IAMAI
Internet And Mobile Association Of India

IAMAI Submission on the Draft Telecom Commercial Communications Customer Preference (Third Amendment) Regulations, 2026

On 13 March 2026, the Telecom Regulatory Authority of India (TRAI) published the Draft Telecom Commercial Communications Customer Preference (Third Amendment) Regulations, 2026 ('Draft Amendments') for public consultation. At the outset, we would like to thank TRAI for allowing us the opportunity to submit our feedback on the Draft Amendments.

We have taken feedback from several segments of our membership and outlined industry concern regarding the Draft Rules below.

IAMAI Submission

1. Alignment with DPDP Framework

The Digital Personal Data Protection Act, 2023 (DPDPA) establishes "Purpose Limitation" as a cornerstone of India's data governance framework, providing that consent obtained for a specific, disclosed purpose remains valid until that purpose is fulfilled or the data principal withdraws consent. The TCCCPR's current provisions, with their arbitrary statutory cooling periods and time-based validity windows, are in direct contradiction with this principle.

We recommend harmonising the definition of "Explicit Consent" under TCCCPR with the DPDPA framework, as this would:

(i) eliminate duplicative and conflicting compliance obligations;
(ii) provide consumers with a coherent consent management experience; and
(iii) allow legitimate communication to continue seamlessly for the consented purpose, without artificial interruptions, until the customer exercises their right of revocation.

We note that our member, Airtel, has divergent views to those expressed in this section.

2. Jurisdictional Overreach

Regulation 34A of the Draft Amendments attempts to regulate the functionality of any "call management application or similar services" and "third party apps". Call management applications are Over-The-Top (OTT) software platforms, do not fall under the definition of "telecommunication services" as governed by the Section 11 of the Telecom Regulatory Authority of India Act, 1997 ("TRAI Act"). By attempting to dictate the software mechanics of independent OTT platforms, TRAI is exceeding the rule-making powers conferred upon it by the TRAI Act, which strictly limits its jurisdiction to "telecommunication services"

The Hon'ble Supreme Court of India has conclusively established that delegated legislation cannot transgress the boundaries of its parent statute. In *State of T.N v P. Krishnamurthy (2006) 4 SCC 517*, the Supreme Court laid down the definitive parameters for judicial review of subordinate legislation. The Supreme Court explicitly held that rules and regulations are constitutionally invalid and liable to struck down on the grounds of *inter alia "Lack of legislative competence to make the sub-ordinate legislation"*, *"Violation of Fundamental Rights guaranteed under the Constitution of India"* or

"Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act".

Notably, the Supreme Court has previously applied this principle in the context of TRAI's regulatory powers, where it set aside TRAI's regulation mandating compensation for call drops[1]. The Supreme Court categorically ruled that the regulation was *ultra vires* the TRAI Act because it lacked statutory backing and fell outside the ambit of TRAI's powers.

Attempting to govern non-licensee software applications and override their UI/UX filtering capabilities under Regulation 34A raises concerns of jurisdictional overreach. We recommend the deletion of the proposed Regulation 34A (including sub-regulations 1, 2, 3, and 4) from the Draft Amendments. In our view, TRAI should consider a more collaborative approach when dealing with digital services that fall outside its direct jurisdiction.

We note that our members, Airtel and Reliance Jio Infocomm Limited, have divergent views to those expressed in this section.

3. Financial Disincentives

The proposed amendments to Regulation 27(1)(a) and (d) impose penalties for header/template misuse resulting in Unsolicited Commercial communication (UCC), on such TSPs and Originating Access Providers (OAPs), that are responsible for registering such headers/templates in wrong categories.

While penalties on registrar TSPs for non-compliant header registration aims to establish accountability at source, the introduction of shared liability between OAPs and registrar TSP in cases of misclassification increases the compliance burden. OAPs, as transmission channels, have limited control over sender behaviour, which creates a disproportionate liability.

In light of these concerns, we request the shared liability provisions affecting OAPs to be removed and financial penalty be limited to registrar TSPs only.

We note that our member, Reliance Jio Infocomm Limited, has divergent views to those expressed in this section.

4. Transactional Relationship

The proposed deletion of sub-clause (ii) of Regulation 2 (bb) would extinguish the established concept of a "transactional relationship" as a basis for permissible communication with existing customers, leaving businesses with no compliant pathway to reach their own customers for legitimate lifecycle management purposes such as renewals, service continuations, or product updates without security fresh, explicit consent.

A twelve-month transaction-based window is a well-established and widely accepted standard across global regulatory frameworks for commercial communications. It reflects a considered balance between business continuity needs and consumer protection objectives.

[1] Cellular Operators Association of India v. Telecom Regulatory Authority of India, (2016) 7 SCC 703

Deleting this definition would penalise entities for maintaining long-term, trusted relationships with their customers, which runs counter to the regulatory objective of fostering responsible services. Accordingly, we request the 2 (bb) (ii) to be retained.

We note that our member, Airtel, has divergent views to those expressed in this section.

5. Disproportionate Burden on Customers

The proposed seven-day validity window for Explicit Consent under Regulation 2 (bh) (ii) imposes a disproportionate and recurring cognitive burden on customers, who are required to track multiple consent renewals merely to ensure uninterrupted receipt of critical communications. This artificial constraint directly undermines operational continuity for entities, whose engagement with customers is not episodic but sustained and relationship driven.

The seven-day renewal cycle creates systemic friction, which is likely to result in inadvertent lapses in consent, involuntary communication blackouts and, consequently, involuntary customer attrition, which is neither in the interest of consumers nor consistent with the policy objective of the TCCCPR framework. Accordingly, we request the first provision to be removed:

> ~~***"Provided that such Explicit Consent shall be for seven days or as directed by the Authority from time to time."***~~

We note that our member, Airtel, has divergent views to those expressed in this section.

6. Reconsider Complaint-handling Mechanism

The proposed appeal management framework presents technical and operational challenges for the existing DLT and complaint handling ecosystem. The absence of a structured, technology-enabled appeal management system, especially within the existing DLT and complaint handling ecosystem, poses significant implementation constraints.

The system would require enhancements for tracking appeal timelines, linkages with original complaints, evidence re-evaluation, inter-operator coordination, and audit trails. While conceptually correct, the technical feasibility and ecosystem readiness must be re-evaluated, before issuance of such amendment.

7. Misaligned Enforcement Approach

Sub-regulation 34A (4) proposes that TRAI may "*initiate action under the relevant provisions of the IT Act, 2000 and the IT Rules, 2021*". Furthermore, it asserts that if TRAI concludes an application is non-compliant, the "*IT intermediary shall be liable for losing exemption from liability of intermediary under IT Act 2000*".

In our view, this constitutes severe overreach. TRAI is not empowered to enforce the Information Technology Act, 2000 ('IT Act') or to unilaterally strip an entity of safe harbour protections stemming from Section 79 of the IT Act.

This can be counterintuitive in the context of spam prevention services classified as Call Management Applications (CMAs), whose core functionalities are already aligned with TRAI's objectives.

It is also important to note that the proposed enforcement mechanism attempts to blur boundaries between two distinct regulatory frameworks, linking content-specific intermediary liability under the IT Act with telecom sector obligations. This may create legal and operational ambiguity, ultimately limiting the effectiveness of the TCCCPR framework in achieving its objective of reducing spam.

8. Subversion of Consumer Choice

The proposed amendment to Regulation 34A seeks to prevent applications from acting to "tag, block, filter, give any treatment to such calls different from those applicable for genuine communication". In our view, the proposed amendment amounts a subversion of consumer choice. Section 2(9) of the Consumer Protection Act, 2019 guarantees consumers, the right to be informed and the right to choose. Consumers thus actively exercise this right by choosing to use call management applications to identify and filter unwanted communication.

Therefore, we believe the retention of Regulation 34A could have implications for consumer rights and choice.

9. Unconstitutional Expropriation of Proprietary Data

Sub-regulation 34A(2) mandates that CMAs "*shall send such report, in the manner and format as specified by the Authority... to the DND registry maintained by the access providers*". The consumer input and/or feedback received by OTT platforms, algorithms, and databases compiled by private OTT platforms are proprietary to them and are a direct result of significant intellectual and financial investment, constituting valuable proprietary assets and trade secrets.

Forcing private entities to hand over their core proprietary assets to telecom operators (which are commercial third parties) as a regulatory mandate from a statutory regulator without compensation constitutes an unconstitutional "*taking*" or expropriation of private property.

The Supreme Court, in *Tukaram Kana Joshi & Ors. v. M.I.D.C. & Ors., (2013) 1 SCC 353*, reaffirmed the right to property under Article 300A noting "*The State… cannot arrogate itself to a status beyond one that is provided by the Constitution*", and any deprivation requires valid statutory authority, a clear public purpose, and just compensation. Similarly, *in K.T. Plantation Pvt. Ltd. v. State of Karnataka, (2011) 9 SCC 1*, a five-judge bench of the Supreme Court unanimously ruled against arbitrary deprivation of property and noted:

> *"Let the message, therefore, be loud and clear, that rule of law exists in this country even when we interpret a statute, which has the blessings of Article 300A. Deprivation of property may also cause serious concern in the area of foreign investment, especially in the context of International Law and international investment agreements. Whenever, a foreign investor operates within the territory of a host country the investor and its properties are subject to the legislative control of the host country, along with the international treaties or agreements. Even, if the foreign investor has no fundamental right, let them know, that the rule of law prevails in this country."*

Considering TRAI lacks the statutory eminent domain power to expropriate private intellectual property, and because the regulation does not offer any compensation for the forced transfer of this proprietary data, the mandate is contrary to Article 300A of the Indian Constitution. Furthermore, by stripping these platforms of their proprietary assets, the Draft Amendments impose an unreasonable

restriction on their fundamental right to carry on a trade or business under Article 19(1)(g) of the Indian Constitution.

In addition to regulatory complications, the proposed requirement presents technical feasibility challenges, potentially creating an onerous need to build new infrastructure and undertake costly product integrations. Given the sheer volume of such content, CMAs cannot reasonably be expected to share all spam reports.

10. Recognition Gaps with 140/160 prefix

Customers who have independently initiated contact with entities and who are thereafter expecting a follow up from assigned respondents frequently fail to associate the generic 140/160 prefix with the calling entity. This recognition gap results in poor call pick-up rates, eroding the efficacy of legitimate outreach and creating service gaps for customers. Displaying the Principal Entity's registered name alongside the 140/160 series number would immediately resolve this problem, substantially improve call answer rates and reinforce consumer trust in regulated communications. Accordingly, we request the addition of the following provision to Schedule I (2) (2)

> ***"The Access Provider shall ensure that the name of the Principal Entity (PE) is displayed to the recipient for all calls originating from the 140/160 numbering series."***

11. Need for Narrower Definition of Promotional Voice Call

The current draft applies the label of "Promotional Voice Call" with its existing restrictions, including the mandatory use of the 140-series numbering to all communications involving a new product or service offering, regardless of the pre-existing relationship between the caller and the recipient.

This approach conflates two qualitatively distinct categories of communication: unsolicited cold outreach to prospective customers, and proactive lifecycle management communications to existing, consenting customers.

Confining the "Promotional Voice Call" definition to genuinely unsolicited outreach to new customers and prospects would ensure that the 140-series achieves its intended regulatory purpose – flagging cold-call outreach without inadvertently stigmatising legitimate, relationship-based communications from entities. Accordingly, we recommend revising the definition of "Promotional Voice Call" to apply exclusively to:

"Outreach made to new customers and prospects with whom the Sender has no prior or existing Relationship, as defined under Regulation 2(bb)."

12. Increase Investigation Timeline for Complaints

The proposed one-business-day investigation and response window is significantly inadequate for entities of any complexity. complaint alleging that a call was "promotional" when it was, in fact, a legitimate service communication, is (scenario that is both foreseeable and probable given the definitional ambiguity between the two) – requires a multi-step internal investigation: identifying the specific call from call logs, reviewing the content and context of the communication, assessing the applicable regulatory classification, and preparing a substantive response.

A twenty-four hour "hair-trigger" mechanism creates an unacceptably high risk of the immediate suspension of critical business communication lines – including those used for transmitting OTPs, transaction confirmations, and security-critical messages – without adequate due process.

We therefore recommend the investigation timeline for complaints related to "misuse of numbering series" at the very least a minimum window of three business days.

13. Unfeasibly Low Complaints Threshold

The proposed fixed threshold of 3 or 5 complaints as a trigger for enforcement action is statistically arbitrary and fundamentally unsuitable as an enforcement benchmark for entities operating at high communication volumes. For an entity that legitimately transmits tens of thousands of transactional and service messages daily, 3 to 5 complaints may represent a statistical anomaly attributable to customer confusion, competitive interference, or coordinated bad-faith complaints – rather than any systemic pattern of regulatory non-compliance.

Applying such a low absolute threshold creates a material vulnerability to weaponisation by "professional complainers." A percentage-based threshold – calibrated to actual call volumes and benchmarked against what would constitute a statistically significant signal of misconduct – is a more principled, proportionate, and defensible enforcement standard. We recommend replacing the fixed threshold of "3 or 5 complaints" with a percentage-based threshold calibrated to call volume, applicable to SEBI-regulated and other regulated entities.

Proposed standard: ***Action shall be triggered only where complaints exceed 0.1% of total call volume over the relevant period, or a specified higher absolute number, whichever is greater.***

14. Charges by Termination Access Providers for A2P Calls

The Draft Amendments propose the inclusion of Regulation 35A, permitting a Terminating Access Provider (TAP) to charge the Originating Access Provider (OAP) up to Rs. 0.05 (five paisa only) per minute for A2P calls; provided that there shall be no termination charge on any A2P calls made by using number resources assigned from 140xx, 1600xx or any other series. This will have a significant commercial impact if such charges are passed on to Senders by their respective Access Providers.

We submit that commercials are a matter of contract and should be agreed between Parties mutually. We therefore request that such charges should not be made part of the regulation and should be left to be decided by market participants.

We note that our members, Airtel and Reliance Jio Infocomm Limited, have divergent views to those expressed in this section.

15. Wrong Categorisation of Content Templates

Under the Regulation 25(4)(d)(ii) proposed in the Draft Amendments, in case of complaint against the sender for registration of content template against the wrong category, the template shall be blacklisted. It further stipulates that if five templates are registered wrongly, the OAP shall suspend the services of the sender for a month or till the templates are registered correctly, whichever is later.

It is pertinent to note that when a template is raised for registration, it is not registered till the registrar TSP provides an approval. In case of any discrepancies, the registrar TSP highlights the same to the Sender and the Sender re-raises the registration request.

This is an established process and acts as a maker checker mechanism. Since there is already an established mechanism wherein the registrar TSP acts as a checker, we recommend that once a discrepancy is highlighted, even post registration, the Sender should be allowed to correct the same within a prescribed timeline. In the event, the Sender fails to do so a suspension can be imposed till such time as the discrepancy is corrected.

About IAMAI

Established in 2004, the Internet and Mobile Association of India (IAMAI) is a not-for-profit industry body representing India's digital industry with more than 750 members, including Indian and multinational corporations, as well as start-ups. We advocate for free and fair competition, and progressive and enabling laws for businesses as well as for consumers. Our overarching objective is to ensure the progress of the internet and the digital economy. Our major areas of activity are public policy and advocacy, business-to-business conferences, research, promotion of start-ups, and fostering consumer trust and safety.