IAMAI

Internet And Mobile Association Of India

Response to

TRAI's consultation paper number 08/2010 on

Review of Telecom Unsolicited Commercial Calls regulations:

Introduction:

We would like to thank the Authority for this opportunity to respond to the named Consultation Paper. The Internet and Mobile Association of India, a registered charity and society, represents for the purposes of this Consultation Paper, mobile value added services companies many of these companies are telemarketers. All of IAMAI's telemarketing companies are registered and legitimate companies. IAMAI, is therefore, an "interested" party in this consultation paper since a Do Call Registry is likely to result in a tectonic shift in this business. However, in the last two years, our members have faced real threat from non-compliant and rogue telemarketing company who are not bound by any regulation and have the "freedom" to come up with innovative ways of bypassing regulation. At present, we consider this to be the biggest threat to our business. We are, therefore, as much interested in ending the menace of unsolicited calls as anyone else including the Authority.

Our response to this Consultation Paper needs to be seen within this perspective.

4.1. What are the primary factors for poor effectiveness of Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) in its present form? Give your suggestions with justifications. (Reference Para 2.3)

We believe that the current mechanism to restrict UCC, i.e., National Do Not Call Registry is a globally time tested and proven method of controlling unsolicited commercial calls.

However, we see the following problem in the implementation of NDNC in our country:

1. There is no matrix or measurement to determine the success or failure of the NDNC. No system can be 100% compliant but at present there is no measurement to objectively judge at what point NDNC will be considered a failure. According to the Authority in the last three years of its implementation there have been 3 Lakh complaints [many of these complaints are false] a large percentage of complaints are for communication which does not qualify as UCC (e.g. a payment reminder) or in fact is from a company where the consumer has provided an explicit opt-in but the consumer has forgotten. Taking an average user base of 300+ million the percentage of complaints comes to an incredibly small fraction of the total subscribers and an even smaller percentage of total calls and smses during this period. Are we to consider it a failure or a success? This seems like a better compliance than the QoS currently in place.

2. Complaints are not closed to the satisfaction of the complainant. Usually after lodging the complaint, the subscriber receives a report from his/her operator that the offending operator has been notified. Post that the consumer cannot track the complaint nor gets to know the outcome.

3. 40 days registration process is too long a period to subscribe. Tests the patience of the customer

4. Scrubbing process is slow. The scrubbing process is not real-time, this causes high failure rates for those companies who want to scrub against the DNC registry.

5. Most of the flouting is done by unregistered fly-by night-operators

Consumer awareness of what is UCC and what is not is also absent. The experience of some of the registered telemarketers is that many of the consumer complaints are incorrect –a large percentage of complaints are for communication which does not qualify as UCC (e.g. a payment reminder)

4.2. Do you feel that there is need to review the existing regulatory regime of Unsolicited Commercial Call (UCC) to make it more effective? What needs to be done to effectively restrict the menace of Unsolicited Commercial Communications (UCC)? (Reference Para 2.3)

Yes, we strongly feel that with some systemic changes, the current NDNC would effectively address the menace of UCC. Here are some of our suggestions:

1. Create metrics for measurement of abuse/complaints etc. to monitor and control. This will allow for creation of suitable incentives and penalties for a better enforcement of the DNC registry within the eco-system. This will also provide a suitable system to demonstrate the effectiveness of the system as it matures over a period of time.
2. Split Voice & SMS DNC registrations (people have different views on receiving a voice call and a SMS)
3. * Consumer registration/de-registration on NDNC for VOICE (without the consumer operator involvement) - instant registration/de-registration via a single email/shortcode/voicecall. *Consumer registration/deregistration on NDNC for SMS (without the consumer operator involvement) - instant registration/de-registration via a single email/shortcode/voicecall
4. Improve technology to allow for online – real-time scrubbing
5. Advertise the DNC service better – use the operator reach to educate subscribers (consumers)
6. Improve complaint redressal system
7. Increase Telemarketer registration (maybe even make registration mandatory before allowing Telemarketing activity)
8. Allow promotional content where explicit opt-in available (companies like mginger, netcore, webaroo, google sms channels, loyalty programmes etc. Make it clear that Opt-in overrides DNC registration (as that expresses consumer wish to receive specific communication)
9. Enforce the DNC compliance better. Increase the penalty for Telemarketers for each illegal breach.

10. Penalise brands/corporates that use rogue and unregistered telemarketing companies, for promoting their goods and services, by blacklisting their brands with all operators.
11. Let the NDNC registry also take care of the number churn as a part of periodic upgrades. This would ensure removal of errors on account of number churns.

4.3. Do you perceive do call registry to be more effective to control Unsolicited Commercial Communications as compared to present NDNC registry in view of discussions held in para 2.4 to 2.9? Give your suggestions with justification. (Reference Para 2.10)

We believe that a Do Call registry is a non-starter.

1. In the absence of any set quantitative standards for success or failure, Do Call Registry too will be seen as a failure. . In fact, the fear is that there will be so many complaints that the system will collapse.

2. From the users point of view:
   a. No customer will voluntarily sign into a Do Call Registry giving carte blanc to all telemarketers. Any other form of registration will be too complicated for the customer. Customers will be deprived of vital information and legitimate opportunities.
   b. Again, registering Do Call with one operator will not exempt a non-registered user getting calls and smses from other operators through telemarketers
   c. Finally, if the redressal process remains the same, given the increased volume of complaints, the system will collapse
3. From the perspective of registered and legitimate telemarketers:
   a. Most of them would go out of business. . According to the Authority there are 20000+ registered telemarketers employing several lakh people.
   b. The unregistered and fly-by-night operators will have a field day since the entire subscriber base will now be available to them. In any case they are not bound by any regulation, whether it is do call or do not call.

Overall then, replacing the Do Not Call Registry with a Do Call one will not address the fundamental problems of unsolicited calls and smses. Unless, of course, the problems that plague the Do Not Call Registry [which are also going to plague the Do Call Registry] are addressed first.

4.4. Do you perceive the need to control telecom resources of telemarketers to effectively implement provisions of Unsolicited Commercial Communications and to encourage them to register with DoT? What framework may be adopted to restrict telecom resources of defaulting telemarketers? (Reference Para 2.11.3)

We believe mandatory registration is a big step forward. Additionally, there is need for developing a code of conduct, monitoring and measuring against the code and penalizing (even de-rostering) errant telemarketers. We recommend making mobile carriers conform to this code too. In fact, for them as

providers of the telecom resources the code can potentially be more stringent. This will lead to a joint effort in effectively controlling the menace of spam and UCC.

4.5. Do you agree that maximum number of calls as well as SMS per day from a telephone number (wireless as well as wire line) can be technically controlled to force telemarketers to register with DoT? What other options you see will help to effectively control telemarketers? (Reference Para 2.12.4)

We are of the view that all telemarketers should be registered with DoT. Telecom operators and businesses which use telemarketers should be strictly advised to use registered and compliant telemarketers. In addition to increasing the penalties on non-compliant telemarketers, businesses which use non-registered telemarketers should be heavily penalised and their brands blacklisted.

4.6. Do you envisage that second screening at SMSC as proposed in para 2.12.3 will effectively control unsolicited SMSs? Give your comments with justification. (Reference Para 2.12.4)

No, we do not. This may block certain critical transaction messages. A person who is registered under NDNC may not get for example an alert from his bank on the fraudulent credit card transaction.

4.7. What changes do you suggest in existing provisions to control the Unsolicited Commercial Communications effectively? Give your suggestion with justification. (Reference Para 2.13.6)

ACTION	RESULT
Mandatory registration of ALL marketers	Remove unscrupulous and untrackable marketers
Enhance consumer awareness about the NDNC registry & its benefits	More consumers will sign up, understand the purpose and scope of the registry. This will greatly reduce incidence of complaints
Scale NDNC servers. Consider decentralizing the scrubbing process by making the NDNC registry available to multiple agencies.	Permits more frequent scrubbing thus reducing the probability of complaints
Regular monitoring and measurement	Allows benchmarking performance for telemarketers
Stricter action on defaulters - Consider de-rostering a telemarketer if performance falls below a threshold	Enhances consumer confidence on the efficacy of the NDNC registry
Let the registry take care of number churn as part of periodic upgrades	Ensures errors on account of number churn are totally removed

4.8. Do you agree that present panel provisions to charge higher tariff from telemarketers are resulting in undue enrichment of service providers? What penalty framework do you propose to effectively control UCC without undue enrichment of service providers? (Reference Para 2.13.7)

In addition to higher penalties for telecom operators and telemarketers, high penal provisions should also be imposed on companies who engage services of non-compliant telemarketers. Operators should be empowered to refuse accounts of companies [not telemarketers] with rogue clients who engage the services of non-registered and non-compliant telemarketers.

From the customer standpoint more than the penalty, it is important that the complaint is track able and reaches a closure within a reasonable time. This is not the case at present. Penalty charged may be highlighted, so that consumer is aware of the steps being taken. Closure of loop is important in all such cases.

4.9. Do you feel that present UCC complaint booking mechanism is effective? What more can be done to enhance its effectiveness? (Reference Para 2.13.8)

The complaint booking mechanism is effective. However, at times while complaining the user is asked for NDNC registration number which might be difficult for the consumer to instantly recall or reproduce. However, the process after complaint booking is not very affective in the present format as mentioned above.

4.10. Do you feel that there is a need to enact legislation to control the Unsolicited Commercial Calls? Give your suggestion with justification. (Reference Para 2.13.9)

We believe that the current NDNC system can work very effectively with some changes. We do not see the need for either changing the current system fundamentally or of enacting any legislation to control it.

4.11. Do you agree that definition in para 2.14.1 correctly define Unsolicited Commercial Communications in Do Call registry environment? Give your suggestions with justification. (Reference Para 2.14.2)

We are of the view that the term 'opt in' is used loosely in the consultation paper. Opt in does not necessarily mean 'Do Call'. In fact Opt-in works within the overall framework of NDNC. If there is NDNC it makes senses to allow the NDNC users to opt in for specific services and opt out of certain services quickly.

4.12. Do you feel that proposed framework to register on NDCR will be user friendly and effective? What more can be done to make registration on NDCR more acceptable to customers as well as service providers? (Reference Para 3.7)

In our view Do Call Registration will not work. We feel that any meaningful and non-arbitrary Do Call Registry will be too complicated for the user to register. There will be no users and hence it will neither be able to take care of the legitimate requirements of the user or the interests of the service providers.

4.13. In your opinion what are the various options which may be adopted for setting up and operating the NDC registry in India? Among these suggested options which options do you feel is the most appropriate for implementation and why? Give your suggestion with justification. (Reference Para 3.8.3)

In our view, do call registry is not an option.

4.14. Do you agree that present NDNC registry can effectively be converted to NDC registry? What measures need to be taken to make it more effective? (Reference Para 3.8.4)

No. The process will be too complex. We believe it will be a technology re-write and not re-engineering. It is very difficult to decide the Do Call categories. The consumer experience at the time of registration will be difficult.

4.15. In view of the discussion held in para 3.9, which option of charging and funding model do you suggest for procuring the data from National Do Call Registry by telemarketers? What should be the various provisions you want to incorporate in suggested model? Give your suggestion with justification. (Reference Para 3.9.5)

Does not apply

4.16. What measures do you suggest to protect data of NDC registry? Give your suggestions with justification. (Reference Para 3.10.2)

Does not apply

****