

The response of MTNL is as below:

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)

The primary factors are as below:

- i) Lack of proper legislation containing stringent provisions for punishment/penalties on registered/unregistered telemarketers as well as agencies engaging them.
- ii) Low registration under NDNC by customers.
- iii) Long time (45 days) for getting registered under NDNC.
- iv) Lack of awareness among customers about registration in NDNC and complaint mechanism.
- v) Inadequate tariff/penalty for making UCC calls in comparison to the incentives/ benefits of telemarketers from making such calls.
- vi) Unregistered telemarketers use telecom facilities like telephone /mobile connections on 'use and throw' basis. Even, the calls are being made from PCOs. Therefore, the disconnection of telecom facility as envisaged in UCC Regulation is not a deterrent to them.
- vii) Lack of penalty on telemarketers and agencies who engage them.
- viii) Lack of compensation to the customer receiving such communication.

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 there is need to review the existing regulatory regime of Unsolicited Commercial Call (UCC) to make it more effective.

Telecom operator has no control over such communication and only provides telecom facilities to the registered/ unregistered telemarketers. There is no mechanism to establish that the telecom facility provided to unregistered telemarketer is being used for unsolicited communication till a complaint is registered by the subscriber or the recipient of such communication. Therefore, the telecom service provider need not be penalized. Instead, there should be provision of heavy penalty/ fine on telemarketer and/or the agencies who engage them in Regulation.

A higher tariff should be charged for all telemarketing calls/ SMSs for which complaint is booked by the customer and the same is found correct.

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)

Yes, keeping in view the low registration under NDNC, benefits of Do Call Registry as mentioned in para 2.9 of this consultation paper and unsolicited communication mostly being made by unregistered telemarketers, Do Call Registry appears to be more effective to control UCC menace. However, in the absence of proper legislation this method may also not very effective.

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)

No. As of now, even the subscribers who are registered in NDNC are getting unsolicited communication. It clearly indicates that the disconnection of telecom facility of the telemarketer does not discourage the telemarketer from making such communication. This is also accepted by the regulator in this consultation paper.

Further, to get the telecom facility even after disconnection for UCC by one service provider will not be difficult for a telemarketer (mainly unregistered) in view of number of telecom operators in each circle and stiff competition amongst them.

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)

Identifying an unregistered telemarketer in a network is a complicated task. A subscriber making more no. of calls, SMS, MMS may be monitored. However, it is difficult to identify whether the subscriber is telemarketer or not. A high user subscriber may be individual subscriber, businessman, company or any complaint resolving cell of any market product etc. However, if any subscriber using bulk SMS facility and not registered as telemarketer may be easily monitored and detected. Further, Some times telemarketers are also using the PCO facility, individual subscriber numbers to call particular no. of subscribers in a day. In such a scenario, it is difficult to identify whether subscriber is genuine or telemarketer. Operator may take action only on registration of complaint.

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)

Ans to 4.5 & 4.6: Control of maximum number of calls as well as SMS per day from a telephone number (wireless as well as wireline) of telemarketers will have no effect on them as operators are offering their connections on various plans and even free of cost to these telemarketers who are BIG resource of revenue for them. However, control of telecom resources such as no of connections along with the restrictions on no. of voice call, SMS, MMS may have some effect on telemarketers.

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)

The following changes may be done in existing provisions to control the unsolicited communication:

- i) Proper legislation containing stringent provisions for punishment/penalties on registered/unregistered telemarketers as well as agencies engaging them for preventing UCC is definitely necessary to curb this nuisance.
- ii) Telemarketers, registered or unregistered, and the agencies who engage them should be monetarily penalized by DoT/TRAI. The fine/ penalty amount should be sufficient to act as a deterrent for them.
- iii) Some part of the penalty paid by telemarketer should be used to compensate the subscriber who has made the complaint and some part should go to the authority responsible for NDNC registry for its operation and maintenance.
- iv) The telemarketer should be blacklisted for repeating the offence after a certain number of violations and registration should be cancelled in case of registered telemarketer.

- v) Telemarketers should mandatorily inform the subscriber about the registration in NDNC every time it makes an unsolicited communication.
- vi) Subscribers should be able to register directly with NDNC registry either through website, SMS from the same number or telephonic request from the same telephone/ mobile number which is to be registered under NDNC. The telephone/ mobile number may be confirmed by CLI capturing. This will help in reducing the time for registration from 45 days.
- vii) The main reason for the poor effectiveness of UCC Regulation is the low registration under NDNC by subscribers. To make it more effective, more publicity/ educative measures to be taken to improve the registration under NDNC by subscribers. Even CAGs may help in spreading awareness among consumers since they have direct links with them.
- viii) The telemarketers should be charged some annual fee also to ensure weeding out of inactive telemarketers and any misuse under their registration. This will also help in keeping the list of registered telemarketers updated annually.

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 case the regulator feels that present panel provisions to charge higher tariff from telemarketers are resulting in undue enrichment of service providers, DoT/ TRAI may penalize the telemarketer or the end beneficiary of the telemarketing call and may compensate subscriber and NDNC registry authority from the amount recovered as already suggested in response to 4.7.

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)

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)

Ans to 4.9 & 4.10: In our country, everything is generally taken for granted unless there are strict laws and their enforcement by the concerned authorities. Therefore, as suggested in Para 2.13.5 of consultation paper, there should be stringent legal provisions to deal with telemarketers, registered or unregistered and the agency who engage them to discourage them from making such communication. However, the attempts made so far by the Regulator to curb the menace of UCC are laudable but the menace of UCC can not be controlled

without proper legislation containing stringent provisions for punishment/penalties on registered/unregistered telemarketers as well as agencies engaging them.

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)

Yes.

The requirement of a customer may be specific and for a short duration e.g. if he requires an automobile, his requirement is fulfilled after he has made the purchase and then he should have the facility to easily opt out without any restrictions.

The service provider (telecom) is just a conduit facilitating communication and has no control over the type of communication. They have already whole heartedly supported the initiatives taken by the Regulator to curb the UCC and have no reservations in this regard considering the privacy of the customer.

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)

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)

Ans to 4.13 & 4.14: In our opinion, NIC, which is already maintaining NDNC registry may be considered for maintaining NDCR also. This will be fastest option as NIC is already familiar with this kind of work and the registry can be maintained by minimum changes in the present registration system/mechanism.

The other option suggested in the consultation process will be more time consuming as the licenses for establishing the National Integrated Directory Enquiry Services are yet to be issued and the comments on their effectiveness may be given only after they start their services.

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)

NDCR should be funded for its operation & maintenance as already done in the case of NDNC Registry. The telemarketers should not be charged for procuring the data from NDCR. The data from NDCR should be provided only to the registered telemarketers. In case, the data is being used by unregistered telemarketer, both the unregistered telemarketer and the agency for whom the unregistered telemarketer makes such unsolicited communication should be heavily penalized. Further, such unregistered telemarketer should be banned for future registration for violating the existing rules and regulations. As already suggested in response to 4.7, the amount received as penalty may be used to compensate the complainant and National Do Call registry authority.

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

The conditions suggested to ensure data security in Para 3.10.1 appears to be sufficient. Further, NIC is a prime organization well conversant with the requirement and means to implement the same.

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