



सत्यमेव जयते

भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA
भारत सरकार /Government of India



F.No.311-3/2015-QoS

Dated the 10th August, 2017

DIRECTION

Subject: Direction under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), regarding unsolicited bulk SMSs relating to investment in securities market.

F.No. 311-3/2015-QoS---- Whereas the Telecom Regulatory Authority of India (hereinafter referred to as the Authority), established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) (hereinafter referred to as TRAI Act), has been entrusted with discharge of certain functions, *inter alia*, to regulate the telecommunication services, ensure technical compatibility and effective inter-connection between different service providers, lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct periodical survey of such services provided by the service providers so as to protect the interest of the consumers of telecommunications service;

2. And whereas the Authority had, in exercise of the powers conferred upon it under section 36, read with sub-clauses (v) of clause (b) of sub-section (1) and clause(c) of sub-section (1) of section 11 of the TRAI Act, made the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) dated 1st December, 2010, (hereinafter referred to as the regulations) to regulate unsolicited commercial communications;

3. And whereas Security and Exchange Board of India (hereinafter referred to as SEBI) has brought to the notice of the Authority that some unscrupulous persons or entities, masquerading as SEBI registered investment adviser or stock broker or sub-broker or portfolio manager or merchant banker, are sending bulk SMS relating to investment advice or tips to telecom users for financial gains by manipulating the security market;

4. And whereas SEBI has informed the Authority that they had engaged with telecom service providers through several interactions seeking their active participation in putting appropriate mechanisms in place to address the concern of misleading unsolicited bulk SMSs to investors in securities market. But, the misuse of bulk SMS route in securities market is not showing any signs of being reigned in despite enforcement actions taken by SEBI against the entities indulging in such manipulation using the bulk SMS route.

5. And whereas SEBI has issued SEBI (Investment Advisers) Regulations 2013 (hereinafter referred to as "SEBI regulations") for Investment Advisers wherein regulation 2(m), 3(1) and 4 of SEBI regulations reads as under:-

Regulation 2(m): "Any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself *as an investment adviser, by whatever name called*".

"Regulation 3(1):"*No person shall act as investment adviser or hold itself as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations*".

"Regulation 4: "*Any stock broker or sub-broker registered under SEBI (Stock Broker and Sub-Broker) Regulations, 1992, portfolio manager registered under SEBI (Portfolio Managers) Regulations 1993, or merchant banker registered under SEBI (Merchant Bankers) Regulations 1992, who provides any investment advice to its clients incidental to their primary activity; Provided that such intermediaries shall comply with the general obligations (s) and responsibilities as specified in Chapter III of these Regulations*".

6. And whereas the main issue indentified by SEBI is lack of reliable information on the identity of actual miscreants and the senders of such SMS, masquerading as SEBI authorized investment advisers, and creates insurmountable roadblocks for SEBI in taking necessary enforcement action against them.

7. And whereas the matter was discussed with SEBI and a need has been felt to issue instructions to prevent misuse of unsolicited bulk SMSs for manipulation in the security market.

8. Now therefore, the Authority, in exercise of the powers conferred upon it under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) hereby directs all Access Providers to ensure, within fifteen days of the date of issue of this direction, that --

- (i) SMSs relating to investment advice/stock tips only from SEBI registered investment advisers, stock brokers, sub brokers, portfolio managers and merchant bankers shall be sent or allowed to be sent through registered Telemarketer. The list of such registered/ authorized persons/ entities can be accessed at:

"<http://www.sebi.gov.in/sebiweb/other/OtherAction.do?doRecognisedFpiFilter=yes>"

"<http://www.sebi.gov.in> ---> Intermediaries/Market Infrastructure Institutions ---> Entities permitted to send stock tips using Bulk SMS"

- (ii) SMSs referred to in (i) above, sent by SEBI registered investment advisers, stock brokers, sub brokers, portfolio managers and merchant bankers shall be in accordance with the provisions for transactional messages specified in the regulations and such messages shall not be promotional SMSs and therefore not permitted to be sent by Telemarketers with a promotional header through the resources allotted to them for promotional messages;
- (iii) necessary arrangements shall be made to filter and block the SMSs sent by Telemarketers using bulk SMS channel (telecom resources taken for promotional messages) containing the following key words:-

- buy/Sell/Hold/Accumulate/Target followed by Scrip code/ Scrip name provided by any recognized stock exchange
- Scrip code / Scrip Name provided by any recognized stock exchange, or
- Stop loss target price, or
- New 52 week high,
- Tip for Intraday

- (iv) SMSs relating to investment advice sent by subscribers not registered with the Authority as a Telemarketer shall also be filtered and blocked using the key words specified in (iii) above, through the signature solution implemented in accordance with the regulations;
- (v) before sending any SMS relating to investment advice or tip, verify through the URL mentioned in (i) above whether the person or entity on whose behalf the message is sent is a SEBI registered investment adviser or stock broker or sub broker or portfolio manager or merchant banker and also collect the requisite document so as to confirm & verify the identity of the person/entity and verify the same with the details provided in the URL mentioned in (i) above. Such verification of the person or entity on whose behalf the message is sent shall also be ensured to be done by registered Telemarketers and only after such verification any SMS relating to investment advice or tip shall be permitted to be sent;
- (vi) the documents detailed in para v shall be kept for a period of one year and shall be made available, upon request, to the Authority or its authorized agency.



(Asit Kadayan)
Advisor (QoS)

To

1. All Access Providers (including BSNL and MTNL)
2. Shri Ajay Tyagi, Chairman, SEBI, SEBI Bhawan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai- 400 051.