1. ValueFirst is India's largest Enterprise Mobility company. We send more than 150crore SMSs a month through our network. We service Banks, Insurance companies, Airlines, Social Communities, Online Portals, Retail companies, Search Engines, Educational Institutions, Hospitals and Government Organisations (including the Lok Sabha & Rajya Sabha where SMS is used for communication between the Speaker & MPs).

2. We are a registered Telemarketer who tries its best to be fully compliant with the NDNC regulations.

3. Our complaints are no more than few hundred every month (on a total push of more than 150crore messages a month). Some of these complaints are invalid complaints. Others slip through due to operational inefficiencies like NDNC site being unavailable for scrubbing etc.

4. Our customers engage in two kinds of messaging:
    a. Transactional Messaging (Category A)– These messages are business process driven and are of utmost relevance to the target consumer e.g. bank balance detail, credit card transaction alert, flight schedule change alert, blood test report, school fees reminder etc. (No NDNC scrubbing is done before sending such messages).

    b. Promotional Messaging (Category B)- Where the sender is sending a promotional message to the consumer, we scrub such messages against the NDNC database to ensure that no unsolicited promotional content is sent to any NDNC registered consumer (Rigorous scrubbing done against the NDNC database). Usually such messaging is done by the sender after procuring number database from somewhere (usually the source of this database is unknown).

5. Both kinds of messaging (Category A and B) is done using the same infrastructure. This infrastructure cannot be separated as it will become extremely inefficient to run separate operator pipes for transactional (Category A) and NDNC scrubbed promotional (Category B) messaging. This constraint causes some leakage – some customers who claim to be doing Category A messaging only via non-scrubbed routes may send Category B messages through such routes thus avoiding scrubbing (by mistake or deliberately).

6. Our comments on the current Do Not Call approach:
   a. The NDNC regime is beginning to be understood by the stakeholders. More and more companies are willing to comply with this and are gradually adopting processes around the same. The longer it stays the better adoption it will have.

   b. The consultation paper mentions 340,231 complaints ever since the NDNC has been put in place. (We presume this number is for both Voice and SMS complaints). Assuming half the number that is 170,000 is the number of complaints owing to UCC on SMS. Currently the number of A2P push messages is between 12-14crores per day. Assuming a smaller number of 8crore messages per day as the blended average from the launch of NDNC till 31st March 2010, the industry has sent around 4000crore messages in the country. This means that the number of complaints is 170,000/4000crore which works out to 0.00000425% of the overall messaging. (ValueFirst average is 1 complaint a day on 5crore messages transmitted daily).

   c. If NDNC is enforced better – both in terms of penalties and the redressal available to the consumer, the ecosystem will respond positively and TRAI will experience a positive change.

   d. If NDNC technology is made better – faster and with higher uptime, some more complaints may be avoided.

7. Our comments on the proposed Do Call approach:
   a. Whilst the intent is great and we are supportive of the same as an organisation, we believe the methodology proposed is impractical as it is difficult to run it operationally by the stakeholders. We have some suggestions (later in the document) by which the intent of the regulator may be serviced practically.
   b. The consultation paper talks of a centralised Opt-in system where the consumer opts-in by selecting opt-in categories (Real Estate, Retail, and Education etc.). This will be difficult for an average Indian consumer to understand. Also if the categories are too broad then consumer may end up receiving unwanted content. If the categories are too granular, then the system is too cumbersome.

c. The big assumption in the Do Call registry is that people will sign up. There is so much inertia in consumers which makes us believe that very few sign-ups will happen. Which consumer will go out of his mind to become a target of the entire country's promotional campaign? Given that sign-ups will be small, anyone who registers in Do Call will perhaps not even get a moment's respite from Commercial Communication as he will be such a rare commodity for the telemarketers of the country. This will make it so consumer-unfriendly that the intent of the regulator will be defeated.

d. Most telemarketers have automated systems which run the campaigns. It is not practical rather it is impossible for a Telemarketer to read the content of thousands of its customers – so a telemarketer cannot implement scrubbing at a category level (how will he know which category to scrub the campaign against). At best the telemarketer can only scrub whether the target number is in Do Call registry or not.

e. Isn't it true that people/companies who want to flout the rules will continue to do so? So what difference would it make for such players whether there is Do Call or Do Not Call.

f. Implementation of Do Call will be a significant shift from the system which is beginning to be understood and stabilised. It will cause massive technical work at the end of the implementer of Do Call as also it will require massive changes in the industry.

g. Do Call will cause major unemployment in the country with most domestic call centre and telemarketing companies having to shut down. (Quoting the CEO of Sampark – a leading domestic call centre "We make outbound calls for our customers – this will all stop – we will have to let many employees go"). Several businesses will become unprofitable and non-viable e.g. several businesses like banks, mutual funds, insurance companies, mobile operators etc. acquire their customers through telemarketing efforts. It is possible that such a move may force certain global players to exit India and deter new players from entering India. This move is regressive and will impact India's positioning. Foreign direct

investment into India may get impacted. Several VAS companies which create demand through telemarketing will collapse leading to additional job losses. Mobile operators will not be able to recover their investment for the 3G network leading to cut back on expansion and investment into infrastructure thus depriving consumer of innovation in 3G services.

h. Consumers who depend upon brands reaching out to them for making their choices will have no decision making tools available to them. In this context, Do Call may become highly detrimental and consumer unfriendly for a large consumer segment. Quoting a consumer, a lawyer in Supreme Court, Mr. B.R. Sachdeva – "I find the SMS medium very useful – I get my banking alerts, airline alerts, stock market information, club membership details etc. by SMS. I also get lot of promotional content which I find useful. There are lot of unwanted SMSs too (but that is like unwanted emails I get). I hate unwanted voice calls but unwanted SMS I can delete at my will".

8. Our suggestions to TRAI:
   a. The present NDNC approach should continue.
   b. Regulator should define metrics for measurement of the effectiveness of NDNC system. This should be communicated to the stakeholders who can participate in the collation of metrics as well as in ensuring that the metrics keep getting better & better.
   c. NDNC processes should be fixed for the consumers. Registration should be promoted and made simpler. Complaint management must be improved – the current system gives no information to the consumer as to how his complaint is being progressed or resolved.
   d. NDNC technology should be improved for telemarketers. Faster and 24-7 available.
   e. To implement opt-in based regime (where consumer gets messages only from those he allows) – TRAI should recognise opt-in by the brands. This will allow a Do Call type system except that the opt-in is not held centrally but is decentralised with third parties.
   f. The opt-in held by the brand/third-party should supersede NDNC registration.

g. This will give the power to consumer to control what communication is sent to him. A consumer can register in NDNC which would mean that he does not want to receive unsolicited commercial content. The same consumer can then opt-in to an Educational Brand for promotional messages which would mean that he is willing to receive promotional content from this Educational Brand. The same consumer can opt-in to any number of brands. This way he can have a total control with whom he wants to have a communication.
h. This will meet the regulator's intent of protecting consumer interest by giving the ultimate power to the consumer. Anybody who is registered in NDNC only gets a communication by a brand/telemarketer if the brand has the opt-in directly or through a third party e.g. an ad funded news channel on SMS.
i. The penalty for violation should be severe and should go down to the level of the defaulting brand.

9. Our response to the questions in the consultation paper

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)

A. First a question back to the regulator – who calls the effectiveness of current UCC regulation poor and why? Is it simply based on perception or is it driven by metrics. If driven by metrics, are those metrics correct. Is anybody measuring the complaints against the total volume of communication?

B. NDNC technology (NDNC scrubbing system too slow and unreliable)

C. NDNC processes around complaint management (Consumer cannot track his complaint and gets standard text like this "Ref. Complaint No 123456 NDNC investigations completed. The defaulting telemarketer belongs to another operator's network. Your complaint has been forwarded to them for necessary action")

D. Some operators have gone overboard to achieve NDNC registrations –they have even done bulk NDNC registration by running scripts in

the system (e.g. they have established some parameters for premium customers and have automatically registered them). (This is tantamount to cheating/fraud – as NDNC registration is consumer prerogative/right and not the operator's decision). TRAI should examine abuse by the Operators who are pumping up registrations in NDNC by playing GOD with complete disregard to consumer's free will. All such things reduce the effectiveness of the current NDNC system.

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)

A. Yes, the UCC regulation should be reviewed.

B. Consumer opt-in with a Brand and a third party (like an ad based consumer proposition) should be recognised and included in the UCC regulation.

C. Consumer opt-in with the Brand should supersede his registration in NDNC.

D. This approach gives consumers the power to control the communication to them.

E. This approach encourages brands to build stronger relationships with their consumers – they will need to offer good benefits to the consumer for consumer to give them an opt-in.

F. This encourages the eco-system around free consumer content – several advertisement funded models can offer value to consumers by obtaining their opt-in for sending them advertisements in lieu of free services.

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)

A. No. The system is not practical. Instead of centralised opt-in, decentralised opt-in should be promoted for providing power to the consumer right up to choosing a particular brand and not just a broad category.

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)

A. On the SMS side, some telemarketers connect directly to operators whilst some others connect to them (and not operators). A code of conduct must be established between all contracting parties. All stakeholders should work towards achieving the metrics established by the regulator.

B. There are some rogue companies who just buy SIM cards and run spam – there is no way to control them until spam is discovered and then that particular SIM can be barred. (We are aware of several companies which have created modem farms – each modem has a SIM card and is connected to a computer and is sending spam flouting the UCC guidelines – it does not matter what those guidelines are – whether Do Call or Do Not Call)

4.5. 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)

A normal SIM would not make thousands of calls or send thousands of SMSs in a single. Maybe this can be explored. However we do know lot of SIMs are used in M2M (Machine 2 Machine) applications which keep sending health check or status messages so any system which is developed/proposed should be mindful of not disrupting genuine use cases in the industry. Only better enforcement of NDNC will control telemarketers.

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)

A. Impractical. 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)

A. Refer response in 4.2

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)

A. We believe that service providers want to comply with the UCC guidelines and are doing their best.

B. We also believe that most telemarketers want to comply too.

C. A higher penalty will certainly work better than small penalty. (Should the penalty or part of the penalty be passed on to the consumer – this will also encourage consumer participation in notifying UCC regulation breaches) – Just a food for thought.

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)

A. Complaint booking is effective except certain operators ask for NDNC registration number. Many consumers do not have this handy and then they just drop the intention of complaining.

B. Process after the logging of complaints is completely ineffective. There is no visibility to the consumer.

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)

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)

Yes

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)

No, for reasons stated earlier NDCR with a central database cannot be friendly for the consumer and is impractical for the telemarketer.

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)

A. The proposed NDC is impractical – both from consumer's and telemarketer's perspective. Approach suggested in 4.2 should meet the intent of the regulator.

B. **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)**

(a) No. The process will be too complex. We believe it will be a technology re-write and not re-engineering.

(b) It is very difficult to decide the DC categories. The consumer experience at the time of registration will be difficult.

(c) Instead of a centralised DC, have a Decentralised DC in conjunction with NDNC

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? Giver your suggestion with justification. (Reference Para 3.9.5)

A. The thought around one national database for sending promotions is scary. There will be no differentiation left between the telemarketers as all will have the same database. Life of the consumers in this database will be miserable – as they will be a commodity which every telemarketer in the country will target.

B. This suggestion is regressive and not appropriate for a laissez-faire capital society. It is like saying ownership is not of the enterprise but of the state. Everyone has to use the same resource (database) – this will kill innovation and creativity and the industry.

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

A. NDC registry should not be created. Hence we do not see a need for thinking about its protection.