Response to the draft Telecommunications Tariff (65th Amendment) Order, 2020 released on February 18, 2020

At the outset, COAI welcomes the opportunity to comment on the draft Telecommunications Tariff (65th Amendment) Order, 2020.

1. TRAI, vide the 54th amendment to Telecommunications Tariff Order (TTO) has prescribed that the tariff for SMSs sent by persons other than a telemarketer will be under forbearance upto 100 SMS per SIM per day and not less than 50p per SMS for every SMS beyond 100 SMS per SIM per day (Schedule XIII).

2. During the consultation process, which led to the notification of the 54th amendment to TTO, some of the stakeholders had suggested that a differential tariff may be imposed to make it economically unviable for unregistered telemarketers to send commercial communications using ten-digit numbers. Such provisions will also encourage unregistered telemarketers to register to get discounted telecom resources. TRAI had also observed that the subscribers undertaking telemarketing activities using the normal telephone connections use discounted SMS packages available in the market, for sending bulk promotional SMSs.

3. Moreover, TRAI had recognized that the bulk SMS rates are attractive to advertisers and can impose costs on other networks by directing heavy traffic to other operators' networks. Accordingly, TTO has been amended mandating the service providers not to allow sending of more than one hundred SMS per day per SIM at concessional rate. However, subscribers can send SMS beyond one hundred SMS per day per SIM, but all such SMSs will be charged at the rate of not less than fifty paisa per SMS.

4. TRAI had also expected that notifying a floor tariff of fifty paisa per SMS for SMS exceeding 100 SMS per SIM per day would be one of the several measures initiated to effectively protect the telecom subscribers from the menace of unsolicited commercial communications being sent by the unregistered telemarketers.

5. The said draft TTO (65th Amendment), 2020 proposes to repeal the provision (Schedule XIII) of charging minimum 50p for each SMS sent after the 100 concessional SMSs in a day. In this regard, we would like to put forward following suggestion for the consideration of the Authority:

   a. While proposing to repeal the said schedule XIII, TRAI has relied upon the comprehensiveness of the new regulatory framework contained in the TCCCPR, 2018. In this regard, it is submitted that while the provisions of the TCCCPR, 2018 are indeed comprehensive, the effectiveness of the said provisions are yet to be seen, particularly in terms of curbing the UCC from unregistered telemarketers who uses the bulk SMS packs for sending spam/promotional messages.

   b. The provisions applicable in case of these unregistered telemarketers (UTMs) are to put their mobile number(s) under the usage capping based on customer complaints. Thus, the action to be taken against such UTMs is reactive, as the TSPs can act basis the complaints received from the individual subscribers. On the other hand, the existing provision stipulated after detailed consultation in the form of Schedule XIII is proactive in nature and hence capable to prevent the UTMs to use the normal message route (p2p) for sending of UCC.

c. As highlighted earlier, TRAI had rightly observed while notifying the 54th amendment that the subscribers undertaking telemarketing activities using normal telephone connections use discounted SMS packages available in the market, for sending bulk promotional SMSs. Putting a cap on the discounted/free SMSs to 100 per day has helped to restrict the UTMs from using unauthorized route to send commercial communications and would certainly have encouraged many entities to become registered telemarketers (RTMs).

d. To restrict the usage of an unauthorized route of sending UCC by the UTMs, all the necessary steps should be taken and should remain part of the regulatory framework. While, we agree with TRAI that the new regulatory framework is comprehensive, we are of the view that **the existing Schedule XIII of the TTO, which is one of the successful measure to reduce the use of P2P messaging by the UTMs, should not be repealed from the TTO to protect the subscribers from the UTMs.**

e. Further, we have supported the adoption of light-touch regulatory regime, however, whenever there is a need for regulatory intervention, to protect the interest of the telecom service providers and the consumers, we expect TRAI to have a regulatory framework in place. Thus, on this issue of curbing UCC from UTMs, the existing regulatory provision of putting a cap on free/concessional SMSs is very much required.

f. We are of the view that the regime of forbearance is not being impacted due to the prescribed Rs. 0.50 for SMSs after 100 concessional SMSs. As per TRAI's PIR for Quarter ending Sep-19, the number of outgoing SMS **per subscriber per month was 18**. This is despite that fact that a significant proportion of customers have migrated to bundled packs wherein 100 SMS/ day is offered free as part of the bundle. Hence, it is evidently correct to state that there would be very few customers who use 100 SMS a day for non-commercial purpose and since most of the tariff offers of the TSPs provides 100 free SMSs a day; **the concept of regulatory forbearance is not getting impacted due to the Schedule XIII.**

In view of the above, we request TRAI not to amend the TTO i.e. not to repeal the Schedule XIII which gives protection to the subscribers from the UTMs. The measures notified vide 54th amendment (i.e. Schedule XIII) has been in the consumer interest. If the prescribed floor of 50 paisa/SMS after 100 SMS/SIM/day is removed, consumers will be impacted by spam messages from UTMs.

We also suggest that the effectiveness of the new solution implemented under TCCCPR, 2018 in curbing the UCC from the UTMs should be analyzed first and if the solution helps to substantially reduce the spamming from UTMs then only the proposed amendment can be reconsidered.

We hope that our above suggestions would merit your kind consideration.

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