

**LM/TRAI-03**  
**September 3, 2012**

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Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan  
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**Sub: Response to the Consultation Paper on "Review of The Telecom Commercial Communications Customer Preference Regulations, 2010".**

Dear Sir,

This is with reference to TRAI's Consultation Paper on "Review of The Telecom Commercial Communications Customer Preference Regulations, 2010" dated 3rd August, 2012, seeking comments from the stakeholders on the issues involved.

At the outset, we wish to inform you that we have incurred substantial cost in the Implementation of the Telecom Commercial Communications Customer Preference Regulations, 2010 & we believe that the regulator should give due consideration to the Cost-Benefit analysis before issuing any regulation or amending the policy thereon. This practice is being followed by the regulators in many countries.

Please find our comments/suggestions as below:

**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?**

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**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).**

1. At the outset, we believe that the proposed draft Regulation is against a settled principal in law i.e. what has been disallowed directly cannot be allowed indirectly. Delhi High Court in its judgment dated July 13, 2012 and TDSAT in its judgment dated July 17, 2012 has set aside the TRAI's Regulation imposing a limit of 200 SMS/day per SIM as it restrict fundamental right to freedom of speech and expression. We are of the view that TRAI through this draft regulation is intending to re-introduce the earlier provision in different form by asking the Service Provider to put a system in place whereby SMSs containing same signatures in more than 200 SMSs per SIM per hour will be filtered and scrubbed by the system and such messages will be blocked by the system. Thus trying to undo what High Court and TDSAT has set aside.
2. We would like to submit that 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 requires setting up **additional capabilities** for which operators would have to incur substantial cost in implementation of the same.

In addition to above, the following drawbacks should also be noted:-

- a. The blocking mechanism does not work on the calendar hour (i.e 1-2,2-3,3-4 etc..) but works on the hour starting, when the first sms of the day is sent out.
- b. If implemented, there is no provision of **white listing** subscribers, i.e to exclude them from this cap. This will affect even genuine subscribers who want to send out greetings/birthday wishes etc to their friends & colleagues.

We, therefore, recommend to not to have any cap on the number of promotional messages being sent out. In case we do look at having an hourly cap on promotional messages, it should be noted that the implementation parameter required will be a global setting on the SMSC & hence will affect the entire prepaid & postpaid base, causing a considerable inconvenience to the subscribers.

**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)?**

Although we believe that outsourcing by a registered telemarketer may increase the risk of leakage, reduce confidentiality, as well as introduce the concern of piracy, however we believe that the existing regulation having provision of penalizing the telemarketer, in case of any violations/breach is effective & sufficient. Further it may not be viable to have a direct agreement/undertaking with all such third party vendors, as the number of such third party vendors could be huge. Therefore, we recommend that the primary telemarketer should be responsible for all their activities & also for outsourced partners/entities.

**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)?**

We agree to the cap of 10 violations as per the current provision of the regulation; however operator should have the option to restrict/block/disconnect such cases on fewer violations as well.

The below mentioned additional framework may be adopted to restrict such subscribers or entities from sending UCC:-

- a. Regulator to increase awareness on UCC, for enterprises wanting to send out bulk messages.
- b. For complaints received on the same MSISDN sending bulk SMS, mobile sms outgoing service should be suspended.

**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).**

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**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))?**

The time frame for implementation of the facility for lodging UCC related complaints on the website should be 4 - 6 weeks.

For easy & effective management of UCC we have the following available:-

- a. 24 hour contact centre
- b. SMS based complaint lodging
- c. Email complaint lodging (mobile.assist@loopmobile.in)
- d. And option to lodge complaints directly through the website is currently under development, will be operational soon.

We believe these options will sufficiently allow for effective management of customer complaints & grievances & we don't foresee any need for any additional mechanism for registering the complaints other than above mentioned once.

This is for your information & kind consideration, please.

Thanking you,

Yours faithfully,

For **Loop Mobile (India) Limited**

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