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Telecom Regulatory Authority of India

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Reference: Consultation Paper dated 28th August 2024 on the Review of the Telecom Commercial Communications Customer Preference Regulations 2018

Dear Sir,

At the outset, we would like to express our gratitude to the Authority for engaging with stakeholders and providing the opportunity to share feedback on the issues related to the implementation of the Telecom Commercial Communications Customer Preference Regulations (TCCCPR 2018). We appreciate the effort in addressing challenges concerning commercial communications and telemarketing practices, especially in light of the issues outlined in the consultation paper.

The Audiotex & Audio-Conferencing Service Providers Association of India (AACSPAI) is an association of licensed entities that provide Audiotex and Audio Conferencing services, authorized under Section (4) of the Indian Telegraph Act 1885 by the Department of Telecommunications (DoT). Over the years, the TCCCPR regulations have seen four updates in 16 years (2008, 2010, 2014, and 2018), reflecting the industry's dynamic nature as consumer behavior and market dynamics continuously evolve.

We believe that certain ambiguities in the regulatory framework have presented challenges for Registered Telemarketers, while unregistered telemarketers continue to operate outside the regulatory boundaries. Addressing these ambiguities will help streamline the ecosystem for businesses that are already compliant, enhance consumer protection, and bring unregistered entities into the framework.

We offer detailed responses to the questions posed in the consultation paper, as elaborated below:

Executive Summary

In light of the above, we wish to highlight several key recommendations aimed at addressing the challenges posed by uncontrolled or unregistered telemarketers:

1. **Ban on GSM SIM Boxes:**
   To eliminate unauthorized bulk calling practices, we advocate for the immediate prohibition of GSM SIM boxes, which serve no legitimate purpose in the retail sector.

2. **Limiting SIM Cards per User:**
   We propose restricting the number of SIM cards to a maximum of 4 per individual (maximum 4 ASPs in the country), tied to the Aadhar Card. All SIM cards, including existing ones, should undergo mandatory eKYC to prevent misuse through bulk purchases and there should be a mandatory cooling down period of 90-120 days for issuance of any new SIM to the same subscriber once the first 4 SIMs have been issued.

3. **Regulating P2P Calls:**
   We recommend setting a cap of 50 P2P mobile calls per day, with a monthly limit of 500-600 calls (mean monthly calls + 2 sigma). This will effectively curb spam activities while accommodating genuine usage. Emergency calls may allow for an additional 10 calls using a designated prefix.

4. **Curbing Auto-Dialer and Robocalls:**
   In line with DoT Authorisation for Audiotex and Audio Conferencing and Audiotex TEC Specification 61054:2021 that includes Outbound Audio Play as a scope of the service, we advocate for the licensing of entities making auto-dialer calls on behalf of others, ensuring that only authorized players can engage in such activities. Additionally, entities making internal robocalls for non-commercial purposes should be exempt from licensing.

5. **Refining Spam Detection and Labeling:**
   The current Suspected Spam policy needs some improvement to avoid mislabeling genuine calls. A clear grievance handling system must be established to rectify any biases arising from incorrect classifications.

6. **Reviewing Controls for Service Implicit Calls:**
   Recognizing the wide range of service implicit calls, we recommend allowing financial institutions to choose between 160 number series or regular phone numbers for service calls to improve customer engagement.

7. **Implementing a Minimum Security Deposit:**
   We propose a minimum security deposit of Rs. 100,000 for all registered entities to enhance accountability. This deposit could be forfeited for severe violations, creating a strong incentive for compliance. However, any agency in the business to do auto-dial calls as a service provider for a 3rd party should be required to take Authorisation as Audiotex / Audio Conferencing Service Provider (renamed as Enterprise Communication Services Provider).

8. **Introducing Differential Tariffs:**
   We suggest implementing differential pricing for SIMs based on usage patterns to disincentivize unsolicited commercial communications (UCC). For instance, calls exceeding mean + 2 sigma could be charged Rs. 5 per call minute, while those above mean + 3 sigma could incur charges of Rs. 10 per call minute.

9. **Enhancing Complaint Registration Processes:**
   We recommend improving the processes for consent, preference, and complaint registrations to be more user-friendly and efficient. The establishment of a central Nodal Agency will facilitate the timely resolution of complaints, thus enhancing the overall regulatory framework

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Detailed Responses to the Questions:

Q1: Definitions of Messages and Calls

We propose that debt and loan collection calls be treated on par with transactional calls. These calls are essential for the functioning of financial institutions, and categorizing them as promotional or telemarketing calls could lead to customer reluctance in answering. Using 140 or 160 series numbers for such calls may create negative biases, reducing customer pickup rates.

Additionally, the RBI's Fair Practices Code for Lenders mentions that there should be no excessive or harassing phone calls to customers. However, there is no quantitative definition of

"excessive" calls, which leaves room for exploitation. To address this, TRAI should work in collaboration with the RBI to set a maximum allowable number of calls per day for collections. Establishing this limit will ensure that customers are not subjected to an overwhelming number of calls, while also providing clarity for telemarketers.

Q2: Consent for Receiving Promotional Communications via Auto-Dialers and Robo Calls
We fully support the view that auto-dialer-based promotional communications should require explicit consent from recipients. This ensures that consumers only receive calls that are relevant and expected.

That being said, many legitimate services rely on robocalls for time-sensitive notifications. These include emergency alerts, transaction notifications, and real-time service updates (such as flight delays or credit card fraud alerts). Imposing stringent restrictions on robocalls without distinguishing between promotional and service-oriented communications may have unintended consequences, including compromised safety or service quality for consumers. Therefore, **service or transactional robocalls should not be subject** to any restrictions.

Licensing Requirement for Auto Dial: Auto Dial services are a part of Audiotex TEC Specification 61054:2021. These are already licensed under the DoT Authorisation for Audiotex and Audio Conferencing and for TSPs. TCCCP Regulation should be aligned to this and licensing should apply to any company providing Auto-Dialer services on behalf of third parties. This will ensure that only compliant and responsible entities engage in this activity, thereby reducing spam.

Ban GSM SIM Banks: GSM SIM banks enable bulk robocalls using SIMs registered under individual names, which should not be used in such services. These are also used for toll-bye-pass and other grey market activities. To curb this, GSM SIM banks should be banned in India, as they are in countries like Ghana, Kenya, Nigeria, many European Countries and the U.S., where they are linked to fraud and face strict regulatory action.

Limit SIMs to 4 per Person and Enforce eKYC: Individuals often misuse 7-8 SIMs for bulk calling, then replace them every few months. To prevent this, a limit of 4 SIMs per person should be enforced, with mandatory eKYC for all users, including COCP (Company Owned Company Paid) SIM cards. SIMs without eKYC should be deactivated, reducing telephonic fraud. There should be a cooling off period for purchase of a new SIM once the limit of 4 has been reached and any new SIM should be allowed to be purchased only after 90 or 120 days of the previous purchase. The prevalence of dual SIM phones, and maximum 4 TSPs justifies that any retail user doesn't really have a need for more than 2 SIMs or at max 4 if they want to use all 4 operators.

Q3: Scrubbing Pre-Recorded Call Content

Pre-recorded calls, unlike text messages, cannot be easily scrubbed due to inherent differences in voice transmission. Background noise, varying speech patterns, and the presence of environmental sounds make it technically challenging to verify the content of voice calls. Instead, the focus should be on controlling the call throughput, restricting call frequency, and ensuring that telecom circuits are only accessible to licensed entities.

Many companies now use AI/ML technologies to dynamically generate pre-recorded messages using Text-to-Speech / Speech-to-Text systems. Given the complexity and proprietary nature of these technologies, attempting to regulate them through content scrubbing would be both impractical and prone to error. Instead, AI/ML-based systems can be employed to monitor and flag bulk calling patterns, as discussed in response to Q2.

Q4: Headers, Identifiers, and Caller Names

The recent introduction of Suspected Spam labeling by telecom operators is commendable, but there is a need for a robust grievance redressal mechanism to handle cases where genuine calls are wrongly labeled as spam. A grievance system will allow legitimate businesses to address any false positives and ensure that their services are not unfairly impacted.

We also propose the introduction of CNAM (Calling Name Presentation) capabilities in India, which would display the name of the caller on the recipient's phone. This will enable consumers to identify trusted service providers more easily. Audiotex and Audio Conferencing service providers, who often serve third-party enterprises, should also be permitted to display their names under this system. The implementation of CNAM will significantly enhance consumer confidence and reduce instances of spam.

Our suggestion for such naming convention on CNAM for end customers of UL Audiotex / Audio Conferencing Service Providers therefore is as follows:

- For **Unified Licensees providing Audiotex / Audio Conferencing**, we propose a structure similar to the SMS Header Sender ID:
    - The first 2 characters denote the licensee.
    - A unique identifier for the service provider or region follows (e.g., "AB-MYBANK15CHRCTRS"). Where AB are the initials allocated the Audiotex / Audio Conferencing Service Provider. Followed by a hyphen. Followed by 15 characters of Name of the Sending Entity.
- For **Standalone Licensees providing Audiotex / Audio Conferencing**:

- It is similar to the UK Service providers for AT / AC, except that the first 2 characters are followed by an SDCA (Subscriber Directory Code Area) code, for instance, "CD011" (Delhi) or "CD0612" (Patna), along with the Principal Entity's name.

Q5: Consumer Complaint Redressal

We recommend the establishment of an independent Nodal Agency to manage Do-Not-Call (DNC) complaints and enforce the regulations outlined in TCCCPR 2018. This agency could function similarly to the Mobile Number Portability (MNP) Operators, ensuring efficient management of the complaint handling process.

The Nodal Agency should be funded through contributions from telecom operators or from the Universal Service Obligation Fund (USOF). It could also generate revenue by offering DNC scrubbing services through API-based systems, charging a nominal fee (2.5p-5p) for each lookup. Such a setup will ensure that complaints are handled in a fair and efficient manner, benefiting both consumers and telemarketers.

Q7: Additional Modes for Complaint Registration and Preference Handling

While the existing mechanisms for complaint registration and preference handling are well-established, the challenge lies in their enforcement. Registered Telemarketers face strict regulations, while unregistered entities often escape scrutiny. To address this imbalance, we propose that all complaints be managed centrally by a Nodal Agency, which would ensure that penalties are imposed fairly and consistently.

A Rs. 5,000 penalty for the first genuine complaint (Rs. 10,000 for second complaint and Rs. 20,000 for every subsequent complaint), administered 100% through the Nodal Agency, would ensure that violators are held accountable without overly punitive measures such as closing entire circuits which can impact businesses. This would encourage unregistered telemarketers to come under the framework of TCCCPR regulations, fostering a more compliant ecosystem.

Q8: Proactive Detection of Spam via Honeypots and AI Systems

Customer feedback can often be biased; for instance, individuals receiving collection calls from MSMEs, banks, or NBFCs may provide false responses to harass creditors. Consequently, relying on such feedback is not advisable. Honeypots, which utilize sample data, can also be susceptible to bias.

With recent advancements in AI and ML, these technologies should be employed to identify impacted SIM cards. As noted in Table 2.3 of the consultation paper, fewer than 80,000 SIMs make over 100 calls per day, which is uncommon even in the most efficient call centers. Therefore, any P2P SIM exceeding this threshold is likely engaged in auto-dialing or robocalls.

SIMs making excessive calls should receive immediate SMS notifications to cease heavy usage. After 2 reminders (2 successive billing cycles) of exceeding throughput, calls from such SIMs should be suspended till users undergo eKYC reverification. On second violation, a fine of Rs.10,000 may be imposed for restoring service, requiring a NOC from the local LSA that these SIMs are not being used for commercial purpose. On the third violation, the SIM should be permanently blocked.

Capping and Emergency Usage:

GSM subscribers should be limited to a maximum 50 P2P mobile calls per day, with a maximum of 500-600 calls per month per SIM. Justification for 500-600 calls per month is that a user may need to do 50 P2P calls for 3-5 successive days due to any outlier event, but as soon as a user is found to be doing multiple calls daily, these should then be flagged as 'continuing bulk calls' and these should be limited.

This daily limit can be statistically determined (Mean + 2 sigma), covering 95% of users. The remaining 5% are expected to be bulk callers, who may be allowed an additional 10 calls for emergencies using a three-digit prefix. Users will receive SMS alerts when they approach their limits. The successful implementation of a daily cap of 20 calls has shown no reported issues, suggesting that 500-600 monthly calls are sufficient for legitimate retail use.

To minimize service disruptions, caps may initially start at 3 sigma (99.7%) and progressively reduce to 2.5 (99%) or 2 (97%) sigma levels, with SMS notifications for monthly and daily call limit being reached sent at 70%, 80%, and at every 1% increase from the 90% level of call limits.

Exception:

It's important to recognize that many companies use call forwarding to maintain a single mobile number for brand identity, leveraging MNP. Such cases should be considered genuine.

Q9: Financial Disincentives for Violations by Access Providers

A graded penalty system should be introduced for Registered Telemarketers (RTMs) and Unregistered Telemarketers (UTMs). Initial penalties could start at Rs. 5,000 for the first

warning, escalating to Rs. 10,000 for subsequent violations. This would create a strong disincentive for non-compliance while ensuring that penalties remain reasonable.

To prevent UTMs from circumventing the system by discarding SIM cards, a policy should be implemented requiring that all penalties be cleared before new SIMs can be activated. Additionally, limiting the number of SIMs per subscriber to four will further enhance control and accountability.

Q11: Strengthening the Code of Practice for Telemarketers

The Code of Practice (CoP) should focus on strengthening regulations for unregistered telemarketers (UTMs), as they are responsible for the majority of spam. The provisions should include strict limits on call volumes, with penalties for exceeding allowable thresholds.

For the 140 and 160 series number blocks, we suggest that these circuits be enabled for both inbound and outbound calls. This would improve their adoption by large organizations and ensure that legitimate service calls are not affected. Additionally, financial institutions should have the flexibility to choose whether to use the 160 series for service implicit calls, depending on their operational needs.

Q12–Q16: Differential Tariffs for Voice and SMS

We propose implementing a differential tariff structure for voice and SMS based on usage limits. Calls exceeding certain thresholds (e.g., mean + 2 standard deviations) should incur higher tariffs, discouraging excessive calling by telemarketers while remaining fair to regular users.

For example, users making calls within one standard deviation of the mean should not face any additional charges, while those exceeding two or three standard deviations should face progressively higher tariffs. This system will encourage responsible use of telecom services while disincentivizing spammers.

We propose a structured differential tariff system based on user call patterns to discourage unsolicited communications. The proposed limits for voice calls could include:

- **Mean +<1 Sigma (84%):** No differential pricing
- **Mean +>1 Sigma up to +<2 Sigma (97.73%):** Rs. 2 per call minute
- **Mean >+2 Sigma up to +<3 Sigma (99.87%):** Rs. 5 per call minute
- **Mean >+3 Sigma (>99.87%):** Rs. 10 per call minute

This should be clubbed with Service Level Restrictions as suggested in our response to Q8.

We trust that our detailed responses and suggestions will contribute positively to the ongoing consultation process. We appreciate the opportunity to provide our input and look forward to the outcomes of this important regulatory review.

Yours truly,

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