



VIL Comments to the TRAI Consultation Paper on “Review of the Telecom Commercial Communication Customer Preference Regulations, 2018” issued on 28.08.2024

At the outset, we are thankful to the Authority for giving us opportunity to provide our comments to the TRAI Consultation Paper on “Review of the Telecom Commercial Communication Customer Preference Regulations, 2018” issued on 28.08.2024. In this regard, we would like to submit our comments as follows:

Executive Summary

Measures taken by VIL

1. VIL has always maintained the highest standards of customer service and has diligently worked alongside TRAI to execute policies that are enacted from time to time. Since the inception of this regulation, VIL has proactively extended support to implement it and has continued to do so unequivocally with the sole intent to deter the exchange of UCCs through our network and prevent any inconvenience to the public.
2. **Various Solutions Implemented to Curb Spam:** Under the guidance of TRAI and under TCCCP Regulation 2018, VIL has implemented various solutions and processes like Consumer Preference Registration, Principal Entity (PE) Registration, Telemarketer (TM) Registration, Header Registration, Complaint Management, Scrubbing based on Principal Entity-ID and Header, Blocking traffic from unregistered headers, Content Template Registration, Content Template Scrubbing, Digital Consent Acquisition, Registration of Consent Template, Scrubbing of the Service Explicit messages, User-friendliness of mobile app and website like auto-selection of basic details for raising complaints (content, spammer MSISDN, date/time of UCC) without the need of manual entry by consumer, etc.
3. **Mobile App, Website and Call Centres:** The facilities extended by Vi through Mobile Apps, Website and Call Centres for handling UCC complaints are accessible and consumer-friendly. The apps and website are designed with intuitive navigation, making it easy for consumers to file/monitor complaints without confusion. The existing systems allow users to track the status of their complaints in real-time, ensuring transparency and keeping consumers informed about the resolution process. VIL has also implemented feature of auto-picking of SMS content and SMS/voice call date/time/other party number, basis consent from end-subscriber, which will make the user-experience seamless and also reduce the complaints being rejected in mismatch/incomplete details.



4. **Reduction in Complaints against RTM SMSs:** Basis various steps taken over past few years (especially on SMS side), VIL has witnessed significant reduction (~85% reduction) in consumer complaints against promotion in RTM SMS over last few years. Further, major steps have been taken recently to reduce spam in voice calls as well.
5. **Whitelisting of URLs/APKs/OTT Links:** VIL has recently led the registration of URLs/APKs/OTT links for whitelisting, with almost >95% of the links being registered by VIL out of total links registered by industry, thereby facilitating the smooth implementation of TRAI Direction, mitigating risks of traffic disruption and helping consumers receive only whitelisted links.

VIL Response to Changes Suggested by TRAI

6. **Merging of Transactional and Service Message categories:** We agree that there is no purpose to be served by keeping these two categories separate. Keeping them separate will only give rise to subjective interpretations and thus, making it open for disagreements in between TSPs, Regulator or the PEs/TMs. Therefore, in order to obtain simplicity in the Regulatory requirement, both the categories of Transactional and Service messages should be clubbed into a single category.
7. **Government messages as separate category:** There should be no separate category of messages, other than Transactional and Promotional. The Government messages should fall under the category of Transactional messages. Also, suffixing of SMS headers with character 'P', 'T' and 'G' should not be mandated as it will take away the ability of TSPs to utilise more characters and make the SMS header more enriching and valuable for both PEs and consumers.
8. **Charges on Commercial Communications:** TRAI, in its recent recommendations on the "Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023" dated 18.09.2024, has recommended "*Except for disaster related messages, the concerned Government agency should devise a mechanism to suitably compensate the service providers for dissemination of the public broadcast messages*". **We strongly support that a uniform commercial communication charge should be made applicable for all categories i.e. transactional, promotional and Government messages except disaster related messages. Also, the existing Rs. 0.05 SMS charge which was fixed more than a decade ago, should be revised upwards to Rs. 0.10 per SMS as a uniform commercial communication SMS charge on all categories.**
9. **Opt-out mechanism from Transactional/Government messages:**
 - a. There should not be an opt out feature for transactional SMSs, as these are customer-initiated messages. In case the relationship between customer and brand ceases then there is no scope of sending transaction messages so an opt out feature is not required. Giving an opt-out mechanism will pose risk of consumer accidentally availing of an opt-out feature and missing out on essential messages.



- b. However, if TRAI does not agree to the said view, we would like to submit that the above suggestion of presenting the opt-out mechanism in same message and through an SMS after every transactional call, would not meet the purpose and would in fact, become a source of inconvenience and spam in itself. Besides, it will certainly involve huge resources, development, costs and efforts. We strongly urge that there should not be any mandatory requirement of presenting opt-out mechanism in every transactional/service SMS or after every transactional/service call.

10. Level-playing field with OTTs:

- a. As TSPs, while we continue to take several measures, the high usage of OTT platforms like WhatsApp by customers at large, present a source of risk that is neither visible in scale or controllable by us or even our regulating bodies. It is important that the Authority should take appropriate measures and evaluate platforms like WhatsApp in a similar manner as done in case of TSPs.
- b. Various Regulatory requirements are applicable on the TSPs but, not on OTT platforms, and thus, are causing the regulatory arbitrage and shift of unsolicited and even genuine commercial communications from TSPs to OTT platforms.
- c. We request the Authority to push for removal of such arbitrage and horizontal application of regulatory norms on commercial communications on OTT players as well. We request TRAI to also issue working advisory/guidelines for the OTT players and also suitably ask MEITY for strict implementation of these norms by OTT players.
- d. Besides, level-playing field on compliance norms, we request Authority to also strive for ensuring level-playing field in terms of cost of providing service and recommend applicability of revenue share to be paid by OTT-communication service providers to DoT.

11. Strengthening of the provision of Code of Practices with Standard Operating Processes and Provision for Minimum Security Deposits: We support the same and request TRAI to prescribe the same in an unambiguous manner so that it enables all TSPs to adopt it uniformly and thereby, helping save upon time and efforts required in building consensus between TSPs.

12. Information to the Authority on real-time basis: We agree with this measure and would like to submit that the TRAI seeks various information from TSPs from time to time which is being provided in a reasonable time frame.

13. Differential Tariff for SMS and Voice Calls: We support the Authority on introduction of differential tariff through a regulatory mandate on all TSPs, which can curb the spam from unregistered telemarketers. However, we strongly urge that same should be carried out after deeper analysis and careful consideration of all linked issues, under discussions/consultation with TSPs otherwise, it may have far larger impact on the genuine consumers.



14. Auto Dialler or Robo Calls:

- a. It is important that TSPs are made responsible only for those actions which they initiate or have the ability to control. In general, the compliance obligation should rest with the entity initiating the action or controlling the use of equipment. We strongly recommend that No specific regulatory provisions should be prescribed on TSPs for use of auto-dialler/Robo-calls.
- b. If still there is any need for separate actions from PEs on the calls from auto-dialler/Robo-calls, we recommend that a separate law should be enacted and enforced directly on the PEs and not through TSPs, just like the case of other countries as highlighted in the Consultation paper also.

15. Scrubbing Pre-defined Content of Voice call before Delivering to Consumers:

- a. We recommend that no such complicated, costly and challenging regulatory requirements should be imposed on TSPs. Also, as per licensing conditions, no unauthorised interception/monitoring of messages can take place. Once calls are set-up, there is no mechanism to segregate calls based on content and introducing such provisions may cause huge security risks.
- b. In case Authority feels that there is merit in having such solutions, we recommend it to be referred to Global/Indian Standards bodies, for providing suitable standards, secured solutions and OEMs providing state of the art solutions for this.
- c. Most importantly, such solutions would require huge cost for implementation as such, its cost should be borne by DoT/Government through USOF or any other fund.

16. Financial Disincentive on Telemarketers (or Principal Entities) instead of TSPs:

- a. It is important that the real accountable entities creating spam are clearly and unequivocally called out and are made responsible through enactment of specific law.
- b. We request the Authority to consider and push for carving out responsibilities and accountabilities in terms of Financial disincentives, directly on the violating PEs/TMs instead of TSPs.

17. Categorization of Headers identifiers: No suffix should be mandated to be added to the SMS headers. Further, we submit that it is technically not possible to dispense with the TSP and LSA name prefix, in the current network and billing architecture. In our view, such measures should be left for the market to determine and not be made mandatory. Either ways, this is akin to a product offering and not a measure to mitigate spam.



18. Redressal of consumers' complaints in a time-bound manner:

- a. Transfer of complaint from TAP to OAP in real-time: We agree with this measure.
- b. Intimation of receipt of each complaint to the registered/unregistered senders: **We strongly urge that there should not be any requirement of checking the CDRs within 2 hours of the UCC complaint, as the same is technically infeasible.** Also, w.r.t. informing the Sender about the UCC complaint, the same should only happen post the complaint being upheld as valid.
- c. Different Criteria to initiate action against individual subscriber and enterprise subscribers for UTM complaints: We agree with TRAI that there should be a different criterion for initiating action against unregistered senders belonging to individual category or enterprise category of telecom consumers. However, the criteria suggested has been made very stringent and may also be prone to misuse and impact genuine consumers also. For individual category, the count of valid complaints should be 10 or more unique complainants in a calendar month, post which, the outgoing services of the Sender are to be suspended. For Enterprise category, we recommend a graded action against the enterprise category.
- d. Provisions to initiate action against the Sender for making promotional calls from the series assigned for transactional/service calls: The suggested threshold of maximum 2 hours is far too short and stringent. Also, we recommend a graded action against the Senders in this category.
- e. Action against Senders for UTM Violation and misuse of Series assigned for Transactional/Service calls: It is important that the regulatory requirements basis which compliance of a TSP would be ascertained, are clearly prescribed so that the bonafide steps taken by a TSP are not treated as non-compliant nor is there any competitive arbitrage in the TSPs due to different interpretations of a regulatory mandate.

19. System to automatically take feedback from the recipient of bulk voice calls: The measures proposed by TRAI in this regard are quite subjective and will not yield commensurate benefits despite involving lot of development, huge cost and manual efforts. Such steps would also cause huge inconvenience to the recipients and may become spam by itself. Also, any such solution would involve crunching of huge data requiring separate servers but without yielding any commensurate benefits.

20. Action on the suspected spammers detected through the UCC_Detect System of the Access providers: As the requirement of checking the bonafide use of telecom resources is subjective and it will be practically impossible to be conducted for lakhs of consumers, we urge that no such exercise should be mandated.

21. Need of the Hour - Unambiguous and Clear Regulatory Norms: The existing regulation has certain ambiguities and contains various provisions that are open to interpretation or even practically



impossible to implement. Considering that non-compliance with the Regulation leads to Financial Disincentives (FDs) being imposed on the TSPs, it is vital to lay down robust processes and also document how these subjective elements should be interpreted and implemented uniformly across all TSPs without any ambiguity.

22. **Timeline for Implementation:** We request TRAI to issue the regulation based on the comments from stakeholders, without prescribing timelines at this stage. The timelines and priority order of implementation should be separately consulted with TSPs for an effective implementation.
23. **Funding for Solutions curbing Spam:** The TSPs should be encouraged and incentivized through the USO fund, to deploy innovative, consumer-centric spam curbing solutions and practices.
24. **Cost-Benefit Analysis:**
 - a. It may be appreciated that many of the changes being mentioned in the paper would entail significant architectural as well as design changes to the existing solutions and processes. In some cases, the suggested changes would require huge efforts, cost, time and resources to implement they may not yield any significant outcomes and may have only minor incremental benefits.
 - b. **Therefore, we recommend that a detailed cost-benefit analysis should be done before introducing such provisions, and same should be made part of the consultation process.**

Preface

1. Introduction

- a. The TCCCPR is a co-regulation, issued by TRAI, which requires collaboration amongst multiple stakeholders to set up a first-of-its-kind digitalized platform to curb the menace of UCC. It contemplates mutual participation and inter-dependence amongst Telecom Service Providers (TSPs), TRAI and Principal Entities (PE) including constitutional bodies, Government organizations, licensed banks, major commerce companies and brands across sectors, telemarketers, (TM) etc., at a globally unprecedented scale.
- b. VIL has always maintained the highest standards of customer service and has diligently worked alongside TRAI to execute policies that are enacted from time to time. Since the inception of this regulation, VIL has proactively extended support to implement the same and has continued to do so unequivocally with the sole intent to deter the exchange of UCCs through our network and prevent any inconvenience to the public.

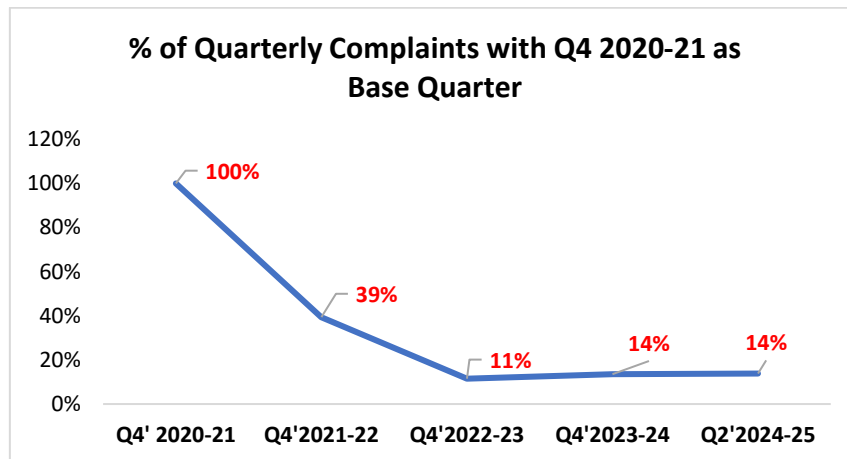


- c. VIL has also been supportive of new technology driven and consumer centric approaches and has employed the same outlook towards complying with the TCCCPR. We have tried our best at every level to ensure commensurate decrease in the menace caused due to unsolicited commercial communications. All this is done despite the mammoth difficulties and challenges that have been faced in the implementation process.

2. Implementation of TCCCPR Regulation, 2018

- a. The TSPs have introduced various innovative concepts to curb the menace of UCC and have implemented the following solutions since the inception of TCCCPR 2018:
 - i. Consumer Preference Registration
 - ii. Entity/RTM and Header Registration
 - iii. Complaint Management
 - iv. Scrubbing based on Principal Entity-ID and Header
 - v. Blocking traffic from unregistered headers
 - vi. Content Template Registration
 - vii. Content Template Scrubbing
 - viii. Digital Consent Acquisition
 - ix. Registration of Consent Template
 - x. Scrubbing of the Service Explicit messages
 - xi. User-friendliness of mobile app and website
 - xii. Whitelisting of URLs/APKs/OTT links
 - xiii. Implementation of Voice Solution for Promotional Calls (140 Series) over DLT system
- b. In addition to above, TRAI has also been proposing various solutions through various Directions and TSPs are working proactively towards implementation of such solutions in the interest of end consumers. Following are some of the solutions which are under implementation and deliberations:
 - i. PE-TM Binding
 - ii. Implementation of Solution for Service/Transactional Calls (160xx series) over DLT
 - iii. Measures to curb misuse of Headers and Content Templates
 - iv. Integration of DLT with Chakshu Portal
- c. The TCCCPR implementation has entailed massive technological development and the TSPs were also made custodians for registration of Telemarketers (TMs) and Principal Entities (PEs), which involved huge persuasive efforts to bring all the stakeholders on board and make them compatible to systems of template and consent registration followed by subsequent scrubbing of header/template/consent.
- d. **Reduction in Complaints against RTM SMS:** Basis various steps taken over past 2-3 years (especially on SMS side), VIL has witnessed significant reduction in consumer complaints

against promotional SMSs by Registered Tele marketers (RTM), as can be seen from below graph. Further, major steps have also been taken recently to reduce spam in voice calls as well.



3. Need of the Hour - Unambiguous and Clear Regulatory Norms

- a. While huge efforts have been put in by both the TRAI and the industry, there are still challenges to be addressed. One of the significant challenges being faced by the industry is that the existing regulation contains several provisions that are either practically impossible to implement or are subjective in nature and hence, open to interpretation, making it almost impossible for all access providers to be able to adhere to common implementation practices.
- b. Considering it being a regulatory norm also leading to FDs in case of non-compliance, it is vital to document how these subjective elements should be interpreted and implemented uniformly across all TSPs without any ambiguity, and without further extensive deliberations within TSPs.

4. Challenges faced in implementation - Extensive change in field processes and practices:

- a. Setting up the DLT and DCA mechanism as required under the TCCCPR required extensive efforts from TSPs in terms of cost, manpower, timelines and other resources to: (i) design specifications for the DLT system (ii) develop and deploy new DLT systems, (iii) develop interface for inter-working amongst DLT systems of different TSPs. This was not possible without collaborating with multiple cross-functional teams of TSPs, TRAI, TMs, PEs, system developers and other external stakeholders.
- b. It is also relevant to highlight that ordinarily, network systems/ interfaces of TSPs are based on standards and specifications prescribed by bodies like 3GPP or the Telecommunications Engineering Centre to ensure inter-operability and scalability. However, in the present case,



there were no available network systems/ interfaces to achieve the inter-dependent processes contemplated under the TCCCPR.

5. Timeline for Implementation

- a. It is pertinent to note that several provisions under the existing regulations and directions are still under implementation thereby requiring detailed and continuing deliberations between the TSPs to arrive at consensus in designing/developing uniform solutions and processes.
- b. Further, the proposed provisions in the paper are quite substantial and complex and will require a significant amount of time, cost and efforts in between TSPs for designing and development of related solutions and processes. It will require massive augmentation of infrastructure, DLT platform, etc.
- c. On customer services' side also, it will need huge changes and upgradation in our business and IT systems. Further, both business and customer services will require setting up of processes with cross-functional teams.
- d. As the TCCCP Regulation provides for a co-regulatory approach based on DLT architecture and in absence of standardized solutions available in the market, it means that all the TSPs have to come together and deliberate, design and deploy the solutions together. Being commercial entities, all these takes substantial time and resources of TSPs. Moreover, most of these provisions cannot be implemented simultaneously due to dependency on common DLT infrastructure as well as joint effort required from industry for designing and development.
- e. In addition to above, the speed and ease of implementation is also highly dependent on the clarity and availability of guidance or support from the Authority and other stakeholders.
- f. **In our view, every new provision requiring development will need time of at least 3 to 6 months. To get a more precise estimate, a thorough assessment of the regulation's requirements, clear milestones basis our existing systems would be required. Realistic timelines would need to be prescribed by the Authority for implementing each step, including short-term and long-term milestones. Besides, a priority list should be created by TRAI providing 3 to 6 months for each such change.**
- g. **We request TRAI to issue the regulation based on the comments from stakeholders, without prescribing the timelines. The timelines and priority order of implementation should be prescribed after being separately consulted with TSPs, for reasonable opportunity to TSPs and an effective implementation.**



6. Financial Disincentive on TMs and PEs instead of TSPs

- a. We understand that the primary objective of the regulation is to eliminate the menace of spam and all endeavors should be directed to achieve this goal only.
- b. However, the paper indicates that the deterrent to curb UCC is directed towards the OAPs by means of enhanced financial disincentives as well as with requirement of new systems and processes, whereas, the other entities like PEs and TMs, who are actually the instigators and beneficiaries of spam, do not face any corresponding responsibility or accountability.
- c. In our view, the Authority is better placed to enforce the penal provisions on such entities rather than penalizing TSPs. We request the Authority to consider and carve out suitable action to be directly taken on the violating PEs/TMs instead of TSPs.
- d. We also feel that the quantum of disincentives proposed in the Draft Regulation is very high and could adversely affect the volume and value of the telemarketing business. Therefore, should the Authority still feel the need to have FDs, we feel that the quantum of disincentives proposed by the Authority in the Draft Regulations need to be reviewed and brought down from their currently high levels to a level where they do not start to adversely affect the adoption of telecom channels for telemarketing business.

7. Cost-Benefit Analysis:

- a. Many of the changes being proposed in the paper would entail significant architectural as well as design changes to the existing solutions and processes.
- b. The changes will not only lead to huge cost implication but, will also be cumbersome, adding to the already existing plethora of solutions that have been developed and deployed. Most of the changes may not yield any significant outcomes and may have only minor incremental benefits even though, the effort, time and resources required to implement them is way too high. Hence the proposed changes may not pass the test of a time-cost-benefit analysis.
- c. Therefore, we recommend that a detailed cost-benefit analysis should be done before introducing such provisions, and same should be made part of the consultation process.

8. Level-playing field with OTTs platforms

- a. The TRAI's TCCCP Regulation 2018 provides a detailed regulatory framework for the TSPs to protect consumers from unsolicited commercial communications. There are a huge number of modules and processes which TSPs are required to implement with stringent timelines for implementation.

- b. While we continue to take several measures, the high usage of OTT platforms like WhatsApp by customers at large present a source of risk that is not visible to or controllable by us or even our regulating bodies. It is important that the Authority takes appropriate measures and evaluates OTT platforms like WhatsApp in a similar manner.
- c. Various regulatory requirements are applicable on the TSPs but, not on OTT platforms, and thus, are causing the regulatory arbitrage and shift of unsolicited and even genuine commercial communications from TSPs to OTT platforms. Such requirements are given as follows on illustrative basis:

Sl. No.	Issue	Applicable on TSP	Applicable on OTT
1	Adoption of DLT and integration between different service providers	✓	X
2	Registration and KYC of Senders (Principal Entities)	✓	X
3	Registration and KYC of Intermediaries (Telemarketers)	✓	X
4	Registration of SMS Headers	✓	X
5	Registration of Content Templates	✓	X
6	Registration of Consent Templates	✓	X
7	Scrubbing of Content Templates	✓	X
8	Scrubbing of Consent Templates	✓	X
9	Registration of Consumer Preferences	✓	X
10	Uniform Digital Consent Acquisition facility	✓	X
11	Empowerment to Consumer to Revoke Consents	✓	X
12	Consumer Grievance Redressal Mechanism (Complaint registration, unique complaint number, status tracking, information of action taken)	✓	X
13	UCC Detect systems and proactive identification of Unregistered spam Senders	✓	X
14	Whitelisting of URLs/APKs/OTT Links	✓	X
15	Binding of PE-TM	✓	X
16	Blacklisting of Headers, Templates, Principal Entities, Telemarketers	✓	X
17	Reporting Requirements (Monthly as well as periodic information to TRAI)	✓	X
18	Financial Disincentive on TSPs for non-compliance	✓	X



- d. **Considering the above, we request the Authority to push for removal of such arbitrage and introduction of horizontal application of norms on commercial communications on OTT players as well. We request TRAI to also issue working advisory/guidelines for the OTT players and also suitably ask MEITY for strict implementation of these norms by OTT players.**
- e. **Besides, level-playing field on compliance norms, we request Authority to also strive for ensuring level-playing field in terms of cost of providing service and recommend applicability of revenue share to be paid by OTT-communication service providers to DoT.**

9. Regulatory norms for VNOs

- a. At present, telecom resources are provided to licensed VNOs, who in turn are serving their consumers by providing end services.
- b. Said VNOs maybe providing the services (especially Voice PRIs/SIPs) to the telemarketers or directly to principal entities, for commercial communications.
- c. As per licensing norms, the VNOs are responsible for consumer acquisitions and serving the consumers. Therefore, all norms related to unsolicited commercial communications should also apply equally to them, both as originating service provider and terminating service provider. It is not possible for licensed access providers to deal with obligations of another licensed service provider, including related to unsolicited commercial communications norms prescribed by TRAI.
- d. This should be examined by the Authority in detail and suitable regulatory requirements should be prescribed in the revised TCCCP Regulations.

In addition to the above, kindly find below our question-wise comments for Authority's kind consideration:

Question-wise Comments

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.

VIL Comments to Q.1

A. Merging of Transactional and Service Message categories

- 1. In the consultation paper, TRAI has highlighted at para 2.13(iii) that



“.... 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.”

2. We agree with TRAI that there is no purpose to be served by keeping these two categories separate. Keeping them separate only gives rise to subjective interpretations and thus, making it open for disagreements in between TSPs, Regulator or the PEs/TMs.
3. At present, the technical workflow as well as process workflow, both in terms of registration of template in these two categories as well as scrubbing during live traffic, remains same and no additional actions are undertaken at the DLT layer.
4. **Therefore, in order to achieve simplicity in the Regulatory requirement, both the categories of Transactional and Service messages should be clubbed into a single category.**

B. Government messages as separate category

5. In our view, there should be no separate category of messages, other than Transactional and Promotional. Presently also, the Government messages are being registered over DLT like a normal Service message and there is no problem which has been highlighted in using this categorization.
6. **In our view, the Government messages should also fall under the category of Transactional/Service messages.**
7. In subsequent place in the paper, it has been mentioned that the SMS headers should be suffixed with character ‘P’, ‘T’ and ‘G’, which can indicate whether the message is promotional, transactional or from government.
8. **In our view, there is no need of mandating such suffix as it will take away the ability of TSPs to utilise more characters in the SMS header. This has been explained in detail at subsequent section in our comments hereinafter. To that extent, attaching a suffix, should not become a reason to create a separate category of ‘Government messages’.**

C. Relevance of Opt-out mechanism

9. There should not be an opt out feature for transactional SMS, as these are customer-initiated messages.
10. In case the relationship between customer and brand ceases then there is no scope of sending transaction messages so an opt out feature is not required. Giving an opt-out mechanism will



pose risk of consumer accidentally availing such option and missing out on essential communications.

11. There is already a check proposed that no promotional content template gets registered under the transactional/service messages, which will serve the purpose and there will not be such scenarios of transactional messages being sent to consumers after the relationship has ended between PE and Recipient.

D. Presenting Opt-out Mechanism

12. Para no. 2.16 of the TRAI Consultation Paper suggests as follows:

*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.*

13. In our view, there is no relevance of having an opt-out mechanism for Transactional messages. However, if TRAI doesn't agree to the said view, we would like to submit that the above suggestion of presenting the opt-out mechanism in same message and through an SMS after every transactional call, would not meet the purpose and would become a source of inconvenience and spam in itself.
14. As the SMS are charged based on volume, increasing the content of SMS by involving opt-out mechanism will increase the cost of a transactional SMS for the PEs and hence, will make it less attractive to them as compared to OTT platforms.
15. Sending of an SMS after every successful transactional call is not technically feasible and detailed deliberations would be required for the same. Even if somehow a solution is arrived upon, it would certainly involve huge resources, development, costs and efforts, despite which there would not be any benefits linked with sending an SMS after each and every transactional call. This will also lead to significant increase in costs for making transactional



calls and hence, will make traditional telecom resources less attractive as compared to OTT platforms. This may also lead to failure in sufficient uptake of 160xx series meant for transactional/service calls.

16. **We strongly urge that there should not be any mandatory requirement of presenting opt-out mechanism in every transactional/service SMS or after every transactional/service call.**

E. Consent for Government messages

17. We agree that there should not be a need to have explicit consent for Government related messages. While we do not feel there is any need of opt-out mechanism for transactional messages however, if TRAI considers to provide such right to consumer then, such right should also be applicable for specific messages from Government except for Disaster management or National security related messages.
18. Further, the Government messages have to be carefully considered. Only messages which are meant for public information and are being disseminated directly by the Central or State Government departments should be excluded from having explicit consent. The following messages should not be provided an exemption from explicit consent:
 - a. Message sent to individual consumers as updates/notifications/alerts etc for the services being taken by them from Government bodies.
 - b. Message sent by autonomous bodies or any Central/state corporations, PSUs, JVs etc.
 - c. Political campaign messages should be treated as “Promotional” messages

F. Subjectivity in the Definition of Inferred Consent

19. The definition of inferred consent is based on the customer’s conduct or relationship between the recipient and the Sender. Extract of the definition is 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))

20. The definition is subjective in nature from TSP’s perspective, as a TSP would not be aware of the relationship between the Recipient and the Sender and also the customer’s conduct. Further, the definition also states that “as can be reasonably inferred” and hence, it is not a concrete definition of compliance activity which can be expected from a TSP. Therefore, there should not be any Financial disincentive on the TSP for registration of templates in this category.
21. This requirement can only be met by the Principal Entity therefore, the Authority should mandate a direct obligation on the Principal Entity (PE) to ensure only proper



Transactional/Service content templates are registered by them based on the inferred consent and also, prescribe direct action/Financial disincentive against the PE itself in case of any misuse.

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.

VII Comments to Q.2

1. In the consultation paper at para no. 2.25, measures have been suggested related to promotional calls by Auto-dialer/Robo calls, extract of which is given as follows:

(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.

2. We believe that it may neither be desirable or efficient to define separate treatment for Auto-dialer calls for various reasons as submitted below:

- a. Product specific regulatory provisions (separate consent in this case) are inefficient and should be avoided.
- b. The auto-dialler or robo-calls are a kind of end user equipment/facilities and the user entities are responsible for their bonafide use.
- c. We as TSPs do not have the visibility if any TM uses auto-dialer or Robo calls to reach to end consumers.
- d. Additionally, if there is a DCA mandate and a customer has given consent already, it doesn't matter if the type of call is Voice/Auto-dialer/Robo call.



- e. TSPs have no control on whether the resources are used with or without auto-dialler or robo-calls. Further, even if the information is received from Telemarketers or PE about using or not using Auto-dialler or Robo-calls, TSP may not be able to establish the veracity of such information.
- f. Product specific obligations would encourage bypass of the provisions and may end up defeating the very objective with which it is prescribed.
- g. Use of Auto-dialler / Robo-calls would be dynamic on specific telecom resources. It would not be possible for the players in the market (TMs/PEs), to earmark separate telecom resources for just auto-dialler and robo-calls, so that consent scrubbing can take place.
- h. There would be genuine use-cases of Auto-dialler / Robo-calls e.g. alerts of EMI debit by the financial institutions, where it would not be possible to seek separate consent for just Auto-dialler/Robo calls and thus, would further encourage shift of genuine telecom traffic from TSPs to alternate channels like OTT platforms.
- i. This would become another layer of complications and cost items being put on TSPs through additional systems/solutions/market processes, without any corresponding additional benefit.
- j. In last more than a year on Digital Consent Acquisition, TRAI has also conducted various meetings and taken up with sectoral regulators for onboarding financial institutions. As a TSP, we have also conducted various meetings but, so far, no entities have started utilising the DCA facility developed by TSPs under the TRAI's TCCCP Regulation. The major reason for this is that the consent framework has to be friendly and flexible and should also allow the PEs to provide the existing consents in bulk. There is a genuine apprehension that having taken consent from consumer earlier, seeking the same repeatedly, may lead to consumers rescinding the consents or not giving it, which would be a huge business challenge for the PEs. With this in mind, we are of the view that the consent should not be specific to any end-use case (Auto-dialler or Robo-calls) or to a specific mode of communication, else it may not lead to adoption by the market.
- k. We believe that as the Auto-dialler and Robo calls are likely to lead to more complaint registration against the TM/PEs, it would discourage its use for promotional communications and would bring in a much-needed balance in its use v/s the use of human interactive commercial communication. Most importantly, once 160xx series is implemented and in conjunction with the solutions implemented for 140xx series including existing consent framework, we believe that the system will be able to take care of the spam and actions can be effectively taken against the entities trying to cause inconvenience to subscribers.
- l. The global examples quoted by TRAI highlight that these obligations have been cast upon the PEs directly through enactment of suitable legislations.



3. Considering all above, we submit that no specific regulatory provisions should be prescribed for use of auto-dialler/Robo-calls. Accordingly, the provisions of existing TCCCP Regulation 2018 i.e. Point no. 3 of Schedule-IV, should also be removed.
4. If still there is any need for separate actions from PEs on the calls from auto-dialler/robo-calls, we recommend that a separate law should be enacted and enforced directly on the PEs and not through TSPs, just like the case of other countries as highlighted in the Consultation paper as well.

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.

VIL Comments to Q.3

1. One of the possible measures suggested in the consultation paper is to scrub the calls with an approved content template. The related extract of para no. 2.25 is given as follows:

“Pre-recorded voice calls should have an approved content template and should be scrubbed in DLT platform before delivery of such calls.”

2. In the present architecture, when a call is originated let's say from 140xx series, the switch checks for A-Party and B-Party number with an internal box (contains information of subscriber number and their DND status) and basis subscriber's preference status takes an action of allowing the call to set-up or for it to get failed. Post this check, if allowed, the call is established and communication gets exchanged between A-Party and B-Party.
3. If content of a call is needed to be scrubbed, it would mean that the call content would have to be recorded and scrubbed with an existing pre-recorded content, which cannot be done only for any specific types of calls and thus, would be akin to interception/monitoring of messages.
4. In this regard, there would be following concerns and challenges:
 - a. As per licensing conditions, no unauthorised interception/monitoring of messages can take place. There are designated security and law enforcement agencies who can order interception/monitoring of messages as per defined procedure and law.
 - b. Once calls are set-up, there is no mechanism to segregate calls based on content.
 - c. There is no pre-existing system/solution approved by Global or Indian standards bodies, for scrubbing of call content with a pre-recorded call.



- d. Even if there could be some perceived benefit in such scrubbing of call content, it would defy all rationale of cost-benefit analysis.
5. **We recommend that no such complicated, costly and challenging regulatory requirements should be imposed on TSPs.** In case Authority's feel merit in having such solutions, we recommend it to be referred to Global/Indian Standards bodies, for providing suitable standards, solutions and OEMs providing state of the art solutions for this.
6. **Most importantly, such solutions would require huge cost for implementation as such, its cost should be borne by DoT/Government through USOF or any other fund.**
7. **We again refer to the comments provided above to Q2 that with the implementation of 140xx series and 160xx series along with stricter actions against the PEs/TMs causing spam beyond requisite thresholds, there would not be any significant problem left to be addressed and hence, there would not be any need of having any separate solution for scrubbing of pe-recorded calls.**

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.

VIL Comments to Q.4

1. In the Consultation Paper, certain possible measures have been mentioned for header identifier categories as a means to identify message categories and facilitate consumers to identify senders distinctly.

2. Extract of the 1st possible measure is given below:

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.

3. On this 1st possible measure, we would like to submit that there is no need to introduce suffix to the headers to identify category of messages.



4. Technically, the length of SMS identifier is restricted to 11 characters. Out of this, the first two characters represents TSP and LSA name, followed by '-'. Thereafter, presently 6 characters are used for representing as SMS header for the respective Principal Entity. However, there is flexibility available to extend these 6 characters to 8 characters, which will help provide more opportunity to PE for making the SMS header more closely resemble their respective brand/products/company names.
5. By putting suffix for category of message, this flexibility will no more be there and will reduce the value creation in a SMS header. Initial two characters of TSP and LSA name are technically required, for revenue and cost booking in respective LSAs therefore, they cannot be done away with. The existing development for 'P', 'S', 'T' was done to take care of the commercial aspect and not the consumer awareness aspect. However, with said development, we should now aim to utilise the entire 8-character length for better display and recognition of the PE's brand/product/company name.
6. In our view, the 6 characters or let's say 8 characters in future for SMS headers, will be a better way to give resemblance to the brand/products/company names and this will also help identify the Government messages by putting appropriate nomenclature of Government in the SMS header.
7. **Therefore, we submit that no suffix should be mandated to be added to the SMS headers.**
8. **Extract of 2nd possible measure is given below:**

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.
9. **On the second possible measure, we would like to submit that it is technically not possible to dispense with the TSP and LSA name prefix, in the current network and billing architecture.** At present, the SMS are exchanged between TSPs over network layer basis which, CDRs are also generated. The CDRs thus generated at terminating TSP end, capture the A-Party MSISDN / SMS headers, from which the name of TSP, name of LSA and corresponding commercial charge can be assessed.
10. The Terminating TSP has to raise an invoice on the originating TSP/LSA, for the inter-operator charge pertaining commercial and non-commercial messages. In the case of commercial communications, the originating TSP/LSA is established from the two-character prefix of the SMS header.
11. Besides name of Originating TSP, the LSA name is also very crucial, as the licensees are LSA specific and thus, the invoice has to be raised on specific LSA of the TSP, and not in general on the TSP.



This will be required to claim pass through during LF and SUC calculations and can't be done away with.

12. Extract of the third possible measure is given below:

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.

13. The 3rd possible measure is a complete departure from the existing architecture and will create complications in all processes related to complaint management, billing, routing.

14. In our view, this should be left for the market to determine and should not be made mandatory. Either ways, this is akin to a product offering and not a measure to mitigate spam.

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?

VIL Comments to Q.5

1. In the Consultation Paper, certain measures have been suggested from para 2.44 to para 2.50. The details of said suggestions and our comments are given in following points.

2. Extract of the 1st suggested measure is given below:

(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.

3. We agree with the above suggested measure of real-time transfer of complaints from TAP to OAP.

4. In addition to above, there should also be a check at TAP end if the customer is a non-DND registered customer and message has been sent by the Sender through registered telecom resources. In such cases, there is no action to be taken by the OAP as well hence, the complaint should be immediately addressed at the TAP end itself.



5. **Extract of the 2nd suggested measure is given below:**

(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.

6. The above suggested measure can be bifurcated into two sub-measures i.e. (a) checking of CDRs within two hours; and (b) Intimation of complaint to the Sender through an auto-trigger mechanism.

7. **Checking of CDRs within 2 hours:**

- a. The CDR validation can happen only post 36 hours, as the CDRs are processed by mediation during the midnight and is available around 10-12 pm next day after reconciliation. Besides, the roaming CDRs also take time to get processed. This is based on the technical architecture for processing of billions of CDRs through huge set-up and being a mammoth activity, it is technically infeasible to change or reduce its timelines.
- b. As the complaints can be registered by consumers immediately upon a UCC event taking place or even after one or two days of UCC event taking place, the window to check CDRs have to be kept on the outer edge side, when there is most certainty that the CDRs for the corresponding timeframe, are available in the database for validation of the complaint.
- c. If the CDRs are required to be checked and validated within 2 hours of complaint registration, it could more likely lead to wrong closures of complaints due to CDR mismatch and would end up creating more dissatisfaction for the consumers.
- d. It is also not possible to act upon a complaint after checking CDRs within 2 hours and again check the complaint after 36 hours, and take a different action.
- e. **Therefore, we strongly urge that there should not be any requirement of checking the CDRs within 2 hours of the UCC complaint, as the same is technically infeasible.**

8. **Intimation of complaint to the Sender through an auto-trigger mechanism:**

- a. It is suggested that for all valid complaints i.e. after the check of CDR, header, content etc., the Sender is notified through an auto-trigger mechanism.



- b. However, this intimation cannot be preponed before validation of complaint as it would create complications and confusion in the entire chain and there cannot be any action or value add which can be expected on a complaint which has not been validated.
 - c. Besides, such communication without necessary validations, can also impact genuine consumers and would thus, also increase more calls to the customer care-centres of TSPs.
 - d. **Therefore, this step of informing the Sender about the UCC complaint, should only happen post the complaint being upheld as valid.**
9. **Extract of the 3rd suggested measure is given below:**

(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.

- 10. On the above suggested measure, we agree with TRAI that there should be a different criterion for initiating action against unregistered senders belonging to individual category or enterprise category of telecom consumers.
- 11. However, the criteria suggested has been made very stringent and may also be prone to misuse and thus, impact genuine consumers also. In the Enterprise category, the calls made are very huge



and often related to multiple/various PEs hence, the suggested threshold is far too low and also very stringent.

12. **For individual category:** We recommend that the count of valid complaints should be 10 or more unique complainants in a calendar month, post which, the outgoing services of the Sender are to be suspended.
13. **For Enterprise category:** We recommend a graded action against the enterprise category, given as below:
 - a. For first 20 or more complaints from unique recipients in a calendar month, the resources of Sender against which complaints have been originated should be suspended. For clarity, the resources in this case would mean not only the DIDs but, also the entire trunk/PRI/SIP installed at that particular location and meant for outgoing calling purposes. Also, once 20 complaints have been received against an Entity, TSP should inform the Entity and give 5 working days' time to revert with consent if any. Post analysing the information received in next 2 working days, the TSP should take action of barring the specific circuits.
 - b. For 20 subsequent complaints in a calendar month (should exclude the days when the counter reached from 0 to 20 complaints) and if complaints are coming from more than 1 circuit, all the resources of the Sender and meant for outgoing calling purposes, should be suspended by the OAP for a period of 15 or 30 days and details are updated on the DLT and exchanged in between TSPs.
 - c. After resumption of services post above-stated 2nd offence, if more than 20 UCC complaints are received against the Sender, the Sender should be blacklisted across TSPs and all existing resources (meant for outgoing calling purposes) by all TSPs have to be suspended and no new resources for outgoing commercial communications are to be given to the Sender for a period of 1 year.
14. **Besides above, we reiterate that the check of CDR cannot be done within 2 hours of complaint, details of which has been explained in our comments above.**
15. **Extract of the 4th suggested measure is given below:**

(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.



16. The Senders to whom series of transactional/service calls will be assigned will be largely in the Enterprise category as such, the calls made would be very huge and would also be majorly in the nature of service/transactional category. Thus, it would require careful consideration and sufficient headroom to avoid any misuse and impact of genuine messages to the consumers. The suggested threshold is far too low and very stringent.
17. **We recommend a graded action against the Senders in this category, similar to the one mentioned at point no. 13a. to 13c. above.**
18. **Besides above, we reiterate that the check of CDR can't be done within 2 hours of complaint, details of which has been explained in our comments above.**
19. **As the series for transactional/service calls is yet to be launched, these provisions should only kick-in post 12 months of the launch of the said series, providing suitable time to the ecosystem players to onboard and migrate to the new series and related workflows, and thereafter, on the new mode of complaint-based actions.**
20. **Extract of the 5th suggested measure is given below:**

(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.

21. **It is crucial to lay down details of checks required to be conducted at TSPs end basis regulatory mandate. It would be quite subjective to simply state that OAP shall decide the representation of the Sender and conclude whether the Sender was involved in UCC or not.** One of the check points for checking the representation would be to see if Sender has customer consent proofs or Sender is having any other societal/social/commercial relationship with the customer. However, as TSP, we would not be able to establish veracity of any such proofs or relationships.
22. **It is important that the regulatory requirements basis which compliance of a TSP would be ascertained, are clearly prescribed so that the bonafide steps taken by a TSP are not treated as non-compliant or there is no competitive arbitrage in the TSPs due to different interpretations of a regulatory mandate.**
23. **Further, it may not be legally tenable for TRAI to deal with the appeals related to action taken by a TSP against a Sender (who is actually a customer of TSP), and ideally the Sender should have to approach suitable court under the law of land.**

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.

And

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



VIL Comments to Q.6 and Q.7

1. In the Consultation Paper, certain measures have been suggested from para 2.51 to para 2.59. The details of said suggestions and our comments are given in following points.

2. **Extract of the 1st suggested measure is given below:**

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

3. **We agree with the above measure suggested by TRAI. However, while this measure would be helpful while dealing with complaints related to individual UTM, this step may be counter-productive for dealing with complaints related to Enterprise UTM's.**

4. At present, for promotional voice calls, 140xx series is to be used, and for transactional/service calls, normal fixed-line and mobile series are being used. The series 160xx for transactional/service calls is yet to be started for use. In such context, the PEs and telemarketers are using the normal fixed-line and mobile series resources, as provided by the TSPs. Now, like SMS, there could be complaints from consumer of promotional calls even though the PEs/TMs are making the service/transactional calls. In such scenario, it would not be right to treat the complaints as valid if received from preference unregistered consumers.

5. **Therefore, this criterion should be applied only when 160xx series has been launched for all the sectors and a reasonable time of 6 months have been given for PEs/TMs to migrate on the new structure.**

6. **Extract of the suggested measures against 2nd issue is given below:**

(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.

7. **Regarding suggested measure at sub-point a) and b) above:**

a. We strongly recommend that the content/description of UCC should be mandatorily be part of the UCC complaint from subscribers. It could be a case that the call/SMS was done for a



product whereas consent was for a different scope but, during assessment, the complaint would become invalid due to availability of consent.

- b. We strongly recommend content needs to be validated for both Calls and SMS. If no content is validated, TSP loses out on ability to investigate as per regulation, and action may be unfair to PE. Also, there will be no robustness to the process.
- c. Unavailability of these details will inhibit the ability to do any check as to whether the calls/SMS made was UCC or not and would render the investigation activity infructuous. Besides, it could also lead to non-genuine complaints and would eventually mean that validation of CDR becomes the only check to ascertain whether it was UCC or not and the PE would not be able to counter the same.
- d. **We agree that a template of the UCC description should be shown at Access Provider's Mobile App and Web Portal. This is already available on Vi's website and Mobile App.**
- e. **Therefore, providing description/content of the UCC should continue to be a mandatory field.**

8. Availability of TSP agnostic mobile app for raising UCC complaint

- a. We strongly recommend that there is a need for having a TSP agnostic mobile app for raising of UCC complaint by consumers.
- b. For many years, TRAI's DND mobile app has been serving this need and providing a good solution for the consumers having SIMs of multiple TSPs.
- c. **We request that the TRAI's DND mobile app should continue to be made available to consumers and its features should continue to be evolved to serve the consumers in user-friendly way.**

9. Regarding suggested measure at sub-point c) above:

- a. The facilities extended by Vi through Mobile Apps, Website and Call Centres for handling UCC complaints are accessible and consumer-friendly. The apps and websites are designed with intuitive navigation, making it easy for consumers to file/monitor complaints without confusion. The existing systems allow users to track the status of their complaints in real-time, ensuring transparency and keeping consumers informed about the resolution process.
- b. Further, by offering multiple channels (apps, websites, call centres), consumers can choose the method that best suits their preferences, whether they prefer self-service options or speaking with a representative.



- c. Considering all above, we believe that the current infrastructure appears to meet consumer needs effectively, making further additions unnecessary at this time.
- d. We further submit that there is no solution available for extracting numbers from the screenshots, which is approved by Global bodies for deployment in telecom network. The screenshots from different mobile devices, OS versions would be different.
- e. Screenshots capability is available on smartphone, where TSP's mobile app is also functional. We have already launched the facility for subscriber, for the app to auto-pick call/SMS logs and UCC content of the SMS, for the complaint to be raised by consumer without filling up the details. From that aspect, it is unnecessary to build and deploy another feature which will do the same part albeit without content of SMS.
- f. The solution suggested will be costly and will not be able to keep on updating, with the changes in mobile devices, OS versions, or if consumer is using different 3rd party apps as dialer app and takes screenshots from such apps.
- g. We strongly urge that no such measure should be mandated.

10. **Extract of the suggested measure against 3rd issue is given below:**

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.

11. We agree with above suggestion.

12. **Consent Registration should be made flexible and friendly:**

- a. The Digital Consent Acquisition (DCA) facility was made live by VIL in April 2022. A lot of efforts have been made by VIL since that time, to engage and onboard the Principal entities (PEs) including the big entities from financial sectors. However, none of the PEs have, so far, integrated with our DCA facility and have not started utilising it.
- b. We would like to recommend the below process of bulk upload of the existing consent available with the PEs along with the facility to the consumers, of revoking the consent may be introduced/allowed in order to provide a user-friendly mechanism of seeking consents:
 - i. There should be a provision for the PEs to give existing consents of their consumers in bulk, with a common opt-out message that can be sent to consumers.
 - ii. Further, the incremental consents can also be taken from PEs directly from their system. The consumers will be informed through SMS regarding their right to revoke the consent



via TSPs website or App. The consent provided by the consumer will be available on the TSP website and App in the concerned Entity's name only.

- iii. In order to ensure that only genuine consent obtained from the consumers is provided by the Entities, TSPs can take undertaking from the concerned Entities that the consent is compliant to the norms under DPDP Act.
- c. **We believe that it is important to provide facility for onboarding of the consents in user-friendly way (friendly to both consumers as well as Principal Entities), as seeking consents repeatedly from the consumers may lead to consent fatigue and might end up causing significant disruption to even genuine commercial messages (SMS/Call), across various sectors.**

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.**

VIL Comments to Q.8

- 1. In the Consultation paper various measures have been mentioned from para 2.60 to 2.83. Details of said measures and VIL comments, are being provided herein after.
- 2. **Extract of the 1st measure is given below:**

"2.64

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."

- a. On the above measure, we urge the Authority to adopt an incentive-based and collaborative approach instead of an audit and financial disincentive led approach. TRAI has been already gathering detailed information from TSPs and also issuing Directions from time to time, on the aspects which require strengthening.



- b. **Instead of putting further obligations on TSPs, it may be noted that it is actually the Principal Entity that is the instigator and the beneficiary of creating spam and hence, the Authority should look into ways of taking the action against PE and imposing FD directly on them. For this, we have suggested in comments to other questions also that, a law should be formulated putting the obligations of stopping spam directly on PEs.**
3. **Extract of the 2nd measure is given below:**

(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.

- a. **We agree with the above measure and would like to submit that the TRAI seeks various information from TSPs from time to time which is being provided in a reasonable time frame.**
 - b. Further, TRAI has issued letter no. RG-25/(8)/2023-QoS (E-9270) dated 20.06.2024 asking TSPs to provide dashboard of information through the DLT access provided to TRAI. Considering various other developments that are being implemented on priority, the industry has requested TRAI for some more time for developing this dashboard.
 - c. **While the above said extract of paper does not provide any clear requirement, we would like to submit that for anything in addition to the requirement given under above said letter dated 20.06.2024, cost-benefit assessment should be done and timeline to any such new requirement should not clash with the timelines of other major developments required on same set of systems/DLT.**
4. **Extract of the 3rd measure is given below:**

(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.

a. We agree with the above suggested measures.

5. **Extract of the 4th measure is given below:**

2.69 ... In view of these changes suggested in the regulation 25 regarding Complaint Mechanism, the regulations 29 may be amended as below-

a. Please refer to our comments to Q5. w.r.t. above measure.

6. **Extract of the 5th suggested measure is given below:**

(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.

a. The above measure has also been suggested w.r.t. bulk SMS at para no. 2.77 and 2.78 of the paper. Our following comments are for suggested measure given at para 2.75 to 2.78.

b. **In our view, above said measures are quite subjective requiring significant development, huge costs and manual efforts and would not yield commensurate benefits.**



- c. **The CDRs are available in the database only after 36 hours, hence, it will not be possible to build any solution which is based on checking CDRs prior to 36 hours.**
 - d. Further, the analysis is based on the table 2.3 and 2.4 given in the paper which provides average number of outgoing calls/SMS per day per SIM during the quarter. This will include only the numbers who have made call/SMS as per the threshold per day for the entire quarter. There would be additionally huge number who would have made calls/SMSs as per the threshold for few days (let's say for 4 days).
 - e. **Therefore, the criteria being envisaged may have far larger ratio than the ratio mentioned in the paper i.e. 0.2% for voice and 0.04% for SMS. In such scenario, any solution being proposed will not only be lacking on merits but would also be practically challenging.**
 - f. Most importantly, even if the identified numbers based on criteria fixed by TRAI, contain UTMs, it will also contain far larger genuine consumers. In such a scenario, seeking feedback from the consumers who have received calls/SMSs from such genuine consumers, would become a spam in itself and also create negative image for such genuine consumers. The feedback that is to be taken from call/SMS recipients as per logic shared will be in millions per day, so rather than reducing the complaints, TSP will only be spamming customers further and will start receiving complaints on such feedback seeking communication. This will only add to customer angst and further rise in customer complaints.
 - g. Besides, any such solution would involve crunching of huge data requiring separate servers but without yielding any commensurate benefits.
7. **Extract of the 4th possible measure is given below:**

(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.

- a. **The requirement of checking the bonafide use of telecom resources is a subjective requirement and will be practically impossible to be conducted for lakhs of consumers.**



- b. Traditionally, such requirement of checking the bonafide use of telecom resources, was to identify illegal exchanges involved in routing international calls as domestic calls, by using fixed resources. However, the same cannot be applied in today's scenario especially for UTM activities. The spammers might be using isolated mobile connections, and nothing concrete can be achieved by such exercise.
 - c. We urge that no such exercise should be mandated which is subjective in nature and would not yield any benefits, instead, would require huge cost and man-power resources.
 - d. **Similarly, doing re-verification of KYC of the subscribers would also not be beneficial since these connections are used for very short durations and by the time any KYC visit is planned, the connection would usually have already got suspended due to a UCC complaint. Again, such exercise would not yield any benefits instead, would require huge cost and man-power resources.**
8. **Extract of the 5th possible measure is given below:**
- (v) Deployment of Honeypots in sufficient numbers and acting against the spammers detected through honeypots.*
- 2.82 ...
- 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).*
- a. The process of circulation of honeypot numbers and the clear action on the calls received at honeypot numbers, should be unambiguously prescribed especially if such processes can be subject to audit by TRAI for ascertaining compliance.
 - b. It is submitted that deployment of honeypots to curb unsolicited customer communication would entail significant costs at operator's end without commensurate benefits. Setting up and maintaining honeypot systems requires investment in technology, infrastructure, and ongoing monitoring, which may not yield a proportionate benefit.
 - c. In addition to above, honeypots can add complexity to existing systems, requiring specialized skills and resources to manage effectively. While honeypots can help identify and trap spammers, they may not address the broader issue of unsolicited communications comprehensively.



- d. In our view, instead of additional heavy investment in honeypots, emphasis on improving existing complaint management systems and enhancing consumer education would be a more effective and cost-efficient solution to combat unsolicited communications.

9. **Extract of the 6th possible measure is given below:**

(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.

- a. As the processes given under TCCCP Regulation would be subject to audit by TRAI for ascertaining compliance, the definitions, process to be followed and actions to be taken on above-said measures should be unambiguously prescribed.
- b. **We strongly support the suggested measure at sub-point a) w.r.t. blocking of sender of spam messages/calls. In our view, same can be done at both mobile app layer as well as at network level. Flexibility/empowerment should be provided to TSP to put in place suitable solutions in this regard wherein a TAP can protect its customers from Sender of any TSP.**

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 UTM) and Principal Entities (Senders), involved in sending UCC and disincentivize them financially including legal actions as per law.**

VIL Comments to Q.9

1. At the outset, it is important that the responsibility and accountability of curbing the spam is cast on the beneficiary from such spam. It has often been seen that it is brands/principal entities who are beneficiaries from spam and many a times, encourage such spam directly or indirectly through targets/commissions, etc.
2. Therefore, it is important that the real accountable entities creating spam are clearly and unequivocally called out and are made responsible through enactment of specific law. At the same time, imposing higher FDs on smaller acts, on such entities would eventually lead them to shift towards OTT platforms and impact the adoption of TSPs services.
3. The TSPs, on the other hand, are continuously engaged in finding patterns of spam and bear the heavy costs of deploying different solutions and practices under the guidance of TRAI, to curb the spam.
4. **Therefore, instead of imposing financial disincentives (FD), the TSPs should be encouraged and incentivized through USOF, to deploy such solutions and practices. We strongly urge that there should not be any Financial Disincentive applicable on TSPs.**

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?

VIL Comments to Q.10

1. **Relevance of Charges on Commercial Communication:** To ensure the bulk facility for sending commercial communication is not misused for creating spam, it is important that there is an adequate charge imposed which can act as a deterrent to spam.
2. **Considerable Cost and Efforts for DLT Ecosystem**
 - a. The TSPs i.e. both OAP as well as TAP, are incurring considerable costs and efforts on an ongoing basis in developing and implementing the DLT ecosystem. These costs and efforts include expenses related to infrastructure setup, security protocols, compliance with regulations, ongoing maintenance as well as changes in field processes. The costs related to



DLT as well as all other allied systems and nodes, keeps on increasing on annual basis like on the basis of storage, power and ancillary charges.

- b. Consequently, it is essential that TSPs are suitably compensated for recovering these costs and for continuing their investments which are crucial to ensure seamless and secure commercial communication and protection from spam.

3. Terminating Access Provider (TAP) should be adequately compensated

- a. The Telecom Commercial Communications Customer Preference (Eleventh Amendment) Regulations, 2013 (5 OF 2013) dated 24.05.2013 states as below:

(2) The Originating Access provider may collect the transactional SMS charge from the registered telemarketer or from the transactional message sending entity or its agency, as the case may be.

- b. In this regard, we would like to submit that in addition to the OAP, the TAP is also responsible for receiving the message from the OAP and ensuring it reaches the intended recipient and has to incur significant cost on DLT infrastructure, maintenance, security protocols, complaint management, solutions over website/mobile app, etc. By recognizing and compensating the TAP adequately, the overall efficiency and reliability of the DLT ecosystem can be strengthened, benefiting both businesses and consumers.
- c. **Considering the above, we believe that it's crucial that the TAP is also adequately compensated. Hence, we strongly urge the Authority to prescribe a commercial communication SMS charge.**

4. Arbitrage should be avoided

- a. At present, Rs. 0.05 are being charged for service and promotional messages whereas no charges are being levied in case of transactional messages. However, this has resulted in an arbitrage and is thus prone to misuse. This arbitrage will always lead to high probability of incorrect registrations and since transactional messages are free, this may be seen as an incentive by various entities to bypass the system.
- b. The instant paper proposes that the categories of Transactional and Service messages should be clubbed into a single category. We strongly support this and urge that all categories of commercial communication should carry same charge so that it does not provide any financial benefit in wrong registrations.

5. Applicability of Commercial Communication SMS charge on Government messages



- a. Also, for handling Government messages, the work done and solutions required in the DLT ecosystem is same as is in the case of other commercial communications. It has also been seen that Government also charges consumer for the services being provided (may include SMS alerts) e.g. passport, driving license, Aadhaar card, PAN card, etc.
- b. In recent recommendations on the “Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023”, issued by TRAI on 18.09.2024, TRAI also has recommended as under:

“Except for disaster related messages, the concerned Government agency should devise a mechanism to suitably compensate the service providers for dissemination of the public broadcast messages”.

- b. **Therefore, we strongly recommend that a uniform commercial communication SMS charge should be made applicable on each category i.e. transactional, promotional and Government messages, except disaster related messages.**

6. Existing charges of Rs. 0.05 per SMS require increase

- a. The present charge of Rs. 0.05 per SMS was introduced by TRAI through a Regulation in the year 2011.
- b. Over the past many years especially due to TCCCP Regulation, 2018 and ensuing DLT based ecosystem, there have been mammoth changes required in the infrastructure setup, security protocols, compliance with regulations, ongoing maintenance as well as change in field processes, to handle the commercial communications and also to put in place measures to protect the consumers from unsolicited commercial communications.
- c. It is pertinent to mention that such mammoth changes based on regulatory mandates have led to multi-fold increase in cost for TSPs including the increase due to inflationary trends. However, Rs. 0.05 charge has not undergone revision for past more than a decade and does not reflect true market conditions.
- d. **Considering all above, we strongly urge the Authority to revise the existing Rs. 0.05 SMS charge upwards to Rs. 0.10 per SMS and as a uniform commercial communication charge applicable on all categories.**

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.

VIL Comments to Q.11

1. We support strengthening of the provision of CoPs with SOP and request TRAI to prescribe the same in unambiguous manner and without any subjectivity so that the same can be adopted by all TSPs in a uniform way.
2. Further, we also support provision for minimum security deposits (should be interest free) and request TRAI to prescribe the same in unambiguous manner and without any subjectivity so that the same can be adopted by all TSPs in a uniform way.

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

And

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

And

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.

And

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.

And

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

VIL Comments to Q.12 to Q.16

1. Differential tariff applicability

- a. We support the Authority on introduction of differential tariff through a regulatory mandate on all TSPs, which can curb the spam from unregistered telemarketers.
- b. However, we strongly urge that same should be carried out after deeper analysis and careful consideration of all linked issues under discussions/consultation with TSPs, otherwise, it may have far larger impact on the genuine consumers. In this regard, we would like to bring some points given below for Authority’s attention and further detailed analysis.

2. Differential Tariff for SMS:

- a. The TRAI’s consultation paper provides average number of outgoing P2P SMSs per day per SIM during quarter ending March, 2024 differentiated on the basis of number as 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

- b. In this regard, we would like to highlight that limitations on the number of SMSs i.e. 100 per day, which can be sent by any individual, have already been in place by TSPs for a considerable period and no further intervention maybe required.

3. Differential Tariff for Voice Calls:

- a. The TRAI’s consultation paper also provides average number of outgoing voice calls per day per SIM during quarter ending March, 2024 differentiated on the basis of number as below:

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

- b. In this regard, we would like to submit that the above-mentioned figures are based on averaging of a quarterly data. There can be possibilities where genuine users have made more than 100 calls just for a couple of days and not every day throughout the quarter. There are genuine customers who may make >100 calls per day occasionally and the data provided above does not depicts the clear bifurcation of such genuine customers and UTMs.
- c. It is worthwhile to mention that imposing differential tariffs to such genuine users would lead to following:
- i. **Consumer Discontent and Reduction in Usage of Telecom Services:** Increase in cost would result in disincentivizing the genuine users and making them mindful or restricting/discouraging them from using the telecom services allocated to them in future.
 - ii. **Consumer Shift towards Alternate Arrangements in the Ecosystem:** Higher/differential charges for any such users would lead to dissatisfaction among customers who rely on these services for communication, potentially driving them to seek alternatives like unregulated medium like OTT-CS.
 - iii. **Discriminatory/Unequitable Impact:** This approach could also disproportionately affect lower-income consumers or those who rely on more frequent communication for work or personal reasons, making it an inequitable solution.
 - iv. **Complexity in Billing and Charging:** Differential tariffs may also complicate billing processes and create confusion for consumers, leading to misunderstandings/anomalies about charges and usage.



4. In addition to above, we would like to highlight that the above provided data by TRAI in the paper clearly shows that the total number of outliers in case of P2P SMS and P2P mobile calls account for less than 1%. Considering such miniscule number of users, we would like to submit the following:
 - a. **Inefficient Idea to Introduce New Approach for Small Number of UTMs:** Investing heavily in extensive systems for a relatively small number of UTMs may not be the most efficient use of resources. Instead, other solutions which have already been implemented or are under implementation target large subscriber base of UTMs and leveraging such existing infrastructure or solutions will yield better results.
 - b. There is no doubt that by optimizing the current systems to accommodate the needs of the lakh subscribers, the TSPs can ensure effective dis-incentivization of UCC through UTMs without unnecessary expenditures. This strategy further allows for sustainable growth while maintaining service quality and customer satisfaction.
5. **UCC Detect System:**
 - a. It is also pertinent to note that TSPs have also put up a UCC_Detect System to detect the possible unregistered senders/UTMs who send bulk commercial communications without complying with the Regulations. As per the provisions of the Regulation, action against such suspected spammers detected through this system is dependent and linked to receipt of complaints against such miscreants.
 - b. In this regard, we would like to apprise you that we have not encountered any such complaints against users making bulk voice calls/SMSs in our existing UCC Detect System. We, as TSPs, are committed to take proactive action on such complaints to ensure no spam is delivered to customers.
5. **Calls/SMSs from Unregistered Enterprise Entities:** We would also like to submit that such calls/SMSs for unregistered enterprise entities are already being dealt through various other measures.

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Annexure – 1
VIL Comments on Draft Regulation – Chapter IV

A. Para No. of Chapter IV: 1

1. Proposed Provision in Consultation Paper:

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. Suggested Modification:

- a. The proposed definitions of 'transactional message' and 'transactional voice call' are ok with us.
- b. However, the provision for opt-out mechanism for Transactional messages and transactional voice call should be dropped.

3. Justification: Kindly refer to our detailed comments to question 1.

B. Para No. of Chapter IV: 2

1. Proposed Provision in Consultation Paper:

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.

2. Suggested Modification:

- a. The proposed definitions of 'promotional message' and 'promotional voice call' are ok with us.
- b. However, there should not be any mandate for opt-out mechanism for promotional message and promotional voice call.

3. Justification: Kindly refer to our detailed comments to question 1.

C. Para No. of Chapter IV: 3

1. Proposed Provision in Consultation Paper:

*The regulation 2(bh) shall be amended to define Government messages or calls as below-
Any message or voice calls transmitted on the directions of the Central Government or the
State Government or bodies established under the Constitution;
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.”*

Government messages or calls

Government messages or calls means-

*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.*

2. Suggested Modification: In our view, the Government messages or calls should be part of transactional messages or calls and no separate category should be formed.

3. Justification: Kindly refer to our detailed comments to question 1.

D. Para No. of Chapter IV: 4

1. Proposed Provision in Consultation Paper:

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

2. Suggested Modification: We support deletion of the ‘Fully blocked’ category of preference.

3. Justification: Since Transactional and Service calls will be clubbed and ‘Block promo’ will stop all promotional calls, ‘Fully Block’ as a preference will be redundant and we support removal of ‘Fully block’ as a preference option.

E. Para No. of Chapter IV: 5

1. Proposed Provision in Consultation Paper:



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.

2. Suggested Modification:

- a. Transfer of complaint from TAP to OAP in real-time: We agree with the above suggested measure of real-time transfer of complaints from TAP to OAP. In addition to above, there



should also be a check at TAP end if the customer is a non-DND registered customer and message has been sent by the Sender through registered telecom resources. In such cases, there is no action to be taken by the OAP as well hence, the complaint should be immediately addressed at the TAP end itself.

- b. Intimation of receipt of each complaint to the registered/unregistered senders: We strongly urge that there should not be any requirement of checking the CDRs within 2 hours of the UCC complaint, as the same is technically infeasible. This step of informing the Sender about the UCC complaint, should only happen post the complaint being upheld as valid.
- c. Different Criteria to initiate action against individual subscriber and enterprise subscribers for UTM complaints: We agree with TRAI that there should be a different criterion for initiating action against unregistered senders belonging to individual category or enterprise category of telecom consumers, however, the criteria suggested has been made very stringent and may also be prone to misuse and thus, impact genuine consumers also. For individual category, we recommend that the count of valid complaints should be 10 or more unique complainants in a calendar month, post which, the outgoing services of the Sender are to be suspended. For Enterprise category, we recommend a graded action against the enterprise category.
- d. Provisions to initiate action against the Sender for making promotional calls from the series assigned for transactional/service calls: We recommend a graded action against the Senders in this category, similar to the one mentioned above.
- e. As the series for transactional/service calls is yet to be launched, these provisions should only kick-in post 12 months of the launch of the said series, providing suitable time to the ecosystem players to onboard and migrate to the new series and related workflows, and thereafter, on the new mode of complaint-based actions.
- f. Action against Senders for UTM Violation and misuse of Series assigned for Transactional/Service calls:
 - i. It is crucial to lay down details of checks required to be conducted at TSPs end basis regulatory mandate. It would be quite subjective to simply state that OAP shall decide the representation of the Sender and conclude whether the Sender was involved in UCC or not. One of the check points for checking the representation would be to see if Sender has customer consent proofs or Sender is having any other societal/social/commercial relationship with the customer. However, as TSP, we would not be able to establish veracity of any such proofs or relationships.
 - ii. It is important that the regulatory requirements basis which compliance of a TSP would be ascertained, are clearly prescribed so that the steps taken by a TSP in bonafide is not treated as non-compliant or there is no competitive arbitrage in the TSPs due to different interpretations of a regulatory mandate.

iii. Further, it may not be legally tenable for TRAI to deal with the appeals related to action taken by a TSP against a Sender (who is actually a customer of TSP), and ideally the Sender should have to approach suitable court under the law of land.

3. **Justification:** Kindly refer to our detailed comments provided to question 5.

F. Para No. of Chapter IV: 6

1. Proposed Provision in Consultation Paper:

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 UTMs/unregistered Senders, there shall not be any pre-requisite of registration of Preferences by the customer.

2. **Suggested Modification:** We agree with the above measure suggested by TRAI in case of UTMs/unregistered Senders. While this measure would be helpful while dealing with complaints related to individual consumers, however, this step may be counter-productive for dealing with complaints related to Enterprise entities. Therefore, this criterion should be applied only when 160xx series has been launched for all the sectors and a reasonable time of 6 months have been given for PEs/TMs to migrate on the new structure.

3. **Justification:** Kindly refer to our detailed comments provided to question 7.

G. Para No. of Chapter IV: 7

1. Proposed Provision in Consultation Paper:

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

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

2. **Suggested Modification:** We agree with this provision.

3. Justification: Kindly refer to our comments to question 7.

H. Para No. of Chapter IV: 9

1. Proposed Provision in Consultation Paper:

*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.*

2. Suggested Modification: We agree that a template of the UCC description should be shown at Access Provider's Mobile App and Web Portal. This is already available on Vi's website and Mobile App. Therefore, providing description/content of the UCC should continue to be a mandatory field.

3. Justification: Kindly refer to our detailed comments provided to question 7.

I. Para No. of Chapter IV: 10

1. Proposed Provision in Consultation Paper:

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.

2. Suggested Modification: Clauses 2(3)(h) and 2(4)(f) should be dropped.

3. Justification: Kindly refer to our detailed comments provided to question 7.

J. Para No. of Chapter IV: 13

1. Proposed Provision in Consultation Paper:

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.

2. Suggested Modification:

- a. Instead of putting further obligations on TSPs, it may be noted that it is actually the Principal Entity that is the beneficiary of creating spam and hence, the Authority should look into ways of taking the action against PE/TMs and imposing FD directly on them. For this, we have suggested in comments to other questions also that, a law should be formulated putting the obligations of stopping spam directly on PE/TMs.
- b. We request the above-said provisions should be dropped.

3. Justification: Kindly refer to our detailed comments provided to question 8.

K. Para No. of Chapter IV: 14

1. Proposed Provision in Consultation Paper:

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.

2. Suggested Modification: We agree with Sub regulation (5) and (6) of regulation 26. While sub-regulation (5) does not provide any clear requirement, we would like to submit that for anything in addition to the requirement given under the TRAI letter dated 20.06.2024, cost-benefit assessment should be done and timeline to any such new requirement should not clash with the timelines of other major developments required on same set of systems/DLT.

3. Justification: Kindly refer to our detailed comments provided to question 8.

L. Para No. of Chapter IV: 19

1. Proposed Provision in Consultation Paper:

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.

2. Suggested Modification:

- a. It is crucial to lay down details of checks required to be conducted at TSPs end basis regulatory mandate, hence, the regulation should prescribe detailed checklist on the steps required to achieve compliance.
- b. No appeal provision to be there with TRAI, therefore, such text should be dropped.

3. Justification: Kindly refer to our comments to question 5.

M. Para No. of Chapter IV: 20

1. Proposed Provision in Consultation Paper:



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*

2. Suggested Modification:

- a. No specific regulatory provisions should be prescribed for use of auto-dialler/Robo-calls/pre-recorded announcements, etc. Accordingly, provisions under Schedule-IV, should be removed.
 - b. The above-mentioned provision (g) of identifying Sender(s) based on various signals/triggers parameters should be dropped.
3. **Justification:** Kindly refer to our comments to question 2, question 3 and question 8.

N. Para No. of Chapter IV: 21

1. Proposed Provision in Consultation Paper:

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.*

2. Suggested Modification: Clause (3), (4), (5), (6) and (7) should be dropped.

3. Justification: Kindly refer to our comments to question 8.

O. Para No. of Chapter IV: 22

1. Proposed Provision in Consultation Paper:

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.*

2. Suggested Modification: The above-mentioned provisions should be dropped. Suitable provisions/framework should be prescribed to deter PE/TMs.

3. Justification: Kindly refer to our comments to question 9.

P. Para No. of Chapter IV: 23



1. Proposed Provision in Consultation Paper:

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.



2. Suggested Modification: The above-mentioned provisions should be dropped. Suitable provisions/framework should be prescribed to deter PE/TMs.

3. Justification: Kindly refer to our comments to question 9.

Q. Para No. of Chapter IV: 24

1. Proposed Provision in Consultation Paper:

*Sub-regulation (2) of Regulation 35 shall be amended as given below-
(2) Upto Rs. 0.05 (five paisa only) for each Transaction SMS;*

2. Suggested Modification: The charges 'Upto Rs. 0.05 (five paisa only)' as mentioned in Sub-regulation (2) of Regulation 35 above should be changed to 'Upto Rs. 0.10 (ten paisa only) for each commercial communication SMS except for Government SMS in case of disaster.

3. Justification: Kindly refer to our comments to question 10.

R. Para No. of Chapter IV: 25

1. Proposed Provision in Consultation Paper:

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.*

2. Suggested Modification:

- a. In case of clause a. of 22(1) as mentioned above, we submit that normal spam should not result in seeking to file complaint/FIR.
- b. All scenarios of misuse should be unambiguously defined for clarity in achieving compliance and removing subjectivity.

S. Para No. of Chapter IV: 26

1. Proposed Provision in Consultation Paper:

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.”*

- 2. Suggested Modification:** We request that point no. (4) a. and (4) b. should be dropped. There is no merit in seeking such processes and they do not directly correlate to stopping/investigating spam.

T. Para No. of Chapter IV: 27

1. Proposed Provision in Consultation Paper:

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.

- 2. Suggested Modification:** The above-mentioned provisions (g) and (h) should be dropped.
- 3. Justification:** The TSP should be free to perform the registration function through its own executives or through its partners.

U. Para No. of Chapter IV: 28

1. Proposed Provision in Consultation Paper:

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.

- 2. Suggested Modification:** An additional provision should be incorporate to onboard consent obtained by PEs and giving uniform access to consumers to revoke the consent. For this, the TSPs should take an undertaking from PEs that the consent obtained by them would be compliant to DPDP Act or any Rules framed thereunder, from time to time.
- 3. Justification:** Kindly refer to our comments on the consent framework under question 7.

V. Para No. of Chapter IV: 29

1. Proposed Provision in Consultation Paper:



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.

2. Suggested Modification: Clauses (h), (i), (k) and (l)(i) should be dropped.

3. Justification: These provisions are too much granular and subjective processes and are prone to failure and non-compliance.

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