

Dear Mr. A. Robert. J. Ravi,

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> I have studied the key measures proposed in the draft “The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012” in great detail. I had been lodging complaints with my Access Provider Airtel through e-mail but had to discontinue due to continued indifference, blatant lies and inaction on the part of Airtel. I have almost 400-500 registered complaints, the record of which has been meticulously maintained and if one goes through them, one can make out as to how Airtel makes a concerted, deliberate and whole hearted effort to thwart the efforts of the complainants.

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> Now, coming to the comments on the key measures proposed by TRAI. I wish to say as under :

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> Para 3 of Press Release

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> (i) Key measure : *For sending UCC, the unregistered telemarketers to be charged Rs 500 followed by disconnection of telecom resources.*

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> My Comments :

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> How will TRAI / Access Provider ensure that Rs. 500/- will be paid ? If a violator uses a pre-paid connection, how can TRAI / Access Provider ensure payment of penalty ? He will just use the number and throw it away. What measures do you have in mind to ensure payment ? In case there is a full proof method of collecting this penalty then the amount should be Rs. 10,000/- and not Rs. 500/- since telemarketing is being done by big companies and rich individuals. Atleast, create some deterrent and not impose such a meager penalty which would be totally ineffective.

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> (ii) Key measure : *Easy lodging of UCC complaints by forwarding the SMS to 1909.*

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> My Comments :

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> This was initiated in Sept.'11 as well and it failed miserably. There was no response and registration of complaint was never carried out. Some non-existing problem or the other was communicated such as : details of sms not provided inspite of sending the complete text. How will TRAI

ensure that this service will work this time ? Has any new and better technology being employed this time or better and honest person would be managing this service ?

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> (iii) Key measure : *Access Providers to send SMS blast on periodic basis, at least twice in a year, advising consumers not to send any commercial communications. Also, they have to take an undertaking from the subscriber, at the time of selling a new telephone connection, that the SIM purchased by him shall not be used for telemarketing purpose.*

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> My Comments :

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> I hope it works and TRAI ensures that Access Providers adhere to this measure. However, what penalty is proposed on Access Provider in case of default ? Severest penalty need to be prescribed. But what about existing subscribers – what undertaking is proposed from them ?

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> Para 4 of Press Release

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> (i) Key measure : *Access Provider to put in place a mechanism to block the delivery of unsolicited SMS with similar signatures from the source or number or entity sending more than a specified number of promotional SMS per hour.*

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> My Comments :

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> By when (time line) has the Access Provider to put such mechanism in place ? Kindly prescribe a time limit and also ask the Access Provider to advertise that it has been done ? What if the Access Providers say it entails a huge cost and show their inability to do it ? I hope it has been discussed with Access Providers before throwing it for public comments ?

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> (ii) Key measure : *Transactional message sending entities and registered telemarketers shall engage only registered telemarketers for*

*their promotional activities and Access Provider shall obtain an undertaking/agreement from them in this regard.*

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> My Comments :

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> Kindly also prescribe a heavy penalty on Access Provider in case of default.

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> (iii) Key measure : *Access Provider to disconnect the telecom resources of entities for whom the promotion is being carried out, after ten violations.*

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> My Comments :

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> Ten violations is too long since the Access Providers have no wherewithal to match 10 violations. To my mind, 2 violations are good enough for disconnection.

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> (iv) Key measure : *Additional framework to register UCC complaint through website and/or dedicated email to make the UCC complaint lodging easier and effective.*

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> My Comments :

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> What is meant by framework is not understood ? This is already in place and as stated above I have already lodged over 400 complaints without getting any proper / suitable action taken report on mail. Kindly inspect the system in place with Access Provider and ask them to strengthen that by putting more people on the job after proper training and teaching them courtesy and way of talking and behaving with customers. You please try to dial the telephone / mobile number of Nodal Officer or the Appellate Authority of Airtel and try to speak to a Nodal Officer / Appellate Authority and then you will realize what I am trying to say. Firstly, you will not get through and in case you do, no one will pick up and if you are lucky that

someone picks up you will not be able to speak with the Nodal Officer / Appellate Authority but all his / her junior staff who are discourteous, having no knowledge, do not understand English nor can they converse properly in English and on top of that have no access to the complaint lodged on mail. They say the mail is with a different department with whom the customer cannot correspond. So, please improve this system. When a customer lodges the complaint through mail, logically all correspondence should be on mail but it is not so. Airtel gives only a reference nos. through mail and the remaining update is through sms which is difficult to correlate with the complaint lodged particularly in case of multiple complaints. This is how the present system is working which deters customers to lodge complaints. There should be a proper and full proof system of accepting complaints and correspondence thereafter. In case of default, the customer should have a clean, honest and full proof system of escalating the complaint and take it to its logical conclusion. There should be a system whereby the customer in case of not being satisfied at the Access Provider end, can complain to the regulatory authority and if his / her complaint is found correct, severest penalty should be proposed on the Access Provider only then this system / framework will improve.

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> These cosmetic and peripheral measures in order to show that TRAI is doing something will not work. In case, TRAI is really interested in stopping this menace, I can suggest a full proof method instead of such lengthy and complicated measures. The same is as under :

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> If the root cause of the problem is not studied and addressed this menace will never stop. The root cause is two fold namely the availability of database and meaningless and ineffective penalty on non-registered telemarketers.

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> The database of mobile numbers is available at the drop of a hat. I get sms like these :

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> "We do Bulk Sms on your target customer any area. 1 lac sms @ Rs. 7500/- only. Huge Database Delhi / NCR. Guaranteed Response or Money Back. TINA 9136473762. Sent from +917428965940 / +917428554678."

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> The solution is quite simple – bring out a regulation that whoever wants to do marketing through sms (registered or unregistered) must obtain the database from the cellular operator only. The cellular operator will be responsible for providing data of non-DND numbers only. Any violation of this regulation would result in arrest of the person who sends sms to a DND number. Nothing less than arrest and jail term would deter these menace creators since they violate the privacy of individuals day in day out, at odd hours and even when one is travelling abroad (in different time zones). The database to be made available by cellular operator should be thoroughly checked at various levels and supplied at a cost and not free. The cellular operator, if by mistake, supplies a DND number to anyone, he would be liable to pay a penalty of Rs. 1 crore for each such number. The problem one will encounter is the time lag since everyday people would be registering and deregistering themselves with DND. The answer is 45 days time lag is already prescribed for DND to get activated. Thus,

every 45 days a new database needs to be kept ready and supplied. The data supplied should have a date of issue and validity. The registered as well as unregistered telemarketers need to obtain fresh data on expiry of the validity of the data they buy. Till such time stringent measures and severest penalties are not imposed nothing is going to happen.

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> Now, coming to other aspect of non-registered telemarketers. The earlier guidelines issued by TRAI in this regard on 21.10.2008 and the new guidelines issued on 01.11.2011 does not impose any deterrent penalty on unregistered telemarketers. The only penalty prescribed for unregistered telemarketer is notice not to send such smses and thereafter on repeated violation disconnection. On the other hand the registered telemarketers are liable to pay monetary penalty starting from Rs. 25,000/- to Rs. 2.5 lakhs at various stages of repeated violations. With this TRAI has ensured that registered telemarketers do not violate the DND guidelines but has allowed the unregistered ones to create havoc. Any right thinking person with even some grey matter can easily overcome this penalty. Receipt of notice at the first instance of violation means nothing and even disconnection at the second instance of violation does not effect the person. The unregistered telemarketers are professionals and they keep applying and getting new numbers.

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> Thus, supply of database as suggested and the penalties on violation by registered or unregistered telemarketer, in my opinion is the only remedy to this menace. One would argue that arrest and jail term is too harsh a penalty to be imposed and implemented. In that case the Government of India / TRAI should accept its inability to stop this menace and announce that they cannot do anything about this problem. Alternatively, atleast throw open these measures for public debate and take a pulse of the people.

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> Drastic measures are required for chronic problems and if the will is there everything is possible.

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> I hope my comments on the draft key measures and my alternative suggestions is given due thought and consideration.

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> Thanking you,

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> Yours faithfully,

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> PRAKASH AGARWAL

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