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Ref No: RP/ FY 19-20/062/804

Dated: 03.03.2020

To,

Shri Kaushal Kishore,
Advisor (Finance & Economic Analysis-I),
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
Jawahar Lal Nehru Marg, Old Minto Road,
New Delhi - 110002.

Subject: Draft the Telecommunication Tariff (Sixty Fifth Amendment) Order, 2020

Dear Sir,

This is with reference to your above-mentioned draft the Telecommunication Tariff (Sixty Fifth Amendment) Order, 2020. In this regard, please find enclosed our response for your kind consideration.

Thanking You,

Yours' Sincerely

For **Bharti Airtel Limited**

A handwritten signature in blue ink that reads 'Amit Kushwaha'.

Amit Kushwaha

Vice President - Regulation & Compliance

Encl: a.a.

**Bharti Airtel's Response to TRAI's Draft Telecommunication Tariff
(Sixty Fifth Amendment) Order, 2020**

We thank the Authority for seeking comments on the Draft Telecommunication Tariff (Sixty Fifth Amendment) Order (TTO), 2020.

TRAI vide its draft TTO (Sixty Fifth Amendment), 2020 has proposed to delete schedule XIII of principal TTO, which mandates the minimum tariff of fifty paise per SMS for exceeding 100 SMS per SIM per day.

To effectively address the customer concerns emanating from Unsolicited Commercial Communications (UCC), TRAI had issued the Telecom Commercial Communications Customer Preference Regulation, 2010 dated 1st December, 2010. TRAI had observed that some of the subscribers were undertaking telemarketing activities i.e. sending bulk promotional SMSs, using normal mobile connections with the concessional SMS packs that were available. Therefore, TRAI vide its TTO (Fifty Fourth Amendment) dated 5th November 2012, inter-alia notified an additional measure and mandated minimum tariff of fifty paise per SMS for SMSs exceeding 100 SMS per SIM per day. This provision in TTO was intended to encourage unregistered telemarketers to get duly registered, in order to get discounted telecom resources.

In 2018, TRAI further strengthened the UCC framework, by issuing Telecom Commercial Communications Customer Preference Regulations, 2018 ("TCCCPR 2018"). The Regulation inter-alia has mandated technology driven solutions for detecting UCC such as advanced signature solutions, UCC detect system etc. Under the new regulatory framework, prescribed under TCCCPR 2018, some of the significant provisions for dealing with the Unregistered Telemarketers (UTM) are:-

- If the number of complaints against the UTM is ten (or more than ten) recipients over a period of last seven days, the service provider shall put sender under usage cap of maximum twenty outgoing voice calls/ SMS per day for 30 days. In parallel, service provider shall also initiate an investigation.
- On second instance of violation, usage cap shall continue for a period of six months or the telecom resources will be disconnected as per the provisions of regulations.
- If the number of complaints against the UTM sender is less than ten over a period of last seven days, the Originating Access Provider (OAP) shall check whether suspected sender is involved in sending Commercial Communication in bulk or not. In case, bulk usage is

detected, the sender shall be put under Usage Cap, and at the same time investigation shall be initiated. In case, sender has not sent commercial communications in bulk, the OAP shall warn such sender through appropriate means.

While the usage cap regulation helps, it does not fully address the UCC menace because of the following reasons:

- This is intrinsically a post-facto measure. It allows the sender to commit UCC menace and the sender has the potential to switch to a new SIM to continue sending UCC.
- More often than not, it is observed that a large number of customers do not register their complaints against senders, thereby leaving UCC unchecked.
- Further, the usage cap regulations are recently implemented and therefore, it would be pre-mature to assess the complete impact of these measures, in curbing the UCC.

Apart from the usage cap, TRAI has also specified the use of advanced signature solutions by designing systems for detecting UCC, related to suspicious unregistered telemarketing activity - using Signature solution, deploying honeypots and other technology led measures. While, these measures are being conceptualized and implemented, we feel that the efficacy of such measures can only be gauged when the entire industry implements the same and is marching at the same pace to drive these initiatives. Till then, the outcome of these measures may not be significant enough to control the spam.

TRAI in its explanatory memorandum of draft TTO (Sixty Fifth Amendment) has cited that considering the comprehensiveness of the regulatory framework contained in the TCCCPR, 2018 and also, considering the general regulatory approach of forbearance, it is appropriate to remove 100 SMS capping in a day. We suggest that the removal of the capping is not a step in the right direction as continuity of capping has its own independent merit. With the implementation of usage cap, UTM's will naturally digress to change SIMs so to continue with their agenda and therefore, this capping acts as a deterrent for UTM against SIM-hopping.

Further, once the Distributed Ledger Technology (DLT) as envisaged in the Regulation is completely implemented by the entire industry to control UCC, it is most likely that people involved in generating spam as well as fraudsters will look for alternative means to avoid the legitimate route and they are likely to switch from A2P SMS to normal P2P SMS route for sending spams. In such scenario, coupled with no SMS cappings, UCC menace would definitely grow unfettered.

The removal of restriction of SMS cap will also incentivize the sender of such messages to use the P2P route. Further, deployment of any SPAM filter or identification techniques for P2P traffic may raise customer privacy concerns and will also lead to increase in customer complaints.

In TCCCPR Regulation 2018, there is an additional provision of financial disincentive on Registered Telemarketer (RTM) for sending any spam SMS. The removal of SMS cap will act as an enabler allowing such miscreants to send spam messages as P2P without registering and thereby bypassing the regulation.

In view of present play of regulatory measures, we strongly recommend that removal of tariff deterrence which is more proactive measure would not be the right approach. The tariff deterrence of 100 SMS in a day, coupled with new technology based regulatory measures would be more comprehensive approach in curbing the menace of UCC.

Further, the availability and popularity of alternate messaging channels like OTT messaging apps have significantly reduced the customers need for sending outgoing SMSs. As per TRAI's Performance Indicator Report for Quarter Ending Sep-19 released on 08.01.2020, the number of outgoing SMS per subscriber per month is 18. This is despite that fact that a significant proportion of customers have migrated to bundled packs wherein 100 SMS/ day is offered free as part of the bundle.

The outgoing SMS traffic was analysed in Airtel's network for a period of 1 month i.e. from 01.01.2020 to 31.01.2020. The analysis revealed that in any particular day approx. 92% subscribers do not send even a single SMS. The breakup of number of outgoing SMSs sent by balance ~ 8% subscribers clearly indicate that almost the entire subscriber base sends less than 100 SMS per day on any particular day as per the table given below:

Outgoing SMS Count	Percentage of Subscribers out of total Subscriber base
1 to 10	6.5%
11 to 20	0.6%
21 to 50	0.6%
51 to 80	0.2%
81 to 100	0.1%
>100	0.01%

It is evident that for almost all the customers, the limit of 100 SMS per day is never breached. Hence, the mandate to have a minimum tariff of fifty paisa per SMS for exceeding 100 SMS per SIM, therefore, in no way impacts the tariff forbearance regime for the genuine customers, as per the present usage pattern.

In view of submissions made herein above, **we strongly recommend to continue with capping of 100 SMS per day per SIM** along with the measures contained in new TCCCPR, 2018 for having comprehensive regulatory mechanism for controlling the menace of UCC.