

Shri Asit Kadyan, Advisor (QoS)
Telecom Regulatory Authority of India ("TRAI"),
Mahanagar Door Sanchar Bhawan,
J.L. Nehru Marg, (Old Minto Road),
New Delhi - 110002, India

16th November, 2017

Dear Sir,

(Subject: Counter Comments for the Consultation Paper on Unsolicited Commercial Communication dated 14th September, 2017 issued by TRAI)

Please find below our counter comments to the Consultation Paper as referred to in the above captioned subject, populated after having gone through the responses from other industry stakeholders:

A. Following are the additional suggestions that we would request you to consider, which are based on the subject matters not covered under the Consultation Paper -

Cost: As suggested by several other stakeholders, implementation of new suggestions will lead to additional cost. We agree that TSPs are already facing financial stress. Similarly RTMs are also facing financial stress due to hyper competition. For any recommendation to be implemented by the participants in the present UCC ecosystem, a cost benefit analysis should be done. The cost of regulatory compliance could be borne by TRAI or added as a regulatory compliance surcharge fee to be paid by the CP. In the past the entire cost of regulatory compliance has unfortunately been borne by either the TSPs or RTMs.

ILDO: We feel that regulations related to ILDO have not been clearly spelt out as the same come into effect only through certain clauses of the draft Agreement to be signed between the TSPs and RTMs prescribed as Schedule-VII under the 16th Amendment of the present regulations, whereas main body of the 16th Amendment is related to two-way traffic only with no mention of ILDO traffic whatsoever. Consequently, there is a lot of ambiguity as on date regarding ILDO traffic. Multiple interpretations around which traffic should be considered as ILDO traffic exist. RTMs are not able to justify the varying stance of TSPs to the CPs. This is a major grey area and leads to arbitrary usage of telecom resources. We request the Authority to spell out clear directions on what constitutes as ILDO traffic.

VMN (10 digit Long Code) as a Header: We would like to request the Authority that VMN should be allowed as a Header for two way traffic. This restricts reply path and lot of interactive use cases cannot be made live on SMS. Most countries allow this and in mobile first country like India, two way interactions between the CP and the consumer is a vital use case to be supported by the UCC ecosystem.

Toll Free Short Code: We would like to request the Authority to create a provision for a Toll Free Short Code on SMS just like the Toll Free numbers on the voice side. These should work across all TSPs. There can be specific number series which can be allocated by DOT for SMS Toll Free Short Codes.

MNP: We would like to request the Authority to allow MNP data access to RTMs in real time. This will allow RTMs to use the home operator for providing better QoS to CPs.

B. The following section has our original response in italics and any addition wherever applicable is mentioned thereafter under the head "Counter Comment" -

Q.1 To what extent, time required for registration and enforcement can be reduced? For achieving reduced time lines, what changes in processes or in different entities e.g. PCPR, NCPR, CPDB may be required? Will providing scrubbing as a service for RTM reduce time? Please give your suggestions with reasons.

As we are not a stakeholder in first part of this issue, no comments are being submitted. However, in reply to the second part of this issue, please note that if the RTMs obtain scrubbing as a service from any third party, delays are expected and instead of reducing time, it will increase the time. Moreover, RTMs already have scrubbing technologies and can perform this task independently at a faster pace.

Counter Comment:

RTMs should be given real-time access to NCPR data over HTTP APIs. Currently RTMs get this data twice a week.

Q.2 How to ensure availability of Mobile Apps for registering preferences and complaints and for de-registration for all types of devices, operating systems and platforms? Whether white label TRAI Mobile App may be bundled along with other Apps or pre-installed with mobile devices for increasing penetration of app? For popularizing this app, what other initiatives can be taken? Please give your suggestions with reasons.

Our Comment: Existing Mobile Apps of access providers available for use of subscribers can be upgraded to include registration, de-registration and complaints. However, using mobile app is a lengthy process which includes steps such as discover, download, install and interact and hence feasibility of a mobile app in current case is questionable. As an alternative, chatbots can be deployed to perform this task, which is not only an interactive means but is also time saving at the same time. Moreover, recent researches have proven the preference of people to use chat as a medium of communication over any other media. Efficient multi-functional bot generator platforms like Surbo are available in the market which have eased the manner in which intelligent bots can be generated, deployed and operated. Such platform could be used by the prescribed for

use by access providers or used by TRAI, as the case may be, to botify the process. Chatbots could be made available in the following manner:

- a. Link on TRAI site for bots**
- b. Users can send MO SMS to VMN (easy to remember mirror number) and fetch the bot link, instead of sending SMS to current short code in per defined format**
- c. At larger scale, brands can be conveyed to send bundled messages with their normal messages, and send the bot link to popularize the BOTS adoption**
- d. User can give miss call and reply SMS will be sent with bot link**

Q.3 In case of Mobile Number Portability (MNP), what process may be defined for retaining the status of customer for preference registration? Please give your suggestions with reasons.

Our Comment: It is suggested that the preference registration should remain intact in case of MNP. It should be the responsibility of the previous access provider to convey the status of registration to the new access provider, which shall be recorded and adhered to by the new access provider.

Q.4 How bulk registration may be allowed and what may be the process and documents to register in bulk on behalf of an organization or family? Please give your suggestions with reasons.

Our Comment: As we are not a stakeholder in this issue, no comments are being submitted.

Counter Comment:

The current NCPR data does not truly capture consumer volition. It is well known industry knowledge that TSPs have done bulk registrations based on the monthly ARPU. TRAI should recommend TSPs to reverse such registrations done in the past. TSP should not exercise the choice on behalf of the consumer (TSP playing God !!). Facility of Bulk registration is subject to abuse.

Q.5 Is there a need to have more granularity in the choices to actually capture customers interest and additional dimensions of preferences like type of day, media type(s)? What will be impact of additional choices of preferences on various entities like CPRF, PCPR, NCPR, CPDB etc.? Please give your suggestions with reasons.

Our Comment: It is suggested that considering the huge size of subscriber base, the application of further granularity is not practicable. We submit that segregating the data in existing categories itself is complicated to handle and it also becomes difficult to categorize communications into one category. Therefore, we recommend that even the existing categories be dissolved and the customer either decides to receive promotional communication or blocks the same by registering a request. Adding further granularity would complicate the processes, while it is the endeavor of our Government to simplify the same.

Counter Comment:

By going through other responses it is clear that there are divergent views. Consumer should not be subjected to a complicated preference register. Furthermore, even the previous preferences

were not adopted by the Consumer. Adding more preferences will have compliance issues as well as complicate UCC complaint resolution.

Q.6 Should the scope of UCC regulation be enhanced to include unwanted calls like silent, obnoxious, threatening calls etc. and unauthorized communications? What role government or constitutional organizations may play in curbing such activities? Please give your suggestions with reasons.

Our Comment: Yes, the scope of UCC regulation should also be enhanced to include the above categories. The enforcement of Information Technology Act, 2000, as amended, be strengthened so as set concrete examples in case of violations to curb the abuse.

Counter Comment: By reading other views, we feel that this matter should be outside of the UCC theme.

Q.7 What steps may be taken to address the issues arising from robo-calls and silent calls? What are the technical solutions available to deal with the issue? How international co-operation and collaboration may be helpful to address the issue? Please give your suggestions with reasons.

Our Comment: As we are not a stakeholder in this issue, no comment has been added.

Q.8 For robust verification and authentication of telemarketer getting registered, what changes in the process of registration, may be introduced? Please give your suggestions with reasons.

Our Comment: An additional measure of authentication of email and phone number through one time password (OTP) and further verification of mobile number and email on regular basis may be introduced to strengthen the process.

Q.9 Should registration of other entities such as content providers, TMSEs, Principal Entities, or any other intermediaries be initiated to bring more effectiveness? Whether standard agreements can be specified for different entities to be entered into for playing any role in the chain? Please give your suggestions with reasons.

Our Comment: As the number of unregistered TMSEs, content providers, principal entities and other intermediaries is huge, it is neither practical to secure their registrations nor to enforce standard agreements for them. Even if such registrations and standard agreements are brought into force, it is not possible to have a tracking mechanism in place to test its adherence.

Q.10 Whether new systems are required be established for the purpose of header registration, execution and management of contract agreements among entities, recording of consent taken by TMSEs, registration of content template and verification of content? Should these systems be established, operated and maintained by an independent agency or TRAI? Whether agency should operate on exclusive basis? What specific functions these systems should perform and if any charges for services then what will be the charges and from whom these will be charged? How the client database of TMSEs may be protected? Please give your suggestions with reasons.

Our Comment: In case a system of header registration is brought into effect, the headers would become exclusive to the entities applying for registration at the first instance and might give rise to conflict where such header is subject to trademark dispute or potential trademark dispute. Further, in case the registration of header is imposed, it will not be practicable to determine whether the potential registrant is the owner of brand name or not and any wrong determination could lead to abuse of header by third party which is otherwise not the beneficiary of brand name incorporated in the header. For instance, there could be multiple entities having similar tradenames and/or trademarks where they could be using the same for similar or different products and determination of any particular party's right over the sender id based on the said tradenames and/or trademarks would be a herculean task, being out of the ambit of access provider. Therefore, the registration of header should not be proceeded with. However, a grievance mechanism should be brought into effect, wherein grievance officers should be appointed within TRAI. Any party aggrieved due to use of a particular header must be entitled to raise grievance regarding such dispute and a time bound resolution process should be in place to resolve the grievance. In such cases, proper proceedings must be conducted to decide on the right of a particular party over a sender id and on the basis of disputing parties' representations, the sender id could be declared as absolutely exclusive or product-wise exclusive for particular entity. A negative list of the said exclusive ids as restricted ids should be populated and shared with the access providers, as and when updated and the access provider shall enforce the restrictions only on the said sender ids, while any other sender id, except where against the public policy, would be open to use for any person.

Counter Comment:

Please refer response to question number 14.

Q.11 Whether implementation of new system should full-fledged since beginning or it should be implemented in a phased manner? Whether an option can be given to participate on voluntary basis? Please give your suggestions with reasons.

Our Comment: As we are not in favor of registration of all the content providers, principal entities and other intermediaries, this is not relevant in our case.

Counter Comment:

The implementation should be in phased manner. Please ignore above comment, we misinterpreted the question.

Q.12 Whether scrubbing as a service model may be helpful for protection of NCPR data? Whether OTP based authentication for queries made by individuals on NCPR portal may be helpful to protect NCPR data? What other mechanisms may be adopted to protect the data? Please give your suggestions with reasons.

Our Comment: As we are not in favor of having scrubbing as a service in place due to expected delays, an alternative way to protect NCPR data would be to have amendments in existing Standard Agreements between access providers and RTMs to include data protection and confidentiality obligations towards the NCPR data.

Q.13 What interface and functionality of NTR system may be made available to Principal entities for managing header assignments of their DSAs and authorized agents? How it may be helpful in providing better control and management of header life cycles assigned to DSAs and authorized entities? Please give your suggestions with reasons.

Our Comment: As we are not in favor of registration of the principal entities, this is not relevant in our case.

Q.14 What changes do you suggest in header format and its structure that may be done to deal with new requirements of preferences, entities, purpose? How principal entities may be assigned blocks of headers and what charges may be applied? What guidelines may be issued and mechanism adopted for avoiding proximity match of headers with well known entities? Please give your suggestions with reasons.

Our Comment: Regarding the header format and structure, it is suggested that as SMS supports 11 character headers, entire 11 alphanumeric characters be allowed for use irrespective of the nature of the SMS. Further, prefix for transactional header be restricted to single character denoting the first letter of the access provider's name and the second character denoting circle should be done away with as it does not have any role to play in the process and the header for promotional messages should include the first two letters as prefix where first letter would denote the nature of message being promotional i.e. "P" followed by first letter of access provider's name. The remaining characters after the prefix followed by hyphen "-" be allowed to be used as brand identifier. This would lead to clear identification of the sender as the increased length of characters would allow the brand to clearly convey its brand name, thereby reducing a chance of abuse or ambiguity. As regarding the exclusivity of sender ids, we have recommended to have a grievance mechanism in place, we suggest that a fees may be imposed on the disputing party to initiate the grievance, which fees would act as a deterrent to false grievances and at the same time would also provide for charges towards granting exclusive sender id to the disputing party in case the grievance is decided in its favour. The proximity match could be resolved on the same principal as the trademark is registered by the trademark authority, wherein first preference should be given to party having registered trademark for a particular brand name and in case neither party has a registered trademark then the party who has first put to use the said brand name would be given preference over the other party(ies).

Counter Comment: By reading other views, we suggest the following for header registration:

1. The amendment to the regulation should ensure the following:
 - a. Actual CPs to be penalized instead of RTMs. RTMs are just content carriers.
 - b. Header shouldn't get misused by inappropriate CP.

Q.15 Whether voice calls should be permitted to TMSEs and how these can be identified by the customers? How intelligent network (IN) or IP Multi-media subsystem (IMS) based solutions may be useful for this purpose and what flexibility it may provide to TMSEs in operating it and having control on its authorized entities? Please give your suggestions with reasons.

Our Comment: As we are not in favor of registration of all the unregistered TMSEs, content providers, principal entities and other intermediaries, this is not relevant.

Q.16 What steps need to be initiated to restore the sanctity of transactional SMS? What framework need to be prescribed for those transactional SMS which are not critical in nature? Please give your suggestions with reasons?

Our Comment: It is recommended that the definition of transactional message should include communication from the sending entity to its registered customers regarding offers related to its own products. This will allow the subscriber to gain benefit out of the offers run by the brands with which he/she has registered as a customer. Further, as suggested before, the header length of 11 characters should be allowed and alphanumeric header be allowed to be used for promotional messages too. This would discourage the sending entities to utilize the transactional routes for sending promotional messages as the prime reason of pushing promotional content through transactional routes seems to be the brand visibility on the header of transactional messages. Differentiating between critical and non-critical transactional messages is practically difficult and hence should not be considered. Also, non-critical pure transactional use case works fine as of now as well, that doesn't lead to any complaints or concern for end user.

Q.17 To what extent, present gap between time when UCC complaint was made and time when this was resolved can be reduced? What changes do you suggest to automate the process? Please give your suggestions with reasons.

Our Comment: This process needs to be online and real time. Currently it's all offline. TRAI or telecom operators can be asked to create a portal where complaints can be uploaded, and responses can be uploaded there itself. All RTMs will have login to this portal. Acceptable opt-in options/formats to be defined to simplify the complaint closure process.

Q.18 How the medium of Customer Complaint Resource Functionality (CCRF) with pre-validation of data e.g. Mobile App, Web Portal etc. may be helpful to achieve better success rate in complaint resolution process? Please give your suggestions with reasons.

Our Comment: As we are not a stakeholder in this issue, no comments are being submitted.

Q.19 Whether access providers may be asked to entertain complaints from customers who have not registered with NCPR in certain cases like UCC from UTM, promotional commercial communication beyond specified timings, fraudulent type of messages or calls etc.? What mechanism may be adopted to avoid promotional commercial communication during roaming or call forwarding cases? Please give your suggestions with reasons.

Our Comment: Complaints from non-NCPR customers must not be entertained as it would lead to abuse of the regulations at a mass level. Complaints related to fraudulent messages and calls fall under the ambit of other legislations such as Criminal Procedure Code, Indian Penal Code and Information Technology Act, various remedies are available to the subscriber with enforcement authorities and hence it would lead to duplicity in the legislation and ambiguity in enforcement. As the promotional commercial communication can be identified through the 140 prefix, the subscriber has a choice to receive or reject a call and hence no mechanism is required in case of

calls. Further, as the issues related to roaming in case of SMS and call forwarding can only be fixed at Access Provider's end, no comment is being submitted.

Q.20 How the mobile App may be developed or enhanced for submitting complaints in an intelligent and intuitive manner? How to ensure that the required permissions from device operating systems or platforms are available to the mobile app to properly function? Please give your suggestions with reasons.

Our Comment: As advised above, existing Mobile Apps of access providers can solve this purpose and alternatively, the process could be botified to make it further effective. Suggestions can be obtained from access providers regarding permissions.

Q.21 Should the present structure of financial disincentive applicable for access providers be reviewed in case where timely and appropriate action was taken by OAP? What additional measures may be prescribed for Access Providers to mitigate UCC problem? Please give your suggestions with reasons.

Our Comment: As we are not a stakeholder in this issue, no comments are being submitted.

Q.22 Whether strict financial disincentives should be levied for different types of techniques like robocall, auto-dialer calls for UCC? Please give your suggestions with reasons.

Our Comment: It is suggested that strict financial disincentives should be imposed in case of UCC performed through robocalls and auto-dialer calls in order to deter such activities.

Q.23 What enhancements can be done in signature solutions? What mechanism has to be established to share information among access providers for continuous evolution of signatures, rules, criteria? Please give your suggestions with reason.

Our Comment: As we are not a stakeholder in this issue, no comments are being submitted.

Q.24 How Artificial Intelligence (AI) can be used to improve performance of signature solution and detect newer UCC messages created by tweaking the content? Please give your suggestions with reasons.

Our Comment: As we are not a stakeholder in this issue, no comments are being submitted.

Q.25 How the honeypots can be helpful to detect and collect evidences for unsolicited communications? Who should deploy such honeypots? Please give your suggestions with reasons.

Our Comment: As we are not a stakeholder in this issue, no comments are being submitted.

Q.26 Should the data from mobile app or from any other source for registering complaints be analyzed at central locations to develop intelligence through crowd sourcing? How actions against such defaulters be expedited? Please give your suggestions with reasons.

Our Comment: As we are not a stakeholder in this issue, no comments are being submitted.

Q.27 How the increased complexity in scrubbing because of introduction of additional categories, sub-categories and dimensions in the preferences may be dealt with? Whether Scrubbing as a Service model may help in simplifying the process for RTMs? What type and size of list and details may be required to be uploaded by RTMs for scrubbing? Whether RTMs may be charged for this service and what charging model may be applicable? Please give your suggestions with reasons.

Our Comment: As we are not in favour of having scrubbing as a service due to expected delays and introduction of additional categories due to complexities and implementation issues, the issue at hand is not relevant.

Q.28 How the cases of false complaints can be mitigated or eliminated? Whether complaints in cases when complainant is in business or commercial relationship with party against which complaint is being made or in case of family or friends may not be entertained? Whether there should be provision to issue notice before taking action and provision to put connection in suspend mode or to put capping on messages or calls till investigation is completed? Please give your suggestions with reasons.

Our Comment: The Complaint mechanism should include the process as to whether a particular complaint is false or not which shall be determined on the basis of documents submitted by the sending entity through RTMs. In case of a complaint is determined to be false, an opportunity of being heard should be provided to the subscriber by the access provider. In case after hearing the subscriber, the Complaint is ultimately determined to be false, consequences should follow. Consequences should be warning for the first complaint, penalty for second complaint and black-listing for the third and last complaint during a period of 2 years. . As the remaining part of the query relates to P2P traffic, we are not a stakeholder and hence no comments are being submitted in this regard.

Q.29 How the scoring system may be developed for UCC on the basis of various parameters using signature solutions of access providers? What other parameters can be considered to detect, investigate and mitigate the sources of UCC? How different access providers can collaborate? Please give your suggestions with reasons.

Our Comment: As we are not a stakeholder in this issue, no comments are being submitted.

We hope that you will find the above comments in order and consider the same while regulating on the subject matter.

Should you require any clarification regarding our comments, please feel free to write to the undersigned.

Sincerely,
Vishwadeep Bajaj, Managing Director
ValueFirst Digital Media Pvt. Ltd.
vishwadeep.bajaj@vfirst.com