

BIF Response to the TRAI Consultation on Draft Telecom Commercial Communications Customer Preference (Third Amendment) Regulations, 2026

Sl. No.	Regulation No. + Sub-regulation/Item Number	Modification proposed to the draft amendment	Reasons/ full justification for the proposed modifications
1.	Regulation 34A	Pause implementation and review the entire provision till due consultation is conducted on the same	<p>This provision which had been inserted vide 2nd Amendment to the TCCCPR, attempts to regulate the functionality of any "call management application or similar services" and "third party apps". However, such call management applications are Over-The-Top (OTT) software platforms which are not licensed service providers and do not fall under the jurisdiction of TRAI's governance.¹ While the objective of the provision to prohibit blocking of designated number series is understandable, the inherent jurisdictional aspect needs to be carefully considered as the TRAI Act does not provide for the same. This has also been conclusively established by the Hon'ble Supreme Court that delegated legislation cannot transgress the boundaries of the parent statute.</p> <p>Such an approach raises questions about the proposed framework expanding the scope of regulation from network-level control of unsolicited commercial communications to application-level design and user-interface functionalities, which are not "telecommunication services".</p>

¹ Section 11 of the TRAI Act, 1997

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			<p>Without prejudice to the above proposed sub-regulation (4), which deals with non-compliance and initiation of action under IT Act and Rule, and possibility of loss of safe harbour, seems to lack legal basis. The authority to administer the IT Act and Rules lies with the Ministry of Electronics and Information Technology (MeitY).² The proposed modification goes beyond what is currently stated in the 2nd Amendment Proviso to Sub-Regulation 2, i.e., <i>“the Authority may take appropriate enforcement measures, against non-compliant Call Management Applications in coordination with relevant authorities, if required.”</i></p> <p>Further, preventing apps from acting to <i>“tag, block, filter, give any treatment to such calls different from those applicable for genuine communication,”</i> also undermines legitimate consumer preferences such as screening, prioritising, silencing, or selectively blocking calls. TRAI should continue to empower consumers, allowing them to exercise their right to choice in managing their calls through third party apps. We respectfully suggest that the earlier framing be retained which factored in the consumers’ right to individually manage their own calls through such Call Management Applications.</p> <p>For the said purpose, we urge TRAI to consider a more collaborative approach when dealing with digital services. For instance, SEBI partnered with Google Play Store to introduce a</p>

² Government of India (Allocation of Business) Rules, 1961

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			verified badge for all SEBI-registered applications to address the circulation of inauthentic and fraudulent trading apps.
2.	Regulation 35A	Termination charges to be imposed on designated commercial calls as well and in addition to termination charges, call attempts/initiation should also be charged	<p>We appreciate the move to introduce termination charges on A2P voice calls (on similar lines as A2P messages) to address the growing misuse of automated calling for spam. However, with respect to calls originating from designated number series such as 1400XXX or 1600XXX, as these calls are commercial by nature, they should not be included in the list of exceptions from the proposed Regulation 35A, merely since its used by the designated commercial sectors. This will uphold the principle of deterrent charging being applicable in a technology-neutral and number series agnostic manner.</p> <p>While the existing charging framework places cost only on successful call terminations, there may be a need to deter the large number of A2P call attempts as well. To understand its implications better, it is suggested that a separate public consultation may be carried out before reaching any final conclusion and find out solution to this very important issue.</p> <p>While levying charges on call terminations would ensure stronger deterrence mechanism in the existing ecosystem, it must also be ensured that the Regulation should provide adequate safeguards to prevent the cost of the call by sender, to be passed down to the subscribers/consumers.</p>

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3.	NA	Reduce spam originating from OAPs without an active subscriber base and establish a suitable mechanism to deter UCC originating from them	We would also like to draw attention of the Authority to the fact that the OAPs who are not having active subscribers, do not have any incentive in blocking potential UCC while pushing traffic on to terminating TSP's network. It would not be incorrect to say that such OAPs have direct business loss if they block potential UCC. Therefore, some mechanism of verification before sending, is required to be developed to control pushing of traffic on to the network of TSPs.