



August 18, 2012

Comments to the draft TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (TENTH AMENDMENT) REGULATIONS, 2012

REGULATION	COMMENTS
<p>In regulation 3 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), (hereinafter referred to as the principal regulations), in sub-regulation (4), for the second proviso, the following proviso shall be substituted, namely:- “Provided further that Access Providers shall, at the time of providing a telephone connection, whether Basic or Cellular Mobile Telephone, to a new subscriber, other than a telemarketer registered Acquisition Form the details of Customer Preference Registration facility and obtain from such subscriber an undertaking that the SIM purchased by him shall not be used for telemarketing and in case such SIM is used for telemarketing, he shall be liable to pay such charges as may be decided by the Authority and the telecom resources used for the purpose of telemarketing shall also be liable to be disconnected.”</p>	<p>Acceptable.</p> <p>However, this could be even strengthened if the sim cards used for telemarketing purposes were different from the normal ones – say, of a different color or so. Meaning, if a person wanted to use a sim card for telemarketing, he shall only use that particular card meant for that purpose. If the normal card was used for commercial purpose, then it could be easily identified and action taken.</p>
<p>3. In regulation 19 of the principal regulations, for sub-regulation (11), the following sub-regulation shall be substituted, namely:- “(11) If the Originating Access Provider to whom a complaint has been forwarded under sub-regulation (6) finds that---- (i) the unsolicited commercial communication has been sent</p>	

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<p>through voice call and the subscriber making such call is not registered with the Authority as a telemarketer, it shall-</p> <p>(a) direct the subscriber to forthwith discontinue the sending of unsolicited commercial communications, and if such subscriber sends a commercial communication through voice call to any subscriber on the second occasion, charge rupees five hundred from such subscriber, and if such subscriber sends a commercial communication through voice call to any subscriber on the third occasion, disconnect all the telecom resources of such subscriber;</p> <p>(b) deposit the amount charged from the subscriber under clause (a) in an account specified by the Authority;</p> <p>(c) not provide for a period of one year any telecom resource to the disconnected under clause (a); and</p> <p>(d) update the action taken by it in the National Telemarketer Register; or</p> <p>(ii) the unsolicited commercial communication has been sent through SMS and the subscriber sending such SMS is not registered with the Authority as a telemarketer, it shall-</p> <p>(a) charge rupees five hundred from such subscriber, and if such through SMS to any subscriber on the second occasion, disconnect all the telecom resources of such subscriber;</p> <p>(b) deposit the amount charged from the subscriber under clause (a) in an account specified by the Authority;</p> <p>(c) not provide for a period of one year any telecom resource to the subscriber disconnected under clause (a); and</p> <p>(d) update the action taken by it in the National Telemarketer Register.”</p>	<p>As decided in the case of SMS, even at the time of making the first unsolicited voice call, the subscriber should be levied a penalty, instead of giving a chance in the first instance.</p> <p>Action taken should not only be updated in the National Telemarketer Register, but, it is very important that the consumer, who prefers the complaint, should also be kept informed of the action taken. This is sadly lacking at present and the complainants are not even aware if action has been initiated in the first place.</p>
<p>4. In sub-regulation (2) of regulation 20 of the principal regulations, after clause (1),</p>	

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<p>the following clauses shall be inserted, namely:- “(m) every Access Provider shall, within thirty days of coming into force of these regulations, send SMS to its subscribers advising them not to send any commercial communications if they are not registered with the Authority as telemarketer and in case he sends a commercial communication, he shall be liable to pay five hundred rupees for such commercial communication and his telecom resources shall also be liable to be disconnected: Provided that a second such SMS shall be sent within seven days of sending the SMS and such SMS shall be sent to the customer every six months thereafter.”</p>	<p>Acceptable</p>
<p>5. In Schedule-V to the principal regulations, in para (13) of the agreement, after the words “from NTR”, the words “or by TRAI” shall be inserted.</p>	<p>Acceptable</p>
<p>6. In Schedule-VI to the principal regulations, for para 4, the following para shall be substituted, namely:- “4.A customer may register communications related complaint by sending SMS to 1909 in the format given below- “short description of Unsolicited Commercial Communication; XXXXXXXXXXXX; date in dd/mm/yy.” Where XXXXXXXXXXXX– is the telephone number or header of the SMS, as the case may be, from which the unsolicited commercial communication has originated.”</p>	<p>Acceptable</p>