

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)

- 1) Telemarketing is a global phenomenon with developed telecom market. There has been a sharp increase in marketing and advertising activities through telephone call and SMS with the exponential growth of mobile telephone in the country. However, these commercial telemarketing calls by individuals and business entities create annoyance/ dissatisfaction to consumers at times.
- 2) Telemarketing is now a large industry that has generated useful employment and a portion of the population learn about different products and services through telemarketing calls.
- 3) We believe that the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) in its present form has been very successful in considerably reducing the UCC calls. However, it has not been very effective in addressing the increase in the unsolicited commercial communications via SMS.
- 4) We feel that primary reason for ineffectiveness in the implementation of UCC regulation 2007 can be mainly attributed to low registration of telemarketers with DOT, unregistered telemarketers, unstructured business models of telemarketers, non-jurisdiction of the Authority to directly penalize the telemarketers. Although some of the subscribers are receiving UCC, they do not register themselves on NDNC Registry because they are not disturbed to the extent of taking action of registering which has been made so simple. This is evident from the statistics that only 11% of the telephone subscribers are registered on NDNC registry.

Proper framework encapsulating the various norms to regulate telemarketers in a structured is the way forward to implement the existing regulations on UCC.

4.2 Do you feel that there is need to review the existing regulatory regime of Unsolicited Commercial Call (UCC) to make it more effective? What needs to be done to effectively restrict the menace of Unsolicited Commercial Communications (UCC)? (Reference Para 2.3)

- a) We feel that the present regulatory regime is sufficient to take care of the unsolicited commercial calls with a mandate for each and every telemarketer to register itself with DOT and follow the guidelines issued for the purpose. Once the telemarketers are registered, they are bound to function within the necessary frame work thereby containing this problem of unsolicited calls.
- b) We firmly believe that if the current UCC Regulation can be implemented & enforced in entirety, the menace of UCC can be curbed. There is definitely a strong reason for the current process to be made robust and meaningful to the present context. We have made a decent progress and have learnt from the shortcomings of the implementation of the current UCC. The need of the hour is to put into place and implement the learnings to make the current laws more effective rather than scrap the whole process and start up from scratch.

- c) Increase awareness among customers regarding NDNC Registry through regular advertising in dailies.
- d) TRAI should mandate a central data base to be maintained and shared by all operators of blacklisted TMs on a regular basis.
- e) TRAI should allow online scrubbing of the NDNC database with all the operators at least four times in a month.

4.3 Do you perceive do call registry to be more effective to control Unsolicited Commercial Communications as compared to present NDNC registry in view of discussions held in para 2.4 to 2.9? Give your suggestions with justification. (Reference Para 2.10)

- a) We perceive that existing system of NDNC registry is a workable solution with adequate measures in place to have check and balance to regulate UCC.
- b) We do not believe that Do Call Registry would be more effective as compared to the present NDNC registry, in controlling the UCC calls and SMSs as the key challenges of enforcement and subscriber awareness will still exist.
- c) "Opt-in" approach offers no greater privacy protection than the "opt-out" approach. There is little difference in the privacy protection provided by "opt-in" and "opt-out" systems: under either system, it is the customer alone who makes the final and binding determination about data use. Shifting from an "opt-out" system to an "opt-in" system does not increase the privacy of the subscriber.
- d) The Opt-in type has got serious issues and concerns. How the system would be able to differentiated opt-in for a service when it receives SMS for another service? The permutations and combinations to manage such a system will be highly complex and detrimental to the whole exercise
- e) Further, it also has to be kept in mind that there is a large section of subscribers who are not at all averse to receiving UCC calls and UCC SMSs. It has been observed that most of these subscribers come from the bottom of the pyramid and these UCC calls and SMSs are actually a source of information for them. This is one of the reasons why only 11% of total subscribers have registered.

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)

Strong wide spread framework of registration 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 telemarketer is found to be making unsolicited commercial communications.

The service providers should share the data regarding blacklisted Telemarketers between themselves. A common industry database should be created to minimize default telemarketers from seeking resources from other operators.

4.5 Do you agree that maximum number of calls as well as SMS per day from a telephone number (wireless as well as wire line) can be technically controlled to force telemarketers to register with DoT? What other options you see will help to effectively control telemarketers? (Reference Para 2.12.4)

a) Yes. Technically it should be possible to control the number of calls and SMS by putting a limitation to encourage telemarketers to register themselves with DOT. But, this is not a perennial solution. We, therefore, recommend registration of telemarketers would be the only solution.

b) As stated in our response to issues at 4.2, we recommend that since Telemarketing is a source of revenue for small businessmen and their revenue is directly proportional to the number of SMS/ voice calls made, any restriction on maximum number of calls as well as SMS per day will not help in curbing the UCC. To circumvent this restriction/ limit on the number of calls & SMS, the Telemarketers would take more resources and distribute his daily calls/ SMS over these resources so as to ensure compliance to the daily limit.

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)

Operators can not have a second screening at the SMSC level and effectively control unsolicited SMSs. This will not help effectively restrict operation of unregistered Telemarketers.

4.7 What changes do you suggest in existing provisions to control the Unsolicited Commercial Communications effectively? Give your suggestion with justification. (Reference Para 2.13.6)

The existing TRAI's Regulation is sufficient to control UCC. It is the telemarketers who are responsible for all unsolicited commercial calls and the onus must lie on them. Service providers are mere carriers of messages and penalizing them would not only be unfair but also be against the spirit of cooperation which is the basis of UCC Regulation and in view of that the onus of violation of UCC norms/ rules should be squarely with the telemarketing callers and not service providers.

We suggest that TRAI should allow online scrubbing of the NDNC data base with all the operators at least four times in a month. This modification in the existing mechanism would help curb the UCC.

4.8 Do you agree that present panel provisions to charge higher tariff from telemarketers are resulting in undue enrichment of service providers? What penalty framework do you propose to effectively control UCC without undue enrichment of service providers? (Reference Para 2.13.7)

- a) We are of the view that the present provisions do not enrich the service providers. We feel it would be highly unfair if service providers are subject to penalty especially when they are making sincere efforts to implement UCC Regulation and working to make it more effective.
- b) We also believe that current penalty amount is reasonable which do not result in undue enrichment of service providers.
- c) Going forward, we suggest that TRAI should penalize the telemarketer.

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)

The present complaint booking mechanism is generally effective and proper legislative frame work would make it more effective.

However, to strengthen it further we endorse Authority's suggestion for a uniform SMS text such as COMP TEL NO. xxxxxxxx, dd/mm/yy, Time, to toll free No.1909 to further simplify the complaint booking.

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)

- a) UCC can only be addressed through a proper legislative framework. Countries like United States, the United Kingdom, Australia etc. have introduced legislation for all businesses engaged in telemarketing.
- b) We agree with the suggestion of the Authority that specific agencies and departments could be established to enforce laws and regulations and frame the Code of Practice which the telemarketers must follow.
- c) These rules could 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. Hence, as suggested by TRAI, there is need to enact new legislation to deal with the issue of UCC.
- d) Further, there could be appropriate consumer UCC complaints redressal mechanism that may include redressal through consumer courts.

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)

The present system of 'opt out' model would be more appropriate to continue and for the sake clarity, we propose following definition.

We believe that there is a need to change the definition of Unsolicited Commercial Communication for NDNC (and not NDCR) and the same should be modified as :

“unsolicited commercial communication” means 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 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) any message 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;

(iv) any communication from the Operator to its OWN subscribers regarding new services or loyalty benefits or information regarding network expansion..”

4.12 Do you feel that proposed framework to register on NDCR will be user friendly and effective? What more can be done to make registration on NDCR more acceptable to customers as well as service providers? (Reference Para 3.7)

No Sir, Service providers are taking various measures to increase the effectiveness of the NDNC Register. They have been spreading awareness amongst subscribers for registration in NDNC register and encouraging telemarketers to register with DoT as telemarketers. The service providers have also started monitoring those registered telemarketers who do not scrub their caller lists.

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)

We are of the view that the present NDNC registry is sufficient.

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)

Our views are that converting NDNC to NDC registry at this state would be an expensive proposition and hence it would be more ideal to improve the effectiveness of the present NDNC.

4.15 In view of the discussion held in para 3.9, which option of charging and funding model do you suggest for procuring the data from National Do Call Registry by telemarketers? What should be the various provisions you want to incorporate in suggested model? Giver your suggestion with justification. (Reference Para 3.9.5)

AND

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

We feel that there is no need to go for Do Call Registry.

The essence of NDNC or Do call Registry is that in case of breach action needs to be taken swiftly and strictly. The penalties should pinch. When we have learnt so much about NDNC in last 3 years, we should use that experience and make the implementation of NDNC stricter rather than trying new methods like Do Call Registry.

In light of our response to questions 4.1 to 4.11, we believe that the “National Do Not Call Registry” should be continued **and the focus of the review should be on enforcement and foolproof implementation of the same.**
