Netcore Systems Response to

TRAI Consultation Paper on Unsolicited Commercial Content dated 11th May 2011

Background on Netcore
- Netcore, operational since 1998 is India's largest Enterprise Email and SMS Messaging company.
- Netcore is the only company which has direct to consumer and Enterprise services since over last 5 years and is the only company which provides the full spectrum of 1:1 digital direct communication which is email, sms and voice
- Netcore is the first non-operator company to launch direct to consumer value added services in country
- Netcore is the first non-operator company to launch the opt-in regime in country.
- Netcore is the first company to start mobile marketing in the country.
- Netcore services many sectors in the enterprise space, namely BFSI, Retail, Logistics, IT, Government, FMCG, etc

  Netcore is a registered Telemarketer with multiple operators.

NDNC Complaint scenario

1. Netcore sends several hundred million messages per month. Of these hundred of millions of messages, DNC complaints received by Netcore in a month are no more than few hundred or a small fraction of percentage based on the total messages sent in a month. Many of these complaints themselves are invalid complaints.
   While some are valid complaints, many a time the complaints are invalid as well. Reasons for being invalid are since they are made either by person not registered on NDNC registry or ones who have registered but not on the date when the message was sent to them.

   Enterprise messages sent by Netcore clients can be categorized broadly into either being transactional or promotional categories.
   Since Transactional Messages are not unsolicited commercial communication for the client.
   RBI mandates several Banks and financial institutions to send sms transactional alerts to customers and hence transactional alerts must be sent to mobile subscribers who may also have registered for NDNC. Due to this, mo NDNC scrub is done to verify that these messages are being sent to users not on NDNC.

   Since Promotional messages fall within the purview of unsolicited commercial communication, these types of messages are scrubbed prior to sending.

2. Comments on the current Do Not Call approach:
   a. The NDNC regime is beginning to be understood by the stakeholders. More and more companies are willing to comply with this and are gradually adopting processes around the same. The longer it stays and is implemented strictly, the better adoption it will have.

b. If NDNC is enforced better – both in terms of penalties and the redressal available to the consumer, the ecosystem will respond positively and TRAI will experience a positive change.

c. If NDNC technology is made better – faster and with higher uptime, some more complaints may be avoided.

d. The current implementation failure of NDNC registry is primarily due to lack of scalability of technology due to the method of requiring every telemarketer to keep updating status of numbers every 15 days. NDNC scrubbing can be simplified and made more fool proof by updating telemarketers of changes in status of mobile numbers to all tele-marketers who have subscribed for the status of a said mobile number. This will enable a substantial reduction in database load of the TRAI registry and help the issue of compliance of NDNC, since the site will not be down processing huge traffic volumes (as in the current case), since the volume of data that needs to be exchanged in an "alert on change" mode is significantly less than look for update for change every 15 days for every mobile number (not only changed NDNC status mobile numbers) as in the current implementation of NDNC.

3. Our comments on the proposed Do Call approach:
   a. Whilst the intent of the Do Call registry is good, we feel the implementation will be impractical and not serve the goal of the regulator or consumers

   b. Opt in systems referred to in the paper can be either too broad or too narrow to be useful for centralised administration of opt in categories as described in the paper.

   c. Centralised opt in numbers will be so small, that the few numbers opted in will be in such high demand from all telelmarketers that they will be over exposed to messages. Also the mobile marketing industry volumes and information dissemination regime will collapse due to undue restriction. This will hurt consumers, business and operators and service providers.

   d. Most telemarketers have automated systems which run the campaigns. It is not practical for a Telemarketer to read the content of thousands of its customers – so a telemarketer cannot implement scrubbing at a category level/

   e. Also we feel that due to some companies flouting rules blatantly, other are being painted with the same brush even though care is taken for most part to not violate NDNC for UCC messages.

   f. Implementation of Do Call will be a significant shift from the system which is just beginning to be understood and stabilised within the industry. It will cause massive technical work at the end of the implementer of Do Call as also it will require massive changes in the industry.

    g. Do Call could also cause major unemployment in the country with most domestic call centre and telemarketing companies having to shut down due to being unprofitable.

    h. Consumers who depend upon brands reaching out to them for making their choices will have no decision making tools available to them. In this context, Do Call may become highly detrimental and consumer unfriendly for a large consumer segment.

4. Our suggestions to TRAI:
   a. The present NDNC approach should continue.
   b. NDNC registry platform should update registered telemarketers of every update to registry only. This way, the volume of data being exchanged between telemarketers and NDNC registry can be reduced by over 1000 times (and hence have a more scalable and implementable platform for compliance (For more details, Netcore can elaborate and even offer to develop system in industries best interest if needed)
   c. NDNC technology should be available 7 * 24 and have better response time and performance.
   d. Opt-ins should supersede NDNC registration.
      Consumer can thus have to control and a true permission marketing medium would have been created.
      For example : While a consumer can register for NDNC for unsolicited commercial content, the same consumer can also opt-in to receive selected messages via a Shortcode or longcode. Complaints from the customer on receiving unsolicited messages could be checked against the longcode/Shortcode logs of the operator/VAS provider for validation against opt in messages.
   e. All shortcodes and longcodes must be registered with telemarketer registration and sender id /CLi used in sms must reflect the same for opt in services.
      Failure by VAS provider to provide proof of opt in 30 days within complaint can result in blocking of Shortcode/longcode for better compliance. This will meet the regulator's intent of protecting consumer interest by giving the ultimate power to the consumer. Anybody who is registered in NDNC only gets a communication by a brand/telemarketer if the brand has the opt-in directly or through a third party e.g. an ad funded news channel on SMS.
   f. To implement opt-in based regime (where consumer gets messages only from those he allows) – TRAI should recognise opt-in by the brands. This will allow a Do Call type system except that the opt-in is not held centrally but is decentralised with third parties. Opt in data must be captured on longcodes or shortcodes, so that the operator can request proof of compliance and opt-in from a complaining subscribers operator's VAS vendor.
   g. The penalty for violation should be severe and should go down to the level of the defaulting brand.

<u>Netcore specific response to the questions in the consultation paper</u>

4.1. What are the primary factors for poor effectiveness of Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) in its present form? Give your suggestions with justifications. (Reference Para 2.3)

A. The mode of implementation of NDNC technology and lack of scalability are reasons for poor effectiveness of NDNC registry.

   By making the data transfer between NDNC registry and telemarketer more fool proof and less data intensive by streamlining process described below, more compliance will be attained.

   The NDNC process can be streamlined in the following way:

   For every mobile number in India as users update status of NDNC, this number is available dynamically to the list of telemarketers in India who have expressed interest in a particular number series update. Charge the telemarketers for these updates for every series. This would help in revenue generation, reduction in NDNC scrub volume and hence greater overall compliance. Also supplement this with strict monetary penalties for NDNC violations.

   The primary difference in implementation is here data exchange happens only when subscribers change their respective NDNC status, not as a mandated bath process that needs to be repeated every 15 days and with the scales of sms in the country by its very nature cannot keep up with expiring status of the mobile numbers' NDNC status.

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

A. We do agree that the UCC regulation should be reviewed.

B. Consumer opt-in with a Brand and a third party via a Shortcode or longcode should be recognised and included in the UCC regulation.

C. Consumer opt-in should supersede his registration in NDNC.

D. This approach gives consumer the power to control the communication to them.

E. This approach encourages brands to build stronger relationships with their consumers – they will need to offer good benefits to the consumer for consumer to give them an opt-in.

F. This encourages the eco-system around free consumer content – several advertisement funded models can offer value to consumers by obtaining their opt-in for sending them advertisements in lieu of free services.

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

A. No. The system is not practical. Instead of centralised opt-in, decentralised opt-in should be promoted on shortcodes and longcodes for providing power to the consumer right up to choosing a particular brand and not just a broad category.

4.4. Do you perceive the need to control telecom resources of telemarketers to effectively implement provisions of Unsolicited Commercial Communications and to encourage them to register with DoT? What framework may be adopted to restrict telecom resources of defaulting telemarketers? (Reference Para 2.11.3)

A. On the SMS side, some telemarketers connect directly to operators whilst some others connect to other telemarketers. All stakeholders should work towards achieving the metrics established by the regulator as being attempted already by parties concerned. This process can be improved by constant engagement and strict regulatory compliance measures against "fly by night" operators who occasionally just keep banks of SIM cards and modems to blast sms to operator networks.

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

A. Only better enforcement of NDNC will control telemarketers.

4.6. Do you envisage that second screening at SMSC as proposed in para 2.12.3 will effectively control unsolicited SMSs? Give your comments with justification. (Reference Para 2.12.4)

A. We feel that this is impractical. While this may block certain critical transaction messages, a person who is registered under NDNC may not get for example an alert from his bank that he wants to receive.

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

A. Better implementation of NDNC platform by using asynchronous udates on changed NDNC status of subscribers only rather than query based batch processing for every mobile number irrespective of change.

B. Ease of use and having valid numbers of NDNC, (expiry can be done away with totally) will help restrict spamming to numbers just because NDNC site was down. (due to load of processing millions of mobile number status)

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

A. We believe that most telemarketers and service providers want to comply with the UCC guidelines and are doing their best and willing to make improvements in the process so as to have a win-win for all.

B. A higher penalty may work better than smaller penalties. Also suggest penalties portion be passed back to consumers.

4.9. Do you feel that present UCC complaint booking mechanism is effective? What more can be done to enhance its effectiveness? (Reference Para 2.13.8)

A. Complaint booking is effective except

B. Some operators ask for NDNC registration number during the complaint booking. This is not necessary. Also the NDNC site does not show expiry of the number and date of mobile number getting onto NDNC, which will simplify the process of validation.

C. There is no visibility to the consumer on the process after the logging of complaints. This needs to be improved.

4.10. Do you feel that there is a need to enact legislation to control the Unsolicited Commercial Calls? Give your suggestion with justification. (Reference Para 2.13.9)

4.11. Do you agree that definition in para 2.14.1 correctly define Unsolicited Commercial Communications in Do Call registry environment? Give your suggestions with justification. (Reference Para 2.14.2)

Yes, we agree

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

Yes it is reasonably user friendly and effective.

Some over zealous operators have gone overboard to achieve NDNC registrations –they have even done bulk NDNC registration by running scripts in the system (e.g they have established some parameters for premium customers and have automatically registered them). (This is tantamount to cheating/fraud – as NDNC registration is consumer prerogative/right and not the operator's decision). TRAI should examine abuse by the Operators who are pumping up registrations in NDNC with complete disregard to consumer's free will.

4.13. In your opinion what are the various options which may be adopted for setting up and operating the NDC registry in India? Among these suggested options which options do you feel is the most appropriate for implementation and why? Give your suggestion with justification. (Reference Para 3.8.3)
A. The proposed NDC is impractical – both from consumer's and telemarketer's perspective.

B. Approach suggested in 4.2 should meet the intent of the regulator

4.14. Do you agree that present NDNC registry can effectively be converted to NDC registry? What measures need to be taken to make it more effective? (Reference Para 3.8.4)

A. No. The process will be too complex.

B. It is very difficult to decide the DC categories. The consumer experience at the time of registration will be difficult and due to small numbers who do get on DC, the proposal itself will not be effective for all stakeholders including consumers.

C. We recommend that instead of a centralised DC, have a Decentralised opt-in Do Call accessible via shortcodes and longcodes in conjunction with NDNC

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

A. We disagree with the proposal.

B. There will be no differentiation left between the telemarketers as all will have the same database. Life of the consumers in this database will be miserable – as they will be a commodity which every telemarketer in the country will target. The thought around one national database for sending promotions is this not at all desirable.

C. This suggestion is regressive and not appropriate for a capitalistic society and will kill innovation and creativity for the industry.

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

Charge for NDNC updates for mobile numbers. Since this will lead to competitive advantage, data will be more secure than otherwise.