

Dt. 17/08/2012

Advisor (CI & QoS)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
J.L.N. Marg, Old Minto Road
New Delhi-110 002

Sub: Submission of comments against TRAI consultation paper on “The Telecommunication Commercial Communications Customer Preference Regulation (TCCCP), 2010”

Dear Sir,

Thanks for inviting comments on the proposed amendment to TRAI regulations on “**The Telecommunication Commercial Communications Customer Preference Regulation (TCCCP), 2010**”. We request you to kindly consider the following points for point numbers 5, 6 and 7 of **Issues for Consultation** which we feel relevant. It is also believed that unless there is a robust complaint system and implementation monitoring in a transparent manner, whatever technology is adapted or whatever restrictions are imposed, there would always be a tendency to abuse the process by the violator. This problem is quite prominently noticed in the unorganised trade like real estate and even some connections are being used for multiple trades in combination. The TSPs need to be more cautious in issuing multiple connections with the same ID.

1. **Q.No. 5 (2.3): Allowing Non-NCPR registered subscribers to complain against violation of existing regulations on UCC viz. point No. 1 to 4 and 6 as brought out hereinafter. It is pertinent to mention that the beneficiary of these regulations is mostly in the category of Non-NCPR registered subscribers. As there was no system of complaint reporting for violation of these regulations to the stakeholders, the telemarketers got encouraged to bring back the situation at the same level as was prevailing before issue of UCC regulations. The statistics as reported in the consultation paper does not prove that the number of complaints has been reduced as numerous complaints are not even reported due to time consuming processes. Even in the case of NCPR registered category, the subscribers are getting telemarketing calls and messages (primarily from un-registered telemarketers) as many as 30 per day. Reporting such violations to the stakeholders require time of about 2 hours a day.**
2. **Q.No. 6 and 7 (2.4):**
 - a. **Provide a complaint registration facility through an on-line complaint system for both categories of subscribers i.e Non-NCPR and NCPR registered subscribers. The online complaint handling system is proposed to be on a common centralised platform exclusively for UCC for effective monitoring and implementation as also some of the data is also to be captured from centralised database of NCPR. The complaint registration form is proposed to be kept very simple and minimum number of fields to be filled in at the time of complaint registration. It has been proposed in the following paragraphs. In our view the implementation time for such a system may not exceed three months.**
 - b. **It is also proposed to provide “Payment per complaint basis” to the sufferer of telemarketing business i.e. the recipient of the telemarketing call. It is recommended that the amount may be enhanced in a phased manner so that it should be an act of deterrent to the telemarketer initially with penal provision in the subsequent phases.**
 - c. **MIS reporting system in a limited way to the public to ensure transparency**

The detailed explanation to the above points is brought out in the following paras.

- I. There is a need to refer to TRAI Regulations on “**The Telecommunication Commercial Communications Customer Preference Regulation (TCCCP), 2010**” implemented w.e.f 27th September 2011. The following six regulations are backbone to the efforts of successful

implementation of Telecommunication Commercial Communications Customer Preference Regulations and hence require special attention for its successful implementation.

- “
- 1. All the telemarketers are required to be registered with TRAI for the purpose of telemarketing business.**
 - 2. All the telemarketing calls and SMS are to be carried out during 9.00 AM to 9.00 PM**
 - 3. All the telemarketing calls should originate from a number series of 140xx xx xxx so that the receiver of the call can identify the incoming call as telemarketing before opting to receive or not.**
 - 4. All the telemarketing SMS should be sent with a 9 alphanumeric character code or identifier and no message of telemarketing nature can be sent through any mobile number.**
 - 5. There cannot be telemarketing call to a number which is registered with NCPR. It means the customers who have got their mobile number registered with NCPR cannot receive any call or SMS of telemarketing nature at any cost.**
 - 6. Customers not registered with NCPR can also identify the commercial calls because they will all come from numbers starting with '140'. This is a series specially earmarked for telemarketers.**
- ”

It could be seen from the above regulations, these conditions from S.No. 1 to 4 and 6 are the basic conditions for any business of regulated telemarketing and equally applicable for both categories of subscribers i.e. the subscribers who are registered with NCPR and also those subscribers who are not registered with NCPR. In view of this explanation, it becomes imperative that there should be a system where the Telecom stakeholders become aware of violation of any of the regulations for its effective implementation. The original regulations do not have any system of complaint registration for that category of subscribers who are not registered with NCPR. There cannot be any reasoning in understanding that the telemarketer can violate the regulations at S.No. 1 to 4 and 6 for the subscribers who are not registered with NCPR and are violation in the case of subscribers registered with NCPR. On the other hand if there is no complaint registration system for the violations, adhering to the regulations and its monitoring is not possible making the exercise as “Redundant”. There could also not be two interpretations as to the above conditions are violative for one set of subscribers who are registered with NCPR and is not violative for other set of subscribers who are not registered with NCPR. If any of the condition at S.No. 1 to 4 and 6 has not been adhered to by the Telemarketer; it needs to be considered as “Violation” irrespective of the category of subscriber i.e Non-NCPR and NCPR registered subscribers. Violation of the regulations is a violation in any case and if there is no provision to lodge a complaint w.r.t to these 6 regulations, the tendency of telemarketers to violate would increase and become uncontrollable as there would be no mechanism to ensure that the calls are getting originated from the registered telemarketers only. In view of the above, it is recommended to include provisioning of Complaint System for Non-NCPR registered subscribers to submit a complaint for violation of any of the condition at S.No. 1 to 4 and 6.

- II. While there is a provision to levy a penalty on the telemarketer who violates the regulations for NCPR registered subscribers and the amount of the penalty is to be deposited with the exchequer, there is no provision to award any amount to the subscribers who are suffering due to nuisance of telemarketers. This is also one of the reason for which the customers are not coming forward to complain through a tedious process and pass through further trauma who initially have already been harassed by receiving a telemarketing call and further being harassed through a complaint submission process. Even receiving the telemarketing call in violation of the regulations specially w.r.t a call from a number other than 140 series would have caused a direct financial loss to the subscribers e.g the subscriber would have received a call during roaming. In view of the foregoing it is recommended to amend the regulations to cover payment by way of a penalty to the subscribers on a per complaint basis to cover for the sufferings. This may also include the violations in respect to above mentioned six regulations for any category of subscriber i.e NCPR and Non-NCPR registered subscribers. The payment to the subscribers may be through a credit to the prepaid number within 7 days and for the post paid subscribers should be reflected in the next billing cycle. This would ensure a true picture before all stakeholders of curtailing nuisance of telemarketing calls.
- III. The system of complaint handling through the web-site may also offer the feature of complaint tracking system in addition to MIS report generation in a limited way to the public which would give a transparency specially on the following points pertaining to No. of violations by (i) a

particular telemarketer based on Mobile No., 140 series no., and alpha-numeric code, (ii) The principal originating telecom service provider and (iii) Amount of penalty recovered,

On line complaint registration for UCC

I. In addition to complaint procedure through SMS, an on-line system of complaint in a very simplified way could be provided and it may be a common system. It may not ask for un-necessary details to be filled up in the complaint form. It is recommended a simple form to capture following details:

1. Mobile Number of the subscriber
2. Whether registered with NCPR : yes or no (in a drop down menu or from the NCPR database)
3. Preferential category of NCPR registration (as defined in the main regulation)
3. Number from which the telemarketing call originated (Non-NCPR subscribers should not be able to complain for any call originated from 140xx xxx xx series number or the 9 alpha numeric identifier codes)
4. Date and time of telemarketing call
5. Subject of the telemarketing call (with drop down menu of code and the subject as defined in TCCCP regulations)

The system may be able to facilitate logging of multiple complaints in a single form so that the subscriber is able to log all his complaint with a single login. The suggested complaint registration form may somewhat look like as per following sample

1. **Name of the complainant:**
2. **Mobile Number of Subscriber:**
3. **Registered with NCPR : Yes/ No (auto capture from the NCPR database)**
4. **Preferential category of registration: (auto capture from the NCPR database)**

S.No.	Mobile Number/ Alpha-Numeric Code	Date of Receipt of call /SMS	Time of Call? SMS	Code category of telemarketing call /SMS
1				
2				
..				
..				
10				

5. **Complaint tracking through a Docket No.**
6. **A benchmark of 7 days to resolve the complaint**
7. **In case complaint is found genuine, the payment on the basis of per complaint of violation may be credited to the subscribers within i) 7 days in case of pre-paid subscribers and ii) in the next billing cycle in case of post-paid subscribers.**
8. **The connection of the unregistered telemarketer may be terminated in case the number of complaints of UCC exceeds certain benchmarks**
9. **Financial dis-incentive to the originating telecom service provider in case complaints violations by the unregistered subscribers belonging to the originating TSP exceed certain numbers**

Thanking you,
Yours sincerely

(S.K.Virmani)
Project Manager
Mob No. 9868170286
Email: skvirmani@gmail.com / schkrmp.iipa@gmail.com
www.consumereducation.in / www.consumeradvice.in
<http://www.facebook.com/grahakjago>
<http://jagograhak.blogspot.in/>