

VM IPL/Reg/TRAI/2410/473

09 October 2024

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Telecom Regulatory Authority of India
World Trade Centre, Nauroji Nagar
New Delhi - 110023

Subject: TRAI Consultation on Review of the Telecom Commercial Communications Customer Preference Regulations, 2018

Dear Sir,

At the outset, we are thankful to TRAI for initiating this Consultation Paper and giving us this opportunity to provide our comments. The Consultation paper is a welcome and timely initiative by the Authority.

In reply to the Consultation Paper, please find attached response submitted by COAI and we request the Authority to kindly consider the same as response on behalf of V-Con Mobile & Infra Private Limited (VM IPL) apart from a few additional inputs as below:-

Q1. 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

VM IPL Response:

The TCCCPR 2018, does not specify categorization of calls/ messages such as financial agencies for recovery of loans etc, calls on behalf of Government in case of awareness programs, disaster management, advisories etc., call backs done to customers in case of them calling a helpline number, for example Child Abuse Helpline, Accident and Trauma Services, Women Helpline in Distress etc.

Further, calls made by Political parties for campaigns/ surveys requires clear categorization by the Authority. Same was recorded under the Explanatory Memorandum of TCCCP Regulation 2018, Clause 4.3.13.

Justification: These communications are not promotional or transactional in nature, as defined under the TCCCP Regulation, 2018, at the same time these are relevant enough to be initiated by the Principal Entities to approach the end users and hence the same should not require explicit consent.

Q4. 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.

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VM IPL Response:

VM IPL prefers Option-I of the suggested header structure as mentioned in paragraph 2.31 over Option-II and Option-III, primarily because the issue of header structure has been discussed in detail with the Industry and the Authority on various occasions and after forming a common consensus, currently the Industry is working on a system for suffixing of -P, -S, -T to the headers for Promotional, Service and Transactional messages respectively. We recommend that the same system should be adopted across all TSPs.

With regard to Option-II, it is submitted that prefixing headers with Access Provider and Service Area code enables the TSPs to identify the Operator easily, especially in the case of a complaint. Thus, removing the same will mean additional time for identification of Operator and further delay in resolution of complaints in a timely manner.

In case of Option-III, we submit that an alphanumeric header enables a Principal Entity to publish its brand and create a brand value which is easily identifiable by the end customer. Same is not possible in case of a numeric header as it hinders the identification of Sender and thus limits the reach of messages to end customers.

In our opinion, Option- I should be continued as is.

Q5. 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

VM IPL Response:

Apart from the submissions made by COAI, we would like to highlight our concern with regard to treatment of calls/messages originating from wireline subscribers.

The current Regulations prescribe putting a usage cap in the case of violation originating from a UTM. Due to limitations in existing switching system, it is technically difficult to put usage capping on wireline, PRI & SIP numbers. Considering the technical constraint and in the spirit of meeting compliance to the given regulation, following is proposed as an alternate process:-

Instance	Proposed Action
1 st instance of violation	UTM subscriber to provide clarification in 3 working days, in case of failure, 1st Warning Notice to be issued to subscriber (UTM).
2 nd instance of violation	UTM subscriber to provide clarification in 3 working days, in case of failure, 2nd Warning Notice to be issued to subscriber (UTM).

3 rd instance of violation	UTM subscriber to provide clarification in 3 working days, in case of failure apply barring for 30 days. Barring will be applied on 4th working day on respective numbers / DIDs.
4 th & subsequent instance of violation	UTM subscriber to provide clarification in 3 working days, in case of failure, all resources of UTM subscriber will be disconnected on 4th Day for a period up to two years and & the sender will be put under blacklist category.

**Instance of the violation shall mean all the complaints against the sender within two working days from receipt of first complaint.*

Q12. What effective steps can be taken to control the menace of UCC through tariffs? Please justify your answer.

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Q13. Whether differential tariff for SMS and Voice calls beyond a certain limit should be introduced to disincentivize UCC through UTMs? Please justify.

&

Q14. If differential tariff is introduced, what could be the limit beyond which differential tariff could be introduced for:

i. Voice Calls

ii. SMS.

Please justify with rationale.

&

Q15. If differential tariff is introduced, what could be the tariff beyond a limit for:

i. Voice calls.

ii. SMS.

Please justify with rationale.

&

Q16. Whether differential tariff should be introduced in a graded manner? If so, please suggest the methodology with justification.

VM IPL Response:

We do not recommend differential tariff.

Thanking you,

For V-Con Mobile & Infra Private Limited


(Authorized Signatory)

Encl.: as above



COAI Response to TRAI CP on Review of the Telecom Commercial Communications Customer Preference Regulations, 2018

We thank the Authority for providing us with the opportunity to share the response to the Consultation Paper on Review of the Telecom Commercial Communications Customer Preference Regulations, 2018 (TCCCPR). The regulation has significantly impacted the telecommunications industry, prompting TSPs to make substantial investments and collaborate extensively with both internal and external stakeholders and therefore any major overhaul, should be carried out after careful consideration.

A. Initiatives taken by the Telecom Industry

1. TRAI issued the Telecom Commercial Communications Customer Preference Regulations, 2018 (TCCCPR-2018) on July 19th, 2018, and the same is based on technological solution i.e. Blockchain- Distributed ledger Technology (DLT), to provide the best possible solution to curb UCC. It is noteworthy that this is one of the largest use cases of Blockchain and DLT in telecom, globally.
2. To minimise spam and protect consumer interest, the Telecom industry has undertaken numerous efforts to fulfil the underlying objective of TRAI's TCCCP Regulation, 2018. In pursuit of this goal, the industry has consistently worked to enhance its processes, which has been instrumental in curbing the menace of Unsolicited Commercial Communication (UCC).
3. The Telecom Service Providers (TSPs) have introduced various innovative concepts to combat UCC/spam and further have already implemented certain modules in the past to combat the same. They are as follows:
 - a. Consumer Preference Registration Module
 - b. Entity/RTM and Header Registration Module
 - c. Complaint Management Module
 - d. Scrubbing based on Principal Entity-ID and Header
 - e. Blocking traffic from unregistered headers
 - f. Content Template Registration
 - g. Content Template Scrubbing
 - h. Digital Consent Acquisition
 - i. Registration of Consent Template
 - j. Scrubbing of the Service Explicit messages
 - k. Whitelisting of URLs/APKs/OTT links
 - l. Implementation of Voice Solution 140 Series
4. It is further to be noted that the implementation process of some of the modules are taking place in the present and they are as follows:
 - a. PE-TM Binding
 - b. Measures to curb misuse of Headers and Content Templates – Suspension of the unused Headers
 - c. ██████████ of DLT with Chakshu Portal



Many of these modules were not a part of the 2018 Regulation, while some were part of the latest TRAI Directions, others have been proactively implemented by TSPs to curb UCC.

5. Thus, it must be noted that the TCCCPR implementation has entailed massive technological development and the TSPs were also made custodians for registration of Telemarketers (TMs) and Principal Entities (PEs), which involved persuasive efforts to bring all the stakeholders onboard and make them compatible to hitherto unheard system of template and consent registration followed by subsequent scrubbing of header/template/consent.
6. Despite all these issues the approach still remains piecemeal and only result seems to be shifting the traffic to OTTs or creating some work for a few vendors or imposing financial disincentives on TSPs. We submit this approach has not yielded necessary results and will continue to fail, till the real responsible party is brought under regulations.
7. Despite the substantial efforts of TSPs, the spam remains a challenge, and it is the TSPs who are almost always held to account including when it comes to the penalties for spam. But this myopic stand overlooks the shared responsibility in the ecosystem. In other words, penalising only the TSPs for spam, is not the correct approach.
8. TSPs alone should not be responsible because (i) TSPs are merely carriers and not creators or generators of UCC/content whether promotional or unsolicited. It is the PEs and TMs that are originators, (ii) the responsibility for controlling the content and ensuring it complies with consent requirements and regulatory standards is that of the PEs and TMs, and (iii) TSPs have already made significant investments in UCC detection technologies, such as DLT system, working with TRAI to ensure compliance with the law.
9. By placing the penalties only on TSPs, the regulatory framework is creating a situation where PEs and TMs are able to completely avoid all responsibility for spam generation. This has shifted the burden of compliance and enforcement onto TSPs, who are already playing a pivotal role in implementing regulatory frameworks like DLT to keep the pipeline clean.
10. Additionally, any independent efforts to address spam may not be in the best interests of customers, as they may impact the quality and availability and continuity of services - therefore, a coordinated approach is not only the most efficient but also absolutely essential for maintaining seamless services for business customers while effectively addressing UCC.

B. Regulate PEs and TM-D

1. The only feasible and optimum approach to handle UCC can be found in making all individuals, Principal Entities (PEs) and all the Registered and Unregistered Telemarketers with Delivery Function/ Aggregator Function responsible for any fully
2. Instead of this review exercise of an unproductive framework, entire UCC regulatory framework should be reviewed holistically and aligned with the provisions under



'The Telecommunication Act 2023', so that we are able to find a best fit that will benefit all stakeholders i.e. consumers, telecom service providers(TSPs), PEs, Government, Exchequer and the other entities involved in this ecosystem.

3. The Telemarketer-D (TM-D) should be brought under the licensing regime with sufficient financial eligibility requirement to ensure that only serious players get involved and the Government and Authority have sufficient legal control over this entity to ensure compliance with TCCCPR-2018.
4. The responsibility of TSPs, being intermediary, should be limited to registering the preferences and consents of telecom subscribers, handling complaints, and communicating such complaints to the concerned TM-D. The TM-D should take action against the responsible TM-As and PEs. Any financial disincentive or penalty should be directly applicable to the licensed TM-D, who is handing over the A2P traffic to the TSPs. In addition, the rules to be framed by the Government under the Telecommunication Act 2023 should have adequate provisions which empowers DoT to take deterrent actions directly against the individuals, companies, abettors, conspirators, including PEs, Aggregators and Telemarketers, who misuse the telecom resources for initiating UCC.

C. Derive the Regulations to Regulate PEs and TM-D

1. The Telecommunication Act 2023, under its section 28, specifically provides for measures for protection of users, and the Authority must review and align the TCCCPR regulations with section 28 of 'The Telecommunication Act, 2023', as currently it is drawing its powers to regulate UCC from QoS related provisions, which have limited legality.
2. With the enactment of the Telecommunication Act, 2023, the Parliament has empowered the DoT to directly take action against the users who are initiating unsolicited communication. Section 28 provides for measures for the protection of users. It empowers the Central Government to publish rules providing measures for protection of users in consonance with existing regulations of the TRAI (TCCCPR). The relevant section is reproduced below for ready reference:

28. (1) For the purposes of this section, "specified message" means any message, offering, advertising or promoting goods, services, interest in property, business opportunity, employment opportunity or investment opportunity, whether or not—

(a) the goods, services, interest, or opportunity are real; or

(b) it is lawful to acquire such goods, services, property, interest or take up the opportunity.

*(2) The Central Government **may by rules provide for measures for protection of users**, in consonance with any regulations notified by the Telecom Regulatory Authority of India from time to time, **including measures such as...** (Emphasis added)*

3. Clearly, this provision empowers DoT to take any measure for the protection of users. It is inclusive in nature allowing broad measures to stop the menace of such calls at the root, i.e., at the users' level. The provision allows the Department to take



direct action against users initiating unsolicited communication for the misuse of an allocated telecommunication resource.

D. Challenges of Co-regulation

1. Vide the 2018 Regulations, TRAI adopted a co-regulation approach, wherein TRAI asked the Access Service Provider to develop the Technology solution and set clear roles, responsibilities, administrative arrangements of all the entities involved in commercial communication through Codes of Practice (COPs).
2. However, it must be noted that TCCCP Regulation cannot be implemented alone by TSPs as the entire ecosystem, including the principal entities and telemarketers, have to be on-boarded to implement it.
3. The ecosystem as prescribed by TRAI vide TCCCPR 2018 requires the participation of various constitutional bodies, government organizations, principal entities, telemarketers etc. i.e. **the complete implementation of the regulation is not in the hands of our member TSPs alone**. The number of stakeholders involved in implementing the Regulation is humongous and adequate time is required to bring all these stakeholders together with a common approach, understanding of the Regulation and implementation requirements.
4. From the beginning of the implementation. industry has faced various challenges including non-cooperation by PE's/Senders. **The challenges encountered by our members with implementation of the Regulation have always been communicated to TRAI in various forums**. Also, details/status for the implementation has been communicated to TRAI by our members in the various industry/TSPs meetings and TRAI has closely monitored all the development & progress of implementation of Regulation till date.

Considering the above factors, **we submit that TRAI recommends to DoT to bring the TM-D directly under Regulatory framework and TSPs should be left to do their intermediary activities.**

E. Scope of the TCCCP Regulation, 2018

1. As stated above, the industry's joint effort with various stakeholders and regulatory bodies reflects our commitment to curb fraudulent practices, such as phishing and scamming, which often exploit commercial communication channels. However, while fraud prevention is an essential goal, it is critical to understand that **the primary and specific focus of the TCCCP Regulation, 2018, is to mitigate UCC**. The scope of the TCCCP Regulation is centered on protecting consumers from unsolicited marketing messages and ensuring that telecom operators implement robust mechanisms to prevent such communication.
2. Though fraud reduction efforts are undoubtedly vital, the Regulation's framework is primarily designed to enhance customer preferences and promote transparency in commercial communications. By ensuring that telemarketers and principal entities adhere to these regulations, TRAI aims to create a more secure and customer-friendly telecom environment, addressing the specific challenge of UCC.



3. Therefore, the TCCCP Regulation, 2018, focuses on curbing unsolicited communications and ensuring a transparent, consumer-friendly telecom environment. **While fraud prevention is important, telecom service providers (TSPs) are not responsible for fraudulent activities carried out by malicious actors. Instead, those engaging in fraud, such as phishing and scamming, should be held accountable and punished under the law** to safeguard consumers and maintain trust in the telecom networks.

F. Changes in TCCPR Regulation of 2018

1. When the TCCCP Regulation of 2018 was initially introduced, it marked a significant shift in how UCC was regulated within the telecom industry. The regulation aimed to bring order to a previously unchecked flow of promotional messages and calls by setting up guidelines that TSPs and telemarketers were required to follow. In response, the industry, led by TSPs, took numerous steps to comply with these new regulations. These efforts included setting up systems to monitor UCC, implementing frameworks for obtaining customer consent, and ensuring compliance with various procedural and technical mandates outlined by TRAI. The introduction of the Distributed Ledger Technology (DLT) system to track communication patterns and prevent UCC was one such critical step that the industry adopted as part of their compliance strategy.
2. However, over time, TRAI continued to release additional directions to further refine and enforce the TCCCP Regulation, **beyond what was originally included in the 2018 framework**. It is important to note **that these subsequent directions from TRAI were not part of the original TCCCP Regulations released in 2018**. They were issued without any consultation in violation of the TRAI Act, however, TSPs continued to comply with these direction for consumer benefit at significant costs.
3. However, the supportive intent of the TSPs has been misconstrued and FDs have been imposed on them, despite any justification and the fault being with the PEs and TM-Ds and faulty implementation of Regulations.

G. Cost Benefit Analysis

1. It is pertinent to note that the changes implemented by Telecom Service Providers (TSPs) on the Distributed Ledger Technology (DLT) platform demand significant technological advancements. These changes involve not only upgrading existing systems but also ensuring that they can handle the new, more secure and transparent requirements of the DLT framework.
2. Moreover, TSPs have been given the additional responsibility of acting as custodians for the registration of Telemarketers (TMs) and Principal Entities (PEs). This new role comes with its own set of challenges, as it necessitates extensive efforts to persuade and align various stakeholders with the new system. The shift requires careful orchestration to ensure that TMs, PEs, and other entities are not only onboard but also capable of integrating into this new ecosystem effectively, given the technical and operational adjustments required.
3. Additionally, the Telecom Regulatory Authority of India (TRAI) must consider a cost-benefit analysis when evaluating these changes. While the adoption of DLT is



poised to enhance the transparency and security of telecom operations, particularly in managing unsolicited commercial communications (UCC), the financial and operational impact on TSPs and associated stakeholders cannot be overlooked.

4. **The costs of technological upgrades, training, and onboarding processes are likely to be substantial. Thus, TRAI's regulatory approach will need to balance these costs against the expected benefits**, such as improved data integrity, customer protection, and long-term operational efficiencies across the telecom sector.

H. Timelines

1. Every new provision requiring development will need time of at least 3 to 6 months, that too after detailed assessment of the list of changes and their extent. Realistic timelines should be separately consulted with the TSPs before it is prescribed by the Authority for implementing each step, including short-term and long-term milestones. Besides, a priority list should be created by TRAI for each such change.

I. Traffic shifting to OTTs

1. Further, it is to be noted that due to the mandate by TRAI, a significant quantum of un-solicited commercial traffic has shifted to OTT Communication Apps. While the commercial traffic through traditional SMS routes has been decreasing, the measures taken by TRAI to curb spam may not bring the desired results if OTT communication apps continue to remain outside the purview of TCCCPR.
2. Increasingly SPAMs/ phishing attempts through OTT channels (OTT communications apps) is also contributing substantially in aiding financial cybercrimes. Therefore, it is imperative that OTT platforms are brought under the UCC (anti-SPAM) framework.
3. It is pertinent to note that there is a disparity in compliances between TSPs and OTT Communication Services with respect to addressing the Unsolicited Commercial Communications (UCC). The table below highlights the differences between the two:

Sr No.	Detail	TSPs	OTT Communication Services
1	TCCCPR Regulation, 2018	This Regulation applies to TSPs.	OTT Communication Service Providers do not come under the purview of TCCCPR, 2018.



2	Customer Consent	TSPs are required to take customer consent for sending commercial communications.	OTTs Communication Service Providers are not required to take any type of consent for sending commercial communications.
3	Complaint Resolution	Consumers have the facility of filing complaints with TSPs for UCC.	OTTs do not provide any such facility for filing of complaints by customers against UCC.
4	Investment made in infrastructure (hardware and software) to counter UCC.	TSPs have made significant investments in putting in place the infrastructure for controlling Spam	OTTs have not made any such investments towards controlling spam.
5	Registration of Telemarketer (TM) and Scrubbing of Content	TSPs have established a mechanism for Registration of TM and scrubbing of their content.	OTT Communication Service Providers do not have any such mechanism for registration and scrubbing.
6	Penalties for Non-Compliance	TSPs have to pay Financial Disincentives (FD) in case of non-compliance.	OTT Communication Service providers, not being covered under this regulation, are not subjected to any penalties.

4. The disparity in regulatory frameworks means that OTT platforms do not face the same scrutiny or accountability for spam generation as TSPs. Hence, there is also a need to highlight the problem of spam generated by OTT messaging apps, the absence of regulatory oversight, and the need for uniform accountability to protect consumers across all communication channels.
5. This **disparity in compliance as well as cost to service (in terms of fee to be paid to Government) between TSPs and OTT services undermines the effectiveness of regulating commercial communications. To achieve comprehensive results in curbing UCC, it is crucial that OTT communication apps also be brought under the purview of TCCCPR 2018 and made to pay same revenue share to DoT/Government as is applicable to TSPs.**



6. TRAI could introduce specific guidelines for consent on OTT platforms, ensuring that businesses and TMs cannot send unsolicited messages and calls without obtaining prior approval from users. The OTT platforms should work with regulatory bodies to ensure that PEs (businesses or advertisers using the platform for commercial purposes) are held accountable for sending spam. This would involve mandatory registration of businesses with the OTT platform, similar to how businesses must register with TSPs to send commercial SMSes.

J. Regulatory norms for VNOs

1. At present, telecom resources are provided to licensed VNOs, who in turn are serving their consumers by providing end services. As per licensing norms, the VNOs are responsible for consumer acquisitions and serving the consumers. Therefore, all norms related to commercial communications should also apply to them, both as originating service provider and terminating service provider. This should be examined by the Authority in details and suitable regulatory requirements are prescribed.

K. Key Submissions

Further, the key submissions on the said Consultation Paper are as follows:

1. Instead of this amendment, the complete regulatory framework under TCCCPR should be recast as per the Telecommunication Act 2023 and rules for protection of users.
2. The TM-D should be brought under regulatory regime and should be registered by the DoT.
3. If government messages are categorized separately, our member TSPs will have to update and align the entire system, including registration processes and header management, which will involve significant operational costs. As a result, these messages should be priced fairly. However, in critical situations such as emergencies or disaster management, or messages issued by telecom authorities, exemptions from these charges could be considered.
4. We recommend maintaining the current process and not implementing any changes to the requirement for explicit consent to receive promotional communications via auto-dialers or robo-calls.
5. It is also important to clearly define the responsibilities of telemarketers and Principal Entities (Senders) to ensure accountability. Financial disincentives and legal actions should be applicable directly on these entities.
6. We further recommend that aligning the pricing for transactional messages with that of commercial messages would help ensure a more uniform and equitable approach.
7. We do not foresee any merit in the proposal for differentiated tariffs, applying higher rates for voice calls and SMS exceeding a certain threshold per day.



Q1. 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.

COAI Response

- a) With regard to definitions and categorisation, members will respond individually.
- b) **However, we submit that there should not be an opt out feature for transactional SMS as these are customer-initiated messages.** In case the relationship between customer and brand ceases then there is no scope of sending transaction messages so an opt out feature is not required. Giving an opt-out mechanism will pose risk of consumer accidentally availing it and missing out on essential messages. In case TRAI still considers mandating opt-out mechanism, we strongly urge that there should not be any mandatory requirement of presenting opt-out mechanism in every transactional/service sms or after every transactional/service call.

Q2. 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.

COAI Response

- a) We do not support taking an additional consent for Auto-dialer/Robo call as the same will only complicate the DCA system and may lead to unnecessary repercussions. We as TSPs do not have the visibility if any TM uses auto-dialer or Robo calls to reach to end consumers. The global examples quoted by TRAI highlight that these obligations have been cast upon the PEs directly through enactment of suitable legislations. If still there is any need for separate actions from PEs on the calls from auto-dialler/robo-calls, we recommend that a separate law should be enacted and enforced directly on the PEs and not through TSPs, just like the case of other countries as highlighted in the Consultation paper as well.
- b) Currently, Digital Consent Acquisition, DCA process is in place where customers can provide consent for receiving such communications and have the option to revoke this consent when desired.
- c) It is to be noted that this DCA process plays an important role in regulating and controlling the receipt of promotional calls. Under the TCCCP Regulation, the DCA ensures that consumers are protected from unsolicited and unwanted promotional communications, including automated calls, by requiring consent from customers before they can receive such communications
- d) However, the major issue is that the Principal Entities (PEs) are not adhering to the said DCA process nor are they getting onboarded onto this facility. Several PEs fail to properly acquire or manage customer consent before sending



commercial communications, leading to non-compliance with TCCCPR. Some businesses bypass the consent verification process or do not update consent records appropriately, resulting in customers receiving messages without proper authorization. This lack of compliance not only undermines the objectives of the DCA process but also contributes to the growing issue of unsolicited communication, affecting consumer trust and experience.

- e) Moreover, customers have the ability to revoke consent if they find communications intrusive or unwanted, allowing them to manage their communication preferences effectively and ensuring adherence to privacy standards. However, this capability does not apply to OTT (Over-the-Top) players, which could lead to challenges for customers in managing their communication preferences with these providers.
- f) Therefore, we recommend not implementing any changes to the requirement for explicit consent to receive promotional communications via auto-dialers or robo calls. However, we recommend that PEs be actively onboarded to utilize the DCA process, as this will help the DCA effectively curb spam and prevent violations, in alignment with the intent and objectives of the TCCCPR.
- g) The implementation of Digital Consent Acquisition and implementation of 140 & 160 number series will not only ensure that all communications are consensual but will also categorize calls in a way that enhance customer control and satisfaction. This comprehensive approach is set to revolutionise the way businesses engage with their customers, fostering a more transparent and respectful communication environment.

Q3. 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.

COAI Response

- a) **We submit that scrubbing the content on-the-fly is not practical in case of voice calls and should not be mandated.** Thus, we submit that there is no need to scrub for the content in the voice calls.
- b) We further submit that TCCCPR 2018 regulation already introduced significant measures to regulate unsolicited commercial communications, such as mandatory scrubbing of customer preferences against a Do Not Disturb (DND) registry and robust consent mechanisms.
- c) Under the TCCCPR 2018 framework, TSPs already follow rigorous scrubbing processes to filter out communications to consumers who have registered on the DND list or who have opted out of receiving certain types of communications. This scrubbing process is carried out through the Distributed Ledger Technology (DLT) platform, where content templates and headers are registered, and communication is only allowed if it complies with pre-approved templates.



- d) Thus, the 2018 regulations have already laid a solid foundation for controlling unwanted communications by ensuring that only authorized and pre-registered content is delivered. It is essential to continue leveraging this robust system rather than overhauling it with new processes that might introduce operational inefficiencies.
- e) **We recommend that no such complicated, costly and challenging regulatory requirements should be imposed on TSPs.** In case Authority's feel merit in having such solutions, we recommend it to be referred to Global/Indian Standards bodies, for providing suitable standards, solutions and OEMs providing state of the art solutions for this. **Most importantly, such solutions would require huge cost for implementation as such, its cost should be borne by DoT/Government through USOF or any other fund.**

Q4. 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.

COAI Response

- a) Members will respond individually.

Q5. 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?

COAI Response

- a) The major intervention required is in ensuring that the complaint redressal becomes the responsibility of real responsible and accountable stakeholder i.e. PE or TM-D and the same is possible only when the TM-D is brought under regulation and has the financial obligation for FD payout. The TM-Ds will then need to ensure adequate redressal of complaints.
- b) While the current provisions under Regulation 25 of TCCCPR 2018 assign a significant role to Access Providers in handling consumer complaints, **there is a growing need to fix clearer responsibilities and accountability on PEs and TMs. The onus should primarily lie on these entities, as they are the originators of commercial communications**, whether promotional or transactional. By making PEs and TMs directly accountable for UCC violations, the process of redressal can become more efficient and enforceable. To strengthen the complaint handling process, specific penalties and obligations must be imposed on PEs and TMs for recurring violations. Rather than placing the entire burden of complaint resolution on Access Providers.



- c) The current provisions for addressing consumer complaints could benefit from some enhancements to improve their effectiveness. While the authority has introduced solutions aimed at Telecom Service Providers (TSPs), it would be beneficial to expand these measures to include all relevant stakeholders involved in the complaint resolution process.
- d) It is further to be noted that a **clear delineation of responsibilities among PEs, TMs, and TSPs will not only improve compliance but also ensure that consumers' rights are protected effectively.**
- e) In order to properly examine the complaint, reasonable time must be provided to TM-D. We do not feel that there is a need for any drastic changes in the timelines for redressal of consumers' complaints. The current timelines are sufficient to meet the requirements of consumer redressal.
- f) Another area for improvement is the regulation and penalization of senders or principal entities responsible for violations. Implementing clearer regulations and penalties for these entities could enhance compliance and accountability.
- g) The current complaint resolution framework could be improved by defining financial securities and fixing key accountability on these entities and imposing stricter penalties for violations. This will not only enhance compliance but also ensure a smoother and more efficient complaint resolution process. Strengthening the role of PEs and TMs, alongside better collaboration with Access Providers, can address gaps in the current system, thereby offering better protection to consumers from unwanted communications.
- h) **Checking of CDRs within 2 hours:** The present timelines for complaint assessment is based on the technical architecture for processing of billions of CDRs through huge set-up and being a mammoth activity, it is technically infeasible to change or reduce its timelines to 2 hours or even less than a day. We strongly urge that there should not be any requirement of checking the CDRs within 2 hours of the UCC complaint, as the same is technically infeasible.
- i) The step of informing the Sender about the UCC complaint, should only happen post the complaint being upheld as valid.
- j) **Further, it may not be legally tenable under the TRAI Act for TRAI to deal with the appeals related to action taken by a TSP against a Sender (who is actually a customer of TSP), and ideally the Sender should have to approach suitable court under the law of land.**

Q6. 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.



COAI Response

- a) Telecom service providers adhere to TRAI guidelines for handling unsolicited commercial communications (UCC), utilizing mobile apps, websites, and call centres for reporting and managing complaints. These systems ensure prompt acknowledgment, resolution, and continuous evaluation of accessibility and user-friendliness.
- b) However, the responsibility for ensuring that facilities provided for handling UCC complaints through apps, websites, and call centers are accessible and user-friendly should largely be left to the discretion of the TSPs. It is to be noted that the TSPs possess the technical expertise, understanding of customer behaviour, and operational understanding necessary to determine the best practices suited for their unique customer bases.
- c) Further, it is to be noted that TSPs operate in diverse environments, each with different consumer profiles, technological infrastructures, and market dynamics. Thus, a one-size-fits-all approach may not be practical. By allowing TSPs the flexibility to adopt best practices that align with their demands, they can choose solutions that maximize accessibility and efficiency for their users.
- d) Therefore, we recommend that these initiatives should be left to TSPs, giving them the flexibility to innovate and deliver the best solutions for their customers. By doing so, TSPs can ensure that their systems are not only compliant but also efficient and consumer-friendly, leading to better management of UCC complaints in a manner that suits both the company and its users.

Q7. What additional modes of complaints registration, preference registration and consents registration through a very easy and quick process can be implemented?

COAI Response

- a) We iterate that TRAI's DND app is specifically designed to help consumers manage and control the types of communications they receive. The app allows users to register their phone numbers on the DND list, which blocks unwanted commercial calls and messages. Additionally, it enable users to report any violations, such as unsolicited calls or messages, directly from their smartphones.
- b) Moreover, TRAI organizes various programs aimed at educating and informing consumers about their rights and the mechanisms available for reporting UCC. These outreach efforts include workshops, seminars, and informational campaigns that help consumers understand how to use available tools and resources effectively.
- c) Therefore, we do not recommend any changes to the existing complaint mechanism and suggest that the current framework should be maintained, along with ongoing awareness programs to support its effectiveness.



- d) **Consent Registration should be made flexible and friendly:** We would like to recommend that process of bulk upload of the existing consent available with the PEs along with the facility to the consumers, of revoking the consent may be introduced/allowed in order to provide a user-friendly mechanism of seeking consents. Same can be supported with a undertaking from PE that the consents are compliant to norms under DPDP Act.

Q8. 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.**

COAI Response

- a) **Challenges in Honeypot Deployment and Management:** Telecom Service Providers (TSPs) face difficulties in deploying honeypots across Licensed Service Areas (LSAs) due to the need for strategic placement, adherence to security and privacy standards, and real-time threat monitoring. Additionally, integrating these honeypots for effective spam detection presents technological hurdles.
- b) **In addition to the above it is submitted that Honeypots** are well-known cybersecurity mechanisms designed to detect, trap, and analyse malicious activities by creating decoy targets for attackers. In the context of UCC, their application can be one of the many technological options that can be looked at and reviewed for purpose of identifying and combating **UCC**. However, it is also highlighted that despite their potential, implementing honeypots in telecom networks may likely pose several significant challenges including scalability, resource allocation, false positives, **cost, privacy concerns, and data analysis complexities**. Overcoming these barriers requires a careful balance of technology, cost-efficiency, and regulatory compliance.
- c) **AI-Based UCC Detection Systems:** TSPs have deployed Artificial Intelligence and Machine Learning based UCC Detect system which is capable of evolving constantly to deal with new signatures, new patterns and new techniques used by UTMs. It is to be noted that the TSPs have adopted industry best practices and provides the following:
 - i. Detect and block suspicious/malicious signatures, keywords, / URLs / Call Back numbers and phrases through Antispam tools and Firewalls to prevent P2P messages with such keywords / URLs from originating from TSPs' Network
 - ii. Actions to be taken to detect senders sending UCC in bulk.



- iii. To extract and share with other TSPs information relevant to detect and minimize Spam.
 - iv. Technical initiatives essential to the process of reducing Spam
 - v. Build intelligence in system basis the behaviour analysis.
 - vi. Extending the scope of fraud/spam triggers to Social Media platforms – Truecaller / Facebook / Twitter / Google
- d) Thus, it is pertinent to note that the TSPs are already taking proactive actions needed to stop further communication of messages or calls identified as spam and the same shall be left to the TSPs.
- e) **System to automatically take feedback from the recipient of bulk voice calls:** In our view, above said measures are quite subjective requiring significant development, huge costs and manual efforts and would not yield commensurate benefits. The CDRs are available in the database only after 24-36 hours, hence, it will not be possible to build any solution which is based on checking CDRs prior to such window.
- f) The requirement of checking the bonafide use of telecom resources is a subjective requirement and will be practically impossible to be conducted for lakhs of consumers. Similarly, re-verification of KYC of the subscribers would also not be beneficial but, will result in huge costs and resources for the TSPs.

Q9. 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.**

COAI Response

- a) We are of the view that Financial Disincentives on TSPs do not serve any purpose. We believe that the intention of TRAI is to reduce the menace of UCC and not to earn revenue from the financial disincentive. We are of the view that operators have made all the efforts that have considerably reduced their UCC complaints to a very low level and hence should not be penalized for unwarranted actions of some subscribers.
- b) Furthermore, vide the current consultation process, the Authority proposes to expand the scope of FDs under regulation 27 to headers and templates. The Authority also proposes to impose FDs on access providers for failure to curb the UCC from unregistered senders/ UTMs by amending the regulation 28 of TCCCPR. However, these FDs are not on sound legal grounds and are in violation of the law of the land. We submit that before any review of the existing



provisions of the Regulations issued by the Authority in 2018, the Authority must take into the account the relevant provisions of '**Information Technology Act, 2000**'.

- c) **As per the Section 79 of the Information Technology Act, TSPs are merely intermediaries (and therefore, exempted from liability), hence, TSPs cannot be held accountable or penalised for unsolicited communication being done using their network.** The relevant Section 79 of the Information Technology Act, 2000 is reproduced below for ready reference.

79. Exemption from liability of intermediary in certain cases.–(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

(2) The provisions of sub-section (1) shall apply if–

*(a) the function of the intermediary is **limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted**; or*

*(b) the intermediary **does not–***

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.... (Emphasis added)

- d) As can be inferred from the above, TSPs are mere carriers, and their function is limited to providing access to the communication system. They do not initiate the transmission, select the receiver or modify the information contained in the transmission. Therefore, they qualify as exempted intermediaries under Section 79.
- e) Keeping in mind the larger interest of users, TSPs have implemented mechanisms such as Blockchain DLT, spam filtering, scrubbing, etc. in an attempt to reduce the occurrence of such calling. All these measures are non-intrusive in nature, i.e., without storing or tampering with the information contained in the transmission.
- f) **However, these mere acts of facilitating a Regulation made by the sector regulator does not imply that the TSPs can be penalized through FDs.**
- g) Thus, we suggest that financial disincentives be focussed on TM-D/PE and be designed to effectively reduce unsolicited commercial communications (UCC) rather than imposing penalties exclusively on Access Providers. A more balanced approach would ensure that the focus is on mitigating UCC issues rather than merely penalizing our member TSPs.
- h) It is also important to clearly define the responsibilities of telemarketers and Principal Entities (Senders) to ensure accountability. Financial disincentives and



legal actions should be used judiciously to encourage compliance. However, the focus should be on establishing effective compliance mechanisms rather than relying solely on financial penalties.

- i) As regards options a. and b. i.e. FDs on RTMs & UTMs, the TRAI should work extensively with DoCA to implement the latter's recent draft notification that proposes actions on the entities involved in sending UCC/SCAM/SPAM to the consumers. The Telecom industry also endorses the DoCA proposal and recommends that it be put into effect forthwith.

Q10. 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?

COAI Response

- a) The existing five paisa exemption creates a disparity and arbitrage between transactional and commercial messages, which can lead to inconsistencies in pricing structures. Aligning the pricing for transactional messages with that of commercial messages would help ensure a more uniform and equitable approach. This adjustment would address the current imbalance and promote greater fairness in the overall messaging pricing framework.
- b) We recommend that a uniform commercial communication sms charge should be made applicable on each category i.e. transactional, promotional, service and Government messages, except disaster related messages.
- c) The present charge of Rs. 0.05 per SMS was introduced by TRAI through a Regulation in the year 2011 and has not undergone change since then despite huge costs being undertaken by TSPs to implement regulatory requirements. **We urge the Authority to revise the existing charge upwards as a uniform commercial communication charge applicable on all categories.**

Q11. 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.

COAI Response

a) **Strengthening Provisions of CoP Templates.**

- i. To enhance the effectiveness of these templates, TRAI should define clear processes and regulations specifically targeting senders who fail to comply with regulations.
- ii. A robust legal framework is necessary to enforce penalties, including financial disincentives, against non-compliant entities. This will ensure that DoT has the necessary tools to take appropriate action on TM-D. Additionally, it is crucial to establish well-defined responsibilities for senders and to make senders directly accountable by registering them with TRAI. This approach would facilitate more effective enforcement of regulations and penalties.

b) **Provision for Security Deposits:**

- i. Introducing a provision for minimum security deposits from entities registering with Access Providers could help address misuse or breaches of regulations.
- ii. However, for effective implementation, the CoPs should clearly outline the detailed conditions and processes under which security deposits can be fully or partially encashed or replenished. This includes specifying the procedures for claiming deposits in case of breaches and the process for replenishing them. Proper legal backing is needed to enforce these requirements and to ensure that security deposits serve their intended purpose.
- iii. Aligning regulations and penalties equally for senders and principal entities, and establishing clear responsibilities, will help create a more comprehensive and effective regulatory environment.

Q12. What effective steps can be taken to control the menace of UCC through tariffs? Please justify your answer.

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Q13. Whether differential tariff for SMS and Voice calls beyond a certain limit should be introduced to disincentivize UCC through UTMs? Please justify.

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Q14. If differential tariff is introduced, what could be the limit beyond which differential tariff could be introduced for:

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

Please justify with rationale.

&



Q15. If differential tariff is introduced, what could be the tariff beyond a limit for:

i. Voice calls.

ii. SMS.

Please justify with rationale.

&

Q16. Whether differential tariff should be introduced in a graded manner? If so, please suggest the methodology with justification.

COAI Response

a) Members will respond individually.

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