

We welcome the TRAI's initiative to have Consultation on Review of Telecom Unsolicited Commercial Communications Regulations with the primary aim to strengthen the regulatory framework and provide adequate protection to Telecom Consumers.

In June 2007, the Authority has set up a process to address Unsolicited Commercial Call (UCC) through its UCC Regulations which was further amended in March 2008. Thus it is evident that TRAI has been continuously striving to put its best efforts to protect the interest of the consumers and it has been taking timely initiatives.

It is also pertinent to highlight the fact that since Mobile Number Portability is in final stages of implementation; hence TRAI while undertaking the review of UCC Regulations will also consider the impact of MNP on these Regulations.

Our response to the issues mentioned in the Consultation Paper is given below:

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 though the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) in its present form has **considerably reduced** the Unsolicited commercial calls. However, we do accept the fact that the unsolicited commercial communication via SMS/MMS has increased significantly.
- The primary factors for poor effectiveness of the said UCC Regulations can be attributed to the following:
 - a. The non-jurisdiction of the Authority to directly penalize the Telemarketers - even though the service provider takes action against the telemarketer by disconnecting its telecom resources, however, the telemarketer can get new telecom resources from other service providers easily, defeating the very purpose behind it.
 - b. Lack of awareness among the subscribers about the NDNC and TRAI Regulations - only around 11% of the entire subscribers base is registered with NDNC.
 - c. Lack of proper enforcement and implementation of the said Regulations - a high penalty on the defaulting Telemarketers can act as a deterrent.
 - d. The UCC has shifted from voice to SMS, whereas the Regulations were framed when UCC was primarily voice based.

In view of the above, we believe that the problem is not exactly only with the Regulation(s), but also with the effective implementation of the same.

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 believe that if the existing regulatory regime of UCC is reviewed and if the existing regulation with a few amendments can be **implemented and enforced in entirety**, the problem of UCC can be tackled. In order to make the existing regulations more effective, the existing provisions need to be made more stringent and we need to continue with the mechanism NDNC Registry rather than to start a new process from scratch.

Do Call Registry is not a universal remedy for all UCC problems. The subscribers may still get UCC even if his number/name is not registered in DCR, since there is nothing that will prevent a TM from sending UCC to all subscribers without bothering to check whether a particular subscriber has opted-in or not. Hence, we believe that DCR would not reduce the consumer complaints against the UCC.

As mentioned above, increasing the awareness amongst the subscribers about the provisions of NDNC Registry; high penalty to act as deterrent; and broadening the jurisdiction of the Authority might help curbing the menace of UCC.

Further, with regard to UCC SMS, we believe a two level scrubbing by the TMs – once with the database available with NIC and secondly with another database which can be downloaded by the operators; can also help in controlling this SMS menace.

We also propose that for UCC SMS, the Aggregators must be identified through numeric prefix. e.g. (XY1.....XY99) XY stands for operator & numeric for Aggregator. Advance Sender ID Registration must be mandated. The White List of Sender ID's be provisioned in SMSC and anything other than that must be blocked and deleted.

We also believe that NIC can maintain a database of blacklisted TMs and operators should be mandated through regulation to not to provide telecom resources to such blacklisted TMs.

The Authority while reviewing the UCC Regulations can also consider that the aggrieved subscriber who is registered on NDNC and still receives a UCC SMS, be compensated by the operator who is sending such UCC SMS to him.

Therefore, the entire issue again boils down to effective enforcement and implementation of the existing Regulations.

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 Do Call Registry (DCR) would **NOT** be more effective as compared to the present NDNC registry, in controlling the UCC calls and SMSs, as even under the DCR regime, the key challenges of enforcement and subscriber awareness will still exist.

Moreover, there is a large section of subscribers who are not at all averse to receiving UCC. In fact to most of such subscribers, the UCC is actually a source of information. The operators will have to contact all the existing subscribers to educate them about DCR.

It is accepted world over that "Opt-in" approach offers no greater privacy protection than the "opt-out" approach. There is little difference in the privacy protection provided by "opt-in" and "opt-out" systems: under either system, it is the customer alone who makes the final and binding determination about data use. Shifting from an "opt-out" system to an "opt-in" system does not increase the privacy of the subscriber.

Opt-in process under DCR is more costly precisely because it fails to harness the efficiency of having customers reveal their own preferences as opposed to having to explicitly ask them. An "opt-in" system is always more expensive than an "opt-out" system.

In view of the above, we believe that the existing provisions of NDNC need to be made more stringent and we need to continue with the mechanism NDNC Registry rather than to start a new process of DCR from scratch.

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)

Yes, we believe that there is need to control telecom resources of telemarketers to effectively implement provisions of Unsolicited Commercial Communications and to encourage them to register with DoT. As suggested by TRAI, operators may seek information from the new subscribers seeking telecom resources whether his telecom resources were disconnected any time in past.

The service providers could also share information regarding the name, address and other information pertaining to defaulting TM. And as suggested

above, a common industry database of such blacklisted TMs could be created and maintained by NIC to minimize default telemarketers from seeking resources from other operators.

- 5. Do you agree that maximum number of calls as well as SMS per day from a telephone number (wireless as well as wireline) 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).**

AND

- 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).**

We believe that any restriction on maximum number of calls as well as SMS per day will not help the cause as TM could take the more resources and distribute his daily quota over these resources.

On the other hand placing a limit on the call or SMS per day could be very detrimental for the normal subscribers. This is because at times of urgency/emergency many of the normal subscribers could breach the limit of maximum number of calls/ SMS per day. A normal subscriber who is not a TM will be severely handicapped in the absence of a communication device at the time of need.

Moreover, putting a limit on number of calls and SMS also require technical implementations in the existing setup and many operators may not have this facility in their network as of now. A comprehensive view on this can be evolved only after studying these aspects.

As far as second screening at the SMSC level is concerned, we believe that this can be implemented and will certainly control the UCC SMS. At least this will be an immediate solution to restrict the unregistered TMs to freely operate.

- 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).**

The lack of awareness among the subscribers could be one of the major factors which have hampered the effectiveness of the UCC regulation. Hence the service provider, on a periodic basis, should educate and increase the awareness among subscribers by sending SMS or thru IVR about the NDNC services.

TRAI may also examine the possibility of using the Consumer Education Fund for increasing such awareness through advertising in daily newspapers.

There is need for provisioning of selective Telemarketing. There may be a large number of subscribers who may prefer to receive the commercial SMS but not the voice call as UCC. Choice may also be provided to the subscriber in case he desires to receive calls from a particular sector, such as education, medicine, banking etc.

While registering with DoT, the TM should register the entire proposed sender IDs that the TM would be using to push SMS. This will ensure tracking of and taking action against the defaulting TMs.

Penalty for a complaint can be much higher to discourage the TMs from reaching out to subscribers who are registered on NDNC Registry.

Further, there could be appropriate consumer UCC complaints redressal mechanism that may include redressal through consumer courts.

- 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).**

Charging of higher tariffs is an important deterrent which exists as of now and should be continued with. There is no undue enrichment of service providers from charging this higher tariff as the Regulatory cost of compliance to the UCC regulations is itself very high. Charging higher by the service provider will only act as a deterrent to the telemarketer.

- 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).**

Yes, the UCC compliant booking mechanism which exists as of now is effective. In order to make it more subscriber friendly, we agree to Authority's suggestion of creating a system whereby the subscriber can register its complaint via a toll free SMS also.

- 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 agree with the suggestion of the Authority that specific agencies and departments could be established to enforce laws and regulations and frame the Code of Practice which the telemarketers must follow.

These rules could relate to introduction of the caller, organization on behalf of which the call is made, toll free number on which the calling agency could be contacted, timings during which the call can be made etc.

However, there may be a need to deliberate on the scope of work and the role of the operators under this mechanism.

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 believe that there is a need to change the definition of Unsolicited Commercial Communication and the same should read as:

"unsolicited commercial communication" means any message, through telecommunications service, which is transmitted for the purpose of informing about, or soliciting or promoting any commercial transaction in relation to goods, investments or services which a subscriber opts not to receive, but does not include, ----

(i) any message (other than promotional message) relating to a service or financial transaction under a specific contract between the parties to such contract; or

(ii) any messages relating to charities, national campaigns or natural calamities transmitted on the directions of the Government or agencies authorized by it for the said purpose;

(iii) any message transmitted, on the directions of the Government or any authority or agency authorized by it, in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;

(iv) any communication from the operator to its own subscribers regarding new services or loyalty benefits or information regarding network expansion etc.

In view of the above responses, we strongly believe that instead of starting a DCR from scratch, we must review the existing provisions of NDNC and make it more effective.

Thanking you,

Yours truly,
For **Loop Mobile (India) Limited**

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