help in automatic blocking of promotional SMSs from unregistered telemarketers similar to the filtering of calls and SMSs by registered telemarketers.

2.1.4. Before the Authority takes a view on the subject, it would like the Stakeholders to offer their views on the following issue:

**Q.1. What are your views on the proposal of blocking the delivery of SMS from the source or number or entity sending more than a specified number of promotional SMS per hour with similar signatures as proposed in the above para?**

**Q.2 What should be the limit on the number of SMS per hour to be specified in this regard? Please give your views along with reasons thereof.**

## **2.2 Proper signing of third party agreements**

2.2.1. In order to ensure effective control over registered telemarketers and transactional message sending entities, TCCCP regulations mandates all telemarketers and transactional message sending entities to enter into an agreement with the Access Providers before any telecom resources are allocated to them as per Schedule-IV and Schedule-V respectively. A security deposit will be collected from each telemarketer or transactional message sending entity by Access Providers from which amount for default or contravention of regulations will be deducted.

2.2.2. Many companies (mostly banks or insurance companies) who intend to make promotional calls to their prospective customers, outsource such activity to some other third party companies by signing suitable agreement(s). It is noticed that such third party entities, sometimes are not aware of the

provisions of the regulations. They take necessary telecom resources from service provider without clearly mentioning the requirements and they indulge in making promotional calls from normal 10 digit numbers or non '140' numbers. As per the provisions of regulations, the telecom resources of such companies are disconnected on reported violations (after two violations).

- 2.2.3. Hence, to resolve the above issue, Access Providers may be mandated to ensure that such entities must provide an undertaking that in case they want to engage a third party for undertaking promotional activities they will arrange to undertake all promotional activities only through a registered telemarketer.

**Q.3 Please give your comments on the proposal to mandate the telecom service providers to obtain an undertaking/agreement from registered telemarketers and other transactional entities that in case they want to outsource promotional activities to a third party, they will engage only a registered telemarketer for such promotional activities. What are the other options available to control such activities? Please give your views along with reasons thereof.**

### **2.3 Disconnection of telephone number of the entity for whom the promotional communications are being sent**

- 2.3.1. In the promotional SMSs currently received by the telecom consumers, the entity for whom such promotional campaign is carried out, appends its number or short code in the message. As per the current provisions of the regulations, only the number from which the promotional SMS is received is reported by the complainant for making complaint to his service provider. The concerned service provider checks the call detail records (CDR) for reported UCC and accordingly disconnects the number on second violation.

2.3.2. Many representations were received by TRAI stating the menace of Unsolicited Commercial Communications through unregistered telemarketers (10 digit numbers) can be controlled by taking strict action against the company for whom the promotion is carried out. The entities involved in promotional campaigns should also ensure that their promotional messages are blasted only through registered telemarketers.

2.3.3. Accordingly, it is proposed that complaints may be lodged by the customer receiving UCC with his service provider against the number or short code of the entity for which the promotion is carried out. In case the Access Provider with whom the complaint has been lodged, finds that the UCC complaint against such subscriber or entity is valid, service provider shall issue notice to such subscriber or entity to forthwith discontinue the sending of such UCC and after ten violations, disconnect the telecom resources of such subscriber or entity. This will inculcate greater sense of responsibility among such entities and they will ensure that their promotional messages are blasted only through registered telemarketers.

**Q.4 Please give your comments along with reasons thereof on the proposal to disconnect telecom resources after ten violations, of entities for whom the promotion is being carried out? Also indicate whether ten violations proposed is acceptable or needs a change. Justify the same.**

**Q.5 What additional framework may be adopted to restrict such subscribers or entities from sending UCC, other than the one proposed above?**

## **2.4 Lodging of UCC complaints**

- 2.4.1. As per the current provisions, every access provider has setup a mechanism for registering complaints of its customers regarding receipt of UCC through voice call or SMS to toll free number 1909. For complaint through SMS, customer has to send SMS "COMP TEL NO XXXXXXXXXXXX; dd/mm/yy; Time in hh:mm; short description of Unsolicited Commercial Communication" to 1909, where XXXXXXXXXXXX - is the telephone number or header of the SMS, from which the UCC has originated.
- 2.4.2. The Authority has received a number of representations to simplify the UCC complaint lodging process. Hence, it is felt that the purview of UCC complaint lodging process needs to be broadened and options in addition to the existing ones may be considered.
- 2.4.3. It is proposed that service providers may be mandated to provide an option for the subscriber for lodging a UCC related complaint on its website and/or through a dedicated email with the content of unwanted call/SMS, date and time of receipt of such call/SMS and the number or SMS header from which such call/SMS is originated. The service provider should also give due publicity to such measures. Some of the service providers have laid down such facility on suo moto basis. The implementation of such a facility shall be completed within a period of 45 days.

**Q.6 What are your views on the time frame for implementation of the facility for lodging UCC related complaints on the website of service providers? Please give your comments with justification.**

**Q.7 Do you propose any other framework for registering UCC complaint for easy and effective lodging of complaints?**

## **ISSUES FOR CONSULTATION**

- 1. What are your views on the proposal of blocking the delivery of SMS from the source or number or entity sending more than a specified number of promotional SMS per hour with similar signatures as proposed in the above para?**
- 2. What should be the limit on the number of SMS per hour to be specified in this regard? Please give your views along with reasons thereof (para 2.1.1 to 2.1.4).**
- 3. Please give your comments on the proposal to mandate the telecom service providers to obtain an undertaking/agreement from registered telemarketers and other transactional entities that in case they want to outsource promotional activities to a third party, they will engage only a registered telemarketer for such promotional activities. What are the other options available to control such activities? Please give your views along with reasons thereof (para 2.2.1 to 2.2.3)?**
- 4. Please give your comments along with reasons thereof on the proposal to disconnect telecom resources after ten violations, of entities for whom the promotion is being carried out? Also indicate whether ten violations proposed is acceptable or needs a change. Justify the same. (para 2.3.1 to 2.3.3)?**
- 5. What additional framework may be adopted to restrict such subscribers or entities from sending UCC, other than the one proposed above (para 2.3.1 to 2.3.3)?**
- 6. What are your views on the time frame for implementation of the facility for lodging UCC related complaints on the website of service providers? Please give your comments with justification (para 2.4.1 to 2.4.3).**

- 7. Do you propose any other framework for registering UCC complaint for easy and effective lodging of complaints (para 2.4.1 to 2.4.3))?**