

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 24th May, 2013

No.311-23/2013-QoS - In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) and clause (c) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

**THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER
PREFERENCE (ELEVENTH AMENDMENT) REGULATIONS, 2013**

(5 OF 2013)

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Eleventh Amendment) Regulations, 2013.

(2) They shall come into force on the 1st day of June, 2013.

2. In regulation 2 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) (hereinafter referred to as the principal regulations), ----

(a) for clause (va), the following clause shall be substituted,namely :-

“(va) “signature” means characters or strings, or variants thereof, of a commercial communication and does not include subscriber related information;”

(b) clause (aa) shall be numbered as clause (za);

(c) clause (ab) shall be numbered as clause (zb);

(d) after clause (zb), the following clause shall be inserted, namely: -

“(zba) “transactional SMS charge” means the charge payable by an Originating Access Provider to the Terminating Access Provider for each transactional SMS sent by a registered telemarketer or transactional message sending entity from the network of the Originating Access Provider to the network of the Terminating Access Provider;”

(e) clause (ac) shall be numbered as clause (zc);

(f) clause (ad) shall be numbered as clause (zd);

(g) clause (ae) shall be numbered as clause (ze);

(h) clause (af) shall be numbered as clause (zf);

3. After regulation 20A of the principal regulations, the following regulation shall be inserted, namely:-

“20B. Transactional SMS charge – (1) The transactional SMS charge shall be Re. 0.05 (paisa five only):

Provided that there shall be no transactional SMS charge on, -

(i) any message transmitted by or on the directions of the Central Government or State Government;

(ii) any message transmitted by or on the directions of bodies established under the Constitution;

(iii) any message transmitted by or on the directions of the Authority;

(iv) any message transmitted by any agency authorized by the Authority from time to time;

(2) The Originating Access provider may collect the transactional SMS charge from the registered telemarketer or from the transactional message sending entity or its agency, as the case may be."

(Rajeev Agrawal)
SECRETARY

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2: The principal regulations were amended vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th December, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31st January, 2011.

Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05th September, 2011.

Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25th October, 2011.

Note 9: The principal regulations were further amended (Eighth amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 1st November, 2011.

Note 10: The principal regulations were further amended (Ninth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th May, 2012.

Note11: The principal regulations were further amended (Tenth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 5th November, 2012.

Note 12: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Eleventh Amendment) Regulations, 2013 (05 of 2013).

EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing Unsolicited Commercial Communications (UCC).
2. The principal regulations provide a framework for sending transactional messages, wherein an entity can only send a transactional message through a registered telemarketer or through the service provider. In the Seventh Amendment to the principal regulations, the Authority has prescribed a promotional SMS charge of 5 paise per SMS.
3. During examination of the need for determining the termination charge on SMSs on a cost based basis, the Authority has also collected inter-operator SMS traffic data. While analyzing the data, it has been noted that apart from the promotional SMS, the transactional SMS also contribute in a major way in creating large traffic imbalance between different networks. In case of Application to Person (Promotional and transactional) SMSs, the institution/enterprise/advertising agencies, are having commercial agreement with one or more service providers, either directly or through a registered telemarketer. As is evident from Table 1, the flow of A2P SMS traffic is unbalanced (some of the service providers are originating more A2P SMSs), leading to loading of resources of the terminating operators. Therefore, the Authority has decided that similar to the Promotional SMS charge prescribed for promotional SMSs, 5 paise per SMS should be prescribed for transactional SMSs also. Provision has been made in the regulations to exempt government agencies from the transactional SMS charge.

Table:1 A2P Off-Net SMSs (In Million)- March 2013

S.No	Service Provider	A2P (Transactional)		A2P (Promotional)	
		Originating	Terminating	Originating	Terminating
1	A	189	223	49	72
2	B	152	912	64	94
3	C	1,048	9	198	5
4	D	219	223	9	55
5	E	0.1	1	0.1	0.2
6	F	181	795	48	96
7	G	806	12	82	4
8	H	138	215	18	18
9	I	5	14	0.5	4
10	J	644	233	16	58
11	K	49	47	29	8
12	L	11	44	3	3
13	M	167	885	24	201
Total		3,609	3,613	539	617