

**Consultation Paper No. 08 /2010**



सत्यमेव जयते

**Telecom Regulatory Authority of India**

**Consultation Paper**  
**on**  
**Review of**  
**Telecom Unsolicited Commercial Communications**  
**Regulations**

**11<sup>th</sup> May, 2010**

Mahanagar Doorsanchar Bhavan,  
Jawahar Lal Nehru Marg, (old Minto Road),  
New Delhi – 110002, India

## **Preface**

Telecommunication revolution has changed our social behavior in many ways. Telephone has become a ubiquitous communication medium and necessity for various social and commercial purposes. People have started using telephone for marketing and advertising, commonly known as 'telemarketing', apart from personal voice communication,. Now-a-days, a wide range of products and services are offered through telemarketing. However, majority of the telemarketing calls are unsolicited, where the telecom consumers have not given their explicit prior consent for receiving such calls from telemarketers. Most of the telecom-consumers find telemarketing calls/short messages (SMSs) inconvenient and disturbing; as such calls are made at any time of the day encroaching on the privacy of telecom consumers.

Unsolicited Commercial Communications (UCC) are one of the major issues of concern for telecom consumers and resulted in large number of complaints. In order to curb Unsolicited Commercial Communications, TRAI notified the Telecom Unsolicited Commercial Communications Regulations 2007 and National Do Not Call (NDNC) Registry was established. However, it is observed that despite various measures, dissatisfaction among telecom consumers continues regarding unsolicited commercial calls/SMSs. Such Unsolicited Commercial Communications are found to be originating from both registered and unregistered telemarketers.

Independent surveys conducted by TRAI also indicated that a vast majority of customers do not wish to receive Unsolicited Commercial Communications/ telemarketing calls/ SMS, but still they have not registered in the NDNC Registry.

It is being argued that burden of registration should be only on those subscribers who wish to receive telemarketing calls rather than on the subscribers who does not want such calls.

As an alternative to address the problem of Unsolicited Commercial Communications, option for a National Do Call Registry has to be explored. The 'Do-Call Register' will list the telephone numbers of telecom consumers who wish to receive calls related to tele-marketing /promotional offers. Telemarketing companies would be allowed to call only these consumers. Once such a facility is in place, unsolicited commercial calls made to all other telecom consumers would become illegal.

The Telecom Regulatory Authority of India has initiated this consultation process to review the provisions of Telecom Unsolicited Commercial Communications Regulations 2007 to effectively curb UCC. Suggestion of all stakeholders are requested on various issues including cause of problem, appropriate regulatory framework and enforcement mechanism to control UCC and establishment of 'National Do Call Registry'.

All stakeholders are requested to send their written comments on the issues raised in this paper on or before 10<sup>th</sup> June 2010 on [advqos@traigov.in](mailto:advqos@traigov.in) . Counter comments can be submitted by 21<sup>st</sup> June, 2010. For any clarification on the matter, Shri S K Gupta, Advisor (Quality of Service) may be contacted on Telephone No. 011-23230404, Fax No. 011-23213036 or e-mail: [advqos@traigov.in](mailto:advqos@traigov.in). **Submission in electronic form would be appreciated.**

New Delhi

Dated 11<sup>th</sup> May, 2010.

**(Dr. J.S. Sarma)**  
**Chairman, TRAI**

## **Contents**

<b>INTRODUCTION .....</b>	<b>1</b>
<b>CHAPTER 1 - INTERNATIONAL PRACTICES TO CURB UNSOLICITED COMMERCIAL COMMUNICATIONS.....</b>	<b>13</b>
<b>CHAPTER 2 - PRESENT STATUS, ISSUES AND MEASURES TO CURB UNSOLICITED COMMERCIAL COMMUNICATIONS .....</b>	<b>31</b>
<b>CHAPTER 3 - SCOPE OF NATIONAL DO CALL REGISTRY.....</b>	<b>46</b>
<b>CHAPTER 4 - ISSUES FOR CONSULTATION.....</b>	<b>54</b>
<b>ABBREVIATIONS.....</b>	<b>57</b>

## **INTRODUCTION**

1. Unsolicited Commercial Communications (UCC) is one of the major issues of public inconvenience in the recent times. The telephone consumers are facing problem of unsolicited calls and short messages (SMS)/ multi-media messages (MMS) from direct sales agents (DSAs) and telemarketing agencies promoting business on behalf of various commercial and business organizations. These unsolicited calls and short messages/ multi-media messages are causing disturbance and inconvenience to many of the telecom consumers besides invading the privacy of individuals. The issue had engaged the attention of the Parliament, Hon' Supreme Court of India, Hon'ble High Court of Delhi, Reserve Bank of India (RBI), National Consumer Redressal Commission and State Commission (Consumer) of Delhi. There have also been a large number of consumer complaints to the Telecom Regulatory Authority of India (hereafter referred as the Authority or TRAI) about telemarketing calls/Unsolicited Commercial Communications.
  
2. The use of telephone is a personal and private affair of the subscriber and any unsolicited intervention is considered as intrusion of the subscriber's privacy. The Apex Court has held in People's Union For Civil Liberties (PUCL) Vs. Union of India and others ,(1997) 1 SCC 301, that the right to privacy is allied to the fundamental rights under article 19 and 21 of the Constitution of India.  

“The right to privacy- by itself- has not been identified under the Constitution. As a concept it may be too broad and moralistic to define it judicially. Whether right to privacy can be claimed or has been infringed in a given case would depend on the facts of the said case. But the right to hold a telephone conversation in the privacy of one's home or office without interference can certainly be claimed as “right to privacy.” Conversations on the telephone are often of an

intimate and confidential character. Telephone conversation is a part of today's citizen's life. It is considered so important that more and more people are carrying mobile telephone instruments with them on the move. Telephone conversation is an important facet of a person's private life. Right to privacy would certainly include telephone conversation in the privacy of one's home or office. ....”.

3. Although efforts were made initially by Reserve Bank of India, service providers etc. to curb the menace of Unsolicited Commercial Communications, they could not address the problem and the telecom consumers continued to face the problem of Unsolicited Commercial Communications. In its April 2005 report, the **RBI's Working Group on Regulatory Mechanism for Cards** noted that banks should introduce a mechanism to protect the privacy of members of the public who did not wish to receive unsolicited commercial calls. In November 2005, the RBI issued guidelines where they had asked banks to follow do-not-call requests, made to individual banks, when making calls to solicit credit card applications from consumers.
4. Considering the public anguish over the issue and the urgent need for a comprehensive approach to tackle the problem of Unsolicited Commercial Communications, TRAI initiated a consultation process on “Unsolicited Commercial Communications’ on 20<sup>th</sup> November, 2006. On 07.02.2007 a committee comprising of members from Department of Telecommunications (DoT), Telecom Engineering Centre (TEC) and TRAI was formed to deliberate on the technical feasibility of allotment of separate telephone number level for telemarketers and to work out a technical solution for automatic barring of Unsolicited Commercial Communications from telemarketers to the subscribers. The Committee considered the issue, evaluated various options and recommended on 17<sup>th</sup> April,

2007 that allocation of separate telephone number (Pre-defined number level) would result in highly inefficient utilization of numbering resources, would require up-gradation of existing telecom switches entailing substantial investment on the part of the access service providers and would also increase signaling and processor load on the equipment leading to degraded performance of the telecom network.

**Existing National Do Not Call (NDNC) Registry and Unsolicited Commercial Communications (UCC) Regulations:**

5. Based on the outcome of consultation process, the discussions and the international practices being adopted world over to curb the menace of unsolicited commercial calls, the Authority had decided to create a national database containing telephone numbers of the subscribers, who have opted not to receive UCC, to be called 'National Do Not Call (NDNC) Registry'. Accordingly, the Authority had sent its recommendations to Department of Telecommunications (DOT) for authorizing National Informatics Centre (NIC), Dept. of Information Technology, Govt. of India for designing and establishing the National Do Not Call Registry and formulating guidelines for Telemarketers. The DOT had authorised NIC for installation, operation and maintenance of NDNC registry. TRAI also notified the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) dated 5<sup>th</sup> June 2007.
6. The Authority focused its deliberations on following key issues while framing the Telecom Unsolicited Commercial Communications Regulation, 2007:
  - a. The Authority wanted to protect the subscriber's privacy from unsolicited commercial calls.
  - b. The Authority also ensured that regulations do not, in any way, infringe on the fundamental rights to the freedom of speech and profession, occupation, trade or business as

guaranteed in Articles 19(a) and (g) of the Constitution of India;

- c. The Authority wanted to subscribers to make an informed choice(s) about whether they want to receive UCC or not;
- d. The procedure to restrict UCC by subscribers may be easy and understandable.
- e. Finally, the Authority ensured that the solution did not impose any significant cost on subscribers or service providers in terms of time, effort, or money.

7. Unsolicited commercial calls in these regulations have been defined as “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; 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) messages 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.

**Implementation Status and Functioning of NDNC Registry:**

8. In pursuance of these regulations, a framework has been created to restrict Unsolicited Commercial Communications as per the details given below:

- Every access provider has setup a mechanism for registering request of mobile subscribers for not receiving unsolicited commercial calls and prepared do not call list of its own subscribers. A unique number 1909 has been opened by all service providers to facilitate subscribers' registration for not receiving unsolicited commercial calls.
- Service Providers periodically update National Do Not Call Register, maintained centrally by NIC based on the customer registration for do not call or revocation of the request from do not call registry as the case may be.
- In order to make telemarketers accountable, all telemarketers have to register with the Department of Telecommunications.
- 27292 telemarketers have been registered (till March 2010) in National Do Not Call (NDNC) Registry as per the provision of the regulations. Telemarketer online submits the calling list (Prepared or received using their resources) to the NDNC registry. NDNC registry scrub the list submitted by telemarketers exclude the numbers registered in NDNC registry from telemarketers list and transfer back the scrubbed list online to the telemarketer on which telemarketers can make commercial calls.
- Initially, a time of 45 days was given for updating the data by telecom service providers to NDNC registry, once a subscriber register for not receiving any Unsolicited Commercial Communications. It was expected that a subscriber who is registered for not receiving unsolicited commercial calls, will not get such calls after expiry of 45 days.
- All service providers also created necessary framework to facilitate complaint booking, if any subscriber receives UCC even after expiry of 45 days from the date of his registration for NDNC. The subscriber can make a complaint to his service provider mentioning the details of call originating number making unsolicited commercial calls, data and time of the call, company/ agency for

- which calls are made and product being marketed. Telecom Service Providers have to acknowledge such complaints, verify UCC registration of the complainant and forward the same (including call detailed record (CDR) and other relevant information) to the service provider from whose network such UCC was originated.
- Originating Access Provider to whom the complaint has been forwarded examines the complaint received by him, identifies the guilty telemarketer/ customer, and warns him not to make such calls to registered subscribers on NDNC registry. The originating access provider can charge a higher tariff as specified in Schedule XI to the Telecommunication Tariff Order 1999. Provisions have also been made to disconnect telecom resources of the guilty telemarketer for repeated violations of UCC regulations.
9. The NDNC registry became operational from 12th October, 2007. While reviewing the working and effectiveness of NDNC registry, TRAI had noted that service provider hesitates to take action against the defaulting Telemarketers as they are high revenue subscribers. Considering this aspect, TRAI had issued the 'Telecom Unsolicited Commercial (Amendment) Regulations, 2008' dated 17th March 2008. This amendment to the principal regulation has a provision for financial disincentive for the service providers who contravene the provisions of regulation 15 or regulation 16 or regulation 17 of the said UCC regulations, as amended.
10. The Authority has specified Rs.500/- as tariff for first Unsolicited Commercial Communications and Rs.1000/- for subsequent commercial communication through these amendments. For non-compliance with the regulations, the service providers are liable to pay an amount by way of financial disincentive, not exceeding Rs.5000/- for the first non-compliance and Rs.20000/- for second or subsequent non-compliance with these regulations.

11. Though there has been some relief to telecom consumers with the setting up of National Do Not Call Registry because of the measures outlined above, it is noticed that a substantial number of telemarketers had not registered with DOT including direct sales agents (DSAs) and a large number of Unsolicited Commercial Communications are being made by them. A proposal to DOT was also sent by the Authority on 7<sup>th</sup> December, 2007 for enactment of suitable legislation in line with the practice being followed in number of other countries, for taking cognizance of Unsolicited Commercial Communications as an offence.
12. The review by the Authority also revealed that not many subscribers are registering in NDNC though they are disturbed by such UCC calls and want to get rid of such calls. Accordingly, as per regulation 7 of the principal regulations, access service providers were mandated to provide option to every new subscriber at the time of providing telephone connection, for registration of his telephone number in the National Do Not Call (NDNC) Register. The option for registry in NDNC as part of the customer agreement/enrollment form for new telephone connection has increased the awareness and at the end of March 2010, 65.82 million subscribers are enrolled on NDNC register.
13. Further, a need was felt to specify time limits for handling complaints of the subscribers by the service providers and for communication of the result of investigation to the subscriber who has made the complaint. During review of the implementation, it has been brought to the notice of the Authority that requirement of forwarding call detail records (CDR) along with complaint to originating access service provider is acting as hindrance for effective analysis and timely redressal of complaint. Accordingly, the Authority issued the Telecom Unsolicited Commercial Communications (UCC) (Second Amendment) Regulations, 2008 on

21<sup>st</sup> October, 2008. The Authority also issued a direction on 21<sup>st</sup> October, 2008, directing all access service providers to adhere to the limits of 28 days to resolve the complaint of UCC and to take appropriate action in case of complaint is against the telemarketer who is using their telecom resources and 35 days in case the complaint is against the telemarketer who is using telecom resources of other telecom service providers.

14. The Authority also noted that quite a few unsolicited SMSs are received by subscribers with sender identification other than the normal ten digit mobile or fixed number (Viz Some alphanumeric names like SBI life or HSBC etc., or some numeric codes like 58888 or 56262 etc.). Service providers also felt that identifying telemarketers sending SMS with codes or five digit numbers is difficult and time consuming. The Authority directed service providers vide Direction dated 10<sup>th</sup> December, 2008 that the alphanumeric identifier for all commercial SMSs shall be prefixed by the code of the service provider and the code of the service area, where SMSs are sent with only sender identification and without the normal ten digit mobile number as specified ( for example in form of XY-HSBC, where X stands for the code allotted to the service provider and Y stands for the service area). This was implemented from 1<sup>st</sup> Feb.2009.
15. In order to facilitate the entry of desirous subscribers in the NDNC registry more convenient, the Department of Telecommunications vide letter No. 800-78/2008-VAS-III/4 dated 19th September, 2008 instructed all access service providers to take following measures:
  - (i) The special code “1909” would be popularized on a large scale which was opened exclusively for NDNC Registry.
  - (ii) All Service Provider(s) have to introduce option of registering with NDNC Registry in the application form, commonly termed as

Customer Acquisition Form (CAF), for new telephone/ mobile connections.

- (iii) The service providers shall ensure that all the telephone bills will have the following slogan:

*“To avoid unwanted telemarketing calls, register your telephone number in NDNC Registry – Call 1909 or Send SMS “START DND” on 1909”.*

- (iv) The service providers shall ensure that all the Customer Service Centre (CSC)/ authorized recharge center/ outlets will have the above slogan prominently displayed.
- (v) The service providers shall ensure that the same slogan is prominently displayed on the website of the service provider.
- (vi) Every e-recharge confirmation would contain a message: “For NDNC registration, send SMS “START DND on 1909”.
- (vii) Every hoarding of mobile telephone service providers would also carry the above said slogan.

16. In the first year of its implementation 19,163 telemarketers got registered with the Department of Telecommunications (DOT). On completion of one year of implementation of the NDNC registry around 18 million telephone subscribers, out of the then total subscriber base of more than 344 million, had opted to register in the NDNC registry, which was just 5% of total subscriber base. Out of these registered subscribers, around 40% were from the metros of Delhi, and Mumbai. Some of the other states where the number of registered subscribers was significant were Maharashtra, Gujarat, Karnataka, Andhra Pradesh and Punjab.

17. At the end of March 2010, about 27292 telemarketers have got themselves registered with the Department of Telecommunications and around 65.82 million subscribers have registered for ‘Do Not Call’ in NDNC Registry which is about 10.59% of all telephone subscribers in the country. The NDNC is being accessed daily by

around 2000 telemarketers for scrubbing their calling list, still huge complaints of receiving unsolicited commercial calls from subscribers continue.

18. As per the reports received by TRAI from service providers, a total of 3,40,231 complaints relating to unsolicited calls were received from the date of establishment of the NDNC registry till March, 2010. Against these complaints, 9,158 warning letters were issued to registered telemarketers. Further, a total of 31,905 numbers were charged @ of Rs.500/- and a total of 16,836 numbers were charged @ Rs.1000/- for violation of the VCC regulations. Also 14,735 line of registered telemarketers and 37,348 lines of unregistered telemarketers were disconnected. As per the recent reports submitted by service providers, they have received 55,167 'Do Not Call' violation complaints during the period of three months from November 2009 to January 2010. Against these complaints, the service providers have charged higher tariff of Rs 500 or Rs. 1000/- from 10,073 telemarketers and 9,927 Telephones of the Telemarketers were disconnected. The figures clearly indicates that present UCC framework has not been successful and the issue needs in-depth examination and re-consideration to address Unsolicited Commercial Communications more effectively.

**Need to Review Existing UCC Regulations:**

19. In spite of various measures to control VCC calls as mentioned above, large number of complaints continues to be received by the service providers from telecom consumers regarding Unsolicited Commercial Communications and such Unsolicited Commercial Communications is found to be originated from both registered and unregistered telemarketers. Recently, unsolicited commercial communications through SMS has become a major problem. Telemarketers and business entities buy bulk SMS from service providers at a very nominal or negligible cost and push SMSs to

customers, including those who are registered with NDNC Registry. In many cases these telemarketers and business entities take leased line to push SMSs to customers. Apart from nuisance and inconvenience to customers, these SMSs can eat the memory space of the handsets resulting in non delivery of some important messages. Hence, there is a need to explore new regulatory framework to address the problem of Unsolicited Commercial Communications.

20. The Industry feedback also indicates that many telemarketers make huge payments to acquire the subscriber telephone number database illegally. Not all subscribers can be called from these databases because as per the present framework these databases have to be scrubbed with NDNC registry database to delete those telephone numbers who do not wish to get a UCC call. Hence, effective telephone numbers available to telemarketer are further reduced on which commercial calls can be made. Logically database has to be created for those subscribers who are willing to receive such calls. Telemarketers will improve their efficiency if a database of subscribers who are willing to take such commercial calls is made available to them. At the same time, it will drastically reduce the chances of making a call to a number which does not figure in their database. The SMS can also be effectively screened at SMSC using simple logic not to send the bulk SMS to telephone subscribers who does not figure in such database. It is advocated to create “National Do Call Registry” instead of presently practiced “National Do not call” registry. The ‘National Do-Call Register’ will list the telephone number of telecom consumers who wish to receive calls/SMSs related to marketing /promotional offers. Telemarketing companies would be allowed to call/SMS only these consumers.
21. The Authority is concerned with the menace of Unsolicited Commercial Communications and is of the view that there is an urgent need to look into this issue. It proposes to issue this consultation paper suo-motu to seek the views of the stakeholders

on various issues related to controlling Unsolicited Commercial Communications. Based on the feedback of the stakeholders on this consultation paper, the Authority will review the present regulatory framework of Unsolicited Commercial Communications and may bring new regulations, make modifications to existing regulations or make suitable recommendations to Government (DoT) as deemed fit.

# **CHAPTER - 1**

## **INTERNATIONAL PRACTICES TO CURB UNSOLICITED COMMERCIAL COMMUNICATIONS**

**1.1.** The international practices being followed in various countries to curb Unsolicited Commercial Communications are deliberated in paras to follow:

**1.2. European Union:**

1.2.1. The privacy of electronic communications in the European Union is guided by Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 relating to processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications). The relevant provisions of this Directive are quoted below:

Recital (40): Safeguards should be provided for subscribers against intrusion of their privacy by unsolicited communications for direct marketing purposes in particular by means of automated calling machines, telefaxes, and e-mails, including SMS messages. These forms of Unsolicited Commercial Communications may on the one hand be relatively easy and cheap to send and on the other may impose a burden and/or cost on the recipient. Moreover, in some cases their volume may also cause difficulties for electronic communications networks and terminal equipment. For such forms of unsolicited communications for direct marketing, it is justified to require that prior explicit consent of the recipients is obtained before such communications are addressed to them. The single market requires a harmonised approach to

ensure simple, Community-wide rules for businesses and users.

### Article 13

#### Unsolicited communications

1. The use of automated calling systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent. (Amendment 131 of the Parliament provides clarification that MMS and similar technologies are covered by the definition of 'electronic mail' given in Article 2(h)).
2. Notwithstanding paragraph 1, where a natural or legal person obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, in accordance with Directive 95/46/EC, the same natural or legal person may use these electronic contact details for direct marketing of its own similar products or services provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected and on the occasion of each message in case the customer has not initially refused such use.
3. Member States shall take appropriate measures to ensure that, free of charge, unsolicited communications for purposes of direct marketing, in cases other than those referred to in paragraphs 1 and 2, are not allowed either without the consent of the subscribers concerned or in respect of subscribers who do not wish to receive these communications, the choice between these options to be determined by national legislation.

4. In any event, the practice of sending electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease, shall be prohibited.
5. Paragraphs 1 and 3 shall apply to subscribers who are natural persons. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to unsolicited communications are sufficiently protected.

1.2.2. The e-Privacy Directive introduces a requirement that Member States apply **an ‘opt-in’ system**, as a general rule, to unsolicited communications (or spam) produced by means of automatic calling machines, fax machines and electronic mail (including SMS messages). While the Directive does allow for the possibility of an exception to the general opt-in principle under which, in the context of a sale of a product or service, contact details may be used for direct marketing of a company’s own similar products or services, it is important that, if such an exception is provided by national law, it is strictly drawn, so as to avoid effectively undermining the opt-in approach. **For other types of direct marketing practices, the Member States can choose to apply an opt-in or an opt-out system.** Effective and timely enforcement of compliance with the new opt-in approach will be essential to ensure that subscribers’ interests are protected. The Commission will therefore look to confirm that national transposition measures provide for real sanctions in the event of breach of the relevant requirements by direct marketers, including appropriate financial penalties. This also means that the

competent authorities, be they the NRAs or the Data Protection Authorities, need to have the requisite investigation and enforcement powers.

### **1.3. United States of America:**

1.3.1. In USA there is Telephone Consumer Protection Act of 1991 (TCPA) which authorised Federal Communication Commission (FCC) to require the establishment and operation of a single national data base to compile a list of telephone numbers of residential subscribers **who object to receiving telephone solicitation.** In December, 2002 the Federal Trade Commission (FTC) went beyond the FCC's company specific approach in dealing Unsolicited Commercial Communications and adopted a National Do Not Call Registry based on authority granted to the FTC under the 1994 Telemarketing Consumer Fraud and Abuse Prevention Act . The FTC's ability to enforce violation of its Do Not Call requirements, however, was limited by various statutory exceptions to the FTC's jurisdiction. Specifically the FTC does not regulate telecommunication carriers, banks, credit unions, saving and loans, insurance companies and airlines. In March, 2003, the Do Not Call Act was signed into law. In USA as per FCC's telemarketing rules Do Not Call list can not be sold, rented, leased and purchased for any purpose except for compliance with federal and state laws concerning the prevention of unlawful telephone solicitations. Penalties for violating FCC's DNC rules could reach as high as \$1,20,000 per violation (not to exceed \$1.2 million for a continuing violation) for common carriers and \$11,000 per violation (not to exceed \$87,500 for a continuing violation) for all other entities . TCPA gives the FCC authority to impose fine of upto \$11,000 for each violation. In case of USA the DNC Registry is funded entirely by fees paid by the telemarketers each time they purchased the National DNC list. The FCC and the FTC, as well

as the States, are authorized to pursue enforcement action in federal district court against violators of the DNC Rules and pursue fines of up to \$11,000 per violation. Individuals can also **sue in state court** (“if otherwise permitted by the laws or, rules of court of [that] state”) and seek injunctive relief, and the greater of actual damages or \$500 (which can be tripled if the violation was “willful or knowing”).

#### **1.4. Australia:**

1.4.1. In the case of Australia there is a **Do Not Call Register Act 2006** which covers the broad scope of Do Not Call Register in Australia, access fees, and civil penalties based on penalty units to be imposed through Federal Court or Federal Magistrates Court. Australia Communications and Media Authority (ACMA) is responsible for overseeing the operation of the Register, including education activities and enforcement. For imposing civil penalties an application has to be filed by the ACMA. Aggrieved customers would also seek **compensation from the Federal Court or Federal Magistrate Court** at any time within 6 years after the contravention concerned. Under the Do Not Call Register Act 2006, the Do Not Call Register was established in May, 2007. Approximately one in three i.e 33% households ‘opted-out’ of receiving telemarketing calls between May 2007 and June 2009. The registration is valid for 3 years. Telemarketers are allowed to contact individuals, who have either given ‘express consent’ or who fall under the category of ‘inferred consent’, even if they are listed on the Register. Express consent is given when an individual provides their explicit permission to receive telemarketing calls, for example when a person purchase goods an option is given to receive further marketing communications. Inferred consent occurs when a telemarketer has reason to believe that an individual will be willing to receive a telemarketing call based on the conduct of the individuals and the business or other

relationship which already exists between the individual and telemarketer. ACMA's general approach to compliance is to seek to resolve a matter, where appropriate, without resorting to formal procedures. From **31.5.2007 to 30.06.2009, 42,800 complaints were made to ACMA/ Register Operator.** During the first two years of operation, ACMA issued eight formal warnings, accepted eight enforceable undertakings and collected **more than \$300 000 in penalties from businesses that have called telephone numbers on the Register.** The Australian Government is currently reviewing the provisions of the Act and a discussion paper in this regard was issued in October, 2009. One of the options being considered in the Discussion Paper for improvement of the scheme is whether the 'opt-out' structure of the scheme can be changed to **an 'opt-in' scheme.**

## **1.5. United Kingdom**

1.5.1. In the United Kingdom, The Privacy and Electronic Communications (EC Directive) Regulations 2003 provide the legal framework for controlling Unsolicited Commercial Communications. These regulations were amended in 2004 to provide corporate subscribers to register their numbers in the Telephone Preference Service. The UK Government's Office of Communications (Ofcom) is responsible for maintaining and keeping up-to-date the Registers to be **kept for opt-out by consumers from receiving** unsolicited communications for direct marketing by means of facsimile machine and public electronic communications service. Three schemes are in operation under these regulations viz the Telephone Preference Service (TPS), Corporate Telephone Preference Service (CTPS) and Facsimile Preference Service (FPS). These schemes are opt-out, which means that individuals and organizations must indicate that a landline/mobile number is not to be called. In case a person told

a telemarketer to stop making unsolicited calls, the telemarketer should stop making such calls to that number. A person who suffers damage by reason of any contravention of any of the requirements of these regulations by any other persons shall be entitled to bring proceedings for compensation from that other person for that damage. The enforcement of the regulations is vested with the Information Commissioner and OFCOM will give technical advice to the Information Commissioner in connection with his enforcement functions. The proceedings for compensation and enforcement by Information Commissioner are without prejudice to each other action. Those who want to **market by text, picture and video message do not need to screen against the TPS, but they need to get prior consent** of the customer before sending such messages i.e **opt-in** for getting messages.

## **1.6. Canada:**

1.6.1. In Canada, Rules have been laid down by the Canadian Radio-Television and Telecommunications Commission (CRTC) for controlling telemarketing calls. These rules are the **National Do Not Call List Rules**, “The Telemarketing Rules and Automatic Dialing-Announcing Device (ADAD) Rules”. As per the National Do Not Call List Rules, the telemarketers are not to call a customer if his telephone numbers has been registered in the National Do Not Call List (DNCL), unless the customer has given prior express consent to be called. If they contravene the list, a consumer has two weeks to file a complaint, with the marketer facing a fine of upto C\$1,500 for individuals or C\$15,000 for corporations. Registered charities, political parties, pollsters, newspapers and any business with which an individual has had dealings in the preceding 18 months can “override” the list. The telemarketers and clients of telemarketers must subscribe to the National DNCL and pay any applicable subscription fees. The registration in the National DNCL is for five years. In addition to

the National DNCL, which is operated by Bell Canada, every telemarketer in Canada must maintain a Do Not Call List and respect the wishes of customers not to be called. Bell Canada act as the National DNCL Operator and is responsible for registering numbers, providing telemarketers with up-to-date versions of the list, and handling consumer complaints about telemarketing calls. The CRTC groups the complaints about telemarketers that it receives and then conducts investigations into those complaints. As of 30<sup>th</sup> September, 2009 a total of 7.61 million customers have registered their telephone/ fax numbers on the National DNCL. **A total of 202,440 complaints were received about telemarketing communications.**

## **1.7. Germany:**

- 1.7.1. The German Act against Unfair Competition provides that marketing by e-mail, fax or telephone requires the recipient's consent (opt-in model), the only exception being the use of customer data for direct advertising purposes if the customers have made their electronic contact data available in connection with the purchase of a product or service.
- 1.7.2. On May 15, 2009 the German Federal Council adopted the "Act against unsolicited commercial phone calls and improvement of consumer protection". According to the Act, violations of the existing prohibition on unsolicited commercial phone calls can now be sanctioned with a fine upto Euro 50,000. The Act clarifies that a commercial phone call is only lawful if the recipient has given his or her prior explicit consent to receive the call. The provision is intended to prevent the caller's reliance on consent that may have been given by the recipient in a totally different context or after the call was placed. Further, those placing commercial phone calls may not suppress their phone number or

identity. Violations of this prohibition may be sanctioned with a fine of upto Euro 10,000.

### **1.8. Italy:**

1.8.1. There is a legislation called “Personal Data Protection Code, Legislative Decree no. 196 of 30 June 2003” to deal with the Unsolicited Commercial Communications for the purposes of direct marketing or sending advertising materials, or else for carrying out market surveys. Interactive business communication shall only be allowed with the user’s consent. This legislation also applies to electronic communications performed by e-mail, facsimile, MMS or SMS-type messages or other means for the purposes referred to therein.

### **1.9. Japan:**

1.9.1. In Japan, there are only laws for e-mails sent for advertisement purpose. In April 2002, the Japanese Government passed the “Law on Regulation of Transmission of Specified Electronic Mail”. This law addresses “Specified Electronic Mail,” which is defined as e-mail sent for advertisement purposes of sender’s business to individual users. The law controls spam disseminated by senders in Japan. In July 2002, Ministry of Internal Affairs and Communications (MIC) designated an entity “Japan Data Communications Association” to conduct duties for the appropriateness of sending specified e-mail messages. MIC set up a ‘Study Group on a Framework to Handle Spam’ on October 7th, 2004, in order to consider the anti-spam measures in various aspects. Based on the discussion during the study group and the interim report published in December 2004, the anti-spam law was amended in May 2005. The new law includes the introduction of direct penalties against malicious spammers.

### **1.10. Egypt:**

1.10.1. In Egypt, there are no separate laws for dealing with telemarketing calls/ Unsolicited Commercial Communications. A user oriented approach is being followed there. The user may ask the companies that make telemarketing calls to him to remove him from their calling lists. In addition, he must tell the caller that he is not interested in his offers and that he does not want to receive further solicitation calls. Moreover, the user can submit this request in writing and states clearly that he does not want to receive any more solicitations from such companies. If the company persists, the user can contact the NTRA to record his complaint in the Call Center. As a precautionary measure, the user must ensure that any company that has obtained from him his contact information will not give that information to other companies. Removing the user's name from any public phone directory can also reduce the number of telemarketing calls.

#### **1.11. South Africa:**

1.11.1. E-commerce in South Africa is governed primarily by the Electronic Communications and Transactions Act (ECTA) 25 of 2002, which came into force on 30 August 2002, as South Africa's first comprehensive e-commerce legislation. The ECTA aims to establish a formal regime and legal framework in order to define, develop, govern and regulate electronic commerce, and to protect consumers of e-commerce services. Though not a specific anti-spam legislation, the ECTA sets out certain requirements that unsolicited communication must meet. Section 45 of ECTA provides as follows:

- (1) Any person who sends Unsolicited Commercial Communications to consumers must provide the consumer with the option to cancel his or her subscription to the mailing list of that person; and with the identifying particulars of the source from which **that person obtained**

**the consumer's personal information**, on request of the consumer.

- (2) No agreement is concluded where a consumer has failed to respond to an unsolicited communication.
- (3) Any person who fails to comply with or contravenes subsection (1) is guilty of an offence and liable, on conviction, to the penalties prescribed in section 89(1).
- (4) Any person who sends Unsolicited Commercial Communications to a person who has advised the sender that such communications are unwelcome, is guilty of an offence and liable, on conviction, to the penalties prescribed in section 89(1)'. .

1.11.2. It is clear from the provisions of section 45 of ECTA that, in South Africa, spamming is not per se illegal. The ECTA employs an approach of regulation rather than the prohibition of spam, subject to some penalties, including 12 months imprisonment, for non-compliance with the requirements of section 45(1). Section 45(1) of the ECTA only regulates the 'Unsolicited Commercial Communications to consumer'. In effect, this means that any unsolicited communication that is not regarded as 'commercial' will not fall within the ambit of the regulation. The law as it now stands effectively says that a legal person, for example a company that receives Unsolicited Commercial Communications is precluded from having recourse to section 45 of the ECTA.

1.11.3. In addition to the fact that the ECTA does not clearly define spam, a discomfoting characteristic of South African spam regulation is that it maintains an 'opt-out' approach. The ECTA leaves it to the recipient to opt to cancel communication of unsolicited communication (s 45(1) (a)). Opting out of unsolicited e-mails may be a costly onus for the consumer to discharge, and does not act

as a real disincentive to the spammers. There is some solace in the fact that, in terms of section 45(2) of the ECTA, inaction by a consumer who has been bombarded with unsolicited communication shall not be deemed as acquiescence to the conclusion of a contract with a sender.

### **1.12. Pakistan:**

1.12.1. On 31st July, 2009 Pakistan notified the “Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communications Regulation, 2009”, which came into effect on 5.8.2009. As per the regulations, all the operators have to establish, with the approval of the Pakistan Telecommunication Authority (PTA), a standard operating procedures to control spamming, to control fraudulent communications and to control unsolicited calls. The operating procedure for controlling unsolicited calls shall, inter-alia, include procedure for registration of Telemarketers and in case of failure to register, subsequent disconnection by the operator with a prior notice of seven working days, registration **mechanism for the Do Not Call Registry (DNCR)** to incorporate all registered Telemarketers, procedure to provide timely, accurate and uninterrupted access to registered Telemarketers to the central DNCR maintained by the operators, provision for restriction on the access to information by Telemarketer with respect to subscribers, to the extent of the number and area code of the subscriber only etc. All the operators have to establish a consolidated and central database of DNCR at their own cost. The operators have to **ensure registration of telemarketers**. The operators have to handle the complaints relating to unsolicited calls. The regulations do not provide for any penalty.

### **1.13. New Zealand:**

1.13.1. New Zealand has the Unsolicited Electronic Messages Act 2007, which deals with electronic messages, except voice call and Fax.

A person must not send, or cause to be sent, an unsolicited commercial electronic message that has a New Zealand link unless—

- (a) the message clearly and accurately identifies the person who authorised the sending of the message; and
- (b) the message includes accurate information about how the recipient can readily contact that person; and
- (c) the information referred to in paragraph (b) complies with any conditions specified in the regulations; and
- (d) the information referred to in paragraph (b) is reasonably likely to be valid for at least 30 days after the message is sent.

1.13.2. Commercial electronic messages must contain functional unsubscribe facility. A person who authorised or induced sending of the message, in violation of the Act, has committed a breach of the Act. Enforcement Department has powers to penalise and can also sue in the District Courts and High Courts for breach of the Act. Any person affected by the breach of the Act **can seek compensation in the court.**

1.13.3. As regards controlling telemarketing calls, New Zealand currently relies on a voluntary code of practice, promoted by the New Zealand Direct Marketing Association. The code covers the Association members.

## **1.14. China**

1.14.1. On 20 February 2006 the Chinese Ministry of Information Industry (MII) of P. R. China adopted the “Regulations on Internet E-Mail Services”, which took effect on 30 March 2006. The legislation aims to regulate Internet email services and to protect end-users. According to the regulations, one should not send

commercial emails without prior consent from the recipients, which **means “opt-in” principle is adopted**. Even having prior consent from the recipients, one should add the label “AD”, which is the abbreviation for “Advertisement”, in front of the subject line of a commercial email. The sender of commercial email should also provide **valid contact information for the recipients to unsubscribe**. It’s **prohibited to get others’ email addresses by harvesting**, sell or share harvested addresses. Breaches of the regulation will be punished by the MII. The MII can send a simple warning to the sender, or apply a fine. In addition, online fraudulent activities and misuse of computer resources, such as spreading viruses, are considered criminal violations according to other Chinese laws, and can be punished with more severe penalties, such as detention.

#### **1.15. Telemarketing Rules/Code of Practice:**

1.15.1. The international practices prevailing in some of the countries relating to telemarketing rules/ Code of Practice are indicated below:

1.15.2. **European Union:** The Privacy and Electronic Communications (EC Directive) Regulations 2003 provide that a caller must give his name and if the call recipient requests, must give either the address of the person or **a telephone number on which he can be reached free of charge**.

1.15.3. **Australia:** The Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007 commenced on 31.5.2007 and applies to all organizations making telemarketing calls and research calls, including exempt organizations. The main features of this standard are ---

- (i) A caller must not make, or cause to made, a call that is not a research call, or attempt to make such a call, on (a) weekday before 9 am; or (b) a weekday after 8 pm; or (c) a Saturday before

9 am; or (d) a Saturday after 5 pm; or a Sunday. Almost similar timing is there for research call. Further, a caller must not make, or attempt to make a call at any time on any of the specified national public holidays viz. (i) New Year's Day; (ii) Australia Day; (iii) Good Friday; (iv) Easter Monday; (v) Anzac Day; (vi) Christmas Day; (vii) Boxing Day; or a holiday on a weekday given in lieu of a public holiday.

- (ii) The caller must give to the call recipient (a) the call operator's given name; (b) the call operator's full name or employee or staff identifier that is sufficient to enable the call operator to be identified by the employer or if there is no contract of employment by the caller; (c) the purpose of the call; (d) the call operator's employer and his contact details; (e) the name and contact details of any person responsible for dealing with consumer inquiries or complaints about the call operator or the caller or another person who has caused the call to be made; (f) the **source from which the caller obtained the telephone number**, or a statement that the source is a private individual; (g) if applicable, the name of the person for whom the call is intended, the name and contact details of any organization that disclosed the information to the caller.
- (iii) CLI should be enabled at the time of the call.
- (iv) The caller must terminate the call where the recipient asks for that call to be terminated or otherwise indicates that he or she does not want the call to continue.

1.15.4. **Canada:** The Canadian Radio-Television and Telecommunications Commission has established the Telemarketing Rules. These rules provide that ---

- Callers must identify the person and the organization calling.
- When an agent is calling on behalf of a client, the caller is required to identify himself/herself, the name of the agency as well as the

client for whom the call is placed. This identification of the caller must be provided before any other communication and before asking for a specific individual.

- Upon request, **callers must provide the telephone number, name and address of a responsible person where the called party can contact the caller/ agency.** In all cases, whether the called party requests it or not, the caller must provide a toll free telephone number where a representative of the company can be reached for questions or comments about the call. This must be provided before any other communication and before asking for an individual.
- The toll-free telephone number provided must be staffed during business hours with an after-hours interactive voice mail back-up.
- DO NOT CALL lists are to be maintained by the calling party and remain active for three years. If, during the call, the called party asks to be put on a do not call list, the do not call request must be processed without requiring the called party to do anything further. If the call is made by an agent calling on behalf of a client, the agent must ask the called party if it wishes to have its name on the agent's do not call list, the client's do not call list or both do not call lists. As of October 1st, 2004, the caller must give a unique registration number to each called party who request to be added to the do not call list.
- Names and numbers of called parties must be added to the do not call list within 30 days of the called party's request.
- Callers using predictive dialing devices shall ensure that they do not abandon more than 5% of calls, measured per calendar month, and shall maintain records to show the abandonment rate.
- There are no calling hour restrictions on live voice calls.
- Sequential dialing is not permitted.
- Calls are not permitted to emergency lines or healthcare facilities.
- Random dialing and calls to non-published numbers are allowed.

- The call must display the originating calling number or an alternate number where the caller can be reached (except where the number display is unavailable for technical reasons).
- Telephone service to all lines used in connection with calls that contravene these rules may be suspended or terminated two business days after notice from the telephone company.

1.15.5. **USA:** The Federal Trade Commission's (FTC) Telemarketing Sales Rule (TSR) prohibits deceptive and abusive telemarketing acts and practices and sets forth standards of conduct for telemarketing calls:

- Calling times are restricted to the hours between 8 a.m. and 9 p.m.
- Telemarketers must promptly tell the answering party the identity of the seller or charitable organization and that the call is a sales call or a charitable solicitation.
- Telemarketers must disclose all material information about the goods or services they are offering and the terms of the sale. They are prohibited from lying about any terms of their offer.
- Telemarketers are required to connect their call to a sales representative within two seconds of the consumer's greeting. This will reduce the number of "dead air" or hang-up calls consumer get from telemarketers. These calls result from the use of automatic dialing equipment that sometimes reaches more numbers than there are available sales representatives. In addition, when the telemarketer doesn't have a representative standing by, a recorded message must play to let the consumer know who is calling and the number they're calling from. The law prohibits a recorded sales pitch in a cold call. And to give you time to answer the phone, the telemarketer may not hang up on an unanswered call before 15 seconds or four rings.
- Telemarketers must transmit their telephone number and if possible, their name, to consumer's caller ID service.

- Prohibits telemarketers from abandoning any outbound telephone call, subject to a safe harbor.
- Prohibits telemarketing calls placed on and after September 1, 2009, that deliver prerecorded messages, whether answered in person by a consumer or by an answering machine or voicemail service, unless the seller has **previously obtained the call recipient's written and signed agreement** (which may be obtained electronically under the E-Sign Act) to receive such calls i.e **opt-in approach**.
- Requires any permitted prerecorded message telemarketing call that could be answered in person by a consumer to include an automated interactive opt-out mechanism available at all times during the message.
- Requires any permitted prerecorded message telemarketing call that could be answered by an answering machine or voice mail service to include a toll-free telephone number **that enables the call recipient to call back and connect directly to an automated opt-out mechanism**.

## **CHAPTER - 2**

### **PRESENT STATUS, ISSUES AND MEASURES TO CURB UNSOLICITED COMMERCIAL COMMUNICATIONS**

**2.1.** TRAI notified the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) on 5<sup>th</sup> June 2007. Various efforts were made time to time to restrict unsolicited commercial calls as discussed in chapter 1; however subscribers' still get unsolicited commercial calls in spite of being registered at NDNC registry. Following key observations reflect ineffectiveness of present regulatory framework in handling Unsolicited Commercial Communications:

- Monthly on an average around 18000 consumer complaints are registered with their service providers regarding receiving of Unsolicited Commercial Communications from tele-marketers. The actual number of UCC complaints are likely to be much higher as many customers do not make complaint though they also receive such calls.
- Generally customers register their complaints regarding receiving of Unsolicited Commercial Communications with their service providers when number of such calls are quite high and are really disturbing them. This means that number of actual complaints to telecom service providers for receiving UCC is only a tip of an iceberg.
- The frequency of receiving unsolicited messages through SMS and MMS is much higher as compared to voice calls.
- In spite of formulation of UCC regulations in 2007, many telemarketers are still not registered with Department of Telecommunications.

- Complaints are being received against both registered and unregistered telemarketers for making Unsolicited Commercial Communications.
- The number of customers registered with NDNC Registry is low. As on 31<sup>st</sup> March, 2010, about 65.82 million subscribers have been registered for 'Do Not Call' in NDNC Registry, which is less than 11% of all telephone subscribers of the country.

**2.2.** Low registration of tele-marketers with DOT, huge number of complaints for receiving Unsolicited Commercial Communications by subscribers, in-effectiveness to implement the provisions of the present regulations on the ground and ever increasing number of unsolicited SMS/ MMS clearly indicate an urgent need to review present regulatory provisions to restrict menace of Unsolicited Commercial Communications (UCC).

**2.3.** The views of the stakeholders are invited to identify the prime cause of poor effectiveness of present regulations "Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007)".

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

**2.4.** In order to increase the effectiveness of controlling Unsolicited Commercial Communications, we have to also look at the functioning of tele-marketers, their interest and business model to get insight of present problem. The tele-marketers arrange to get

the telephone subscribers database from their own sources. As per industry feedback, tele-marketers make considerable payment to get telephone subscriber data base containing telephone number of subscribers' and other vital details to ascertain their target population. Once they get the data, they start making calls to their clients to fulfill their commercial interests. Telemarketers are paid by the agencies who engage them to carry out telemarketing services based on mutually agreed terms and conditions.

**2.5.** The present TRAI regulations envisage registration of such telemarketers with DoT. The registered telemarketers may obtain the data from their own sources and scrub the data with the data of NDNC registry. The scrubbing with NDNC deletes some of the numbers and returns the database to such tele-marketers excluding the numbers who are registered with NDNC registry. This exercise in real sense has increased the cost of procuring the database per entry. Naturally telemarketers interest in removing the data of subscribers' registered with NDNC will be minimal unless they are really scared of strict actions against them.

**2.6.** The analysis of the international trends as discussed in chapter 1 clearly indicate following important trends:

- The countries like Australia, South Africa lay very high importance on the source from where the tele-marketer has got the details of the subscriber information. Tele-marketers have to inform the source of receiving such data if asked for by the called party.
- Most of the countries like Australia, United Kingdom, and Canada initially adopted the approach of Do NOT call registry or Opt-out approach, but effectiveness of such framework is found to be low. For example a total of 2,81,540 complaints were received in Canada from 2008 to March 2010 . Similarly, 42,800 complaints were received in Australia from 31.5.2007 to 30.6.2009.

- Many of the countries like China, Japan, Italy, United Kingdom and European Union prefer “Opt-in” approach in their e-privacy directives. Australia has also started discussions to curb Unsolicited Commercial Communications and considering “opt-in” as one of the options.

**2.7.** “Opt-in” seems to be one of the effective approaches. Let us discuss various issues related to “Opt in” or “do call registry” in detail.

**2.8. Do Call Registry - An Opt-in Approach:**

2.8.1. If we look at legal framework, the right to privacy has been held to be part of fundamental right to personal liberty and freedom guaranteed under Articles 19 and 21 of the Constitution. Any responsibility placed on the phone user to register him to restrict unwanted calls would mean denying his privacy and breach of confidentiality. Therefore it will be better to have an “opt in” or do call registry for those who want to be called. Subscribers who do not mind or want to be called by telemarketers may register with their service providers, indicating their interest areas. This will be very useful for telemarketers to identify target population. A national database can be created of all “Do call subscribers”. A mechanism is to be set up where by companies interested for telemarketing must register them with DoT and seek data relating to subscribers who wish to be called which will be made available to them legally. Any telemarketer using data other than provided by authorized source for telemarketing will be guilty of invading privacy of the subscriber.

2.8.2. Creation of “Do call registry” will also be desirable to protect the interest of those subscribers who do not want telemarketing calls but do not know where to register or they do not register themselves due to time constraints. The subscribers who are interested in getting telemarketing calls will find the ways & means to get registered themselves. Telemarketers can also

pursue the telephone subscribers to get their written consent if such subscribers are interested to get telemarketing calls or if they do not mind getting such calls.

2.8.3. Telemarketers will be encouraged to register with DoT as they will be entitled to get the subscriber telephone data to call the interested persons, which will reduce their expenses in getting the subscriber telephone data and increase their effectiveness due to contacting the right target population. It may not be out of place to mention that Mobile telephone subscribers' directory has not been published. As such no information about any mobile subscriber is available in public domain. Procurement of any mobile subscriber data by telemarketers without the consent of the subscribers, is breach of privacy and can be prosecuted.

2.8.4. TRAI had undertaken a survey through independent agencies about registration of telephone number in the Do Not Call Registry. Just 3.5% of the surveyed respondents indicated that they had registered in the NDNC Registry, whereas about 83% respondents were against receiving any UCC calls and wanted TRAI to take effective actions. The results of the survey clearly indicate that the vast majority of the customers do not want to receive unsolicited calls/SMS, but they have not registered in the NDNC Registry. This situation also calls for a shift from present NDNC Registry to National Do Call Registry so that there may not be any burden on the vast majority of the customers who do not want to receive unsolicited commercial calls/SMS to go for registration with the NDNC Registry.

## **2.9. Benefits of Do Call Registry:**

2.9.1. The Do Call Registry will have the following benefits:

- I. It eliminates the hassles of the consumers who do not wish to receive UCC from registering their request on website or call center of the service provider.
- II. By default all telecom consumers will be in the domain of the consumers who are not interested to receive unsolicited commercial calls, without registering anywhere.
- III. Only those consumers interested in receiving commercial calls will register through their service providers with centralized data center to be called National Do Call Register (NDCR).
- IV. NDC register can also facilitate options like timing when call can be made, areas of interest, mode of communication etc. This will facilitate consumers to get information of their interest without any effort and within prescribed time window through the preferred mode of communication (Voice call, SMS, MMS) they wish.
- V. Consumers will get important information free of charge in their areas of interest through telemarketers, but only during the time window which is convenient to them and does not disturb them. It will give enough window to telemarketers for their business as well.
- VI. Telemarketers could save cost on acquisition of subscriber telephone data. Such subscriber data will be legal and telemarketers will be able to use this data hassle free to make telemarketing calls.
- VII. Total charges payable by the telemarketers for telemarketing calls will reduce and chances of selling products/ services on offer will be enhanced as information is being provided to those customers who want information about identified product/ services.
- VIII. Telemarketers could be free from the hassels of litigation/ penal action as calls will be made only to consumers who have given

their willingness to receive such calls by registering with Do Call Registry.

**2.10.** In view of the discussions held in paras 2.4 to 2.9, do call registry seems to be better option over existing NDNC registry. Stakeholders views are invited:

**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.**

**2.11. Telecom resources to telemarketers:**

2.11.1. Apart from creating “National Do Call Registry (NDCR)” database, it is also essential that telemarketers are registered with DoT and use NDCR subscriber data for making telemarketing calls. TRAI have no direct control on telemarketing, therefore strong framework has to be created to control availability of telecom resources to these telemarketers. The present regulations prescribe disconnection of telecom resources, if a non registered tele-marketer is found to be making Unsolicited Commercial Communications. This is not working as deterrent for two reasons:

- Service providers are least interested to disconnect telecom resources of telemarketers as they are generally valued subscribers and pay good revenue to service providers.
- Such telemarketers can get new telecom resources from other service providers easily defeating the very purpose of disconnecting their telecom resources for making unsolicited commercial communications without registering with DoT.

2.11.2. The present Customer acquisition form does not seek any previous history while taking telecom resources. Moreover, there

is no provision to link if telecom resources of such entity have been disconnected earlier by any telecom service provider for making Unsolicited Commercial Communications. Restricting telecom resources to telemarketers is necessary to increase the effectiveness of enforcing TRAI regulations regarding Unsolicited Commercial Communications. It is therefore desirable to have a provision to seek information from new subscribers seeking telecom resources whether his telecom resources were disconnected any time in past? The reasons may also be captured in case the answer is yes. This information will be useful to restrict telecom resources to telemarketers. While it can be argued that ensuring authenticity of such information may be difficult and therefore may not be effective to control telecom resources to defaulting telemarketers, it is expected that such provisions will create deterrent and will be helpful to tackle such telemarketers.

**2.11.3. 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?**

**2.12. Effective control on Telemarketing calls/SMS/MMS**

2.12.1. Voice calls and SMSs from telemarketers can be effectively controlled if some automatic control can be inbuilt in the system. The possibility of allocation of separate number level to telemarketers was considered by a committee earlier, which expressed the view that allocation of separate number level may not be feasible as it will result in inefficient utilization of telecom numbering resources.

2.12.2. Unsolicited commercial voice calls can be drastically controlled if telemarketers use only National Do Call Registry (NDCR) data. Since NDCR data will be provided to all registered telemarketers,

there is high possibility that such telemarketers will make calls only to subscribers willing to receive such calls. Unregistered telemarketers may still arrange subscriber database and make UCC calls even to those subscribers who are not registered with NDCR. They are likely to use either fixed line or mobile phones to make telemarketing calls. Number of calls likely to be made by such telemarketers per day will be high. It may technically be possible to restrict maximum number of calls per day from a telephone number. Such restriction may be sufficiently high so that normal user is not get affected. These restrictions may be removed for a high usage subscriber on submitting a affidavit declaring that “These telecom resources are not used for any telemarketing purpose.” Details of calls from these numbers can effectively be used to control UCC calls. Such restrictions on maximum number of calls per day will make use of telephone unsuitable for telemarketing purpose will encourage them to register as telemarketer with DoT. Once registered as telemarketer, there will be no restrictions on number of calls per day. This may help to effectively restrict operation of unregistered telemarketers.

2.12.3. Unsolicited commercial SMSs can be controlled using second screening at SMSC. Service providers can be mandated to use NDCR data to ensure that content aggregators send bulk SMS to only those customers registered on NDCR. All bulk SMSs addressed to those not registered on NDCR may be dropped. A maximum limit of SMSs per day can also be fixed to ensure normal mobile phone is not used to send UCC messages.

**2.12.4. 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?**

**2.12.5. 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.**

**2.13. Enforcement of UCC regulations**

2.13.1. The present regulation have following provisions to control unsolicited commercial calls:

- Disconnection of basic telephone or cellular mobile telephone connection in case the Telemarketer fails to register with the Government of India, Ministry of Communications and Information Technology, Department of Telecommunications. Provision is also made for disconnection of telephone connection or service of Telemarketer if telemarketer fails to give the undertaking regarding not to make Unsolicited Commercial Communications to any subscriber whose telephone number appears on the National Do Not Call Register.
- A higher tariff, Rs.500/- for first Unsolicited Commercial Communications and Rs.1000/- for subsequent Unsolicited Commercial Communications is imposed on telemarketers.
- Provision for disconnection of telephone of Telemarketer by Originating Access Provider, in case of telemarketer continue to make Unsolicited Commercial Communications calls after having such calls charged at higher tariff mentioned in pervious para.
- The service providers are also made liable for financial disincentive of an amount, not exceeding Rs.5000/- for the first-non-compliance and Rs.20000/- for second or subsequent non-compliance with the Regulations.

2.13.2. It is felt that this financial disincentive does not commensurate with the volume of business earned by the service providers

through telemarketers. Financial disincentives of Rs.49,000/- have so far been imposed on eight service providers for violation of the regulations. Telemarketers are heavy revenue paying customers to service providers and therefore service providers avoid to disconnect telecom resources of telemarketers even in case of violation of UCC regulations. In case of UCC SMS send by Telemarketers, service providers' plead that SMS is being sent through SMSC and no CDR is generated for SMS. So monitoring of such SMS is not possible in existing setup. Even where higher tariff is charged by service providers from telemarketers for violation of UCC regulations it is undue enrichment of service providers. No advantage is passed on the subscriber who is actually suffering from UCC.

2.13.3. Discussion with various stakeholders propose that the amount of financial disincentive may be increased to act as a deterrent for service providers not to violate the regulations on Unsolicited Commercial Communications. This is one of the easy methods for creating a deterrent against violation of the UCC regulations. However, the problem of undue enrichment of service providers is not addressed. Telemarketers being valuable customers in terms of volume of calls, the service providers may compensate the telemarketers of their losses through appropriate concessions/ discounts in tariff. Even the higher tariff for Unsolicited Commercial Communications reported by consumers is not successful in deterring the telemarketers from making Unsolicited Commercial Communications. One reason for low effectiveness of higher tariff is that only a fraction of the customers make complaint for Unsolicited Commercial Communications received by them. This fact is also confirmed from the survey reports of independent agencies engaged by TRAI. As per these reports, about 87% consumers stated that they had not made any complaint to their service providers about Unsolicited Commercial

Communications received by them. This is so in spite of the fact that complaint booking is very easy and a short code 1909 for registration of telephone in the NDNC Registry as well as making complaint is available. A uniform SMS text such as COMP TEL NO. xxxxxxxx, dd/mm/yy, Time, to toll free No.1909 may further simplify the complaint booking. **The Authority seeks inputs from stakeholders for making complaint booking more effective so that more and more customers come forward to register UCC complaints.**

2.13.4. It may be seen that presently by charging a higher tariff for commercial communications from the telemarketers, on the basis of complaints from consumers, the service provider is benefited and there is no compensation to consumers who had undergone the nuisance of Unsolicited Commercial Communications and took the trouble of complaining to the service provider. One option is to make suitable provisions in the Indian Telegraph Act 1885. Additionally, a new legislation for compensation to consumers can be considered through the consumer courts under the Consumer Protection Act or through civil courts for those who have registered UCC complaint. This will encourage the subscribers to make complaints for UCC calls received by them. The Authority seeks the views of stakeholders in this regard.

2.13.5. The international experience shows that typically national legislations have been enacted to deal with Unsolicited Commercial Communications. In some cases, specific agencies and departments within regulatory bodies are established to enforce these laws and regulations. The international practices being followed in some of the countries shows that there are rules for telemarketing/ Code of Practice which the telemarketers have to follow. These rules 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. The major issues to be addressed while making the penal provisions for violations of the Unsolicited Commercial Communications either through amendment of the Indian Telegraph Act 1885 or through enactment of a new legislation is the quantum of penalty and who should impose such penalty. It is seen that in some of the countries a very high penalty is prevalent to act as a deterrent against Unsolicited Commercial Communications. In the context of both registered and unregistered telemarketers presently engaged in making Unsolicited Commercial Communications, it is proposed that suitable stringent penal provisions may be made in the laws to deal with Unsolicited Commercial Communications both on telemarketers and the agency on whose behalf the telemarketer had made Unsolicited Commercial Communications. It is also proposed that suitable Telemarketing Rules, as prevailing in some of the developed markets, could also be made to control telemarketing for protecting the interests of consumers. This could also include legal provisions mandating the registration of telemarketers with DoT and stringent penal provisions for non-registration. By way of enactment of suitable legislation and Telemarketing Rules coupled with stringent penalty provisions the unregistered telemarketers could be forced to get themselves registered. However, this process may take time and since majority of the Unsolicited Commercial Communications are from unregistered telemarketers other measures may have to be considered for the interim period. Regarding the framework for imposition of penalty, the options could be to create a separate agency for protection of consumer interest or empower the regulatory body for imposing penalties. Since telecom telemarketers are not licensees and therefore TRAI has no direct power to deal with such agencies. The only option to deal with them indirectly through telecom service providers. Such indirect action by TRAI against telemarketers may not be effective.

Adequate provisions have to be made in case TRAI is to be authorized for imposing penalties against telemarketers for violation of UCC regulations. **The Authority seeks inputs on possible framework for effective enforcing Unsolicited Commercial Communications regulations.**

**2.13.6. What changes do you suggest in existing provisions to control the Unsolicited Commercial Communications effectively? Give your suggestion with justification.**

**2.13.7. 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?**

**2.13.8. Do you feel that present UCC complaint booking mechanism is effective? What more can be done to enhance its effectiveness?**

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

#### **2.14. Definition of Unsolicited Commercial Communications:**

2.14.1. The definition of Unsolicited Commercial Communications as presently defined is based on “Opt-out” approach i.e. those customers who do not want to receive Unsolicited Commercial Communications. In case National Do Call Registry is to be established based on the “Opt-in” approach, the present definition of Unsolicited Commercial Communications has to be amended to make it in line with “Opt-in” approach:

“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 **where the receiving party has not given its explicit consent that it wants to receive such message**, 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) messages 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”.

**2.14.2. 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.**

## **CHAPTER- 3**

### **SCOPE OF NATIONAL DO CALL REGISTRY**

- 3.1.** The Do Call Registry should provide a mechanism where a Telemarketer is able to get the list of telephone numbers of such consumers who wish to receive commercial communications on particular product or service such as Insurance, Health Care, Banking, Stock market, Credit card, Telecom, Travel, Entertainment, Agriculture & Animal Husbandry, Fisheries, Electronic/Electrical equipments, Automobiles, Sports, Real Estate, Jobs, Education etc. There will be telecom consumers who may wish to receive commercial communication for more than one category of products or services. Hence National Do Call Registry (NDCR) may facilitate subscriber to adopt one or any combination of sectors on which information may be provided.
- 3.2.** Some of the major issues to be addressed while establishing the National Do Call Registry are segmentation of the various categories under which the customers would register for receiving telemarketing calls or commercial communication, creating awareness amongst consumers about these categories and process of entering the options by customers in National Do Call Registry (NDCR). Segmentation of the various categories is important to facilitate subscribers to get only those information which he wants. The option process may be dynamic and permit changes based on the needs of subscriber. This will also encourage higher willingness of subscriber to register on NDCR. A large list of categories for consumer registration would make registration process difficult. Hence, a short list of items covering broad categories such as Finance/investment, Credit cards, Loans, Home Appliances, Insurance, Health Care, Education, Real Estate, Travel, Entertainment, Career/jobs, Automobiles may be considered.

**3.3.** Process of registration of subscriber for the commercial viability of the National Do Call Registry is important. It should be simple and user friendly. Various options which can be made available for registration are discussed in the following paragraphs:

3.3.1. Short code “Toll free special number” can be used to register subscriber with his service provider for NDCR. IVR may also assist subscribers to exercise their option for NDCR. The registration of subscriber under various categories will be a challenge as it will require process standardizations both with short code as well as IVR driven registration.

3.3.2. One of the possible options is that subscriber register himself for NDCR. The service provider may contact the customer through call or SMS and obtain the options for different category. However, this approach is likely to increase the work of the service providers in maintaining the registry.

3.3.3. Other options for registration in Do Call Registry can be through a website or e-mail. Though registration through website or e-mail may be very convenient, adequate mechanism has to be deployed for preventing misuse so that one cannot register the number of any other subscriber. Concerned service provider have to verify all such requests by making calls/ sending SMS before forwarding such request for registration at NDCR.

3.3.4. Standard SMS formats can also be used for registering in specific category on NDCR. Standard text format SMS will be useful for registration as per examples given below:

1. Insurance - START INS 1909
2. Credit Card - START CARD 1909
3. Loan - START LOAN 1909

4. Home Appliances - START APPL 1909
5. Health Care - START HEALTH 1909
6. Education - START EDU 1909
7. Real Estate - START REAL 1909
8. Travel - START TRAVEL 1909
9. Entertainment - START ENTER 1909
10. Automobiles - START AUTO 1909

3.3.5. Another important issue related to unsolicited commercial calls is timing of such calls. Telemarketers tend to make calls on any day at any time, which may disturb the customers during their important schedules and sometimes it becomes very irritating. Some people may not like to get calls during their office hours while others would not like to get calls on holidays. An option should be given to a customer for preferred days and hours of a day when he would like to get commercial calls while registering in Do Call Registry. The service provider at registry stage itself can get all these information. In case registration is done by SMS other information can be collected by service providers by making calls to such subscriber.

3.3.6. Standard text format for deregistration could also be provided, for example, for deregistration from Insurance the SMS text could be "STOP INS 1909". Once the SMS is received by a service provider, a confirmation SMS may be sent to the customer indicating the category for which the customer has given his option for de-registration.

3.3.7. The registration/deregistration to the National Do Call Registry will be based on the CLI of the telephone number from which the request for registration/deregistration is made through call or SMS. The customers should make the request for registration/

de-registration from the telephone number for which registration in the National Do Call Registry is required. There shall not be any charges for registration/ de-registration in the National Do Call Registry.

- 3.4.** For new customers, provisions shall be made in the application form, popularly known as “Customer Acquisition Form” or “CAF” for indicating the choice, whether he wishes to register in National Do Call Registry; however, customer should be adequately informed regarding the scope of National Do Call Registry before taking decision in the matter.
- 3.5.** The service providers may maintain a Do Call Registry of their subscribers in which the options exercised by the customers for registration in the National Do Call Registry may be entered. The service providers may be mandated to update the National Do Call Registry periodically from service providers Do Call Registry.
- 3.6.** Telemarketer provide multiple services under different categories listed in the Do Call Registry shall contact a customer only for the services “opted in” by the customer., A provision for suitable penalty has to be made, in case a telemarketer calls the customer for the service he has not opted.
- 3.7. 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?**
- 3.8. Agency for Managing Do Call Registry:** There will be a requirement of national level agency for managing the Do Call Registry. Various options for selecting the agency for managing the National Do Call Registry could be as follows:

3.8.1. A neutral agency like National Informatics Centre (NIC) may be considered for establishing the National Do Call Registry. They are already maintaining the present NDNC Registry. NDCR will require minor changes in present processes. Therefore, there seems to be no problem to re-orient present NDNC registry to NDC registry. The various industry sectors, days and time when subscribers would like to be called, can be incorporated with the help of NIC.

3.8.2. The other option for setting up and operating National Do Call Registry is by an entity managing large database of telephone subscribers' number. Government is considering issuing two licenses for the National Integrated Directory Enquiry Service. The National Integrated Directory Enquiry Service Provider will have to maintain a database of all basic telephone service customers (except those who have opted-out of directory services) and cellular mobile telephone service customers who have opted-in for directory services. Therefore such entity will have the capability to manage a large database. The National Integrated Directory Enquiry Service Provider will also have the capability to provide classified information about contact details of providers of various products and services. Thus, a National Integrated Directory Enquiry Service Provider can also be considered for setting up and maintaining the National Do Call Registry.

**3.8.3. 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.**

**3.8.4. 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?**

### **3.9. Charging and Funding Model for National DO Call Registry:**

3.9.1. The National Do Call Registry can be successful only if it is established considering commercial viability. The National Do Call Registry can provide various categories of products / services for which telecom consumers opt to receive calls or messages from telemarketers promoting such products/services. Once the customer is registered in the National Do Call Registry for receiving commercial communication, he could get information through telemarketers' call or SMS about those products and services which he opted. For example, a person who opted for registration under stocks and shares could get information about stocks and shares from telemarketers. At the same time, the telemarketers who are dealing with Stocks and Shares could get a list of telephone numbers of telecom consumers who have opted-in to receive commercial communications about Stocks and Shares. NDCR has to be regularly updated to maintain its database and provide this data to telemarketer on their request. Sustainability of NDCR will depend upon the funding mechanism / businesses model adopted for managing of NDCR. There can be three different business models for managing NDCR as discussed in paras to follow:

**3.9.2. Cost Subsidy Model:** On demand of any registered telemarketer, NDCR may provide the subscriber data free of charge. However, to make operationalize this model, regular funding will be required to NDCR from some resources. The sources of these funding may be either from government or contributions from service providers. Availability of subscriber data free of cost may encourage telemarketers to register with DoT. Reduction in telephone subscriber data acquisition cost will also support telemarketers business model and reduce the availability of illegally captured subscriber data. This may enhance the effectiveness of UCC regulatory framework.

- 3.9.3. **Market Mechanism Model:** In the market mechanism model, the National Do Call Registry provider is to recover the capital expenditure for establishing the National Do Call Registry and to meet its operational & maintenance cost. Therefore the NDCR provider is expected to provide the NDCR data to registered telemarketers on payment of market driven charges to make it sustaining. The administrator of the National Do Call Registry could do innovations to further segment the list to provide localized information to the telemarketers to enhance value of NDCR data. Such innovations will be encouraged only if there is incentive to the agency operating the registry. Such agency could also devise innovative ways to encourage the customers to register in the National Do Call Registry. However, being a single NDCR provider market driven charges for NDCR data may lead to monopolistic approach and unrealistic or higher prices may be demanded by NDCR. Such higher prices may be burden to telemarketers, may impact the commercial viability of telemarketers and can discourage the telemarketers to register with DoT to obtain NDCR data.
- 3.9.4. **Regulated Price Model:** Third option is that a suitable price for acquiring database from NDCR may be decided by regulator. NDCR provider will be mandated to provide the data to a registered telemarketer at a price decided by regulator. The price may be revised from time to time. However, a suitable monitoring mechanism and penalty provisions will be required for effective working of this model.
- 3.9.5. **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.**

### **3.10. Data Sharing and Data Security:**

3.10.1. NDCR provider must ensure data security. The following conditions may be ensured:

- (i) The National Do Call Registry provider shall have to adopt the practices in line with data protection measures specified in ISO standards or equivalent international standards.
- (ii) The data shall be used by the National Do Call Registry licensee only for providing NDCR as per terms for provisioning. The NDCR shall have provision of a penalty for violation of data security measures or breach of any terms and conditions.
- (iii) The National Do Call Registry provider has to maintain secrecy and confidentiality of the data and data shall not be passed on to unregistered telemarketers or a third party in any condition.
- (iv) Appropriate measures shall be adopted by the National Do Call Registry provider so that the data is not misused.
- (v) Data protection measures adopted by the National Do Call Registry provider shall also be subjected to annual audit/ verification as per the guidelines/directions/ orders issued by TRAI from time to time.

**3.10.2. What measures do you suggest to protect data of NDC registry? Give your suggestions with justification.**

## **CHAPTER - 4**

### **ISSUES FOR CONSULTATION**

- 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)**
- 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)**
- 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)**
- 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)**
- 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)**

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

## ABBREVIATIONS

1	ACMA	Australia Communications and Media Authority
2	ADAD	Automatic Dialing-Announcing Device
3	CAF	Customer Acquisition Form
4	CDR	call detail records
5	CLI	Calling Line Identification
6	CRTC	Canadian Radio-Television and Telecommunications Commission
7	CSC	Customer Service Centre
8	CTPS	Corporate Telephone Preference Service
9	DNCL	National Do Not Call List
10	DoT	Department of Telecommunications
11	DSAs	Direct sales agents
12	ECTA	Electronic Communications and Transactions Act
13	FCC	Federal Communication Commission
14	FPS	Facsimile Preference Service
15	FTC	Federal Trade Commission
16	NDNC	National Do Not Call
17	NIC	National Informatics Centre
18	OFCOM	UK Government's Office of Communications
19	PTA	Pakistan Telecommunication Authority
20	PUCL	People's Union For Civil Liberties
21	RBI	Reserve Bank of India
22	SMS	Short Message Service
23	TCPA	Telephone Consumer Protection Act of 1991

24	TEC	Telecom Engineering Centre
25	TSR	Telemarketing Sales Rule
26	TPS	Telephone Preference Service
27	UCC	Unsolicited Commercial Communications