

9th October, 2024

**Shri Jaipal Singh Tomar,
Advisor (QoS-II),
Telecom Regulatory Authority of India,
New Delhi.**

Sub: BIF's Comments on the TRAI Consultation Paper on Review of the Telecom Commercial Communications Customer Preference Regulations, 2018 dated 28th August 2024

Dear Sir,

With reference to the above, please find enclosed BIF's comments to the mentioned consultation paper.

We earnestly request your kind consideration in this regard.

Best Regards,



T.V. Ramachandran,
President,
Broadband India Forum.

BIF's comments on the TRAI Consultation Paper on Review of the Telecom Commercial Communications Customer Preference Regulations, 2018

Broadband India Forum (BIF) thanks TRAI for providing the opportunity to present its comments and we believe that this exercise of reviewing TCCCPR would result in providing adequate protection to consumers from spam messages/calls.

The growing menace of spam, especially in the form of promotional calls and auto-dialer/robo-calls from Unregistered Telemarketers (UTMs) has become a significant nuisance. Hence, the priority should be to prevent unsolicited and unwarranted commercial communications from telecom networks that overwhelm users. The present mechanisms have been partly effective in curbing calls to some extent and relatively more effective in curbing unsolicited messages and any further change made should ensure that spam is further reduced, especially in the form of promotional/spam calls or Auto Dialer/Robo calls from Telecom Networks which are creating a nuisance to almost everyone.

BIF would like to laud TRAI for the effective implementation of the framework of TCCCPR - 2018 through Block Chain/DLT technology enabled registration which has resulted in control on spam from Registered Telemarketers (RTMs). The Access Providers also have played a crucial role in curbing the spam through telemarketers, to the extent that now most spam concerns remain only in the form of calls from Unregistered Telemarketers (UTMs). As evidenced by the data provided in Para 2.2 of the Consultation Paper, complaints against RTMs are hardly a concern. Additionally, spam SMS are also no longer a major concern. As noted in Para 2.1 of the Consultation Paper, the real problem lies with the spam calls being pushed by UTMs, especially using 10-digits mobile/landline numbers which many times results in deceiving consumers by extracting their personal information. This menace of spam calls must be targeted as first priority and proactively prevented. Simple adherence to existing regulations such as DoT's office memorandum dated 28 May 2024 on 'Allocation of separate numbering

series exclusively for service and transactional voice calls as per TCCCPR, 2018¹ whereby Banks are required to use prescribed tele calling numbers (e.g. 160XXXXXX) for their calls instead of normal 10-digit numbers will reduce the menace of deceiving customers to great extent. Further, mechanisms such as DoT's Portal (चक्र - Report Suspected Fraud & Unsolicited Commercial Communication) are important initiatives to address the menace of Suspected Fraud/UCC. Similar initiatives should be taken by TSPs as well. For instance, one of the TSPs has launched AI powered network solution for spam detection to foster a secure communication experience.

We are hereunder providing our comments to the questions in the Consultation Paper:

- 1. Stakeholders are requested to submit their comments in respect of definitions of messages and calls and their categorizations, as suggested in the paragraphs 2.14 to 2.19 along with necessary justifications.**

BIF Response to Q.1

It is important to note that any change in categorization of the messages/calls [transactional, service, promotional] would not serve the purpose of preventing promotional messages/calls being sent under other categories of messages/calls, which primarily create nuisance and are the main cause of spam. Given that the current framework already clearly stipulates the distinction between the category of messages and yet the senders are able to push some promotional messages in other categories of communication, the problem is not in the category of communication but in the implementation of the existing categories.

The Consultation Paper points to the fact that there exists ambiguity in the definitions of the different types of messages. However, there is not enough rationale provided as to why there is a need to revise the definitions of the Transactional, Service and Promotional Messages/Calls under the TCCCPR-2018

¹ <https://dot.gov.in/sites/default/files/05-28-2024-%20Separate%20numbering%20series%20exclusively%20for%20service%20and%20transactional%20voice%20calls%20as%20per%20TCCCPR%2C%202018%20notified%20under%20TRAI%20Act-1997.pdf?download=1>

or how the change in the Definitions of these Messages/Calls in and off itself would prevent senders of commercial communication from not pushing promotional messages/calls under service/transactional categories.

It is important to note that the present framework provides for 3 categories of messages/calls, each of which is clearly and distinctly laid out. **The bifurcation of messages/calls into Transactional and Services Messages/Calls is necessary. Although it is noted in para 2.13 (ii) of the Consultation Paper, senders of commercial communications use such definitions to push promotional content using the service category of templates, there is no guarantee that the change in definitions would prevent such activities. In fact, any change might worsen the circumvention of regulations as is presently being undertaken by the senders of commercial communications.**

The proposed change in the definition of Transactional Messages/Calls and removal of the Service Messages/Calls, would bring Service Message/Call (such as those made for the purpose of facilitating, completing, or confirming commercial transactions or providing warranty information, product recall information, safety or security information with respect to a commercial product or service used or purchased by the recipient, etc.) **under the ambit of Transactional Messages/Call**, thereby completely removing the distinction between a purely Transactional Message/Call and Service Message/Call. **This would in fact alter the entire setup and functioning of the framework, which is very clear on the point that Service Messages/Calls are not as critical as Transactional Messages/Calls. The nature of the Transactional Message/Call is critical and necessary, hence a time frame of 30 minutes of the transaction being performed, in case of messages is provided in the current definition [Regulation 2(bt)].** Broadening of definition of Transactional Messages/Calls to include travel reminders, rescheduling notification, refund information, to provide product/warranty information, safety or security information with respect to a commercial product or service used or purchased by the recipient, software updates etc. might allow senders of commercial communications to even push Promotional Messages/Calls under this category with the category of Service Messages/Calls being completely removed.

Broadening of the definition of Transactional Messages/Calls while removing Service Messages/Calls would dilute the efficacy of the Transactional Messages/Calls, making the consumers more prone to receiving Messages/Calls which may be in the nature of promotion of product and unnecessary/irrelevant to the transactions and of non-critical nature.

The present categorization of Transactional Messages works in tandem with the other systems such as those established by RBI in relation to completion of financial transactions etc., and hence, the change in the definition of the existing categories, especially Transactional SMS, would disturb the corresponding systems as well. For instance, the RBI Guidelines on Two-Factor Authentication (2FA) for online financial transactions stipulate that an OTP (One-Time Password) must be delivered to the consumer's registered mobile number almost instantly for quick and seamless verification. **To avoid disruption in the current system, it is imperative that Transactional SMS, a huge and sensitive category of which pertains to financial services/transaction related information, remain distinct from Promotional and Service SMS.**

The criticality of the response time of the Transactional Message to reach a subscriber given that most such messages are financial transactions cannot be compromised. If combined with Service Messages, there may be delay in transmission and a subscriber may miss it amongst the large number of Service / Promotional Messages.

Additionally, the change proposed provides that in case of Transactional Messages/Calls, now the recipient would have the option to opt-out or block such communications. **However, it must be noted that Transactional Messages like bank OTP etc. are cases where most consumers would not even want to opt-out, given their importance. Hence, the provision of opting-out of the said Transactional Messages/Calls will not be a viable option.** Even after broadening the definition, if the senders push promotional content under Transactional Messages, then **the purpose of opt-out mechanism would not serve the purpose of empowering the consumer but instead make it difficult for the consumer to opt-out of receiving Messages/Calls which**

are in the nature of service messages/calls sent under Transactional Messages/Calls (given the change in definition) which he/she would not want to receive.

Hence, in our view, the utility of Transactional Messages/Calls is very different to the recipients as opposed any other Service or Promotional Messages/Calls. It is important that the categorization is done in a manner that consumers receive necessary updates in a clear and reliable manner. Hence, we submit that the current categorization of commercial communications into Transactional Service and Promotional should not be disturbed or changed.

It must be ensured that the content templates of Transactional Messages/Calls are implemented effectively to ensure that any Service or Promotional Messages/Calls are not sent in the garb of Transactional Messages which are based on inferred consent.

In case of Promotional Messages/calls, the proposed amendment (Chapter IV, para 2 of Consultation Paper) to the definition is better and comprehensive given that the present definitions only mention them to be any commercial communication for which no explicit consent has been obtained from the Recipient. This would prevent Senders from misusing templates for other kind of commercial communications for promotional purposes. Additionally, the specific opt out mechanism in each Promotional message/call would empower consumers to choose whether they want to receive such promotional communication. Further, we appreciate that the Sender has to obtain explicit digital consent through a Digital Consent Acquisition (DCA) system from the intended recipients, it can send the promotional communications to such recipients irrespective of their registered preferences. This means that only genuinely interested customers who have consented to such promotional communication are being targeted, even though they may have registered their preferences to block such communications generally. There is a need for entire ecosystem (including the PEs) to onboard DCA at the earliest.

Further, no changes which are suggested in the Consultation Paper to enable revised categorization of commercial communications viz.

Transactional, Promotional and Government, [removal of Service Category] should be made, as Existing Transactional Message category (with Service Message as separate category) is critical. Therefore, changes as those proposed in Para 2.28 of the Consultation Paper, should not be made. These changes would disturb the current categorization of communications and are not required to be made for the reasons mentioned above.

- 2. Whether explicit Consent be made mandatory for receiving Promotional Communications by Auto Dialer or Robo Calls? What can be other possible measures to curb the use of Auto Dialer or Robo Calls without the consent of the recipients? Stakeholders are requested to submit their suggestions quoting best practices being followed across the world.**

- 3. As most of the pre-recorded calls have pre-defined content, stakeholders are requested to comment on the process to be followed to scrub such content before the delivery to consumers. The comments should be supported with suitable justifications and practices being followed in other parts of the world.**

BIF Response to Q.2 & Q.3

Auto Dialer and Robo calls can be highly intrusive and unwanted. They are often used by businesses to reach a large number of people without prior consent, creating a nuisance for recipients. Moreover, these can be used for fraudulent activities. **Ensuring explicit consent, in line with international best practices followed in US, UK, Canada, would allow consumers to have control over who contacts them and for what.** It would also limit the scope for fraudulent entities to misuse Auto Dialer systems.

The suggested measures stated in para 2.25 are necessary and should be implemented, including mandating entities to notify the OAP before using Auto Dialer systems as well as obtaining consent through digitally verified process such as Digital Consent Acquisition System (DCA) would provide an extra layer of protection and control to the recipients.

We agree that pre-recorded voice calls should have an approved content template and should be scrubbed in DLT platform before delivery of such calls. Especially in the case of pre-recorded promotional messages as these can be used across large volumes of calls. Without scrubbing though platforms such as DLT, such messages can spread misinformation or contain fraudulent content and may not comply with other regulatory standards. As is done in Canada where Robo calls are required to include details about the caller, the scrubbing process should involve checking that the Robo calls do not have similar information about the caller, so as to prevent deception and any misleading or harmful content being sent to consumers.

Curbing the threat of Robo calls from Unregistered Telemarketers would require additional steps, by way of regulations or Rules, to ensure that such resources cannot be used by non-registered entities.

A Sender of Unsolicited Commercial Communication (UCC) could be such entities which have a SIP connection and hence, could have multiple numbers for a Sender. In such cases, all SIP numbers should be grouped under one "Sender" and there should be appropriate safeguards in that respect.

4. Stakeholders are required to submit their comments in respect of Headers identifiers categories as suggested in paragraphs 2.31 of Chapter-II or any other type of identifiers which may facilitate consumers to identify senders distinctly. Suggestions if any, should be suitably brought out with necessary justifications.

BIF Response to Q.4

The header identifier categories should remain commensurate with the current categorization of commercial communications, i.e, Transactional, Service, Promotional with the addition of Government communications. In line with our response to Q.1, we submit that while clear header structure might enable consumers to better identify the type and category of communication, the content of the communication is more important and stricter measures should be put in place to prevent senders of commercial communications from pushing promotional content in other more important categories of messages/calls such as

transactional templates.

5. Whether current provisions in the regulations for redressal of consumers' complaints in a time-bound manner are sufficient? If not, what provisions should be made for improving the effectiveness of the complaint handling processes including identifying and fixing the responsibilities of the violators?

BIF Response to Q.5

We agree with the changes being proposed in Regulation 23, 24, 25 relating to complaint mechanism timelines, as well as customer complaint registration facility and the DLT platform to enable effective redressal of consumer complaints in a time-bound manner.

6. Whether facilities extended by the Service providers through Apps, Website and Call Centres for handling UCC complaints are accessible and consumer-friendly? Is there a need to add more facilities in the current systems? What measures should be taken by the service providers to make their Apps, Website and Call Centres easily accessible to the Consumers for registering UCC Complaints and tracking the same for a time-bound disposal of complaints? Please provide your answer with full details on the facilities needed.

BIF Response to Q.6

The utmost consideration is that of consumer welfare and protection in enabling effective disposal of complaints. The framework should be built around protecting consumer privacy and preferences. All apps, websites, call centres, and other mechanisms for handling complaints should be designed in a way that puts consumers in the driver's seat, allowing them easy access to complaint redressal mechanisms without being forced to navigate complex settings or long legal texts.

Service providers offer various channels like apps, websites, and call centres for handling complaints related to Unsolicited Commercial Communication (UCC). It is very important for the government, regulator as well as service providers to

run awareness campaigns to inform consumers about the available channels (Apps, Websites, Call Centers) and how to use them. Public service announcements and SMS alerts should primarily be used in English as well as regional languages for this purpose. Government could also have short explainer videos, FAQs, or step-by-step guides on how to raise complaints using the available platforms and mechanisms, particularly aimed at senior citizens, less educated individuals, and rural users.

As a standard practice, apps and websites should not have complicated interfaces, instead should adopt a simplified and intuitive interfaces enabling easy navigation, especially for those who are not tech-savvy, to register complaints. The apps, websites, and call centers should offer support in regional languages, making it more inclusive and accessible for all users. The use of AI chat-bots can be made to assist users in registering complaints, and guide them through the process in a conversational, user-friendly manner. Additionally, it should be left open to the TSPs to enhance their Apps/websites for its subscribers as per their requirement to make it more user-friendly.

7. What additional modes of complaints registration, preference registration and consents registration through a very easy and quick process can be implemented?

BIF Response to Q.7

The DoT's Portal (चक्षु - Report Suspected Fraud & Unsolicited Commercial Communication) is a very welcome and much needed step to address the menace of Suspected Fraud/UCC. Spreading awareness among consumers on how to complain is essential because then only action against UCC Senders can be taken effectively. For this specific purpose, consumers would not mind repeated Government Messages to advise them as to how to complain and encourage complaints so that the nuisance and frauds can be reduced.

Similar initiatives should be taken by TSPs as well. For instance, one of the TSPs has launched AI powered network solution for spam detection to foster a secure communication experience.

Further, **the TSPs and the banks /insurance companies etc. must be**

proactive so that the unregistered and spam callers feel threatened on account of traceability and thereby, being penalized under law.

8. Stakeholders are required to submit their comments on the following-

- a. **Measures required for pro-active detection of spam messages and calls through honeypots and norms for the deployment of Honeypots in a LSA, and rules or logics required for effective use of AI-based UCC detection systems including training of AI models for identification, detection and prevention of spam**
- b. **Proactive actions needed to stop further communications of messages or calls identified as spam through UCC detect systems and actions on the senders.**

BIF Response to Q.8

We agree with the measures suggested in para 2.82 and 2.83 of the Consultation Paper.

9. Stakeholders are required to submit their comments in respect of

- a. **Financial disincentive proposed in Section F of Chapter II on the access providers against violations in respect of RTMs**
- b. **Financial disincentive proposed in Section F of Chapter II on the access providers against violations in respect of UTMs**
- c. **Financial disincentive against wrong approval of Headers and Message Templates proposed in Section F of Chapter II on the Access Providers.**
- d. **Measures needed to assign the responsibilities of telemarketers (both RTMs and UTMs) and Principal Entities (Senders), involved in sending UCC and**

disincentivize them financially including legal actions as per law.

BIF Response to Q.9

No Comments, except that **the concerned telecom service providers and the banks /insurance companies etc. must be proactive** so that the unregistered and spam callers feel threatened on account of traceability and thereby, being penalized under law.

10. Whether there is a need to review five paisa exemptions accorded to transactional messages and bring them at par with other commercial messages? If yes, please give your answer with necessary justifications? If no, what additional measures are required to discourage senders, telemarketers or service providers from using transactional message templates for sending promotional messages?

BIF Response to Q.10

As provided in para 2.92 of the Consultation Paper, Transactional SMS are exempted from the charge of five paisa as these are different from Promotional and Service SMS. The 5 paisa termination charge for such commercial SMS i.e. Promotional and Service SMS acts like a deterrent and is much more than the termination cost of SMS. We have explained in our Response to Q.1 as to how Transactional SMS are critical and time-sensitive in nature as they relate to a banking transaction, delivery of OTP, purchase of goods or services, etc. and are made within a specified duration of the transaction being performed. These Transactional SMS are received as a matter of practice to enable consumers/recipients to complete transactions digitally. In the age of UPI payments and online transactions, several such messages are sent to consumers on a daily basis depending on the number online transactions the consumer engages in.

The spam in Transactional category of messages, is therefore going to cause irritation to customers and the customer's confidence in Transactional Messages may get adversely impacted due to this. In order to prevent the

misuse by way of spam in the Transactional Messages, if the Authority is of the view that removing the exemption of 5 paise charge would help, only then the same may be considered.

11. Stakeholders are requested to offer their comments on the following issues:

- a. **Whether there is a need to strengthen the provisions of Common Code of Practice templates with Standard Operating Processes further to enable Access Providers to take actions including imposing financial disincentives and actions as per law, against entities registered and not following the regulations? If so, what could be additional provisions and essential processes which should be made part of CoPs?**
- b. **Whether there should be provision for minimum security deposits from the entities registering with any of the Access Providers, against the misuse or breach of regulations? If so, what should be the provisions in the CoPs for full or partial encashment/replenishment of security deposits against the breach of the regulations? Please provide your answers with suitable justifications.**

BIF Response to Q.11

No Comments

12. What effective steps can be taken to control the menace of UCC through tariffs? Please justify your answer.

13. Whether differential tariff for SMS and Voice calls beyond a certain limit should be introduced to disincentivize UCC through UTMs? Please justify.

BIF Response to Q.12 & Q.13

As is observed in the Consultation Paper, UTMs continue to evade the TCCCPR-2018 by not registering under the Regulations, and use P2P SMSs and Voice calls through 10-digit numbers. To discourage the use of 10-digit numbers for

commercial communications, differential tariffs on SMS and voice calls beyond specific limit might be an effective step. **The objective of all mechanisms put in place should be to ensure that commercial users move to DLT platforms where consent is mandatory as this would create transparency and accountability in the system. Tariffs should be structured in such a way that consumers and registered entities operating within the bounds of regulations for legitimate purposes benefit from standard rates, while non-compliant UTMs face higher charges.**

As noted in para 3.15 & 3.16 of the Consultation Paper, vast majority of subscribers send fewer than 10 or 20 SMSs a day or make fewer than 10 calls per day. In this context, a higher tariff beyond these limits would primarily target UTMs without affecting regular consumers since legitimate users typically do not exceed the limits of daily SMS or voice calls. Differential tariffs beyond a limit would make it economically unviable for UTMs to send bulk P2P calls/message as they currently rely on low-costs to reach large audiences.

There is a need to migrate tele callers including users of PRI lines to legitimate telemarketing route, i.e. 140 series-based calling via DLT registration, and, coupled with DCA, and in that regard, the TSPs have a role to play while providing enterprise/corporate connections. The TSPs can effectively play this role by exercising flexibility in such differential charging while the thresholds to trigger such charges can be prescribed by the Authority.

Along with differential tariffs, more stringent penalties for repeat offender entities (PEs/TMs) could be introduced. Continuous violations by UTMs **should result in increased tariffs**, suspension of services, or legal action.

14. If differential tariff is introduced, what could be the limit beyond which differential tariff could be introduced for:

- i. **Voice Calls**
- i. **SMS.**

Please justify with rationale.

BIF Response to Q.14

For **Voice Calls**, the data in para 3.15 provided indicates that 99.87% subscribers make up to **50 voice calls per day per SIM**. Therefore, differential tariffs could be introduced beyond **50 calls per day**.

For **SMS**, the data in para 3.15 shows that 99.38% subscribers send fewer than **10 SMS per day per SIM**. Thus, the differential tariff could be introduced beyond **10 SMS per day**, ensuring that it only affects UTMs or users engaging in commercial bulk messaging. However, a more conservative approach would be to set the threshold of **50 SMS per day**. This would ensure that legitimate users who rely on SMS for personal or professional communication are not unfairly impacted, while still effectively disincentivizing UTMs engaging in high-volume commercial messaging.

15. If differential tariff is introduced, what could be the tariff beyond a limit for:

- i. **Voice calls.**
- i. **SMS.**

Please justify with rationale.

**16. Whether differential tariff should be introduced in a graded manner?
If so, please suggest the methodology with justification**

BIF Response to Q.15 & Q.16

A **graded tariff** structure could be considered to gradually disincentivize UCC without affecting regular users.

For SMS, a **50 paisa per SMS** beyond the prescribed SMS limit, e.g., beyond 50 SMS per day could serve as an effective deterrent. For more than a certain number of SMS per day, the tariff could be increased to **more than 50 paisa per SMS or any other charge which can be decided by the TSPs**.