

To

A. Robert. J. Ravi, Advisor (CI & QOS),
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
Jawaharlal Nehru Marg (Old Minto Road),
New Delhi -110002

Subject: Feedback from Netcore On Draft regulations on 10th Amendment On UCC Regulation

Dear Sir,

Netcore welcomes the opportunity to provide feedback on the draft regulations and Consultation paper issued by TRAI on Aug 3, 2012 related to Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010).

As pointed out in the paper, while the number of unsolicited commercial communication in the country have drastically reduced with the regulation, there is opportunity for further improvement due to current loopholes in the legislation.

Being a signatory of the Code of Conduct aggregators, we believe we have helped reduce the menace of unsolicited sms and calls drastically, but some of the good work by the body due to self-regulation is being negated by a few companies outside of the signatories, who are taking advantage of the current loopholes so the overall violations is not as low as it would otherwise have been.

In this light, TRAI's initiative to address this is most welcome.

Netcore's feedback on the specific regulation is two-fold.

- Firstly, we will respond to the specific questions raised in the Consultation Paper.
- Secondly, we will also suggest some further improvements in the Regulations to make it more wholesome and implementable longer term for the benefit of Indian subscribers, the regulator and industry as well.

I. Response to the specific questions raised in the Consultation Paper.

Q.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?

This is an excellent proposal for stopping the menace of SIM card based messaging, which this regulation is trying to address. We believe that this requires a clear demarcation between SIM card based senders who use P2P plans to abuse and circumvent promotional SMS surcharges and genuine A2P messaging using numeric 10 digit sender ids , since A2P messaging can include 10 digit number sender ids from VMNs/longcodes.

Genuine A2P users should not be penalised.

Q.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.

Provided A2P messaging can be distinguished from P2P messaging, 250 messages /hour is ok as limit.

Q.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.

While the spirit and intent for this is commendable (and in fact advantageous to the legitimate aggregator industry and us), we believe it is impractical to get every enterprise who wants to send messages registered as a telemarketer. As long as there is a cost arbitrage of promotional messages, end clients are likely to find unregistered telemarketers to send messages. Hence our recommendation is to eliminate or reduce the promotional surcharge to say 1p instead of the current 5p, so that the benefits of going to an unregistered telemarketer are reduced substantially for marketers.

For voice calls, we feel that eventually it will be difficult to enforce that every enterprise in the country register as a telemarketer if it wants to make a call to the enterprise's client. For example, in case of a sales person making a follow-up call to an individual with whom he had a meeting in the past would it be termed as UCC if the customer then changes his mind on wanting to know more about the service? Every enterprise calls candidates from job portals, sales and customer service have genuine needs to follow-up and call back or notify clients or potential clients of their services and if due to any dispute with the callee, it could lead to the callee registering an invalid grouse against the caller/sender. Complaints could sky rocket rather than be diminished if the proposed is implemented, we believe due to the sheer scale of genuine interactions that cannot be easily regulated.

Q.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.

We are ok with the proposal to disconnect telecom resources of SIM card based senders, provided legitimate longcodes/VMNs/shortcodes can be distinguished from this disconnection.

We believe some loopholes like masquerading of SIM card numbers, settable from certain handsets may also need to be addressed.

Q.5 What additional framework may be adopted to restrict such subscribers or entities from sending UCC, other than the one proposed above?

See Section II (Submissions # 1 through Submission #5) below for detailed response.

Q.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.

We believe an operator/service provider specific website is desirable for ease of adoption. A one month timeframe for implementation of facility for lodging UCC on a common website is fine.

Q.7 Do you propose any other framework for registering UCC complaint for easy and effective lodging of complaints?

The proposal to forward SMS to 1909 along with SIM card number, date and time is fine and will simplify the complaint process.

II. Suggested improvements in the UCC Regulation framework

Submission # 1:

Reducing the price differential between promotional and transactional messages.

A reduced price differential will help reduce the complaints and violators using loopholes to circumvent the higher price. This will help contain SIM card based messaging as well as abuses of transactional pipes.

Submission # 2:

For transactional messages, further clarify Modes of Verifiable Opt-in:

Currently, under clause F.No.341-3/2011-CA (QoS), a message could be considered as transactional, provided an “opt-in” verifiable request was obtained from the end user. What a verifiable opt-in was however not specified.

To decrease ambiguity on this, we suggest

A. Modes of verifiable opt-in request can be clarified as :

1. Request on Long Code/Short code
2. Request stated on Web (provided there is a double opt in or a message is sent immediately to the subscriber that he has opted in to receive the message and providing a method to opt out and is verifiable)
3. Request on Missed call (Several enterprises have business models based on this already.) Since a missed call is free to the subscriber, this is the best way to get an opt-in request from consumers, per feedback from several enterprises.
4. Physical forms filled in with details of subscriber (mandatory details - date of subscription, Name of subscriber, Service being subscribed to, mobile number, signature, T&C)
5. Point of sale terminal request (provided a message is sent immediately to the subscriber that he has opted in to receive the message and providing a method to opt out)

B. Validity of opt-ins

The subscriber is regularly (at the very least once a month) being educated about the method to opt out of receiving message from the brand. Hence if the subscriber is not opting out to receive the messages, it would be unfair to forcibly opt him out of the service.

Hence the recommendation is, provided the brand has a valid opt-in proof and is regularly providing the opt out messages to the subscriber, the need for “re-opting in” every six months should either be removed from the regulation or relaxed.

Our recommendation on validity period of opt-in period is indefinite from date of opt-in, provided a monthly opt-out messages has been sent.

Submission # 3:

Complaint resolution process

Since there is a very high churn rate of mobile numbers, this invalidates the basic sanctity of NCPR database and opt-in status of a subscriber.

Hence, our recommendation is that for complaint addressals' the home operator should first check the date of complaint with the mobile number's current owners' operator activation date, prior to registering the complaint as even a valid complaint for further investigation. If the complaint date is less than 1 month post reassignment date, then complaint should be considered invalid, since there is at least a one month cycle to receive opt out messages per regulation. The industry feels this is necessary till a churn number database (submission # 5) is publicly available that can be kept in synchronization with the NCPR registry and ensure the validity of aggregator/client specific opt-ins for a mobile number that is being churned without their knowledge.

Once it is established that the number is not churned or was not re-assigned within the past 1 month, the complaint should be passed on to the telemarketer who has sent the message.

The telemarketer should then produce the following:

1. Evidence that this subscriber is indeed an opt in user.
2. All the monthly messages that were sent to the subscriber providing a method to opt out of this service.

As per regulation, strict penalties can then be enforced to ensure compliance, if proof not provided.

Submission # 4:

Brand specific Opt-out for Transactional messages on 1909

One way to fundamentally help improve the process of tracking opt-ins and complaints on transactional sms pipes is the following:

TRAI helps enable a brand specific opt-out Registry.

A consumer can send a sms/call 1909 and register a brand he/she is receiving messages from (that he/she may have previously given an opt-in to) that he now wants to opt-out from. This has the advantage of making brand specific opt-outs available in a central place

How will it work?

For transactional messages, aggregators will send a bulk (sender id and mobile number) combination request to authenticate against Opt-out registry.

The API will return with a bulk individualised Yes/No value for each sender id and mobile number combination.

We believe this could be adopted by all if implemented, because it fashions a win-win for all (consumers, TRAI, registered brands as well as the mobile industry).

Here's how:

Consumers : In control to opt-out from messages he had previously opted in through any medium (physical world, online or mobile) from mobile device s/he is receiving messages. Due to the availability and ability to authenticate opt-out from a central repository, consumers will get quicker resolution of unwanted messages from senders /brands and intermediaries who may have been sending him brand messages.

TRAI: Will be able to track brand specific opt-outs and hence do a pre-filter on complaints helping increase efficiency of complaint processing while not disadvantaging consumer

Brands: Most genuine brands would not like to spend money on consumers who don't want to hear from them, since this can help conserve marketing spend. Also reputation of brand can be maintained with maximum leverage by eliminating people who want brand-specific privacy. (rather than the current availability of all/nothing offered by NCPR)

Industry: SMS and voice aggregators will have easier time addressing fraudulent complaints and hence enable more compliance of corner cases.

Thus, just like NCPR database is scrubbed for prior to sending promotional messages, aggregators with transactional resources will scrub the Opt-out registry and then send messages. TRAI will need to advertise via the service providers and in other media how consumers can avail of this brand specific opt-out facility. This will help TRAI fully eliminate the current problem of tracking and validating opt-ins.

We would be happy to work with TRAI to get this recommendation further understood and implemented.

Submission # 5:

Churn Number database made available

The NCPR registry should be updated when numbers are churned /re-used.

We thank you again for asking for our feedback on the draft regulations and for the opportunity to respond on the consultation paper. We hope our feedback is taken positively and would love the opportunity to further discuss and detail.

Regards,

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