



Telecom Regulatory Authority of India



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Consultation Paper

on

Review of the Telecom Commercial Communications Customer Preference Regulations, 2018

28th August 2024

**Telecom Regulatory Authority of India
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New Delhi-110029**

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Stakeholders are requested to submit their comments, preferably in electronic form, on TRAI website in the specified template with copy to advqos@traigov.in by 25th September 2024 and counter comments by 9th October 2024.

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CHAPTER I – BACKGROUND

- 1.1 To curb the menace of Unsolicited Commercial Communications (UCC), TRAI issued the Telecom Commercial Communications Customer Preference Regulations, 2018 (hereinafter referred as TCCCPR 2018” or “the Regulations”) on 19th July 2018, which put in place a framework for regulating Commercial Communications. The Regulations came into force w.e.f. 28.02.2019.
- 1.2 TCCCPR 2018 on one hand protects customers from Unsolicited Commercial Communications (UCC), it also aids Senders to send commercial communication to targeted customers who have opted for their services or set their preferences to receive such communications. TCCCPR 2018 laid out a framework to facilitate delivery of commercial communication to the right recipient in accordance with their preference.
- 1.3 As per the provisions of the Regulations and Codes of Practices (CoPs) published by Access Providers, the Senders (of Transactional messages, Service messages or Promotional messages) are required to fulfil prescribed regulatory requirements for sending bulk communications. The regulatory provisions help smooth transaction of commercial communications and in preventing UCC/spams. The Regulations provide for:
 - a. **Registration of Senders and Telemarketers**- There are two main entities defined under TCCCPR 2018.
 - Sender/Principal Entities (PEs)- an individual, business or legal entity that sends commercial communication eg SBI.
 - Registered Telemarketers (RTMs)- The entities that facilitate Senders to connect with Access Providers and execute functionalities as provided under the Regulations are called Registered Telemarketers (RTMs).

TCCCPR-2018 requires that both Senders and RTMs need to register with any Access Providers. Senders can send their commercial communications to the Access Providers directly or through the Registered Telemarketers (RTM).

- b. **Registration of Headers-** As per the regulatory framework, any commercial communication can only take place using registered Headers assigned to the Senders for the purpose of commercial communications.
- c. **Registration of Content template-** Before sending commercial messages, Senders are required to get content templates registered with the Access Providers. These templates typically have fixed and variable components. Any commercial communication from Sender is subjected to scrubbing against the content template registered by the Access Provider and, if it fails, then it is not allowed to go forward.
- d. **Fine-grained control over preferences-** To avoid the inconvenience caused by UCC, a telecom subscriber can opt to block all commercial communications or can selectively block commercial communications as per preference categories. The facility has been provided by the respective Access Providers to its customers for registering preferences for Commercial Communication. The Preference Register keeps the records of preferences of the customers about category of Sender (like real estate, health, education etc.), time bands and weekdays. Access Providers are required to make available Customer Preference Registration Facility (CPRF) to the customers throughout the year on 24 hours x 7 days basis.
- e. **Registration of subscribers' consent-** TCCCPR-2018 provides for deployment of a Digital Consent Acquisition (DCA) facility. DCA facility enables acquisition of the consent of the customer to receive commercial communication from a Sender for a particular

product or service and its recording on DLT platform by the Access Provider after verification from the subscriber through OTP. It also provides a mechanism for revocation of consent by the customer. Thus, TCCCPR 2018 provides a mechanism for the acquisition and recording of the consent of customers in a transparent manner. It also provides customers with complete control over their consents and the ability to revoke the consent already granted if required.

- f. **Complaint Handling-** The commercial communications received by a customer without its preference or consent are termed as Unsolicited Commercial Communications (UCC). The customer can make a complaint against UCC with its Access Provider. Various modes of registration of the complaint such as sending SMS to short code 1909, calling on 1909 and mobile App has been prescribed in the Regulation. Access Providers are required to make the Customer Complaint Registration Facility (CCRF) available on 24 hours x 7 days basis throughout the year.
- g. **Complaints against Registered Telemarketers (RTMs)/ Senders-** Regarding complaints reported against Registered Telemarketers (RTMs) or Senders, Originating Access Providers (OAPs) are responsible for taking appropriate remedial action, as provided for in the Codes of Practice, for the compliance with TCCCPR 2018. As per TCCCPR 2018, the Authority may impose financial disincentives on any Access Provider, if it fails to curb UCC through its network.
- h. **Action against Unregistered Telemarketers (UTMs)-** Any Sender of commercial communication who is not registered for sending the commercial communications with the Access Provider is called Unregistered Telemarketer (UTM). In case of UTMs, Access Providers are required to act against specific UTMs by giving warnings, putting them under Usage Cap or

disconnecting in case of repeated violations. Usage Cap means a limit put on a telephone number for making a maximum of twenty outgoing voice calls per day and a maximum of twenty outgoing messages per day. The following provisions are made in the Regulations for action against UTMs-

- i. On the first instance of violation- Warning shall be issued.
- ii. On second instance of violation- Usage Cap shall be put for a period of six months.
- iii. On third and subsequent instances of violations- All Telecom resources of the Sender shall be disconnected for a period up to two years and Originating Access Provider (OAP) shall put the Sender under blacklist category, during which period no new telecom resource shall be provided by any other service provider.

1.4 Adoption of Distributed Ledger Technology (DLT) has been mandated under the Regulations to ensure regulatory compliance while allowing innovation in the market. DLT is being used for recording preferences, acquiring and verification of consumer consent, complaint handling, registration of entities and registration of content templates.

1.5 The Regulations are based on a co-regulatory approach and only broad level regulatory objectives are defined. Detailed procedures are part of Codes of Practice (CoPs) and are described by the Access Providers.

1.6 During implementation of the regulatory frameworks, certain issues have been observed. This Consultation Paper aims to bring forward issues observed during implementation, and which need immediate attention. The provisions of regulations related to these issues may need amendment. The broad category of issues discussed in the Consultation Paper includes the following-

- Definitions of Commercial Communications.

- Provisions related to the Complaint Redressal.
- UCC Detect System and action thereof.
- Provisions related to Financial Disincentives.
- Provisions related to Senders and Telemarketers.
- Differential Tariff for voice calls and SMS.

1.7 The Regulations proposed for amendments have been deliberated in Chapter 2. Chapter 3 discusses the differential tariff for voice calls and SMS to curb the UCC. Chapter 4 contains the proposed draft amendments to the regulations. The stakeholders may give their suggestions and comments on the issues raised in Chapter 2, Chapter 3 and the draft regulations in Chapter 4, and on any other related issues which need to be taken up but not captured either in discussions or in the draft amendments. Chapter 5 summarizes the issues for the consultation.

CHAPTER-II: ISSUE WISE ANALYSIS

Impact of TCCCPR 2018 -

- 2.1 Framework of TCCCPR 2018 implemented on Block Chain/DLT technology enabled registration of about 2,80,000 Principal Entities with 3,000,000 active Headers and approx. 60,00,000 active message templates. Also, there are about 16000 Registered Telemarketers (RTMs). All such entities of DLT eco-system majorly follow the TCCCPR 2018 framework and Directions issued from time to time. This has resulted in substantial control on spam from Registered Telemarketers. However, many entities have started making promotional calls using 10-digits mobile/landline numbers. These entities are also resorting to the use of Auto Dialer/Robo calls for Commercial Communications, bypassing regulatory provisions and thereby creating nuisance to almost everyone. Since these entities/senders are neither registered with DLT platform nor follow the rules of TCCCPR 2018 framework, they bypassed DLT and sent commercial communications as person-to-person (P2P) communications. Such senders are called Unregistered Telemarketers (UTMs) and are now imposing a serious threat to the consumers in terms of pushing spam which many times results in deceiving consumers by extracting their personal information.
- 2.2 The Authority has noticed a substantial increase in the customer complaints against UTMs in comparison to that against Registered Tele Marketers (RTMs)/Senders. The Table 2.1 gives comparative figures of complaints in the past four years. To minimize complaints against RTMs further, there is a need to bring clarity or amendments in respect of some regulatory provisions.

Table 2.1: UCC complaints received by Access Providers¹

Period	Registered Telemarketer (RTM) /Senders related Complaints	Unregistered Telemarketers related (UTM) complaints
Apr 2020 to Dec 2020	3,49,111	3,07,043
Jan 2021 to Dec 2021	4,28,290	8,55,771
Jan 2022 to Dec 2022	1,78,690	9,04,359
Jan 2023 to Dec 2023	1,39,886	12,22,946

2.3 As per the TCCCPR-2018 regulations, Access Providers are required to act against Unregistered Telemarketers (UTMs) by giving a warning, putting them under Usage Cap or disconnecting services for repeat violations. This process is lengthy and allows enough elbow to the UTM senders to send communications bypassing the DLT platform. As per the Performance Monitoring Reports submitted, the Access Service Providers have disconnected 32,032 and 27043 connections during the calendar years 2022 and 2023 respectively for UTM violation as detailed in Table below.

Table-2.2: Actions taken by Access Providers against UTMs

	Imposed Usage Cap during investigation of complaints	Issued warning notices for first instance of violation	Imposed usage caps for 6 months for second instance of violation	Disconnected connections for violating Regulations for third time.
Apr-20 to Dec-20	123840	51057	15112	4779
Jan-21 to Dec-21	221690	346429	54865	15382
Jan-22 to Dec-22	258041	409739	77213	32032
Jan-23 to Dec-23	256220	399274	57565	27043

Usage Cap means a limit put on a telephone number for making a maximum of twenty outgoing voice calls per day and a maximum of twenty outgoing messages per day.

2.4 Despite the above punitive actions, the unsolicited calls from 10-digits mobile numbers continue to irritate and harass customers. Such individuals deliberately masquerade themselves as “normal

¹ As per the Performance Monitoring Reports submitted by Access Providers.

subscribers” even though their primary purpose for obtaining telecom resources is for telemarketing activities.

- 2.5 In view of the above, certain provisions of TCCCPR 2018 require re-examination as discussed in the subsequent sections of this Consultation Paper.

Issue Based Discussions

A. Types of Commercial Communication

I. Review of Definitions

- 2.6 In the TCCCPR 2018, following types of Commercial Communications have been defined:

(a) Transactional Message/Call –Triggered by the Sender due to a transaction performed by its customer, eg OTP sent by a bank.

(b) Service Message/Call – Sent by the Senders based on its existing business relationship with the recipient.

(C) Promotional Message/Calls- Message/calls containing promotional material or advertisement of a product or service

- 2.7 As per Regulations 2(bt) and 2(bu) of TCCCPR-2018, Transactional Messages and Transactional Calls are defined as given below-

Transactional message

“Transactional message” means a message triggered by a transaction performed by the Subscriber, who is also the Sender’s customer, provided such a message is sent within thirty minutes of the transaction being performed and is directly related to it.

Provided that the transaction may be a banking transaction, delivery of OTP, purchase of goods or services, etc.

Transactional voice call

“Transactional Voice Call” means a voice call which is not promotional in nature and is for the purpose of alerts to its own customers or account holders and information to be communicated by the voice call is time critical in the nature;

- 2.8 As per the Regulations 2(bh) of TCCCPR 2018, Service Message or Service Call is defined as given below-

“Service message or Service Call” means a message sent to a recipient or voice call made to recipient either with his consent or using a template registered for the purpose, the primary purpose of which is-

- (i) to facilitate, complete, or confirm a commercial transaction that the recipient has previously consented to enter into with the sender; or*
- (ii) to provide warranty information, product recall information, safety or security information with respect to a commercial product or service used or purchased by the recipient;*

to provide—

- (A) notification concerning a change in the terms or features of; or*
- (B) notification of a change in the recipient’s standing or status with respect to; or*
- (C) at regular periodic intervals, account balance information or other type of account statement with respect to, a subscription, membership, account, loan, or comparable ongoing; or*
- (D) commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the sender; or*
- (E) information directly related to an employment relationship or related benefit plan in which the Recipient is currently involved, participating, or enrolled; or*
- (F) information relating to delivery of goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously consented to enter into with the sender;*

- 2.9 As mentioned in the above definitions, Service message/call can be sent/made to the recipient with his/her consent. In the TCCCPR 2018, Consent is defined as given below-

“Consent” means any voluntary permission given by the customer to sender to receive commercial communication related to specific purpose, product or service. Consent may be explicit or inferred as defined in these regulations. (Regulations 2(k)).

2.10 As mentioned in the above definition, two types of consent have been defined in the TCCCPR 2018. In the Regulations, Inferred Consents is defined as given below-

“Inferred Consent” means any permission that can be reasonably inferred from the customer’s conduct or the Relationship between the Recipient and the Sender. (regulations 2 (ah))

2.11 Further, Para 3.3.10 of the Explanatory Memorandum of the TCCCPR 2018, prescribes the scope of the Inferred consent, which is reproduced below-

“Inferred consent in cases of prior business or social relationships or in cases of customer’s conduct: *Commercial communications may be sent where prior relationship exists between sender and recipient, within the scope of their relationship. The relationship may either be on account of business or commercial reasons, social reasons or it may be because of purchase made by the recipient or transactions entered into between sender and recipient. Such communication may be limited to scope of inferred consent where consent can be reasonably inferred from the customer’s conduct or the business and the kind of relationship between the individual and the sender. There may be a wide variety of scenarios where such communications is required to be allowed, which would be too prescriptive to describe in the regulations, so only the broad principle can be defined. However, commercial communications on basis of such relationship should be limited for certain period. Keeping in view the variety of scenarios, this **may not extend beyond twelve months** as inferred consent. Misuse of this provision may be controlled on basis of reports and complaints against entities available in the DL-Complaints, and appropriate action may be taken considering complaints from unique recipients. In case of inquiry from customer about the product or services, this time period may be shorter and limited only to three months. Codes of Practice may include further details about requirements for senders to keep certain details in support of such commercial communications and the manner in which these records are to be maintained. CoP may also formulate further specific measure to have better control on UCC in such scenarios.”*

2.12 In the Regulations, Explicit Consent is defined as given below-

“Explicit consent” means such consent as has been verified directly from the Recipient in a robust and verifiable manner and recorded by Consent Registrar as defined under these regulations. (regulation 2 (y))

Issues Observed in Respect of Definition of Commercial Communications

- 2.13 The following issues have been observed from the analysis of complaints received from the subscribers and discussion with the Access Providers.
- (i) The definition of Transactional message is very narrow. It is defined as a message triggered by a transaction performed by the Subscriber, who is also the Sender's customer, provided such a message is sent within thirty minutes of the transaction being performed and is directly related to it.
 - (ii) The present bifurcation of messages into transactional, service messages based on inferred consent and service messages based on explicit consent is a bit complex and requires better clarity. Senders of commercial communications use such definitions to push promotional content using the service category of templates
 - (iii) It may be possible to define and scrub the content templates for Auto Dialer Call (with Prerecorded Announcement). However, in the case of voice calls, it may not be possible to define the content templates for every communication. Only the intent of voice communications can be pre-declared by the senders. There may be a requirement of assigning two different headers (i.e. two different indicators) to each Sender for classification of transactional calls and service calls based on inferred consents. Moreover, no purpose is likely to be served by categorizing commercial communications into two categories as both transactional messages/calls and service implicit messages/calls are sent/made based on inferred consents. Therefore, these two categories can be clubbed together.
 - (iv) It was observed that Service Explicit Templates were misused to push promotional content in the garb of offline consents. After being pointed out by TRAI, Access Providers have started treating all these templates as Promotional Content since January 2024. As such, the requirement

of having Service Explicit Messages as a separate category of commercial communications needs review.

- (v) Unwanted voice calls are intrusive and have more nuisance potential unlike, text messages. Further, there is no foolproof mechanism to check the veracity of call contents. Therefore, the regulation of commercial voice calls could be different from that of text messages.

Possible Categorisation of the Commercial Communications

2.14 To tackle the above issues, there is a need to revisit the types of commercial communications defined in the Regulations. The definition of different types of commercial communications should be simple and without any scope of ambiguity. The following could be the possible categories of commercial messages-

(A) Transactional Messages or Transaction Calls-

2.15 Transactional communication may refer to any commercial communication sent by the Sender to its own customer/subscriber except promotional communications. It may have been triggered by a subscriber-initiated transaction or may be due to an existing long-term relationship of the recipient with the Sender. The examples of such communications may include OTPs from banks, non-bank-entities like e-commerce, app login or website login etc., transaction confirmations, balance alerts, travel reminders, rescheduling notification, refund information, to provide product/warranty information, safety or security information with respect to a commercial product or service used or purchased by the recipient, software updates etc. Transactional Communication should not be promotional in nature.

2.16 By the content templates of the Transactional messages, the relationship between the Sender and the recipient can be ascertained. Therefore, there should not be any requirement of taking explicit consent from the recipient for such messages. To prevent misuse of

inferred consent and to give an option to block such communications from a specific Sender, there is a need to introduce a mandatory opt-out mechanism from the inferred consent that should be given to the recipient in the same message. Similarly, there should be a mandatory opt-out mechanism presented to the recipient after each Transactional call through an SMS or otherwise. The revoked consents should be recorded in the DL-consents appropriately. Access Providers may be required to scrub this list in the DL-consent before sending transactional Communications. If a customer who has opted out wants to opt-in, it should be possible at the will of the customer. If a customer has opted-out to receive commercial communications from a sender, consent seeking request for the same purpose can be made by the same Sender to that customer only after ninety (90) days from the date of opt-out.

(B) Promotional Messages or Promotional Calls

2.17 Promotional communications may refer to commercial communication containing promotional material or advertisement of a product or service. Promotional communications can be delivered to only those customers who have not barred such communications through registration of their preferences. If the Sender has obtained explicit digital consent through a Digital Consent Acquisition (DCA) system from the intended recipients, it can send the promotional communications to such recipients irrespective of their registered preferences.

(C) Government Messages or Government Calls

2.18 Apart from Transactional, Service and Promotional communications, there is another category of communication as given below-

- (1) *Any message or voice calls transmitted on the directions of the Central Government or the State Government or bodies established under the Constitution;*

(2) *Any message or voice calls transmitted by or on the direction of the Authority or by an agency expressly authorized for the purpose by the Authority.”*

2.19 As per EM (para 3.3.11), there may be separate templates for awareness programs or messages to be sent on the instructions of Government or Statutory bodies and such messages would be considered as service messages. As the above category of communication is in the public interest and has been treated differently in the Regulations, these communications (messages/calls) may be categorized distinctly as Government Communications (Messages/Calls). There should not be any requirement of seeking explicit consent for the receipt of these communications. These types of communications should not be allowed to be blocked by the recipients.

Regulating the Use of Auto Dialer or Robo-Calls

2.20 As stated in earlier discussions, many entities have started resorting to the use of Auto Dialer or Robo calls for commercial communications. Such calls are creating a nuisance to almost everyone and also often deceive consumers by obtaining their personal information. There is an urgent need to put forward an appropriate regulatory measure to curb commercial communications using Auto Dialer/ Robo-calls. Regulatory provisions in some of the countries are discussed below.

2.21 **USA-** The Telephone Consumer Protection Act (TCPA) places strict limitations on the use of automated dialing systems and prerecorded messages (Robo-calls). It prohibits unsolicited robocalls to residential lines and mobile phones without prior express consent, of the called party, unless the call is for emergency purposes or exempted by rule or order by the Federal Communications Commission (FCC). Prior express consent means that a consumer has provided their explicit agreement to receive calls or messages at a specific phone number. It also mandates that businesses provide a mechanism for consumers to opt out of such calls.

- 2.22 **UK** - Privacy and Electronic Communications Regulations 2003 (PECR) specifically addresses automated calling systems, often referred to as robocalls, and prohibits organizations from making automated marketing calls without the prior consent of the recipient. For automated calls, PECR mandates that the caller must identify who is making the call and provide contact details where the recipient can contact them to opt out.
- 2.23 **Canada**- Canada's Anti-Spam Legislation (CASL) works in conjunction with the Telecommunications Act to regulate telemarketing and the use of Automated Dialing and Announcing Device (ADAD), ensuring that Canadian consumers are protected from unwanted and intrusive communications. CASL requires express consent from individuals before they can be contacted via Robo-calls. The Telecommunications Act, as governed by the Canadian Radio-television and Telecommunications Commission (CRTC), requires that telemarketing calls made using an ADAD must include information about the caller, including the name of the individual, business, or organization calling, and must provide a telephone number where the caller can be reached.
- 2.24 **Israel**- Robo-calls are specifically addressed under Israel's the Communications Law (Telecommunications and Broadcasting), 1982, often referred to as the Spam Law, with strict regulations to protect consumers from unwanted automated calls. The law prohibits the use of automated systems to send commercial messages without the recipient's prior consent. This is particularly relevant for robocalls, which often involve pre-recorded messages sent to large numbers of recipients.

Suggested Measure-

- 2.25 Preference registration offers a customer choice to regulate various modes of communications viz Voice Call, SMS, Auto Dialer Call (With Pre-recorded Announcement), Auto Dialer Call (With Connectivity to live agent), and Robo-Calls. However, the rules for using Auto Dialer or

Robo-calls for commercial communications should be stricter. Some of the possible measures could be-

- (i) It may be made mandatory for the Sender to notify the Originating Access Provider (OAP) in advance about the use of Auto Dialer or Robo-calls for commercial communications.
- (ii) No entity should be permitted to make a promotional call using Auto Dialer or Robo-calls unless the called person has specifically consented to receive such types of calls from the caller. General consent for marketing calls should not be enough, it must specifically cover automated calls. Further, consents should be obtained through a digitally verified process such as Digital Consent Acquisition System (DCA) established by the Access providers or otherwise established for the purpose under the TCCCPR-2018 regulations.
- (iii) Pre-recorded voice calls should have an approved content template and should be scrubbed in DLT platform before delivery of such calls.

Issues for consultation

Q.1 Stakeholders are requested to submit their comments in respect of definitions of messages and calls and their categorizations, as suggested in the paragraphs 2.14 to 2.19 along with necessary justifications.

Q.2 Whether explicit Consent be made mandatory for receiving Promotional Communications by Auto Dialer or Robo Calls? What can be other possible measures to curb the use of Auto Dialer or Robo Calls without the consent of the recipients? Stakeholders are requested to submit their suggestions quoting best practices being followed across the world.

Q.3 As most of the pre-recorded calls have pre-defined content, stakeholders are requested to comment on the process to be followed to scrub such content before the delivery to consumers. The comments should be supported with suitable justifications and practices being followed in other parts of the world.

B. FULLY BLOCK option of Preference Registration-

2.26 Item 1 (1) of SCHEDULE-II- Code of Practice for Process of registration, modification or deregistration of Preferences, recording consent and revocation of consent, inter-alia, have following options-

Block Promo option- It shall block only promotional types of commercial communications for all categories of content, mode, time band and day types except service and transaction type of commercial communications.

Fully Blocked option- It shall put the customer in Fully Blocked state and block service as well as promotional types of commercial communications for all categories of content, mode, time band and day types.

2.27 The regulation 2(z) of TCCCPR 2018 define 'Fully blocked' category of preference as "*Fully blocked means stoppage of all types of commercial communication requiring explicit consent except commercial communication sent under inferred consent*".

2.28 After the revised categorisation of the commercial communications into three categories viz. Transactional, Promotional and Government communications, there is no need of a 'Fully Blocked' option. Using 'Block Promo' option, a customer can block all the promotional communications and using the opt-out option, it can regulate the receipt of transactional communications. There is no requirement of an option to block the Government Communications.

C. Header Identifier in different category of commercial communications

2.29 It is necessary that before sending commercial communications, a clear distinction is made about its category and the purpose for which it is sent. A possible solution could be to label it with the associated category of communication. Schedule-I on 'Action Items for preparing Code of Practice for Entities (CoP-Entities)' of TCCCPR 2018 mandates that a label shall be prefixed by the Access Providers to the text of commercial communication so that recipients can identify the transactional, service and promotional messages. The relevant items of the Schedule-I are reproduced below-

“(2) Every Access Provider shall formulate structure and format for headers to be assigned Senders for the purpose of commercial communications via sending SMS or making voice calls to participants which shall include following: -

- (1). SMS Header, SMS Header Root, SMS Header Branch for Senders sending Promotional SMS, Transactional SMS and Service SMS from 11-character alphanumeric strings which are not allocated or assigned by DoT for other purpose(s) or in accordance to directions of the Authority/ DoT;*
- (2). Calling Line Identity for Senders making Promotional Voice Calls, Transactional Voice Calls and Service Voice Calls from 140-level numbering series or any other numbering series directed by the Authority/DoT.*

.....

(6) Every Access Provider shall ensure that content of any commercial communication sent by the sender(s) shall be categorized and compared with the list of preference(s) of the recipient and/ or purpose of consent given by the recipient to the sender for the purpose of scrubbing and for this purpose access provider shall ensure that

- (1). any commercial communication through its network takes place only using registered content template(s) for transaction and/ or content template(s) for promotion;*
- (2). Unique Identity for registered template of content shall be assigned to the sender(s) at the time of registration of content template;*
- (3). Following Label shall be prefixed by the access provider to the text of commercial communication:*
 - (i) Label <Transactional> in case of Transactional Message;*
 - (ii) Label <Service> in case of Service Message;*
 - (iii) Label <Promotional> in case of Promotional Message; “*

2.30 Currently the headers are displayed as

XY-<Header of maximum six-character>; X represents the originating Access Provider and Y-represents the originating LSA.

2.31 To make the header structure more useful, following may be the possible options -

- (i) Option-I: After revised categorisation of the commercial communications, there shall be three categories viz., Transactional Promotional and Government communications. Separate header identification for each of these categories of messages may help the customers to identify and respond promptly if required. Suffixing of -T, -P and -G to headers to identify Service, Promotional and Government messages respectively may be one of the options. In fact, as of now, the Access Providers are working on a system for suffixing of -P, -S, -T to headers for Promotional, Service, Transactional messages respectively.
- (ii) Option-II- The prefix attached to the header for identification of the Access Provider and Service area may be removed. It may simplify the header structure and help in clubbing messages from the same headers. Right now, even the messages from the same headers are shown separately due to separate prefixes.
- (iii) Option-III- To permit the Sender to have the same numeric header for message and transactional/service voice calls. It may help in easy identification of the Sender.

Q.4 Stakeholders are required to submit their comments in respect of Headers identifiers categories as suggested in the above paragraphs by the Authority or any other type of identifiers which may facilitate consumers to identify senders distinctly. Suggestions if any, should be suitably brought out with necessary justifications.

D. Review of provisions related to Complaint Redressal

I. Complaint Mechanism

2.32 Regulation 25 of TCCCPR 2018 prescribes functions of the Access Providers and processes to resolve the customers' complaints with remedial action against the Senders. Relevant provisions are quoted below-

“25 Complaint Mechanism: *Every Access Provider shall establish system(s), functions and processes to resolve complaints made by the customers and to take remedial action against sender(s) as provided hereunder:*

- (1) Terminating Access Provider (TAP) shall record the complaint on DL-Complaints in non-repudiable and immutable manner and shall notify, in real time, the details of the complaint to the concerned Originating Access Provider (OAP).*
- (2) Terminating Access Provider (TAP) shall examine within one business day from the date of receipt of complaint, to check the occurrence of complained communication between the complainant and the reported telephone number or header from which unsolicited commercial communication was received and update the findings on DL-Complaints.*
- (3) Terminating Access Provider shall also verify if the date of receipt of complaint is within three days of receiving commercial communication and in case the complaint is reported by the customer after three days, the TAP shall communicate to the customer about the closure of his complaint in accordance to the Code of Practice for Complaint Handling and change status of complaint on DL-Complaint as a report instead of complaint.*
- (4) The OAP, in case the complaint is related to RTM, shall examine, within one business day from the date of receipt of complaint, whether all regulatory pre-checks were carried out in the reported case before delivering Unsolicited Commercial Communications; and*
 - (a) In case, all regulatory pre-checks were carried out and delivery of commercial communication to the recipient was in confirmation to the provisions in the regulations and Code(s) of Practice, OAP shall communicate to TAP to inform complainant about the closure of complaint as provided for in the Code(s) of Practice;*
 - (b) in case of non-compliance with the regulations, the OAP shall, within two business days from the date of receipt of complaint, take actions against the defaulting entity and communicate to TAP to inform the complainant about the action taken against his complaint as provided for in Code(s) of Practice;*
 - (c) the OAP shall take appropriate remedial action, as provided for in the Code of Practice(s), to control Unsolicited Commercial Communications so as to ensure compliance with these regulations;*
- (5) The OAP, in case, the complaint is related to a UTM,*
 - (a) shall examine communication detail records (CDRs), within one business day from the date of receipt of complaint, to check the occurrence of complained communication between the complainant and the reported telephone number or header from which unsolicited commercial communication was received.*
 - (b) In case of no occurrence of complained communications under sub-regulation (5)(a), OAP shall communicate to the TAP to inform the complainant about the closure of complaint in a manner prescribed in the Code(s) of Practice;*

(c) *In case of occurrence of complained communications under sub-regulation (5)(a), OAP shall further examine, within two business days from the date of complaint, whether there are similar complaints or reports against the same sender; and*

i. *in case, it is found that number of complaints against the sender are from ten or more than ten recipients over a period of last seven days, the OAP shall put sender under Usage Cap and at the same time shall initiate investigation as provided for in sub-regulation (6);*

Provided that such Usage Cap shall be valid till investigation is completed or thirty days from the date of effect of restrictions, whichever is earlier;

ii. *in case it is found that number of complaints against the sender are from less than ten recipients over a period of last seven days, the OAP shall, from the previous thirty days data of CoP_UCC_Detect System, check whether suspected sender is involved in sending Commercial Communication in bulk or not; and*

(A) *in case, sender has sent commercial communications in bulk, the OAP shall put the sender under Usage Cap, and at the same time initiate investigation as provided for in sub-regulation (6);*

Provided that such restrictions shall be valid till investigation in this regard is completed under relevant regulations or thirty days from the date of effect of restrictions, whichever is earlier;

(B) *in case, sender has not sent commercial communications in bulk, the OAP shall warn such sender through appropriate means as provided for in Code(s) of Practice;*

(6) *OAP shall issue notice, within three business days, to give opportunity to such sender(s), under sub regulations (5)(c)(i), (5)(c)(ii)(A) to represent his case and shall investigate, within thirty business days from the date of receipt of complaint and shall conclude whether the communication so made was unsolicited commercial communication or not; and conclusion of the investigation was that sender was engaged in sending unsolicited commercial communications, OAP shall take action against such sender as under: -*

(a) *for first instance of violation, due warning shall be given;*

Provided that the first instance of the violation shall include all the complaints against the sender within two business days after the date of receipt of the first complaint, against which the sender is to be warned under this sub-regulation.

(b) *for the second instance of violation, Usage Cap shall continue for a period of six months;*

Provided that the second instance of the violation shall include all the complaints against the sender after the issuance of first warning within two business days after the date of receipt of the complaint against which second warning is being given to the sender under this sub-regulation.

(c) *for third and subsequent instances of violations, all telecom resources of the sender shall be disconnected for a period up to two years and OAP shall put the sender under blacklist category and communicate to all other access providers to not to allocate new telecom resources to such sender for up to two years from the date of such communication;*

Provided that the third instance of the violation shall include all the complaints received against the sender after the date of second warning within two business days after the receipt of the complaint against which telecom resources are being disconnected under this sub-regulation.

Provided further that one telephone number may be allowed to be retained by such sender with the Usage Cap for a period up to two years.”

2.33 Issues related to regulation 25 observed during the implementation are discussed below-

- (i) Delayed transfer of complaint from Termination Access Provider (TAP) to Originating Access Provider (OAP)

2.34 As per regulation 25 (1), 25(2) and 25(3), role of TAP is to

- a. Record the complaint on DL-Complaints,
- b. Notify its details in real time to OAP.
- c. Check the occurrence of complained communication between the complainant and the reported telephone number or header and update the finding on DL-Complaints.
- d. In case the complaint is reported by the customer after three days, the TAP shall communicate to the customer about the closure of his complaint and change the status of the complaint on the DL-Complaint as a report instead of a complaint.

2.35 It has been observed that instead of notifying complaint detail to OAP in real-time, a considerable amount of time is taken by TAP particularly for checking the occurrence of communication between the complainant and the reported telephone number or header against which the complaint is generated. This further delays the action on the complaint by the OAP. Further, there may be instances such as non-availability of the reported telephone number or header in the complaint registered, when it won't be possible for TAP to find out the OAP. In that case, the complaint would have to be closed at TAP end only.

- (ii) High Threshold to initiate an investigation against UTMs

2.36 Regulation 25(5)(c) mandates that either the number of complaints against the Sender is from ten or more than ten recipients over a period of the last seven days or the suspected Sender is involved in sending Commercial Communication in Bulk as per the previous thirty days

data of UCC_Detect System², then the Originating Access Provider (OAP) shall put the Sender under Usage Cap, and at the same time initiate an investigation.

2.37 It is seen that not many customers make a complaint even if they receive a UCC. In such a scenario, the requirement of having complaints from at least ten unique recipients over a period of the last seven days against the Sender to initiate an investigation may be too rigid and it restricts quick action against such Senders. There is a need to adopt a more effective pro-active mechanism to curb UCC from UTM's. At the same time, it should be ensured that it does not lead to the victimization of genuine callers based on a deliberate/mala fide complaint against them.

(iii) Same benchmark for individual and enterprise customers for initiating action against UTM violations

2.38 The same set of provisions has been made for initiating the investigation for UTM violation against individual and Enterprise customers. The impact of two types of customers indulging into UCC communications are different, as such there is a need to have separate provisions to deal effectively with UTM violations from the individual and Enterprise customers.

(iv) No immediate restriction on the suspected spammer even after complaints

2.39 As per the regulation 25(5), OAP is required to find out whether there are similar complaints or reports against the same Sender within two business days, and in case, it is found that number of complaints against the Sender are from ten or more than ten recipients over a

² System to detect sender(s) who are sending Unsolicited Commercial Communications in bulk and not complying with the regulation(s).

period of last seven days, the OAP shall put Sender under Usage Cap³ and at the same time shall initiate investigation as provided for in regulation 25(6). In the meantime, the suspected spammer may keep on sending spam communications.

(v) Provisions related to action against the UTMs/unregistered Senders-

2.40 Following are the existing provisions regarding action against UTMs/unregistered Senders as per TCCCPR 2018:

- (a) On the first instance of violation- Warning shall be issued.
- (b) On the second instance of violation- Usage Cap shall be put for a period of six months.
- (c) On third and subsequent instances of violations- All Telecom resources of the Sender shall be disconnected for a period up to two years and Originating Access Provider (OAP) shall put the Sender under blacklist category, during which period no new telecom resource shall be provided by any other service provider. However, one telephone number may be allowed to be retained by such Sender with the Usage Cap for a period up to two years.

These provisions do not provide the desired level of deterrence.

(vi) Difficult to monitor compliance from Access Providers-

2.41 As discussed above, separate courses of action have been defined in the Regulations for the first, second and third violations by unregistered senders. Each instance of the violation includes all the complaints against the Sender within two business days after the date of receipt of the first complaint establishing violations by the sender. It is very difficult to track the compliance of these provisions. Further, there is a

³ Usage Cap means a limit put on a telephone number for making a maximum of twenty outgoing voice calls per day and a maximum of twenty outgoing messages per day.

provision for putting a usage cap on the Sender during the investigation. After the second instance of violation, the usage cap is applied for six months. It is difficult to ascertain whether the usage cap was applied by Access Providers for the specified period on a continuous basis. Also, Access Providers pointed out that due to technical issues, no usage cap is imposed on wireline customers. All these provisions have made it difficult to ensure compliance from the Access Providers.

(vii) No provisions for the misuse of 160 series allocated exclusively for transactional/service voice calls

2.42 Banks and other entities make use of 10-digit mobile/ landline numbers for making service and transactional calls. In order to create confidence among the consumers and to enable them to recognize genuine service/transactional calls from Banks and other Senders, a need was felt to earmark a separate number series for service and transactional voice calls. On the recommendations of TRAI, 160 series has been allocated by DoT exclusively for making transactional and service voice calls. In the first stage, it has been earmarked for all entities regulated by RBI, SEBI, IRDAI and PFRDA. Later the series may be allocated to other entities for making transactional or service calls. It will help in the easy identification of the calling entity and will prevent the duping of innocent customers from the fraudsters.

2.43 It is necessary to ensure that Senders do not mix promotional content with the service/transactional calls. However, there are no provisions in the Regulations to prevent 160 series for making promotional calls by the Senders.

Suggested Measures

(i) Transfer of complaint from TAP to OAP in real-time

2.44 The TAP should record the complaint on DL-Complaints and, barring such cases where it is not possible to identify the OAP from the complaint registered, the TAP should notify the details in real time to OAP. The complaint can be closed by TAP only when (i) there is non-availability of the reported telephone number or header in the complaint registered or (ii) the complaint is reported by the customer after three days of receipt of UCC communications. In such cases, the TAP shall communicate to the customer about the closure of his complaint and change the status of the complaint in DL-Complaints.

(ii) Intimation of receipt of each complaint to the registered/unregistered senders

2.45 The OAP should examine communication detail records (CDRs), within a maximum time of two hours to check the occurrence of complained communication between the complainant and the reported telephone number or header from which unsolicited commercial communication was received. In case of occurrence of complained communications, OAP should intimate the receipt of the complaint to the Sender through an auto-trigger mechanism and advise the Sender to refrain from sending UCC.

(iii) Different Criteria to initiate action against individual subscriber and enterprise subscribers for UTM complaints

2.46 There is a need to spell out different criteria for initiating action for violation against unregistered Senders belonging to the individual category and enterprise category of telecom customers. The following could be one possible mechanism for initiating action against the unregistered Senders for UTM violation.

- a. On receipt of any UTM complaint against an individual category of unregistered Sender, the OAP shall examine within a maximum time of two hours, whether there are other similar complaints or reports against the same Sender. OAP shall suspend the outgoing services of the Sender and initiate an investigation if the number of complaints and/or reports against the Sender are from three or more than three unique recipients during the calendar month.
- b. On receipt of any UTM complaint against the enterprise category of unregistered Senders, the OAP shall examine within a maximum time of two hours whether there are other similar complaints or reports against the same Sender. OAP shall suspend the outgoing services of the Sender and initiate an investigation if the number of complaints and/or reports against the Sender are from ten or more than ten unique recipients during the calendar month.

2.47 As discussed above Senders shall get intimation of receipt of each complaint. Therefore, it has been proposed that the outgoing facility of the Sender should be barred once the complaints from unique complaints reach a specified threshold as described above. It shall help in putting a curb on UCC calls/messages faster.

(iv) Provisions to initiate action against the Sender for making promotional calls from the series assigned for transactional/service calls

2.48 In case of complaints related to making promotional voice calls from the series assigned for transactional calls, OAP shall further examine within a maximum time of two hours whether there are similar complaints or reports against the same Sender. OAP shall suspend the outgoing services of the Sender and initiate an investigation if number of complaints and/or reports against the Sender are from ten or more than ten unique recipients during the calendar month.

(v) Action against Senders for UTM Violation and misuse of Series assigned for Transactional/Service calls

2.49 In sub-section (iii) above, the threshold of UTM complaints for initiating an investigation against individual subscribers and enterprise subscribers are discussed. Sub-section (iv) above discusses the threshold of complaints for initiating an investigation against the Sender for making promotional calls from the series assigned for transactional/service calls. Once the complaints reach threshold value, the outgoing services of the Sender shall be barred and an investigation is initiated by the OAP by issuing a notice to the Sender to give an opportunity to represent the case. The OAP shall decide the representation within five business days from the date of its receipt. OAP shall record its findings with necessary justifications. Further, if OAP concludes that the Sender was engaged in sending the unsolicited commercial communications, the OAP shall act against such Sender as under-

- a. For the first instance of violation, outgoing services of all telecom resources of the Sender including PRI/SIs trunks shall be barred by OAP till the end of the calendar month subject to a minimum period of 7 days.
- b. For the second and subsequent instances of violations, all telecom resources of the Sender including PRI/SIP trunks shall be disconnected by all the Access Providers for one year. OAP shall put the Sender under the blacklist category and no new telecom resources shall be provided by any Access Provider to such Sender during this period. All the devices used for making UCC shall also be blocked across all the Access Providers for a period of one year. However, one telephone number may be allowed to be retained by such Sender with the outgoing barred during this period.

- c. The Sender can represent to the OAP against action due to first or subsequent instance of violation. OAP shall decide the representation within a maximum period of seven business days and shall record reasons for its findings. The OAP shall file the details of the decision taken on all such representations to the Authority for regulatory review as per the format and periodicity defined by the Authority from time to time.
- d. Against the decision of the OAP in sub-regulation (iii) above, Sender can file an appeal before the Authority, as per regulation 29.

2.50 As discussed above Senders gets intimation of receipt of each complaint. Subsequently, it gets two opportunities to represent to the Access Providers for action against it for UTM violation or misuse of 160 series. Subsequently, it also gets an opportunity to appeal to the Authority.

II. Customer Complaint Registration Facility (CCRF)

2.51 As per regulation 23, every Access Provider is required to establish Customer Complaint Registration Facility (CCRF) and make necessary arrangements to facilitate its customers on 24 hours X 7 days basis throughout the year. Relevant regulation is quoted below-

“23. Every Access Provider shall establish Customer Complaint Registration Facility (CCRF) and shall make necessary arrangements to facilitate its customers on 24 hours X 7 days basis throughout the year: -

(1) to provide ways and means: -

(a) to make complaint(s), by its customer who has registered his preference(s), against sender(s) of unsolicited commercial communication in violation of the registered preferences or digitally registered consents;

(b) to submit report(s), against sender(s) of commercial communication in violation of provisions of these regulation(s) by any customer;

(2) to provide following modes, as per choice of the customer and free of cost, to make complaint or to report violation of regulations: -

(a) sending SMS to short code 1909; or

(b) calling on 1909; or

(c) Interactive Voice Response System (IVRS); or

- (d) Mobile app developed in this regard either by the Authority or by any other person or entity and approved by the Authority; or
- (e) Web portal with authentication through One Time Password (OTP); or
- (f) Any other means as may be notified by the Authority from time to time.

Provided that every such complaint shall be made by a subscriber within three days of receipt of the unsolicited commercial communication;

- (3) *to duly acknowledge the receipt within fifteen minutes of the complaint or report made by the customer with unique reference number;*
- (4) *to provide details to the subscriber about the mobile app provided for in sub-regulation (2)(d);*
- (5) *to provide details about format and procedure to the customer, as given in the appropriate Code(s) of Practice, where a complaint is rejected by the access provider on the grounds of incomplete information or improper format;*

2.52 The following issues have been observed with respect to the above regulation.

- (i) Entertaining complaints from customers not registered on DL-Preferences

2.53 As can be seen from regulation 23(1)(a), in the present system, there is no provision for lodging complaints by the customers who have not registered any preferences. As mentioned in the EM, the complaints against the UTMs by the unregistered customers are registered as “reports” instead of “complaints”. The relevant Para of the EM are quoted below-

Para 5.3.4 of the EM-

“Entertaining complaints from customers not registered on DL-Preferences: *The present system does not have provision of lodging complaint by the customer who have not registered any preference(s). However, there are certain instances of violation of provisions of regulation like UCC from UTM, UCC beyond permissible hours etc., where unregistered subscriber may also like to register complaints. Such complaints may be treated differently compared to normal complaints by a customer registered on DL-Preferences. These may be referred as “reports” instead of “complaints”. Complaints received after the specified time period from a customer registered on DL-Preferences or those with insufficient evidence may also be recorded as reports. Taking such complaints into account would help identify UTMs or RTMs who indulge in activities are not permitted under the regulations.The Authority also decides that Access Provider should entertain reports from such customers for detection of bulk UCC sender and non-compliance of regulation. Access Provider may be required to consider all the complaints made within relevant time period of commercial communication. Even if the*

complaint is received after the specified time period, TSP should not reject it, but consider it as report for use in UCC detection.”

2.54 UTMs are Senders of commercial communication without getting registered for the purpose of telemarketing with the Access Providers. To register complaints against UTMs, there may not be any requirement to get registration on the DL-Preferences.

(ii) Rejection of complaints due to ‘Incomplete Information’ or ‘Insufficient UCC Description’

2.55 It has been observed that the Access Providers declare many complaints invalid on account of ‘Incomplete Information’ or ‘Insufficient UCC Description’. ‘SCHEDULE-III of the Regulations provides a list of action items for Code of Practice for Complaint Handling (CoP-Complaints). The relevant provisions are quoted below-

“1. Every Access Provider shall formulate Code of Practice for Complaint handling (CoP-Complaints) and shall prescribe role, responsibilities of entities involved in examining, investigating and resolving complaints;

2. CoP-Complaints shall also include details about: -

(1). Complaint registration through voice call

(a) Procedure for a customer to make a call to 1909 for registering his complaint.

(b) Procedure and role of the customer care executive to interact with the customer about the details like particulars of telemarketer, the telephone number from which the unsolicited commercial communication has originated the date, time and brief description of such unsolicited commercial communication.

(c) Procedure and role of the customer care executive to register the customer complaint and acknowledge the complaint by providing a unique complaint number.

(2). Complaint Registration through SMS

(a) Format for making complaints in which a customer may register his complaint pertaining to receipt of unsolicited commercial communication.

(b) Details to be provided by the complainant e.g. Unsolicited Commercial Communications with date on which it was received along with content of received message and in case of voice call, brief of content of communication etc.

.....”

2.56 As per above schedule, CoP-Complaints shall, inter alia, include information about details to be provided by the complainant e.g. Unsolicited Commercial Communications with the date on which it was received along with the content of received message and in case of voice

call, brief of content of communication (brief description of such unsolicited commercial communication) etc.

2.57 It has been observed that many complaints are being declared invalid and have not been acted upon citing incomplete UCC description provided by the complainant as the reason. The purpose of this field was to provide additional information about the UCC. It also enables filing of UCC complaints on behalf of someone else whose description could be provided in the UCC description field. The UCC complaints should not be declared invalid on frivolous grounds. To achieve these objectives, the following could be the possible measures -

- (a) If the complaint is related to UCC through voice calls and contains calling party (Sender) number, complainant number and date of UCC, it should be treated as a valid complaint. However, Access Provider can collect additional information to support the investigation.
- (b) In case of UCC complaint related to SMS, a brief description of the SMS content should be sufficient to treat it as a valid UCC complaint. For the guidance of the complainant regarding how to describe the UCC, a template of the UCC description should be shown at the Access Providers' Mobile App and Web portal.
- (c) The Mobile App and Web portal should have the option of uploading screenshot of call log and SMS content, and extract necessary details through it for complaint registration.

2.58 Moreover, registration of UCC complaints should be an easy and simple process and only the minimum required information should be asked to be filled out manually. For this purpose, on 24th June 2024, the Authority issued following Direction to all the Access Providers –

“(a) the options/hyperlinks for registration of UCC complaints and registration/modification of Preference and Consents by customers is

displayed at a prominent location on the first view of Main/Home page of the Access Providers' Mobile Apps and Web Portals;

- (b) there is a mechanism in the App to prompt customers to grant their permission to access call logs and other necessary details; inform them about the benefit of giving these permissions and the fact that providing of these permissions is not mandatory; and allow them to review their permissions; and*
- (c) the essential details, such as Senders' number/header, date of UCC, SMS text, etc., are auto populated while registering Unsolicited Commercial Communication (UCC) complaints through Mobile Apps, if customers have granted permission to access their call logs and other necessary details;*
- (d) necessary validations are applied at the backend to prevent invalid entries, such as entry of invalid/incorrect numbers, headers of senders, during registration of complaints;”*

(iii) Registration of Complaints through E-mail

2.59 Apart from the mode of complaints mentioned in Regulation 23, it should be possible to register complaints by sending email to a designated Email Id of the Access Providers.

Issues for Consultation

Q.5 Whether current provisions in the regulations for redressal of consumers' complaints in a time-bound manner are sufficient? If not, what provisions should be made for improving the effectiveness of the complaint handling processes including identifying and fixing the responsibilities of the violators?

Q.6 Whether facilities extended by the Service providers through Apps, Website and Call Centres for handling UCC complaints are accessible and consumer-friendly? Is there a need to add more facilities in the current systems? What measures should be taken by the service providers to make their Apps, Website and Call Centres easily accessible to the Consumers for registering UCC Complaints and tracking the same for a time-bound disposal of

complaints? Please provide your answer with full details on the facilities needed.

Q.7 What additional modes of complaints registration, preference registration and consents registration through a very easy and quick process can be implemented?

Distributed Ledger(s) for Complaints (DL-Complaints)

2.60 Regulation 24 provides that every Access Provider shall establish or cause to establish Distributed Ledgers for Complaints (DL-Complaints) with requisite functions, processes and interfaces. The relevant provisions are quoted below-

*“24. **Distributed Ledger(s) for Complaints:** Every Access Provider shall establish or cause to establish Distributed Ledger(s) for Complaints (DL-Complaints) with requisite functions, processes and interfaces:*

- (1) to record complaints and reports regarding violation of Regulations made by the customer in the Distributed Ledger for Complaints (DL-Complaints) in an immutable and non-repudiable manner;*
- (2) to record, at least, following details about the complaint or report regarding violation of Regulations:*
 - (a) telephone number(s) or header(s) from which Unsolicited Commercial Communication was received;*
 - (b) telephone number(s) of Complainant or reporter;*
 - (c) Referred telephone number(s) (RTN), if any;*
 - (d) Date and time of occurrence of Unsolicited Commercial Communication, if available;*
 - (e) unique registration number issued at the time of making complaint or reporting;*
 - (f) resolution status of the complaint or report regarding violation of Regulations;*
- (3) to record three years history of complainant with details of all complaint(s) made by him, with date(s) and time(s), and status of resolution of complaints;*
- (4) to record three years history of sender(s) against which complaint is made or reported with details of all complaint(s), with date(s) and time(s), and status of resolution of complaints;*
- (5) to interact and exchange information with other relevant entities in a safe and secure manner;*
- (6) to support any other functionalities as required to carry out functions provided for in these regulations;*

2.61 For sharing of information on DLT platform and also for reporting purposes, Distributed Ledger for Complaints (DL-Complaints) should contain the following details of the Senders against whom complaint is made-

(a) for UTM/ unregistered Sender, Sender details such as name of the Sender, category of Sender as a telecom customer (individual/ Enterprise), address, and other relevant details to uniquely identify the Sender shall be recorded.

(b) Referred entity name in the complaint.

III. Record keeping and reporting:

2.62 The regulation 26 provides for the following-

“26 Record keeping and reporting:

- (1) *Every Access Provider shall maintain records of complaints, from its customers and received from Terminating Access Provider(s), against registered sender(s) for sending unsolicited commercial communications on daily basis for each service area and submit performance monitoring report to the Authority as and when required in a format as prescribed.*
- (2) *Every Access Provider shall maintain records of complaints, from its customers and received from Terminating Access Provider(s), against unregistered sender(s) for sending unsolicited commercial communications on daily basis for each service area and submit performance monitoring report to the Authority as and when required in a format as prescribed.*
- (3) *Every Access Provider shall submit to the Authority its compliance reports in respect of unsolicited commercial communications, complaints or reports from its customers in such manner and format, at such periodic intervals and within such time limits as may be specified by the Authority, from time to time, by an order or direction;*
- (4) *The Authority may, from time to time, through audit conducted either by its own officers or employees or through agency appointed by it, verify and assess the process followed by the access provider for registration and resolution of complaints, examination and investigation of the complaints and reporting to the Authority.”*

2.63 The following issues have been observed with respect to provisions regarding record keeping and reporting as per above regulation

(i) Audit of implementation of TCCCPR 2018

2.64 As per regulation 26(4). the Authority may, from time to time, through audit conducted either by its own officers or employees or through agency appointed by it, verify and assess the process followed by the Access Provider for registration and resolution of complaints,

examination and investigation of the complaints and reporting to the Authority. However, the audit may not be limited to complaint handling. There are other important aspects of the Regulations which may be required to be audited such as implementation of UCC_Detect System and action taken, different registration processes such as Sender registration, telemarketer registration, header registration, content template registration and other processes such as preference registration process, scrubbing processes, DCA process and other regulatory processes followed by the Access Providers.

(ii) Information to the Authority on real-time basis

2.65 For effective monitoring of the implementation of various provisions of the Regulations, it is essential that the Authority has real-time access to various processes and databases related to complaint handling and other processes as prescribed by the Authority from time to time.

(iii) Header Information to the Public-

2.66 To enable identification of the Senders, the information about the headers should be made available to the public through the Access Providers websites and TRAI Websites. There should not be a requirement to download the entire list/database of Headers and Senders. Rather, a facility to enquire based on a specific header/Sender may be created. Further, for the sake of transparency, information about the details of complaints received and action taken by the Access Providers should also be provided. In short, the following information should be published by the Access providers on their websites.

- a. *Global database of Headers along with the associated Senders.*
- b. *Global database of 140 series allotment along with the associated Telemarketer/Sender.*
- c. *Global database of 160 series allotment along with the associated Sender.*
- d. *Information about the UCC complaints received and action taken thereon.*

e. Other information as prescribed by the Authority from time to time.

IV. Schedule -V: Action Items for preparing Code of Practice for Periodic Monthly Reporting (CoP-PMR)

2.67 Schedule V of the Regulations lists the items that Access Providers are mandated to maintain and report to the Authority for periodic reporting. The following additional items may be proposed for effective monitoring of complaint disposal by the Access providers.

For RTM complaints

OAP shall maintain Sender-wise records of complaints in the format prescribed by the Authority from time to time.

For UTM complaints

For all the complaints, OAP shall maintain records of Senders such as name of the Sender and other relevant details to uniquely identify the Sender, and other details as per the directions of the Authority, issued from time to time.

V. Regulation 29- Examination of telecom resources by the Authority put under outgoing Usage Cap or having been disconnected by Access Provider

2.68 Regulations 29 provides for the examination of telecom resources by the Authority put under outgoing Usage Cap or having been disconnected under regulation 25 by the Access Provider when Sender makes a complaint or represent to the Authority against the action taken by the Access Provider. These Provisions are quoted below.

“29. Examination of telecom resources put under outgoing Usage Cap or having been disconnected: -

- (1) *The Authority may, if it considers expedient to do so, on receipt of complaint, call for the details of the telecom resources put under Usage Cap or disconnected under the regulations 25(5) and 25(6), on account of unregistered telemarketing activity under and upon examination, for reasons to be recorded,*

- a. *If the Authority finds that conclusion of investigation lacks adequate evidence against the sender, it may direct the Access Provider to remove such restrictions on usage or restore all telephone number(s) of the person and delete the name and address of such customer(s) or sender(s) from the blacklist.*
- b. *If the customer or the Sender whose telecom resources have been put under restriction or disconnected on account of adequate evidence against the sender, makes a request, within sixty days of such action, to the Authority for restoring his telecom resources or removing the restrictions on usage and satisfies the Authority that it has taken reasonable steps to prevent recurrence of such contravention, the Authority may by order ask access provider(s) to remove such restrictions on usage or restore all telephone number(s) of the person and delete the name and address of such Sender(s) from the blacklist, as the case may be, on payment of an amount of five thousand rupees per resource to the Authority for restoration of all such telecom resources, subject to the condition that the total amount payable by the customer or sender shall not exceed rupees five lakhs.*

Provided that the Authority may impose no financial disincentive or impose a lower amount where it finds merit in the reasons furnished by the customer.”

2.69 Changes have been suggested in regulation 25. As per the changes, in place of usage cap, outgoing facility has been proposed to be suspended on receipt on the complaints. Provisions for action for misuse of 160 series assigned for service and translational calls have also been proposed. In view of these changes suggested in the regulation 25 regarding Complaint Mechanism, the regulations 29 may be amended as below-

“29. Appeal by Senders against action by Access Providers under the regulations 25 (4)(d), 25(5) and 25(6) -

The Authority may, if it considers expedient to do so, on receipt of an appeal from the Sender against whom action has been taken by Access Provider under the regulations 25(4)(d) for making promotional calls from series assigned for transactional calls or 25(5) and 25(6) on account of unregistered telemarketing activities, call for the relevant details from the Sender and Access Providers, and upon examination, for reasons to be recorded,

- (a) *If the Authority finds that conclusion of investigation by the Access Provider lacks adequate evidence against the Sender, it may direct the Access Providers to restore all telephone numbers of the Sender and delete the name and address of such Sender from the blacklist.*
- (b) *If the Sender makes a request, within sixty days of action against it, to the Authority for restoring its telecom resources and satisfies the Authority that*

it has taken reasonable steps to prevent the recurrence of such contravention, the Authority may by order ask Access Providers to restore all telephone numbers of the Sender and delete the name and address of such Sender from the blacklist, as the case may be, on payment of an amount of five thousand rupees per resource to the Authority for restoration of all such telecom resources, subject to the condition that the total amount payable by the Sender shall not exceed rupees five lakh.

Provided that in the case of PRI/SIP trunks, each DID number shall be treated as a separate telecom resource.

Provided that the amount payable under sub-regulation 29(b) may be reduced or waived-off by the Authority where it finds merit in the reasons furnished by the Sender.”

E. UCC Detect System

2.70 Unsolicited Commercial calls from Unregistered Telemarketers (UTMs) are now a major nuisance to the public. Such spammers use normal 10-digit mobile/landline numbers to masquerade themselves as “normal subscribers” and bypass all regulatory provisions of TCCCPR 2018. As per the provisions of TCCCPR 2018, Access Providers are mandated to put a UCC_Detect System to detect the possible unregistered senders/UTMs who are sending bulk commercial communications without complying with the Regulations.

2.71 As per Schedule-IV of TCCCPR 2018 that enlists the Action Items for preparing Code of Practice for Unsolicited Commercial Communications Detection (CoP-UCC_Detect),

Every Access Provider shall establish, maintain and operate following system, functions and processes to detect sender(s) who are sending Unsolicited Commercial Communications in bulk and not complying with the regulation(s), and act to curb such activities: -

- (1) System which have intelligence at least following functionalities: -*
 - (a) identifying sender(s) on basis of signature(s);*
 - (b) deploying honeypot(s) and using information collected by it;*

- (c) evolving signature(s) by learning over time;*
- (d) interface to exchange information with similar system(s) established by other access provider(s) to evolve signature(s), detecting sender using Sender Information (SI);*
- (e) considering inputs available from DL-Complaints about complaints and reports and analyze them;*
- (f) considering inputs available, if any, from any other network element(s) of the access provider system(s);*
- (2) provide ways and means for resolving complaint(s) by sharing information related to telephone number(s) of sender(s) against which complaint is made;*

2.72 These measures indicated above require monitoring of calling patterns, deployment of honeypots, etc. However, such measures have not been found effective. It is therefore required to review various provisions related to UCC_Detect System.

Suggested Measures

Action against suspected spammers detected through UCC_Detect System

2.73 As per the provisions of TCCCPR 2018, action against suspected spammer detected through UCC_Detect System is dependent and linked to receipt of complaints against such Senders. It has been observed that many times a spammer sends UCC in large numbers in a very short period. By the time a complaint is registered, and usage cap is imposed on the spammer during the investigation of the complaint, a lot of spam messages/calls are sent/made by the spammer. Therefore, there is a need to develop a mechanism for taking proactive actions on UTM's to prevent the delivery of spam calls to the customers.

2.74 The following could be some of the possible steps that can be taken-

- (i) System to automatically take feedback from the recipient of bulk voice calls-

2.75 The OAP may establish a system to detect Senders in real time making calls greater than a prescribed limit on a single day and obtain feedback from some of the recipients of these calls whether the calls received by them were Unsolicited Commercial Calls. The feedback should be collected on the same day from at least 5% of the recipients, subject to minimum 10 recipients, chosen randomly, or such sample size as decided by the Authority from time to time. Feedback should be collected in the form of either 'Y' or 'N' through SMS from 1909 or any other pre-defined short code. Based on the feedback, OAP shall register complaints on behalf of the recipients in the DLT system against the Senders. The feedback can be collected using a predefined message template either in CoP or by the Authority from time to time. A sample template is given below for reference -

“Unusually high calls from the <number> has been noticed. You are one of the recipients of calls from this number. Kindly respond by ‘Y’ if it was a promotional call or by ‘N’ if not.”

2.76 Based on the information submitted by the Access Providers for the quarter January-March 2024, the following Table indicates the calling pattern of P2P (person to person) mobile calls. The number of people making mobile calls of more than 50 in a day is less than 0.2%. Therefore, there may be a case to ascertain from the recipients of calls from such people whether the call was a commercial call. To begin with, the feedback can be taken from the recipients of calls from the people making more than 50 calls in a day as discussed in the previous para. This threshold of 50 calls may be reviewed by the Authority from time to time.

Table 2.3- P2P Mobile Calls during quarter ending March 2024

Sl. No.	Average No. of outgoing Voice calls per day per SIM during the Quarter	Total No. of Subscribers	Total % of Subscribers
1.	'Less than or equal to 10'	99,39,48,598	85.3124
2.	'More than 10' and 'less than or equal to 50'	16,96,59,137	14.5622
3.	More than 50' and 'less than or equal to 100'	13,82,543	0.1187
4.	'More than 100' and 'less than or equal to 200'	74,090	0.0064
5.	'More than 200' and 'less than or equal to 500'	4,473	0.0004
6.	'More than 500' and 'less than or equal to 1000'	136	0.0000
7.	More than 1000	4	0.0000
	Total	1,16,50,68,981	100.00

(ii) System to automatically take feedback from the recipient of bulk SMS-

2.77 The OAP may establish a system to detect Senders in real time sending SMS greater than a prescribed limit on a single day and obtain feedback from some of the recipients of these SMS whether the SMS received by them were Unsolicited Commercial SMS. The feedback should be collected on the same day from at least 5% of the recipients, subject to minimum 10 recipients, chosen randomly, or such sample size as decided by the Authority from time to time. Feedback should be collected in the form of either 'Y' or 'N' through SMS from 1909 or any other pre-defined short code. Based on the feedback, OAP shall register complaints on behalf of the recipients in the DLT system against the Senders. The feedback can be collected using a predefined message template either in CoP or by the Authority from time to time. A sample template is given below for reference -

“Unusually high SMS from the <number> has been noticed. You are one of the recipients of SMS from this number. Kindly respond by 'Y' if it was a promotional SMS or by 'N' if not.”

2.78 Based on the information submitted by the Access Providers for the quarter January-March 2023, the following Table indicates the P2P (person to person) SMS sending pattern. The number of people sending more than 50 SMS in a day is less than 0.04%. Therefore, there may be a case to ascertain from the recipients of SMS from such people whether the SMS was a commercial SMS. To begin with, the feedback can be taken from the recipients of SMS from the people sending more than 50 SMS in a day as discussed in the previous para. This threshold of 50 SMS may be reviewed by the Authority from time to time.

Table 2.4- P2P SMSs during quarter ending March 2024

Sl. No.	Average No. of outgoing SMS per day per SIM during the Quarter	Total No. of Subscribers	Total % of Subscribers
1.	Less than or equal to 1	1,11,62,57,257	95.810
2.	'More than 1' and 'less than or equal to 5'	3,32,15,266	2.851
3.	'More than 5' and 'less than or equal to 10'	84,34,457	0.724
4.	'More than 10' and 'less than or equal to 20'	44,06,446	0.378
5.	'More than 20' and 'less than or equal to 30'	13,92,178	0.119
6.	'More than 30' and 'less than or equal to 40'	6,27,649	0.054
7.	'More than 40' and 'less than or equal to 50'	3,24,174	0.028
8.	'More than 50' and 'less than or equal to 100'	3,64,127	0.031
9.	More than 100	47,427	0.004
	Total	1,16,50,68,981	100.00

(iii) Need to define additional signals/triggers to identify the suspected UTMs-

2.79 The following signals/triggers may be used to identify the suspected UTMs-

1. Any sender exceeding 50 outgoing calls a day, or any such number as defined by the Authority from time to time may be observed for any of the following signals/triggers parameters:
 - a. Call recipient diversity (diversity in B-numbers) exceeds a threshold of 60% unique recipients in the day, or any such number as defined by the Authority from time to time. Diversity in B-numbers refers to the distinct call recipients (called party numbers) associated with the outgoing calls of the sender.
 - b. The average call duration to distinct call recipients in the day is less than 10 seconds or any such number as defined by the Authority from time to time.
 - c. The ratio of incoming calls to outgoing calls of the sender is less than 0.2 in the day or any such number as defined by the Authority from time to time.
 - d. The number of distinct unanswered calls to recipients of the sender exceeds a threshold of 50% calls a day, or any such number as defined by the Authority from time to time.
2. Any sender exceeding 50 outgoing SMS a day, or any such number as defined by the authority from time to time shall be observed for any of the following signals/triggers:
 - a. SMS recipient diversity exceeds a threshold of 60% unique recipients a day, or any such number as defined by the authority from time to time. SMS recipient diversity refers to the number of distinct SMS recipient associated with the outgoing SMS of the sender.
 - b. The ratio of incoming SMS compared to outgoing SMS is less than 0.2 or any such number as defined by the Authority from time to time.
3. All mobile numbers (MSISDN) associated with a device on which 4 or more than 4 mobile numbers, or any such number as defined by the authority from time to time, have been used within a month.

2.80 All the sender(s) flagged based on the signal/triggers parameters may be treated as suspected UTMs.

(iv) Action on the suspected spammers detected through the UCC_Detect System of the Access providers-

2.81 Following action may be mandated on the suspected spammers who are detected by the Access Providers through their UCC_Detect system using different approaches and techniques -

(a) Bonafide use of the telecom resources assigned to such Sender shall be checked by Access Providers to ensure that it is not being used for making commercial communication. In the meantime, the outgoing services of the all the telecom resources of the Sender will be placed under suspension.

(b) Reverification of KYC of the subscribers as per the instruction of the Department of Telecommunications (DoT)/TRAI and taking actions accordingly.

(v) Deployment of Honeypots in sufficient numbers and acting against the spammers detected through honeypots.

2.82 Honeypots are good and efficient resources available to the Access Providers to collect actual feedback on the content of the messages or calls without the involvement of consumers. It has been observed that Access Providers have deployed very few honeypots on a symbolic basis and information collected from the honeypots is not being used proactively to stop spammers from sending unsolicited communications. To ensure that Access providers deploy the honeypots in sufficient numbers and effective action is taken against the spammers detected through honeypots, the following measures may be taken-

(a) Each Access Provider may be mandated to deploy one honeypot in a LSA for every 200 complaints registered in previous calendar

year subject to a minimum of 50 honeypots in each LSA or any such numbers as specified by the Authority from time to time, for recording the spam messages and voice calls.

- (b) The spam message or call received on honeypots should be treated as definitive proof that the Sender was involved in sending the UCC. TAP shall report such cases to OAP through DLT in real time, and OAP shall suspend the outgoing services of the Sender and shall initiate an investigation as provided for in regulation 25(6).

(vi) Other Measures

2.83 In addition to the above discussed steps, the following could be the other measures that can be prescribed in the Regulations as part of the UCC_Detect mechanism.

- (a) Access Providers may enable features for blocking and reporting of Sender of spam messages/calls by the customer through the Mobile App of the Access Providers and converting it into a complaint in the DLT system.
- (b) Deploying methods to detect the misuse of robotic calls, auto dialer calls or pre-recorded announcements, SIM box type usage etc. Access Provider shall suspend the outgoing services of such UTMs, issue a notice, and act as per regulation 25(6).
- (c) Use of Artificial Intelligence (AI) and Machine Learning (ML) based technological solutions for proactive UCC prevention and monitoring.
- (d) Monitoring social media data for identifying suspected spammers, URLs, Headers, and call-back/referred numbers, etc.
- (e) Real-time sharing of UCC_Detect data and insights with other access providers over DLT fostering industry-wide collaboration to

enhance collective ability of the industry to detect, curb and prevent UCC.

Issues for Consultation

Q.8 Stakeholders are required to submit their comments on the following: -

- a. Measures required for pro-active detection of spam messages and calls through honeypots and norms for the deployment of Honeypots in a LSA, and rules or logics required for effective use of AI-based UCC detection systems including training of AI models for identification, detection and prevention of spam**
- b. Proactive actions needed to stop further communications of messages or calls identified as spam through UCC detect systems and actions on the senders.**

F. Financial Disincentives on Access Providers for failure to curb the UCC from registered Senders/RTMs -

2.84 Regulation 27 provides provision for Financial Disincentives (FD) on Access Providers for not controlling the Unsolicited Commercial Communications (UCC) from RTMs by the Access Provider. Relevant Regulations are reproduced below-

(a) Regulation 27-

“Consequences for the Originating Access Provider (OAP) failing to curb the unsolicited commercial communications sent through its network(s): -

- (1). If OAP fails to curb UCC, Financial Disincentives for not controlling the Unsolicited Commercial Communications (UCC) from RTMs by the access provider in each License Service Area for one calendar month shall be as under: -*

	<i>Value of “Counts of UCC for RTMs for one calendar month</i>	<i>Amount of financial disincentives in Rupees</i>
<i>(a)</i>	<i>More than zero but not exceeding hundred</i>	<i>Rupees one thousand per count</i>

(b)	More than hundred but not exceeding one thousand	Maximum financial disincentives at (a) plus Rupees five thousand per count exceeding hundred
(c)	More than one thousand	Maximum financial disincentives at (b) plus Rupees ten thousand per count exceeding one thousand

Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority, unless the concerned Access Provider has been given a reasonable opportunity to represent.

The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.

- (2). *The total amount payable as financial disincentives under sub-regulations (1) shall not exceed rupees fifty lakhs per calendar month. The Authority may impose no financial disincentive or a lower amount of financial disincentive than the amount payable as per the provisions in subregulation (1) where it finds merit in the reasons furnished by the access provider."*

2.85 Under regulation 27, FD is imposed on the OAP for its failure to curb UCC from registered Senders. However, there are other activities such as registration of Content Templates under wrong category which is often seen to be misused to route the promotional messages to the customers who have registered to block such messages. Both transactional and Service messages are sent based on inferred consents and are sent to customers who have opted for 'FULLY BLOCK' or 'Promo Blocked' preferences. It leaves a scope misuse of Transactional and Service Implicit templates to push promotional contents. Similarly, the Header registration function is another important activity performed by Access Providers which should be audited. Therefore, the scope of regulation 27 needs to be expanded to audit the header.

2.86 The impact of content template registration in the wrong category impacts all the messages sent using that content template. Similarly, Header registration as per the Regulations is important because it is an integral part of all the messages sent through it. Therefore, the amount of FD to be imposed on the Access Providers for failure to fulfil their obligations as envisaged in the Regulations in respect of Header registration function (HRF) and Content Templates registration function

(CTRF) should be comparatively higher than FD to be imposed on OAP for individual UCC compliant from registered Senders.

2.87 In view of the above, the regulation 27 may be amended as below-

“27. Financial Disincentive for failure to curb the unsolicited commercial communications from registered Senders/RTMs

(1). When the Authority has a reason to believe that any Access Provider has failed to curb the unsolicited commercial communications from registered Senders/RTMs, the Financial Disincentives shall be imposed on the Access Providers in each LSA for each calendar month as under-

- i. If OAP fails to curb UCC, it shall, without prejudice to any penalty which may be imposed under its licence or any Act, be liable to pay, by way of financial disincentive, an amount of Rupees one thousand per count of valid complaint.*
- ii. If the Access Provider has not fulfilled its obligations as envisaged in the regulations in respect of Header registration function and Content Templates registration function, it shall, without prejudice to any penalty which may be imposed under its licence or any Act, be liable to pay, by way of financial disincentive, an amount of Rupees five thousand per count of registration found not to be in accordance with the regulations.*
- iii. If the Access Provider is found to have incorrectly decided the representation made by the Sender against action due to first or subsequent instance of violation regarding misuse of series assigned for service/transactional call, it shall, without prejudice to any penalty which may be imposed under its licence or any Act or other provisions under these regulations, be liable to pay, by way of financial disincentive, an amount of Rupees one lakh per instance.*
- iv. If the Access Provider is found to have misreported the count of UCC, it shall, without prejudice to any penalty which may be imposed under its licence or any Act or other provisions under these regulations, be liable to pay, by way of financial*

disincentive, an amount of Rupees five lakhs per LSA for each month.

v. Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority, unless the concerned Access Provider has been given a reasonable opportunity to represent.

(2). The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.

(3). The Authority may impose no financial disincentive or a lower amount of financial disincentive than the amount payable as per the provisions in sub-regulation (1) (i), 1(ii), 1(iii) and 1(iv) or review the financial disincentives imposed where it finds merit in the reasons furnished by the access provider.

G. Financial Disincentives on Access Providers for failure to curb the UCC from unregistered Senders/UTMs:

2.88 Regulation 28 provides provisions of Financial Disincentives for the contravention of the provisions of the Regulations by Access Providers. The relevant provision is reproduced below-

“28 Consequences for contravention of the provisions of regulations by Access Providers: -

(1). Power of Authority to order inquiry: -

(a) Where the Authority has reason to believe that any Access Provider has contravened the provisions of these regulations, it may constitute an inquiry committee, to inquire into the contravention of the regulations and to report thereon to the Authority.

(b) The inquiry committee shall give a reasonable opportunity to the concerned Access Provider to represent itself, before submitting its findings to the Authority.

(2). If on inquiry, under sub-regulation (1), the Access Provider is found to have misreported the count of UCC for RTMs, it shall, without prejudice to any penalty which may be imposed under its licence or other provisions under these regulations, be liable to pay, by way of financial disincentive, an amount

(a) ten times the difference between disincentive computed by the Inquiry Committee and that computed earlier based on service provider’s data, or Rs 5 lakhs, whichever is higher; and

Provided that in case of second and subsequent contraventions, to pay an amount equal to twice that of computed financial disincentives under this sub-regulation

- (b) *one lakh per instance for access provider found to be not imposing timely restrictions on outgoing usage of unregistered sender(s) in accordance with provisions in regulations 25(5) and 25(6);*

Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority, unless the concerned Access Provider had been given a reasonable opportunity of representing against the findings of the inquiry committee.

The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.

The total amount payable as financial disincentives under sub-regulations (2)(a) and (2)(b) shall not exceed rupees ten lakhs in a week.

- (3). *The Authority may impose no financial disincentive or a lower amount of financial disincentive than the amount payable as per the provisions in sub-regulations (2)(a) and 2(b) where it finds merit in the reasons furnished by the access provider. “*

2.89 Regulation 28(2)(a) specifies that the amount of Financial Disincentive related to misreporting of RTM complaints, whereas regulation 28 (2)(b) specifies a FD of Rs one lakh per instance for Access Provider found to be not imposing timely restrictions on outgoing usage of unregistered Sender(s) in accordance with provisions in regulations 25(5) and 25(6). Further it has been specified that the total amount payable as financial disincentives under sub-regulations (2)(a) and (2)(b) shall not exceed rupees ten lakhs in a week. The following issues have been observed with respect to the above regulation.

- (i) As discussed above, regulation 27 provides for provisions related to Financial Disincentives (FD) for not controlling the Unsolicited Commercial Communications (UCC) from RTMs by the Access Provider whereas regulation 28 deals with FD provisions related to both RTM and UTM. Therefore, it is proposed that for the sake of clarity, FD provisions in respect of RTM related issues be specified in regulation 27 and FD provisions related to all UTM issues be specified in regulation 28.

- (ii) Regulation 28(2)(a) specifies that the amount of Financial Disincentive related to misreporting of RTM complaints. Similar provision may be made for misreporting of UTM complaints.
- (iii) Regulation 28 also specifies that the total amount payable as financial disincentives under sub-regulations 28(2)(a) and 28(2)(b) shall not exceed rupees ten lakhs in a week. Instead of a limit on per week basis, there should be a monthly limit as the Performance Monitoring Reports (PMRs) are prepared on monthly basis.
- (iv) Regulation 28(2)(b) specifies that Rs one lakh per instance shall be levied on the Access Provider found to be not imposing timely restrictions on outgoing usage of unregistered Sender(s) in accordance with provisions in regulations 25(5) and 25(6). It shall include the instances when Access providers do not act against the UTMs/unregistered senders for UTM violations or take delayed actions. It shall also cover the instances when Access providers do not disconnect all the telecom resources of the UTMs/unregistered senders. However, there are instances when UTM complaints are declared invalid on frivolous grounds such as "CDR Not Match", "Incomplete/ Incorrect Info", "Complaints wrongly routed" etc, both by TAP and OAP. Provisions for imposing FD for wrong closures of UTM complaints should be made.
- (v) Different provisions may be made if the unregistered Sender is an individual category of telecom consumer or if it is an enterprise customer.

2.90 In view of the above discussion, the regulations 28 may be amended as below-

"28. Financial Disincentive for failure to curb the unsolicited commercial communications from unregistered Senders/UTMs

- (1). *When the Authority has a reason to believe that any Access Provider has failed to take action against un-registered Senders/UTMs as per the*

provisions of the regulations, the Financial Disincentives shall be imposed on the Access Providers in each LSA for one calendar month as under-

- (i) If the Access Provider is found to have failed to take action against the unregistered Sender(s) in accordance with provisions in regulations 25(5) and 25(6), it shall, without prejudice to any penalty which may be imposed under its licence or any Act, be liable to pay, by way of financial disincentive as given below-*
 - a. Rupees ten thousand per instance per unregistered sender, if the Sender is an individual category of telecom consumers and*
 - b. Rupees one lakh per instance per unregistered entity, if the Sender is an enterprise category of telecom consumers;*
- (ii) The Access Provider shall, without prejudice to any penalty which may be imposed under its licence or any Act, be liable to pay, by way of financial disincentive, an amount of Rupees ten thousand per count of complaint that is declared invalid on unjustifiable grounds.*
- (iii) If the Access Provider is found to have incorrectly decided the representation made by the Sender against action due to first or subsequent instance of violation, it shall, without prejudice to any penalty which may be imposed under its licence or any Act or other provisions under these regulations, be liable to pay, by way of financial disincentive, an amount of Rupees one lakh per instance.*
- (iv) If the Access Provider is found to have misreported the count of UCC, it shall, without prejudice to any penalty which may be imposed under its licence or any Act or other provisions under these regulations, be liable to pay, by way of financial disincentive, an amount of Rupees five lakhs per LSA for each month*
- (v) Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority, unless the concerned Access Provider has been given a reasonable opportunity of representing.*

- (2). *The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.*
- (3). *The Authority may impose no financial disincentive or a lower amount of financial disincentive than the amount payable as per the provisions in sub-regulations (1)(i), 1(ii), 1(iii) and 1(iv) or review the financial disincentives imposed where it finds merit in the reasons furnished by the Access Provider.*
- (4). *The total amount payable as financial disincentives under regulation 27 and regulation 28 shall not exceed rupees fifty lakhs per calendar month per LSA.”*

Issues for Consultation

Q.9 Stakeholders are required to submit their comments in respect of

- a. Financial disincentive proposed in the descriptions above on the access providers against violations in respect of RTMs**
- b. Financial disincentive proposed in the descriptions above on the access providers against violations in respect of UTMs**
- c. Financial disincentive proposed against wrong approval of Headers and Message Templates as per descriptions above on the access providers.**
- d. Measures needed to assign the responsibilities of telemarketers (both RTMs and UTMs) and Principal Entities (Senders), involved in sending UCC and disincentivize them financially including legal actions as per law.**

H. A charge up to Rs. 0.05 paisa on Promotional and Service SMS

2.91 The Regulation provides for Terminating Access Provider (TAP) to charge Originating Access Provider (OAP) a charge upto Rs. 0.05 (five paisa only) for each of the promotional SMS and service SMS. However,

transactional SMS are not included in this provision. Regulation 35 of the TCCCPR 2018 reads as under-

"35. Terminating Access Provider (TAP) may charge Originating Access Provider (OAP) for Commercial communication messages as following: -

(1) Upto Rs. 0.05 (five paisa only) for each promotional SMS;

(2) Upto Rs. 0.05 (five paisa only) for each service SMS;

Provided that there shall be no Service 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;"*

2.92 The rationale for exempting transactional SMS is that the nature of transactional messages is very different from promotional and service and generally it is to inform the customer about vital transactions, whereas the nature of promotional and service messages is to seek or support the services being provided for commercial gains. However, transactional SMSs are also commercial messages. Moreover, this non-uniformity gives rise to arbitrage and risks of disputes. Therefore, one view is that terminating TSP may be suitably and uniformly compensated for all types of commercial SMSs including transactional SMS.

Issues for Consultation

Q.10 Whether there is a need to review exemptions accorded to transactional messages and bring them at par with other commercial messages? If yes, please give your answer with necessary justifications? If no, what additional measures are required to discourage senders, telemarketers or service providers from using transactional message templates for sending promotional messages?

I. Provisions related to registered Senders and other Functional Entities

a. Registration of Senders and Telemarketers

2.93 Two types of entities are registered by Access Providers namely Sender/ Principal Entities (PE) and Telemarketers (Delivery Function/Aggregator Function). Sender refers to an individual, business or legal entity that sends commercial communication. Telemarketers (TMs) are the entities who facilitate Senders to connect with Access Providers to send messages or make calls.

2.94 Regulation 5 (5) of the Regulations specifies the functions of the Access Providers with respect to the registration of the Senders and the same is reproduced below-

“5 Every Access Provider shall develop or cause to develop an ecosystem with the following functions to regulate the delivery of the commercial communications as provided for in these regulations: -

.....

(5) to register sender(s), carry out verifications of their identities and prescribe processes for sending commercial communications;”

2.95 For the registration of the TMs and other functional entities, following has been prescribed in the Explanatory Memorandum of the Regulations.

“3.3.3 Code(s) of Practice (CoPs) provide evolving and adaptive framework: - CoPs are formulated and operated by the access providers as per their requirements, who may specify terms and conditions for agreements with entities and action to be taken when an entity fails to perform the desired role or carry out its responsibilities. With a co-regulatory approach and codes(s) of practice by the access providers the governance framework can evolve over time, as needed. This would provide the access providers flexibility in developing the system to attain regulatory objectives. The issues listed below are to be dealt with in a Code Practice (to be called the Code of Practice for Entities or CoP Entities) to achieve regulatory objectives in conformance with the regulations:

- i. details of the requirements for robust verifications and authentication mechanism of telemarketers,*
- ii. registration of entities,*
- iii. establishing system in this regard,*

.....,

2.96 As per regulation 8 of the TCCCPR 2018, every Access Provider shall develop Code of Practice for Entities of ecosystem (CoP-Entities) as per Schedule-I of the Regulations). The present system for ascertaining identity of Senders and TMs is based on the submission of specific documents by them such as GST certificate, PAN / TAN document of the entity etc

(ii) Registration of Header and Content Templates

2.97 As per the regulatory framework, any commercial communication shall only take place using registered Headers assigned to the Senders for the purpose of commercial communications. Header means an alphanumeric string of a maximum of eleven characters or numbers assigned to a Sender under TCCCPR 2018 to send commercial communications in the form of SMS. For voice calls, series 140 and 160 have been earmarked for promotional and service/transactional calls respectively. Headers are useful for the recipients of the commercial communication to identify the Senders.

2.98 Senders are required to get content templates registered with the Access Providers. Content templates are classified as transactional, service or promotional templates. It may be a combination of fixed part of content and variable part of content, where-

- (i) fixed part of content which is common across all commercial communications sent to different recipients for the same or similar subject.
- (ii) variable part of content which may vary across commercial communications sent to different recipients for same or similar subject on account of information which is very specific to the particular transaction for a particular recipient or may vary on account of reference to date, time, place or unique reference number.

2.99 Header Registration Function (HRF) and Content Template Registration Function (CTRF) are being carried out by Access Providers themselves. Guidelines for the assignment of Headers and templates have been outlined by the Access Providers in their respective CoPs-Entity to fulfil the broad objectives mentioned in the TCCCPR 2018.

2.100 To ensure that appropriate headers are assigned to the Senders, the following broad guidelines have been prescribed in the EM regarding assignment of the Headers to the Senders/Principal Entities.

“3.3.33, the Authority is of the view that following measures may be required to be taken:

- i. assign header or Header root for SMS via Header Registration Functionality, on its own or through its agents, as per allocation and assignment principles and policies, to facilitate content provider or principal entity to get new headers;*
- ii. carry out pre-verifications of documents and credentials submitted by an individual, business entity or legal entity requesting for assigning of the header;*
- iii. bind with a mobile device and mobile number(s), in a secure and safe manner, which shall be used subsequently on regular intervals for logins to the sessions by the header assignee;*
- iv. Carry out additional authentications in case of a request for headers to be issued to SEBI registered brokers or other entities specified by Authority by directions, orders or instructions issued from time to time;*
- v. Carry out additional authentications in case of a request for headers to be issued to government entities, corporate(s) or well-known brands, including specific directions, orders or instructions, if any, issued from time to time by the Authority;*
- vi. Carry out additional checks for look-alike headers which may mislead to a common recipient of commercial communication, it may also include proximity checks, similarity after substring swaps specifically in case of government entities, corporate(s), well-known brands while assigning headers irrespective of current assignments of such headers, and to follow specific directions, orders or instructions, if any, issued from time to time by the Authority;”*

2.101 To achieve the above objectives, the following checks have been prescribed by the Access Providers in the CoP-Entity for the assignment of the headers:

- a. A header could be a brand name, business name or a company name etc. which a Sender intends to register.

- b. The header should be related to company or initial alphabets or the words in the Header represent the company/entity.
- c. In case there is no such correlation, the Sender may be required to provide a justification for such header.
- d. The Header registrar on a best effort basis check whether the header has a correlation with any of the Government entities/projects, well known brands, corporates etc.
- e. The decision for Header assignment, allocation, refusal, withdrawal, suspension, etc. shall be at the sole discretion of Header Registrar.
- f. Subject to all necessary checks and validations, the general rule to be followed for header assignment shall be on first come basis. However, this rule may not be binding.

2.102 For registering a Content Template, Access Providers have to check the contents of the template and register it in the correct category of content template. Regarding template registration, Para 3.3.13 of EM brings out the following-

“..... the CoP for entities may specify detailed procedure and policies to formulate templates, get them registered and apply them while delivering commercial communications.”

2.103 Access Providers have mentioned the following process of registration of content templates in their CoPs.

- a. Sender will share with Content Template Registrar (CTR) the proposed template to be registered under the category of transactional or service message. The template should carry both fixed and variable portions, distinctly identified. Sample Templates with fixed and variable portions will be prescribed and shared with Senders during Registration.
- b. Sender to ensure not to send any objectionable, obscene, unauthorized or any other content, messages or communications infringing copyright and intellectual property right etc., in any form, which is not permitted as per established laws of the country. TSPs will remain indemnified for any such misuse by Sender/aggregator through the relevant clause in the agreement.

- c. All content templates should preferably have Brand/Trademark/ Entity name so that templates are not abused.
- d. Access Provider under its discretion, can disallow registration of any content template based on any specific keywords or otherwise.

2.104 To curb misuse of header and templates by some Telemarketers, the Authority, through its Direction dated 16.02.2023, put some restrictions on the use of variables in the content templates and also directed for the re-verification of all the headers and content templates registered in the DLT platform. Operative part of the direction is reproduced below-

“... the Authority, in exercise of the powers conferred upon it under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), and the provisions of the Telecom Commercial Communications Customer Preference Regulations, 2018 hereby directs all the Access Providers to:

- (a) *Ensure re-verification of all Headers registered on DLT platform within thirty days from the date of issue of this direction and blocking of unverified headers;*
- (b) *ensure to develop, within sixty days from issue of the direction, a system to*
 -
 - (i) *temporarily deactivate all headers which remain unused in last thirty days;*
 - (ii) *reactivate headers by PEs through an online process; and*
 - (iii) *ensure that PE shall classify every header at the time of registration as 'temporary' or 'permanent' header, as the case may be, and that the 'temporary' header shall be deactivated after the time duration for which such 'temporary' header has been registered;*
- (c) *ensure that each Header is distinct and shall reject, during registration, such Headers which are similar by virtue of combination of small case or large case letters;*
- (d) *ensure re-verification of all content templates within sixty days of issue of this direction and blocking of unverified templates;*
- (e) *incorporate procedure for quarterly re-verification of Headers and content templates in their respective CoPs;*
- (f) *limit the number of variable portions in content template of messages to two variables only provided that, for the reasons to be recorded, a third variable may be allowed in case of exigency; and*

- (g) *ensure that variables in the content templates are non-contiguous and not separated with space, comma and/or any other special characters.*
.....”

2.105 Further, through its Direction dated 12th May 2023, the Authority has directed all the Access Providers that the use of more than three variable parts in the contents shall be permitted only with proper justification and additional checks; and by the approval of the competent authority designated by the Access Provider for this purpose. Each variable part needs to be pre-tagged for the purpose it is proposed to be used and minimum thirty percentage of message should comprise of fixed part so that intent of the original message, for which the content template was approved, is not changed by the intermediaries. It has also been decided that only whitelisted URLs/Apks/OTT links/call back numbers shall be allowed in the content template. Operative part of the direction is reproduced below-

“..... in continuation of its earlier direction dated 16th February 2023, the Authority, in exercise of the powers conferred upon it under section 13, read with sub-clauses(i) and (v)of clause (b) of sub-section (1)of section 11, of the Telecom Regulatory Authority of India Act, 1997(24 of 1997) and the provisions of the Telecom Commercial Communications Customer Preference Regulations, 2018 (6 of 2018) hereby directs all the Access Providers to-

- (a) allow, in special circumstances and on requisition with reasons and proper justification from Principal Entity, more than three variables in the content templates, with the condition that-*
- (i) after examining the sample message, reasons and proper justification for more variables shall be recorded by the competent authority designated by the Access Provider for this purpose and such authority shall be different from the authority designated for the approval of content templates;*
 - (ii) each variable in the message template should be pre-tagged for the purpose it is proposed to be used and no information other than those defined in pre-tagging shall be included in the variables;*
 - (iii) minimum thirty percent characters in the content template shall be fixed content;*

- (b) allow, where it is not possible to put the contents of a variable within the limit of thirty characters, more than one contiguous variable of the same type, after proper examination and justifications supported by sample message;
 - (c) ensure the use of only whitelisted URLs/Apks/OTT links/ call back numbers in the content template;
 - (d) ensure that, in case of an URL containing both fixed and variable parts, the fixed part of URL is whitelisted;
 - (e) monitor the use of content templates and further, stop any misuse of special templates;
-”

(iii) Violation of the Regulations by Registered Entities (Senders/ Registered Telemarketers)

2.106 Regulation 25 inter alia prescribes the following mechanism for handling of complaints related to RTM-

- “4. The OAP, in case the complaint is related to RTM, shall examine, within one business day from the date of receipt of complaint, whether all regulatory pre-checks were carried out in the reported case before delivering Unsolicited Commercial Communications; and
- (a)
 - (b) in case of non-compliance with the regulations, the OAP shall, within two business days from the date of receipt of complaint, take actions against the defaulting entity and communicate to TAP to inform the complainant about the action taken against his complaint as provided for in Code(s) of Practice;
 - (c) the OAP shall take appropriate remedial action, as provided for in the Code of Practice(s), to control Unsolicited Commercial Communications so as to ensure compliance with these regulations;”

2.107 As per above regulation, the primary responsibility of controlling the UCC messages lies with the Access Providers, and they are obligated to prescribe appropriate punitive measures in their respective (CoP-Complaints) to be adopted against defaulting entity (Sender/RTMs). As mandated in Schedule-III of TCCCPR 2018, every Access Provider has to develop a Code of Practice for Complaint Handling (CoP-Complaints). Various Provisions included by Access Providers in CoP-Complaints for action against RTMs for violation are mentioned below-

- a. The OAP shall take appropriate remedial action, as provided for in the agreement between the Sender/RTM and the OAP, to control Unsolicited Commercial Communications.
- b. Offence against Sender/RTM will be registered upto 12 instances of non-compliance and penalty shall be imposed as per the agreement between Originating Access Provider (OAP) and Telemarketer. Financial penalty for each instance of non-compliance will be levied. On the 12th instance, PE/RTM will be blacklisted on the DL. These actions will apply to both SMS and Voice UCC reported against Senders/RTMs.
- c. Violation counter to reset on every Calendar Year i.e. Violation will be counted only from 1st Jan to 31st Dec and next year, on 1st Jan counter will reset to 0 for all the Telemarketers.
- d. In case any violation occurs due to an incorrect template registered, the complaint to be closed as Valid and routed to Original Registrar TSP to blacklist the Template in DLT. No Violation to be tagged against the Telemarketer.
- e. If promotional content is sent using the Service template, necessary action needs to be taken on the content template/Sender and action taken to be informed/sent to the content template approving TSP.
- f. Check content of the message received by complainant. If the content is fraudulent, the content template needs to be blacklisted immediately and information regarding blacklisting of the template is to be sent to the content template approving TSP.

2.108 In case of UCC emanating from telecom resources allocated to RTM, most of the Access Providers have made the following provision in their CoP-Complaints-

‘Access Provider may impose suitable and deterrent penalty, as per the agreement signed between the Access Provider and RTM.’

2.109 In the CoP-Entity, following provisions have been specified regarding de-registration or blacklisting of a Sender/Sender by the Entity Registrar -

- a. Reasons for deregistration/blacklisting Entities
 - i. Repeat violations,
 - ii. Violations in excess of permissible instances during the year,
 - iii. Non-payment of dues,
 - iv. Violation of terms of agreement,
 - v. Orders from TRAI/DoT/other competent authority,
 - vi. Orders from Law Enforcement Agency,
 - vii. Found sending fraud messages,
 - viii. Others.
- b. The Registrar shall also upload the list of Senders de-registered on the DLT platform and the respective TSP's shall also take action to de-register such Senders from their systems.
- c. Any TSP should be able to mark the Header/Content & Consent Template" as blacklist at their end regardless of the creator of the template. However, the blacklisting of Sender and TM can be done by the creator only.
- d. During the blacklisting activity the TSP performing the activity will have to mention the reason for blacklisting the entity. The un-blacklisting of the Header/Consent template can only be done by the TSP who blacklists it.

2.110 In the CoP-Entity, following provisions have been specified regarding blacklisting of a Telemarketer on DLT portal-

- a. In case multiple complaints are received against the telemarketer and fraud/ manipulation/ misuse of DLT portal is observed by Access Provider's Registrar/Admin, it would blacklist the

Telemarketer on DLT portal. The blacklisting status is updated against the entity profile in entity channel on DLT & blacklists the Telemarketer across all operators.

- b. In order to un-blacklist, TM needs to provide required justification. However, the right to un-blacklist shall be at the sole discretion of TSP.

Issues Observed in the Provisions related to Sender and TM

2.111 Following issues related Senders and telemarketers have been observed-

- a. A large number of headers and content templates are assigned to the Senders without much due diligence which are prone to be misused.
- b. If a header or content template is blacklisted, the Sender gets the registration of additional header and content templates from same or other Access Providers.
- c. A large number of promotional templates are registered as service explicit templates. Registration of such templates fails the very purpose of which registration and scrubbing of content templates is mandated in the Regulations.
- d. In case of any lapses by Sender/TMs in compliance with the regulatory requirements, it is observed that Access providers are generally not keen to act against Sender/TMs due to the competitive/commercial issues involved. Whenever the incidence of wrong content template is raised, generally the content template is blacklisted. Similarly, when the incidence of misuse of header is reported, generally header is blacklisted. However, Access Providers are reluctant to take any action against the Sender or the Telemarketers due to fear of losing out the business.

- e. Traceability of messages transmitted by the Senders is not ensured as they normally handover message details to a Telemarketer, who, in turn, may engage several other Telemarketers for delivery of messages to the Originating Access Providers. It increases the chances of data breach and misuse of Sender headers and templates.

Possible Measures

2.112 The Authority on 20th August 2024 issued inter alia the following Directions under TCCCPR-2018 to curb the misuse of headers and content templates-

“(d) whenever misuse of Headers and/ or Content Templates is noticed or reported -

- i. traffic from concerned Sender is suspended by all the Access Providers immediately, till such time the Sender files a complaint/FIR with the Law Enforcement Agency for such misuse of its Headers and Content Templates under the law of land, and the Sender reviews all its Headers and Content Templates and takes corrective measures as per the regulations to prevent misuse of its Headers and other credentials;*
 - ii. Delivery-Telemarketer identifies the entity that has pushed traffic from such Headers or Content Templates into the network and files a complaint/ FIR for misusing Headers and Content Templates of other entity with the Law Enforcement Agency (LEA), under the law of the land, against such entity within two business days, failing which the Originating Access Provider (OAP) files a complaint/ FIR against the concerned Delivery-Telemarketer and traffic from concerned Delivery-Telemarketer is suspended by all the Access Providers immediately, till such time a complaint/ FIR is made by the Delivery-Telemarketer; and the entity that pushed the traffic is blacklisted by Originating Access Provider as well as all other Access Providers for a period of one year;*
- (e) when a complaint is registered due to registration of Content Template in wrong category, the Content Template is blacklisted by the OAP; and if five Content Templates of such Sender are blacklisted for registration under wrong category, the OAP suspends the services of the Sender, for one month*

or till such time all the Content Templates of the Sender are reverified, whichever is later;

(f) one Content Template is not linked with more than one Header;”

2.113 The following could be the additional measures that can be taken to counter the issues discussed above.

I. Entity Registration Functionality- The registration process of Sender and the Telemarketers should include

- (i) physical verification of the entity
- (ii) Biometric authentication of the authorized person.
- (iii) Linking of the entity with a unique mobile number.

II. Header Registration Function (HRF)-

(a) The approval of header registration should be carried out by a separate executive specially designated by the Access Provider for this purpose after carrying out additional checks and scrutiny of the justification given by the registered Sender and recording it in any of the following situations-

- (i) if the Sender has already registered 10 headers.
- (ii) if any of its headers was blacklisted earlier.
- (iii) any other reason specified by the Authority from time to time.

(b) Unused headers for a period of 90 days or such a period as specified by the Authority may be deactivated temporarily through an automated process and shall only be reactivated when requested by the Senders.

(c) When a header is blacklisted for sending commercial communications by the Sender in violation of the Regulations, the traffic from the Sender should be suspended immediately for a minimum period of one month. Traffic should be resumed only after review of the registered Sender as well as

all its registered headers and content templates by the respective registrars and findings are recorded. Repeat violations shall result in blacklisting of the Sender across all the Access Providers for a minimum period of one year.

III. Content Template Registration Function (CTRF)-

- (a) The approval of content template registration shall be carried out by a separate executive specially designated by the Access Provider for this purpose after carrying out additional checks and scrutiny of the justification given by the registered Sender and recording the reasons of approval in any of the following situations-
 - (i) if the Sender has already registered 25 content templates.
 - (ii) if any of its content templates were blacklisted earlier.
 - (iii) any other reason specified by the Authority from time to time.
- (b) Unused content templates for a period of 90 days or such period as specified by the Authority should be deactivated temporarily through an automated process and shall only be reactivated when requested by the Senders.
- (c) No short URLs to be allowed in the content templates unless it is whitelisted and contains the name of brand/entity.
- (d) As Directed by the Authority vide its Direction dated 20th August 2024, the content template should be blacklisted when an RTM complaint is caused due to wrong registration of the content template. Blacklisting of 5 content templates of any registered Sender shall result in suspension of the Sender till such time, its all-other content templates are reverified, subject to a minimum period of one month. The OAP that blacklisted the 5th template shall be responsible for suspension of the Sender and for revocation of the suspension

after due verification of all the templates. Further, repeat violations shall result in blacklisting of the Sender across all the Access Providers for a minimum period of one year.

- IV. Whenever a Sender or Telemarketer is suspended or blacklisted by any Access Provider, its status should be updated immediately by it on DLT platform. All other Access Providers should ensure that any traffic being pushed from the suspended/blacklisted sender or telemarketers is stopped immediately but not later than 24 Hrs once the status is updated on the DLT platform. No Service Provider shall allow such entities to reregister themselves with them during the period of suspension/blacklisting.
- V. Access Providers shall make a mechanism for the annual verification of the following in respect of the Senders/RTMs-
- (a) registration details of registered Senders and RTMs to ensure having up-to-date details.
 - (b) all the registered headers and content templates.

Failure to verify the above details may lead to automatic suspension of registered Sender and RTMs till such time they carry out above activities.

- VI. Ensuring traceability of messages from Sender to recipients-
- (a) Senders should engage only registered telemarketers for sending their messages.
 - (b) There shall not be more than two TMs i.e. one Aggregator TM and one Delivery TM, or as directed by the Authority from time to time to allow sufficient flexibility in the eco system and at the same time to maintain proper tracing and accountability of each entity in chain.
 - (c) Every RTM registered with DLT platform should have the necessary IT infrastructure to integrate with the system. Accordingly, use of digital platform by RTMs should be

mandated for easy traceability of the message flow in the system.

- (d) The functions of Delivery TM should include ensuring that the commercial communication handled by them is traceable, and it should be clearly spelt out in the agreement between Access Provider and Delivery TM and Delivery TM with Aggregator TM.

VII. Action against the Senders and Telemarketers by the Authority:

- (a) Where the Authority has a reason to believe that any Sender of commercial communications has contravened the provisions of the Regulations, and the Access Provider has not taken action against such Sender as per the provisions of the Regulations, the Authority may order or direct Access Providers to take action against such Sender as per the provisions of the Regulations.
- (b) Where the Authority has a reason to believe that any Telemarketer has contravened the provisions of the Regulations, and the Access Provider has not taken action against such Telemarketer as per the provisions of the Regulations, the Authority may order or direct Access Providers to take action against such telemarketer as per the provisions of the Regulations.

However, the Sender and telemarketer can submit a representation to the Authority against action as per above regulation.

- VIII. Access providers may impose financial disincentives on registered Senders and TMs and suspend or blacklist them in case violations of the Regulations are attributed to failure of functions assigned to such entities. If the Authority has a reason to believe that punitive measures prescribed by Access Providers against the registered

Senders and TMs are not effective, it may order or direct Access Providers to take appropriate measures as prescribed by it.

- IX. Access Providers may prescribe a fee for registration of the Senders, and RTMs and may also prescribe security deposits. Access Providers may also prescribe a fee for other activities as provided for in the Regulations such as header registration, content template registration etc. If the Authority has a reason to believe that there is a need to prescribe a registration fee or fee for any other activities provided in the Regulations, it may order or direct Access providers for it.
- X. Provision should be made by the Access Providers for registration of grievances by RTMs and Senders and their redressal.
- XI. Access Providers shall enter into a legally binding agreement with all the registered Senders, all the Telemarketers with Delivery Functions (TM-DF), and Telemarketers with Aggregator Functions (TM-AF). The roles and responsibilities of the Sender and the Telemarketers as per TCCCPR 2018 and the punitive actions that can be taken against them in case of non-compliance shall be mentioned in the agreement.

Issues for Consultation

Q.11 Stakeholders are requested to offer their comments on the following issues:

- a. Whether there is a need to strengthen the provisions of Common Code of Practice templates with Standard Operating Processes further to enable Access Providers to take actions including imposing financial disincentives and actions as per law, against entities registered and not following the regulations? If so, what could be additional provisions and essential processes which should be made part of CoPs?**
- b. Whether there should be provision for minimum security deposits from the entities registering with any of the Access**

Providers, against the misuse or breach of regulations? If so, what should be the provisions in the CoPs for full or partial encashment/replenishment of security deposits against the breach of the regulations? Please provide your answers with suitable justifications.

CHAPTER-III

DIFFERENTIAL TARIFF FOR VOICE CALLS AND SMS TO CURB UCC

- 3.1 The extensive use of digital communications in all walks of life including financial and economic activities, necessitates the incorporation of a variety of transactions including financial authentications through Text SMS/ Voice Calls or URL Links. The digital communication medium provides easy accessibility to various citizen-centric services at a very affordable cost across nooks and corners of the country.
- 3.2 In 2004, after determining the presence of adequate competition in the telecom services market, in line with many countries in the world, TRAI adopted the policy of forbearance for mobile telecom services. As per the extant regulatory tariff provisions, the tariff for telecommunication service is under forbearance except for services such as National Roaming, Rural Fixed Line Services, USSD services, mobile number portability charges and leased circuits etc. However, as per the requirements of the Telecommunication Tariff Order (TTO), the Access providers are obligated to file their tariffs with TRAI within 7 days of their launch in the market. These tariffs are then examined for their compliance with the regulatory principles which include, inter alia, the principles of transparency, non-predation and non-discrimination.
- 3.3 The extant regulatory stance of tariff forbearance gives freedom to Telecommunication Service Providers (TSPs) to offer tariffs based on their understanding of the prevailing market conditions and in their best commercial interest subject to the observance of related regulatory provisions. The policy of “tariff forbearance” has resulted in a diverse range of innovative tariffs in the market, thereby making Telecom services available at reasonable and affordable rates to consumers.
- 3.4 Further, TRAI has taken several measures through its regulations/

directions issued from time to time to curb Unsolicited Commercial Communications (UCC). Earlier TRAI had issued Telecom Unsolicited Commercial Communications Regulations (TUCCR) 2007 and thereafter, Telecom Commercial Communications Customers Preference Regulations (TCCCPR) 2010.

- 3.5 In addition to TCCCPR-2010, to curb unsolicited commercial communications (UCC), TRAI notified the Telecommunication Tariff (54th Amendment) Order on 5th November 2012. Therein, it was stipulated that a subscriber sending SMS on a daily basis beyond a limit of one hundred would be charged at a rate not less than fifty paisa per SMS. The above amendment was contemplated as one of the several measures to safeguard Telecom subscribers from the nuisance of UCC by Unregistered Telemarketers (UTM) and discourage sending of bulk messages (P2P).
- 3.6 On 19.07.2018, Telecom Regulatory Authority of India (TRAI) notified Telecom Commercial Communication Customers Preference Regulation (TCCCPR-2018) to deal with unsolicited commercial communication (UCC) which came into effect from 28th February 2019. The adoption of Distributed Ledger Technology (or blockchain) has been mandated under TCCCPR-2018 regulations to ensure regulatory compliance while allowing innovation in the market. TCCCPR-2018 also mandated the deployment of a UCC detect system to identify and curb UCC activities by Unregistered Telemarketers (UTMs).
- 3.7 Given the comprehensive nature of the regulatory framework outlined in TCCCPR-2018, it was decided to do away with tariffs of SMS beyond 100 SMS per SIM per day. Therefore, vide Telecommunication Tariff (65th Amendment) Order, 2020, the Schedule related to tariffs in respect of SMSs above the limit of 100 SMSs per SIM per day was deleted and the “tariff of transactional message (P2P) was brought under the purview of Tariff forbearance”.
- 3.8 However, of late there has been a surge in complaints of unsolicited

commercial communications (UCC)/spam using Telecom resources such as SMS and Voice platforms. Incidences of Unsolicited Commercial Communications (UCC) using Telecom resources have become a cause of concern requiring urgent action by all the stakeholders.

- 3.9 The experience gained after the implementation of TCCCPR-2018 indicates that though the number of complaints related to registered telemarketers (RTMs) has gone down but the complaints against Unregistered Telemarketers (UTMs) using 10-digit numbers are showing an increasing trend.
- 3.10 As the complaints against UTMs are increasing, it is a possibility that UTMs may be using unlimited voice call package tariff offers of the service providers to push large number of promotional voice calls to consumers using multiple connections. As such, the availability of an alternate path for pushing large quantum of messages/calls by UTMs using 10-digit numbers defeats the purpose and framework envisaged under TCCCPR-2018. In view of this, a need is felt to review and put in place provisions, including regulating tariff for SMS and Voice calls beyond a certain limit, to curb UCC from UTMs using 10-digit numbers (p2p).
- 3.11 The UTMs continue to evolve dynamic *modus operandi* to stay ahead of checks being placed by the Authority, DoT, Access Providers and other agencies. Comprehensive regulatory provisions, in addition to the cross-sector cooperation among regulators and other stakeholders, become *sine qua non* to tackle the menace of UCC that is increasingly being used for spam. In other words, a multi-pronged approach is required to tackle the menace of UCC.
- 3.12 On the initiative of TRAI, a Joint Standing Committee of Regulators (JCOR) was formed in December-2021 to study regulatory implications of the fast-evolving digital world and collaboratively work on future regulations. Representatives from SEBI, RBI, Ministry of Consumer

Affairs, and TRAI were members of the aforesaid committee. Officials from the Department of Telecommunications (DoT) and Ministry of Home Affairs (MHA) were also invited to attend the meetings of JCOR. The focus of the meetings was to work out a joint action plan to curb unsolicited commercial communications (spams) using Telecom resources. The JCOR, *inter-alia*, had also deliberated on the need to put a cap on daily SMS limit per SIM to check misuse of P2P SMSs for commercial purposes.

- 3.13 To control the menace of UCC and disincentivize the sending of commercial messages/calls through P2P channel, a need is felt to review the existing provisions and one of the measures could be to make provision for differential tariff beyond a specified limit for bulk messaging/calls, in the context of P2P messages/calls. Therefore, views of the stakeholders are sought on the need to review tariff of P2P messages/calls per SIM on a daily basis beyond a specified limit to curb menace of UCC from UTMs.
- 3.14 To get an idea of the number of SMSs that an average telephone consumer in usual circumstances may send, TRAI's "Indian Telecom Services Performance Indicators" for the quarter January – March 2024 is referred. The report shows that, on average, approximately 11 SMSs are sent per SIM per month. These SMSs are inclusive of SMSs that are sent by UTMs for commercial activity, without registering themselves as per provisions of TCCCPR-2018.
- 3.15 As per the information shared by the TSPs, the SMS and Voice calls usage data across the Telecom industry during the quarter ending March 2024 is as given below:

Table 3.1- P2P SMSs during quarter ending March 2024

Sl. No.	Average No. of outgoing SMS per day per SIM during the Quarter	Total No. of Subscribers	Total % of Subscribers
1.	Less than or equal to 1	1,11,62,57,257	95.810
2.	'More than 1' and 'less than or equal to 5'	3,32,15,266	2.851
3.	'More than 5' and 'less than or equal to 10'	84,34,457	0.724
4.	'More than 10' and 'less than or equal to 20'	44,06,446	0.378
5.	'More than 20' and 'less than or equal to 30'	13,92,178	0.119
6.	'More than 30' and 'less than or equal to 40'	6,27,649	0.054
7.	'More than 40' and 'less than or equal to 50'	3,24,174	0.028
8.	'More than 50' and 'less than or equal to 100'	3,64,127	0.031
9.	More than 100	47,427	0.004
	Total	1,16,50,68,981	100.00

Table 3.2- P2P Mobile Calls during quarter ending March 2024

Sl. No.	Average No. of outgoing Voice calls per day per SIM during the Quarter	Total No. of Subscribers	Total % of Subscribers
1.	'Less than or equal to 10'	99,39,48,598	85.3124
2.	'More than 10' and 'less than or equal to 50'	16,96,59,137	14.5622
3.	More than 50' and 'less than or equal to 100'	13,82,543	0.1187
4.	'More than 100' and 'less than or equal to 200'	74,090	0.0064
5.	'More than 200' and 'less than or equal to 500'	4,473	0.0004
6.	'More than 500' and 'less than or equal to 1000'	136	0.0000
7.	More than 1000	4	0.0000
	Total	1,16,50,68,981	100.00

The analysis of the data with reference to average number of outgoing SMS per pay per SIM reveals that 99.38% of the Telecom subscribers send less than or equal to 10 SMS per day per SIM. The details above

further reveal that only 364127 (0.03% of total subscribers) send between 51 to 100 SMS per SIM per day which is negligible and only 47427 (0.004% of total subscribers) send more than 100 SMS per SIM per day.

3.16 The analysis of data with reference to average number of outgoing voice calls per day per SIM reveals that 99.87% of the Telecom Subscribers make up to 50 outgoing voice calls per day per SIM. The details further reveal that only 13,82,543 (0.12% of total subscribers) are making 51 to 100 voice calls per day per SIM and only 78703 i.e. 0.01% of total subscribers make more than 100 voice calls per day per SIM.

3.17 It is felt that differential tariff may make commercial communication using 10-digit numbers unviable for unregistered telemarketers and encourages them to move to DLT where consent is mandatory and aims to protect consumers with measures such as OTP system. Therefore, to discourage usage of P2P SMSs and Voice calls by UTMs, and strengthen the regulatory framework as enunciated in the TCCCPR-2018, a need has been felt to specify tariff for SMS and voice calls per SIM per day beyond a certain limit by persons other than an entity registered under the provisions of TCCCPR-2018.

Issues for Consultation:

Q.12 What effective steps can be taken to control the menace of UCC through tariffs? Please justify your answer.

Q.13 Whether differential tariff for SMS and Voice calls beyond a certain limit should be introduced to disincentivize UCC through UTMs? Please justify.

Q.14 If differential tariff is introduced, what could be the limit beyond which differential tariff could be introduced for:

i. Voice Calls

ii. SMS.

Please justify with rationale.

Q.15 If differential tariff is introduced, what could be the tariff beyond a limit for:

i. Voice calls.

ii. SMS.

Please justify with rationale.

Q.16 Whether differential tariff should be introduced in a graded manner? If so, please suggest the methodology with justification.

CHAPTER-IV: DRAFT REGULATIONS

A. Types of Commercial Communication- Review of Definitions

I. Review of Definition

1. The regulation 2(bt) and 2(bu) regarding definition of Transactional message and Transactional voice call shall be amended as below-

Transactional Message

Transactional message means a message sent by a Sender to its customer or subscriber in response to customer initiated transaction or under any existing relationship between the customer and the sender relating to any product or service such as OTP from banks, non-bank-entities like e-commerce, apps login etc, transaction confirmations, balance alerts, travel reminders, rescheduling notification, refund information, to provide product/warranty information, software upgrade alerts, safety or security information for the commercial product or service used or purchased, etc. and such messages are not promotional in nature and does not require explicit consent:

Provided that the sender shall give an option to the recipient, in the same message, to opt out or block such messages.

Transactional Voice Call

Transactional voice call means a voice call made by a Sender to its customer or subscriber in response to customer initiated transaction or under any existing relationship between the customer and the caller relating to any product or service such as call from banks, non-bank-entities like e-commerce, apps login etc, transaction confirmations, balance alerts, travel reminders, rescheduling notification, refund information, to provide product/warranty information, software upgrade alerts, safety or security information for the commercial product or service used or purchased, etc. and such calls are not promotional in nature and does not require explicit consent:

Provided that the caller shall provide a mechanism, through a SMS or any other means, to the recipient to opt-out from receiving such calls.

2. The regulation 2(au) and 2(av) regarding the definition of Promotional message and Promotional voice call shall be amended as below-

Promotional Message

Promotional message means the commercial communication containing promotional material or advertisement of a product or service;

Provided that the Sender shall give the opt-out mechanism to the recipient in the same message.

Explanation: These messages shall be delivered to subscribers who have not registered any preference in the preference register or have not blocked the type of commercial message being offered. If the Sender has acquired explicit Digital Consent from the intended recipient, then such Promotional messages with Explicit Consent shall be delivered to the recipients irrespective of their preferences registered in the preference register.

Promotional Voice Call

Promotional voice call means commercial communication containing promotional material or advertisement of a product or service;

Provided that the caller shall give the opt-out mechanism to the recipient after such calls through a SMS or otherwise.

Explanation: These calls shall be made to subscribers who have not registered any preference in the preference register or have not blocked the type of commercial voice call being offered. If the Sender has acquired Explicit Digital Consent from the intended recipient, then such Promotional Voice Calls with explicit Consent shall be delivered to the recipients irrespective of their preferences registered in the preference register.

3. The regulation 2(bh) shall be amended to define Government messages or calls as below-

Government messages or calls

Government messages or calls means-

- a. *Any message or voice calls transmitted on the directions of the Central Government or the State Government or bodies established under the Constitution;*
- b. *Any message or voice calls transmitted by or on the direction of the Authority or by an agency expressly authorized for the purpose by the Authority.”*

Explanation: There shall not be any requirement seeking consent for the receipt of these communications. Also, there shall not be any option in the preference register to block such communications.

II. FULLY BLOCK option of preference registration-

4. The regulations 2(z) of TCCCPR 2018, the definition of ‘Fully blocked’ category of preference shall be deleted.

B. Provisions related to Complaint Redressal

I. Complaint Mechanism

5. The Regulation 25 shall be amended as below-

25 Complaint Mechanism: *Every Access Provider shall establish systems, functions and processes to resolve complaints made by the customers and to take remedial action against Senders as provided hereunder:*

- (1) *Terminating Access Provider (TAP) shall record the complaint and report on DL-Complaints in non-repudiable and immutable manner and shall notify, in real time, the details of the complaint to the concerned Originating Access Provider (OAP) **except when it is not possible to do so as stipulated in clause (2) of this regulation.***

- (2) In instances where **there is non-availability of complete telephone number of the Sender or header in the complaint registered**, the TAP shall communicate to the customer about the closure of his complaint with the reason and educate the customer about the correct manner of registering a complaint.
- (3) Terminating Access Provider shall also verify if the date of receipt of complaint is within three days of receiving commercial communication and in case the complaint is reported by the customer after three days, the TAP shall communicate to the customer about the closure of his complaint along with reasons in accordance with the Codes of Practice for Complaint Handling and change status of the complaint on DL-Complaint as a report instead of a complaint.
- (4) In case the complaint is related to Registered Telemarketer (**RTM**) or **registered Sender**:
- (a) OAP shall examine communication detail records (CDRs),** within a maximum time of two hours to check the occurrence of complained communication between the complainant and the reported telephone number or header from which unsolicited commercial communication was received and **in case of occurrence of complained communications, OAP shall intimate the receipt of the complaint to the Sender through an auto-trigger mechanism and advise the Sender to refrain from sending UCC.**
- (b) In case of no occurrence of complained communications under sub-regulation (4)(a),** OAP shall communicate to the TAP to inform the complainant about the closure of complaint along with reasons in a manner prescribed in the Code(s) of Practice;
- (c) In case of occurrence of SMS-related complained communications under sub-regulation (4)(a),** the OAP shall further examine, within one business day from the date of receipt of complaint, whether all regulatory pre-checks were carried out in the reported case before delivering Unsolicited Commercial Communications; and

- i. *In case, all regulatory pre-checks were carried out and delivery of commercial communication to the recipient was in confirmation to the provisions in the regulations and Code(s) of Practice, OAP shall communicate to TAP to inform complainant about the closure of complaint along with reasons as provided for in the Code(s) of Practice;*
 - ii. *in case of non-compliance with the regulations, the OAP shall, within two business days from the date of receipt of complaint, take action against the defaulting entity and communicate to TAP to inform the complainant about the action taken against his complaint as provided for **in the Regulations** and Code(s) of Practice;*
 - iii. *the OAP shall take appropriate remedial action, as provided for **in the Regulations** and in the Code of Practice(s), to control Unsolicited Commercial Communications so as to ensure compliance with the Regulations;*
- (d) *In case of occurrence of complained communications under clause (4)(a) **related to promotional voice calls from the series assigned for transactional calls**, OAP shall examine within a maximum time of two hours, whether there are similar complaints or reports against the same Sender; and*
- i. *In case it is found that number of complaints and/or reports against the Sender are **from ten or more than ten unique recipients during the calendar month**, the OAP shall **suspend the outgoing services of the Sender** and initiate investigation as provided for in the sub-regulation (6);*
 - ii. *In case, number of complaints and/or reports against the Sender are from **less than ten unique recipients during the calendar month**, OAP shall communicate to the TAP to **inform the complainant about the closure of complaint***

along with reasons in a manner prescribed in the Code(s) of Practice;

(5) *In case, the complaint is related to an Unregistered Telemarketer (UTM),*

(a) The OAP shall examine communication detail records (CDRs), within a maximum time of two hours, to check the occurrence of complained communication between the complainant and the reported telephone number from which unsolicited commercial communication was received. In case of occurrence of complained communications, OAP shall intimate the receipt of complaint to the Sender through an auto-trigger mechanism and advise the Sender to refrain from sending UCC.

(b) In case of no occurrence of complained communications under sub-regulation (5)(a), OAP shall communicate to the TAP to inform the complainant about the closure of complaint along with reasons in a manner prescribed in the Code(s) of Practice;

(c) If the Sender is an individual telecom subscriber- In case of occurrence of complained communications under clause (5)(a), OAP shall further examine within a maximum time of two hours, whether there are similar complaints or reports against the same Sender; and

*i. In case, it is found that number of complaints and/or reports against the Sender are **from three or more than three unique recipients during the calendar month**, the OAP shall suspend the outgoing services of the Sender and initiate an investigation as provided for in the sub-regulation (6);*

*ii. In case, it is found that the number of complaints against the Sender are from **less than three unique recipients** during the calendar month, the OAP shall, **OAP shall communicate to the TAP to inform the complainant about the closure of***

complaint along with reasons in a manner prescribed in the Code(s) of Practice;

(d) If the Sender is an enterprise telecom subscriber- In case of occurrence of complained communications under clause (5)(a), OAP shall further examine within a maximum time of two hours whether there are similar complaints or reports against the same Sender; and

- i. In case it is found that number of complaints and/or reports against the Sender are **from ten or more than ten unique recipients during the calendar month**, the OAP shall **suspend the outgoing services of the Sender** and initiate an investigation as provided for in the sub-regulation (6);*
- ii. In case, it is found that number of complaints and/or reports against the Sender are less than ten unique recipients in the calendar month, **OAP shall communicate to the TAP to inform the complainant about the closure of complaint along with reasons in a manner prescribed in the Code(s) of Practice;***

(6) OAP shall issue a notice to the Sender, under sub regulations (4)(d)(i), (5)(c)(i) or (5)(d)(i), to give opportunity to represent the case; shall investigate within five business days from the date of receipt of representation from the Sender and record the reasons of its findings; if the conclusion of the OAP is that the Sender was engaged in sending the unsolicited commercial communications, the OAP shall take action against such Sender as under-

(a) For the first instance of violation, outgoing services of all telecom resources of the Sender including PRI/SIP trunks of the Sender shall be barred by OAP till the end of the calendar month subject to a minimum period of 7 days.

(b) For the second and subsequent instances of violations, all telecom resources of the Sender including PRI/SIP trunks shall be

disconnected by all the access providers for one year. OAP shall put the Sender under the blacklist category and no new telecom resources shall be provided by any access provider to such Sender during this period. All the devices used for making UCC shall also be blocked across all the Access Providers for a period of one year. Provided that one telephone number may be allowed to be retained by such Sender with the outgoing services barred during this period;

Provided that Sender can represent to the OAP against action due to first or subsequent instance of violation; OAP shall decide the representation within a maximum period of seven business days and shall record its findings;

Provided that the OAP shall file the details of all the representation decided by it to the Authority for regulatory review as per the format and periodicity defined by the Authority from time to time:

Provided further against such decision of the OAP, Sender can file an appeal before the Authority, as per regulation 29.

II. Customer Complaint Registration Facility (CCRF)

6. Clause 1(a) of the regulation 23 shall be amended as below-

“23. Every Access Provider shall establish a Customer Complaint Registration Facility (CCRF) and shall make necessary arrangements to facilitate its customers on 24 hours X 7 days basis throughout the year:

(1) to provide ways and means: -

(a) to make complaint(s), by its customer against Sender(s) of unsolicited commercial communication in violation of the regulations

provided that-

(i) to register complaints against RTMs/registered Senders, customer should have registered his preference(s),

(ii) To register complaints against UTM/unregistered Senders, there shall not be any pre-requisite of registration of Preferences by the customer.

7. Clause (2)(f) of regulation 23 shall be amended as below-

(f) Sending Email to a designated email id of the Access Provider.

8. Clause (2)(g) shall be inserted after clause (2)(f) in regulation 23 as below-

(g) Any other means as may be notified by the Authority from time to time.

9. Clause (5) of the regulation 23 shall be amended as below-

(5) to provide details about format and procedure to the customer, as given in the appropriate Code(s) of Practice, when a complaint is treated as invalid by the access provider on the grounds of incomplete information or improper format;

Provided that-

(a) If the complaints against unsolicited commercial communication through voice calls, contains Sender's number, complainant's number and date of UCC, it shall be treated as a valid complaint. However, Access Provider can collect additional information to support investigation. The mandatory fields shall be marked with star (*).

(b) In the absence of entire SMS content, a brief description of the SMS content shall be sufficient to treat it as a valid UCC complaint. For the guidance of the complainant regarding how to describe the UCC, a template of UCC description shall be provided at the Access Providers' Mobile App and Web portal.

(c) Name of business/legal entity on whose behalf unsolicited commercial communication was made and purpose of commercial communications shall be captured; however,

these shall not be treated as mandatory fields for complaint registration.

10. The Schedule-III of the Regulations provides list of action items for Code of Practice for Complaint Handling (CoP-Complaints). Item 2(3) and 2(4) of this schedule shall be amended and Item 2(5) shall be inserted as below-

- Item 2(3)(f), 2(3)(g) and 2(3)(h) shall be inserted as below:

2(3)(f) The mobile App should display the options/hyperlinks for registration of UCC complaints and registration/modification of Preferences and Consents by customers such that it is easily visible at a prominent location without scrolling on the first view of Main/Home page.

*2(3)(g) The mobile App should **auto capture call logs, SMS details along with its contents after obtaining permission from the subscriber and extract necessary details through it for complaint registration.** If the subscriber denies permission, the option to fill relevant details manually should be provided.*

*2(3)(h) **The mobile App should have the option of uploading screenshot of call log and SMS content, and extract necessary details through it for complaint registration.***

- Item 2(4)(e) and 2(4)(f) shall be inserted as below:

2(4)(e) The web portal should display the options/hyperlinks for registration of UCC complaints and registration/modification of Preferences and Consents by customers such that it is easily visible at a prominent

location without scrolling on the first view of Main/Home page.

2(4)(f) The web portal should have the option of uploading screenshot of call log and SMS content, and extract necessary details through it for complaint registration.

- Item 2(5) shall be inserted as below:

(5) Complaint registration through email:

(a) Procedure for a customer to make a complaint by sending an email to a designated Email Id of the Access Provider.

(b) Format for making complaints in which a customer may register his complaint pertaining to receipt of unsolicited commercial communication.

(c) Details to be provided by the complainant e.g. Unsolicited Commercial Communications with date on which it was received along with content of received message or brief of content of communication.

III. Distributed Ledger(s) for Complaints (DL-Complaints)

11. Clause (c) of sub regulation 2 of the regulation 24 shall be amended as below-

Referred telephone number(s) (RTN), referred entity/ brand name and purpose of call if provided in complaint;

12. Sub regulation (4) of regulation 24 shall be amended as below-

(4) to record three years history of Sender(s) against which complaint is made or reported with details of all complaint(s), with date(s) and time(s), and status of complaints;

Provided that for UTM/unregistered Sender, the Sender details such as name of the Sender, category of Sender as a telecom customer (individual/ Enterprise), address, and other relevant details to uniquely identify the Sender shall be recorded.

IV. Record keeping and reporting:

13. Sub regulation (4) of regulation 26 shall be amended as below-

*(4) The Authority may, from time to time, through audit conducted either by its officers or employees or through agency appointed by it, verify and assess the process followed by the Access Provider for registration and resolution of complaints, examination and investigation of the complaints and reporting to the Authority, **implementation of UCC_Detect System and action taken thereof, different registration processes such as Sender registration, telemarketer registration, header registration, content template registration and other processes including preference registration process, scrubbing processes, DCA process and other regulatory processes followed by the Access Providers.***

14. Sub regulation (5) and (6) of regulation 26 shall be inserted as given below-

(5) The Access Providers shall provide real-time access to the Authority to various processes and databases related to complaint handling and other processes as prescribed by the Authority from time to time.

(6) The Access Providers shall publish the following on their websites in searchable format-

(i) Global List of Headers along with the details of associated Senders.

(ii) *Global list of 140 series allotment along with the details of associated Telemarketer/Sender.*

(iii) *Global list of 160 series allotment along with the details of associated Sender.*

(iv) *Information about the UCC complaints received and action taken thereon.*

(v) *Other information as prescribed by the Authority from time to time.*

V. Schedule -V: Action Items for preparing Code of Practice for Periodic Monthly Reporting (CoP-PMR)

15. Item 1(m) shall be inserted as below-

OAP shall maintain Sender-wise records of complaints in the format prescribed by the Authority from time to time.

16. Item 2(i) shall be amended as below-

Total number of Senders out of reported Senders under clause (h) against whom action was taken under regulation 25.

17. Item 2 (j) shall be amended as below-

Breakup of total number of Senders out of reported senders under clause (h) against whom action was taken under regulation 25 for different time-periods as specified by the Authority.

18. Item 2(m) shall be inserted as below-

For all the complaints, OAP shall maintain records of Senders such as name of the Sender, category of Sender (individual/Enterprise), address and other relevant details to uniquely identify the Sender.

VI. Regulation 29 - Examination of telecom resources by the Authority put under outgoing Usage Cap or having been disconnected by Access Provider

19. Regulation 29 shall be amended as below-

29. Appeal by Senders against action by Access Providers under the regulations 25 (4)(d), 25(5) and 25(6)-

(1) The Authority may, if it considers expedient to do so, on receipt of an appeal from the Sender against whom action has been taken by Access Provider under the regulations 25(4)(d) for making promotional calls from series assigned for transactional calls or 25(5) and 25(6) on account of unregistered telemarketing activities, call for the relevant details from the Sender and Access Providers, and upon examination, for reasons to be recorded,

(a) If the Authority finds that conclusion of investigation by the Access Provider lacks adequate evidence against the Sender, it may direct the Access Providers to restore all telephone numbers of the Sender and delete the name and address of such Sender from the blacklist.

(b) If the Sender makes a request, within sixty days of action against it, to the Authority for restoring its telecom resources and satisfies the Authority that it has taken reasonable steps to prevent the recurrence of such contravention, the Authority may by order ask Access Providers to restore all telephone numbers of the Sender and delete the name and address of such Sender from the blacklist, as the case may be, on payment of an amount of five thousand rupees per resource to the Authority for restoration of all such telecom resources, subject to the condition that the total amount payable by the Sender shall not exceed rupees five lakh.

Provided that in the case of PRI/SIP trunks, each DID number shall be treated as a separate telecom resource.

Provided further that the amount payable under sub-regulation 29(b) may be reduced or waived-off by the Authority where it finds merit in the response furnished by the Sender.

C. UCC_Detect System

20. In Schedule-IV: Action Items for preparing Code of Practice for Unsolicited Commercial Communications Detection (CoP-UCC_Detect),

sub-item 1(d) shall be amended and 1(g), 1(h), 1(i), 1(j), 1(k) and 1(l) shall be inserted as given below-

“1. Every Access Provider shall establish, maintain and operate following system, functions and processes to detect Sender(s) who are sending Unsolicited Commercial Communications in bulk and not complying with the regulation(s), and act to curb such activities:-

(1) System which have intelligence at least following functionalities:-

.....

(d) real-time sharing of UCC detect data and insights with other access provider(s) over DLT fostering industry-wide collaboration to enhance collective ability of the industry to detect, curb and prevent UCC.

(g) Identifying Sender(s) based on the following signals/triggers parameters:

(i) Any sender exceeding 50 outgoing calls a day, or any such number as defined by the authority from time to time shall be observed for any of the following signals/triggers parameters:

a. Call recipient diversity (diversity in B-numbers) exceeds a threshold of 60% unique recipients in the day, or any such number as defined by the Authority from time to time. Diversity in B-numbers refers to the distinct call recipients (called party numbers) associated with the outgoing calls of the sender,

b. The average call duration to distinct call recipients in the day is less than 10 seconds or any such number as defined by the Authority from time to time,

c. The ratio of incoming calls to outgoing calls of the sender is less than 0.2 in the day or any such number as defined by the Authority from time to time,

d. The number of distinct unanswered calls to recipients of the sender exceeds a threshold of 50% calls a day, or any such number as defined by the Authority from time to time,

(ii) Any sender exceeding 25 outgoing SMS a day, or any such number as defined by the authority from time to time shall be observed for any of the following signals/triggers:

a. SMS recipient diversity exceeds a threshold of 15 unique recipients a day, or any such number as defined by the authority from time to time. SMS recipient diversity refers

to the number of distinct SMS recipient associated with the outgoing SMS of the sender,

b. The ratio of incoming SMS compared to outgoing SMS is less than 0.2 or any such number as defined by the Authority from time to time,

(iii) All mobile numbers (MSISDN) associated a with device on which 4 or more than 4 mobile numbers, or any such number as defined by the authority from time to time have been used within a month.

All the sender(s) flagged based on the signal/triggers parameters as mentioned in g(i), g(ii) and g(iii) shall be treated as suspected UTMs.

(h) deploying methods to detect the misuse of robotic calls, auto dialer calls or pre-recorded announcements, SIM Farm/SIM box type usage etc. Access Provider shall suspend the outgoing services of such UTMs, issue a notice, and act as per regulation 25(6).

(i) Use of advanced Artificial Intelligence (AI) and Machine Learning (ML) based technological solutions for proactive UCC prevention and monitoring.

(j) Monitoring social media data for identifying suspected spammers, URLs, Headers, and call-back/referred numbers etc

21. After sub-item (2) of Item 1, following shall be added -

(3) System to automatically take feedback from the recipients of voice calls, prescribed as below.

The OAP shall establish a system to detect Senders, in real time, making more than 50 calls in a day, or such number of calls as decided by the Authority from time to time and obtain feedback from some of the recipients of these calls whether the calls received by them were Unsolicited Commercial Calls. The feedback shall be collected on the same day from at least 5% of the recipients, subject to minimum 10 recipients, chosen randomly, or such sample size as decided by the Authority from time to time. Feedback shall be collected in the form of either 'Y' or 'N' through SMS from 1909 or any other pre-defined short code. Based on the feedback, OAP shall

register complaints on behalf of the recipients in the DLT system against the Senders. The feedback can be collected using a predefined message template either in CoP or by the Authority from time to time. A sample template is given below for reference -

“Unusually high calls from the <number> has been noticed. You are one of the recipients of calls from this number. Kindly respond by ‘Y’ if it was a promotional call or by ‘N’ if not.”

- (4) System to automatically take feedback from the recipients of SMS, prescribed as below.*

The OAP shall establish a system to detect Senders, in real time, sending more than 50 SMS in a day, or such number of SMS as decided by the Authority from time to time and obtain feedback from some of the recipients of these SMS whether the SMS received by them were Unsolicited Commercial SMS. The feedback shall be collected on the same day from at least 5% of the recipients, subject to minimum 10 recipients, chosen randomly, or such sample size as decided by the Authority from time to time. Feedback shall be collected in the form of either ‘Y’ or ‘N’ through SMS from 1909 or any other pre-defined short code. Based on the feedback, OAP shall register complaints on behalf of the recipients in the DLT system against the Senders. The feedback can be collected using a predefined message template either in CoP or by the Authority from time to time. A sample template is given below for reference -

“Unusually high SMS from the <number> has been noticed. You are one of the recipients of SMS from this number. Kindly respond by ‘Y’ if it was a promotional SMS or by ‘N’ if not.”

- (5) Take the following actions on the suspected spammers -*

- (a) Bonafide use of the telecom resources assigned to such Sender shall be checked by Access Providers to ensure that it is not being used for making commercial communication. In the meantime, the*

outgoing services of the all the telecom resources of the Sender will be placed under suspension.

- (b) Reverification of such Senders shall be carried out by Access Providers as per the instruction of the Department of Telecommunications (DoT)/TRAI and taking actions accordingly.*
- (6) Each Access Provider shall deploy one honeypot in a LSA for every 200 complaints registered in previous calendar year subject to a minimum of 50 honeypots in each LSA or any such numbers as specified by the Authority from time to time, for recording the spam messages and voice calls.*
- (7) The spam message or call received on honeypots shall be treated as definitive proof that the Sender was involved in sending the UCC. TAP shall report such cases to OAP through DLT in real time, and OAP **shall suspend the outgoing services of the Sender** and shall initiate investigation as provided for in regulation 25(6).*
- (8) Access Providers shall make available a feature for blocking spam messages/calls by the recipient in the Mobile App of the Access Providers and shall convert each such blocking it into a complaint in the DLT system.*

D. Financial Disincentive for failure to curb the unsolicited commercial communications from registered Senders/RTMs

22. The regulation 27 shall be amended as below-

27. Consequences for failure to curb the unsolicited commercial communications from registered Senders/RTMs

- (1) When the Authority has reason to believe that any Access Provider has failed to curb the unsolicited commercial communications from registered Senders/RTMs, the Financial Disincentives shall be imposed on the Access Providers in each LSA for one calendar month as under-*

- (i) If OAP fails to curb UCC, it shall, without prejudice to any penalty which may be imposed under its licence or any Act, be liable to pay, by way of financial disincentive, an amount of Rupees one thousand per count of valid complaint.*
- (ii) If the Access Provider has not fulfilled its obligations as envisaged in the regulations in respect of Header registration function and Content Templates registration function, it shall, without prejudice to any penalty which may be imposed under its licence or any Act, be liable to pay, by way of financial disincentive, an amount of Rupees five thousand per count of registration found not to be in accordance with the regulations.*
- (iii) If the Access Provider is found to have incorrectly decided the representation made by the Sender against action due to first or subsequent instance of violation regarding misuse of series assigned for service/transactional call, it shall, without prejudice to any penalty which may be imposed under its licence or any Act or other provisions under these regulations, be liable to pay, by way of financial disincentive, an amount of Rupees one lakh per instance.*
- (iv) If the Access Provider is found to have misreported the count of UCC, it shall, without prejudice to any penalty which may be imposed under its licence or any Act or other provisions under these regulations, be liable to pay, by way of financial disincentive, an amount of Rupees five lakhs per LSA for each month.*
- (v) Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority, unless the concerned Access Provider has been given a reasonable opportunity to represent.*

(2) *The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.*

(3) *The Authority may impose no financial disincentive or a lower amount of financial disincentive than the amount payable as per the provisions in sub-regulation (1)(i), (1)(ii), (1)(iii) and 1(iv) or **review the financial disincentives imposed** where it finds merit in the reasons furnished by the access provider.*

E. Financial Disincentive for failure to curb the unsolicited commercial communications from unregistered Senders/UTMs:

23. The regulation 28 shall be amended as below-

28. Consequences for failure to curb the unsolicited commercial communications from unregistered Senders/UTMs

(1) *When the Authority has a reason to believe that any Access Provider has failed to take action against un-registered Senders/UTMs as per the provisions of the regulations, the Financial Disincentives shall be imposed on the Access Providers in each LSA for one calendar month as under-*

(i) *If the Access Provider is found to have failed to take action against the unregistered Sender(s) in accordance with provisions in regulations 25(5) and 25(6), it shall, without prejudice to any penalty which may be imposed under its licence or any Act, be liable to pay, by way of financial disincentive as given below-*

(a) *Rupees ten thousand per instance, if the Sender is an individual category of telecom consumers and*

(b) *Rupees one lakh per instance if the Sender is an enterprise category of telecom consumers;*

- (ii) *The Access Provider shall, without prejudice to any penalty which may be imposed under its licence or any Act, be liable to pay, by way of financial disincentive, an amount of Rupees ten thousand per count of complaint that is declared invalid on unjustifiable grounds.*
 - (iii) *If the Access Provider is found to have incorrectly decided the representation made by the Sender against action due to first or subsequent instance of violation, it shall, without prejudice to any penalty which may be imposed under its licence or any Act or other provisions under these regulations, be liable to pay, by way of financial disincentive, an amount of Rupees one lakh per instance.*
 - (iv) *If the Access Provider is found to have misreported the count of UCC, it shall, without prejudice to any penalty which may be imposed under its licence or any Act or other provisions under these regulations, be liable to pay, by way of financial disincentive, an amount of Rupees five lakhs per LSA for each month*
 - (v) *Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority, unless the concerned Access Provider has been given a reasonable opportunity of representing.*
- (2) *The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.*
- (3) *The Authority may impose no financial disincentive or a lower amount of financial disincentive than the amount payable as per the provisions in sub-regulations (1)(i), (1)(ii), (1)(iii) and 1(iv) or **review the financial disincentives imposed** where it finds merit in the reasons furnished by the Access Provider.*

(4) The total amount payable as financial disincentives under regulation 27 and regulation 28 shall not exceed rupees fifty lakhs per calendar month per LSA.

F. A charge up to Rs. 0.05 paisa on Promotional and Service SMS

24. Sub-regulation (2) of Regulation 35 shall be amended as given below-

(2) Upto Rs. 0.05 (five paisa only) for each Transaction SMS;

G. Provisions related to Registered Senders and other Functional Entities

25. Regulation 22 shall be amended as below-

“22 (1) Misuse of headers and content templates-

a. If misuse of headers or content templates is noticed, traffic from the concerned Sender shall be suspended by all the Access Providers immediately till such time, the Sender files a complaint/FIR with the Law Enforcement Agencies (LEAs) under the law of land, and Sender reviews all its headers and content templates and takes corrective measures as per the regulations to prevent misuse of its headers and other credentials.

b. Delivery TM shall identify the entity that has pushed traffic from such headers or content templates into the network and file a complaint/FIR against it with the Law Enforcement Agencies (LEAs) under the law of land within two business days or in such time period as prescribed by the Authority, failing which Access Provider shall file complaint/FIR with the LEA against the Delivery TM. The entity that pushed the traffic shall be blacklisted for a period of one year.

(2) Whenever a Sender or Telemarketer is suspended or blacklisted by any Access Provider and its status is updated by it on DLT platform, other

Access Providers shall stop traffic from such entities immediately but not later than twenty-four hours from the time of blacklisting or allow them to reregister themselves with them during the period of suspension/blacklisting.

(3) Access Providers shall make a mechanism for the annual verification of the following by the Senders/RTMs-

- a. registration details of registered Senders and RTMs to ensure having up-to-date details.*
- b. all the registered headers and content templates.*

Failure to verify the above details shall lead to automatic suspension of registered Sender and RTMs till such time they carry out above activities.

(4) Ensuring traceability of messages from Senders to recipients-

- a. There shall not be more than two TMs i.e. one Aggregator TM and one Delivery TM, or as directed by the Authority from time to time to allow sufficient flexibility in the eco system and at the same to maintain proper tracing and accountability of each entity in chain.*
- b. The use of digital platform by RTMs should be mandated that leaves the trace of the TMs when the messages pass through it.*

(5) The functions of Delivery TM should include ensuring that the commercial communication handled by them is traceable, and it should clearly be spelt out in the agreement between Access Provider and Delivery TM.

(6) Access providers may impose financial disincentive on registered Senders and TMs and also suspend or blacklist them in case violation of the Regulations can be attributed to failure of functions assigned to such entities. If the Authority has a reason to believe that punitive measures prescribed by the Access Providers against the registered Senders and TMs are not effective, it may order or direct the Access providers to take appropriate measures as prescribed by it.

(7) Access Providers may prescribe a fee for registration of the Senders, and RTMs and may also prescribe security deposits. Access Providers may also prescribe a fee for other activities as provided for in the Regulations such as header registration, content template registration etc. If the Authority has a reason to believe that there is a need to prescribe a registration fee or fee for any other activities provided in the Regulations, it may order or direct Access providers for it.

(8) Use of 160 series for service and transactional calls- The Access provide shall include it in the legal agreement with the registered Senders that it shall be sole responsibility of Sender to ensure that the 160xxx header assigned to it is used to only for making service and transactional call and no promotional content shall be mixed in it and that the Sender shall take legal action against the Telemarketer in case of its misuse by the Telemarketer.

(9) Provision should be made by the Access Providers for registration of grievances by RTMs and Senders and their redressal.

(10) Access Providers shall enter into a legally binding agreement with all the registered Senders, all the Telemarketers with Delivery Functions (TM-DF), and Telemarketers with Aggregator Functions (TM-AF). The roles and responsibilities of the Sender and the Telemarketers as per TCCCPR 2018 regulations and the punitive actions that can be taken against them in case of non-compliance shall be mentioned in the agreement.

26. In Schedule-I: Action Items for preparing Code of Practice for Entity(ies) (CoP-Entities), sub-item (4) shall be added to the Item 1 as given below-

“1. Entity Registration Functionality:

(4) The registration process of Sender and the Telemarketers should include

- a. physical verification of the entity
- b. Biometric authentication of the authorized person.
- c. Linking of the entity with a unique mobile number.”

27. In Schedule-I: Action Items for preparing Code of Practice for Entity(ies) (CoP-Entities), sub-item 1(g), 1(h) and 1(i) shall be added to the Item 4 as given below-

“4. Every Access Provider shall carry out following functions: -

(1) Header Registration Function (HRF)

.....

(g) approval by a separate executive specially designated by the Access Provider for this purpose after carrying out additional checks and scrutiny of the justification given by the registered Sender and recording it in any of the following situations-

(i) if the Sender has already registered 10 headers across all the Access Providers.

(ii) if one or more of its headers were blacklisted earlier.

(iii) any other reason specified by the Authority from time to time.

(h) Unused headers for a period of 90 days or such period as specified by the Authority shall be deactivated temporarily through an automated process and shall only be reactivated when requested by the Senders.

(i) When a header is blacklisted for sending commercial communications by the Sender in violation of the Regulations, the traffic from the Sender should be suspended immediately for a minimum period of one month. Traffic should be resumed only after review of the registered Sender, all its registered headers and registered content templates by the respective registrars and findings are recorded. Repeat violations shall result in blacklisting of the Sender across all the Access Providers for a minimum period of one year.

28. In Schedule-I: Action Items for preparing Code of Practice for Entity(ies) (CoP-Entities), sub-item 2(g) and 2(h) shall be added to the Item 4 as given below-

“4. Every Access Provider shall carry out following functions: -

(2) Consent Registration Function (CRF)

.....

(g) Presenting to the recipients of commercial communication sent on the basis of inferred consent an option to revoke inferred consent and record such revoked inferred consent in the DL-Consent for its scrubbing.

(h) If a customer who has opted out wants to opt-in, it should be possible at the will of the customer. However, consent seeking request for the same purpose can be made by the same Sender only after ninety (90) days from the date of opt-out.

29. In Schedule-I: Action Items for preparing Code of Practice for Entity(ies) (CoP-Entities), sub-item 3(h), 3(i), 3(j), 3(k), 3(l) and 3(i) shall be added to the Item 4 as given below-

“4. Every Access Provider shall carry out following functions: -

(3) Content template Registration Function (CTRF)

.....

(h)to register the content template for commercial communications through pre-recorded message/call or robo call using Auto Dialer that shall be mandatorily scrubbed before the delivery of the call to the recipient.

(i). The approval of content template registration shall be carried out by a separate executive specially designated by the Access Provider for this purpose after carrying out additional checks and scrutiny of the justification given by the registered Sender and recording it in any of the following situations-

(i) if the Sender has already registered 25 content templates across all the Access Providers.

(ii) if any of its content templates were blacklisted earlier.

(iii) any other reason specified by the Authority from time to time.

(j) Unused content templates for a period of 90 days or such period as specified by the Authority shall be deactivated temporarily through an automated process and shall only be reactivated when requested by the Senders.”

(k) A content template cannot be linked to multiple headers.

(l) Only whitelisted URLs/APKs shall be used in the content templates. No short URLs to be allowed in the content templates unless it is whitelisted and also contains the name of brand/entity.

(i) The content template should be blacklisted when an RTM complaint is caused due to wrong registration of the content template. Blacklisting of 5 content templates of any registered Sender shall result in suspension of the Sender till such time, its all-other content templates are reverified, subject to a minimum period of one month. The OAP that blacklisted the 5th template shall be responsible for suspension of the Sender and for revocation of the suspension after due verification of all the templates. Repeat violations shall result in blacklisting of the Sender across all the Access Providers for a minimum period of one year.

H. Action against the Senders and Telemarketers by the Authority:

30. Regulation 33 shall be amended as given below-

(1) Where the Authority has a reason to believe that any registered or unregistered Sender of commercial communications has contravened the provisions of these regulations, and the Access Provider has not taken action against such Sender as per the provisions of the regulations, the Authority may order or direct access provider(s) to take action against such Sender as per the provisions of the regulations;

(2) Where the Authority has a reason to believe that any registered or unregistered Telemarketer has contravened the provisions of these regulations, and the Access Provider has not taken action against such Telemarketer as per the provisions of the regulations, the Authority may order or direct access provider(s) to take action against such telemarketer as per the provisions of the regulations.

Provided, the Sender and telemarketer can submit an appeal to the Authority against action as per the above regulation.

CHAPTER-V: ISSUES FOR CONSULTATION

5.1 The comments are invited from stakeholders on the Draft Regulation in Chapter-IV. The inputs/comments in this regard should be provided in the following template:

I. Para No of Chapter IV

- Proposed provision in consultation paper
- Suggested modification
- Justification

5.2 Stakeholders are also requested to offer their comments and suggestions on the following issues-

Q.1 Stakeholders are requested to submit their comments in respect of definitions of messages and calls and their categorizations, as suggested in the paragraphs 2.14 to 2.19 along with necessary justifications.

Q.2 Whether explicit Consent be made mandatory for receiving Promotional Communications by Auto Dialer or Robo Calls? What can be other possible measures to curb the use of Auto Dialer or Robo Calls without the consent of the recipients? Stakeholders are requested to submit their suggestions quoting best practices being followed across the world.

Q.3 As most of the pre-recorded calls have pre-defined content, stakeholders are requested to comment on the process to be followed to scrub such content before the delivery to consumers. The comments should be supported with suitable justifications and practices being followed in other parts of the world.

Q.4 Stakeholders are required to submit their comments in respect of Headers identifiers categories as suggested in paragraphs 2.31 of Chapter-II or any other type of identifiers which may facilitate consumers to identify senders distinctly. Suggestions if any, should be suitably brought out with necessary justifications.

- Q.5 Whether current provisions in the regulations for redressal of consumers' complaints in a time-bound manner are sufficient? If not, what provisions should be made for improving the effectiveness of the complaint handling processes including identifying and fixing the responsibilities of the violators?
- Q.6 Whether facilities extended by the Service providers through Apps, Website and Call Centres for handling UCC complaints are accessible and consumer-friendly? Is there a need to add more facilities in the current systems? What measures should be taken by the service providers to make their Apps, Website and Call Centres easily accessible to the Consumers for registering UCC Complaints and tracking the same for a time-bound disposal of complaints? Please provide your answer with full details on the facilities needed.
- Q.7 What additional modes of complaints registration, preference registration and consents registration through a very easy and quick process can be implemented?
- Q.8 Stakeholders are required to submit their comments on the following-
- a. Measures required for pro-active detection of spam messages and calls through honeypots and norms for the deployment of Honeypots in a LSA, and rules or logics required for effective use of AI-based UCC detection systems including training of AI models for identification, detection and prevention of spam
 - b. Proactive actions needed to stop further communications of messages or calls identified as spam through UCC detect systems and actions on the senders.
- Q.9 Stakeholders are required to submit their comments in respect of

- a. Financial disincentive proposed in Section F of Chapter II on the access providers against violations in respect of RTMs
- b. Financial disincentive proposed in Section F of Chapter II on the access providers against violations in respect of UTMs
- c. Financial disincentive against wrong approval of Headers and Message Templates proposed in Section F of Chapter II on the Access Providers.
- d. Measures needed to assign the responsibilities of telemarketers (both RTMs and UTMs) and Principal Entities (Senders), involved in sending UCC and disincentivize them financially including legal actions as per law.

Q.10 Whether there is a need to review five paisa exemptions accorded to transactional messages and bring them at par with other commercial messages? If yes, please give your answer with necessary justifications? If no, what additional measures are required to discourage senders, telemarketers or service providers from using transactional message templates for sending promotional messages?

Q.11 Stakeholders are requested to offer their comments on the following issues:

- a. Whether there is a need to strengthen the provisions of Common Code of Practice templates with Standard Operating Processes further to enable Access Providers to take actions including imposing financial disincentives and actions as per law, against entities registered and not following the regulations? If so, what could be additional provisions and essential processes which should be made part of CoPs?
- b. Whether there should be provision for minimum security deposits from the entities registering with any of the Access Providers, against the misuse or breach of regulations? If so, what should

be the provisions in the CoPs for full or partial encashment/replenishment of security deposits against the breach of the regulations? Please provide your answers with suitable justifications.

Q.12 What effective steps can be taken to control the menace of UCC through tariffs? Please justify your answer.

Q.13 Whether differential tariff for SMS and Voice calls beyond a certain limit should be introduced to disincentivize UCC through UTMs? Please justify.

Q.14 If differential tariff is introduced, what could be the limit beyond which differential tariff could be introduced for:

i. Voice Calls

ii. SMS.

Please justify with rationale.

Q.15 If differential tariff is introduced, what could be the tariff beyond a limit for:

i. Voice calls.

ii. SMS.

Please justify with rationale.

Q.16 Whether differential tariff should be introduced in a graded manner? If so, please suggest the methodology with justification.