

भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA
भारत सरकार /Government of India



Dated: 20th January, 2020

DIRECTION

Subject: Direction under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), regarding implementation of The Telecom Commercial Communications Customer Preference Regulations (TCCCPR), 2018.

F. No. 311-04/2017-QoS---- Whereas the Telecom Regulatory Authority of India (hereinafter referred to as the "Authority"), established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) (hereinafter referred to as "TRAI Act"), has been entrusted with discharge of certain functions, inter-alia, to regulate the telecommunication services; ensure technical compatibility and effective inter-connection between different service providers; lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such services provided by the service providers so as to protect interest of the consumers of telecommunication service;

2. And whereas the Authority, in exercise of the powers conferred upon it under section 36, read with sub-clause (v) of clause (b) and clause(c) of sub-section (1) of section 11, of the TRAI Act, made the Telecom Commercial Communications Customer Preference Regulations, 2018 (6 of 2018) dated the 19th July, 2018 (hereinafter referred to as the "regulations"), to regulate unsolicited commercial communications;

3. And whereas regulation 3 of the regulations, inter-alia, provides that every Access Provider shall ensure that any commercial communication using its

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network only takes place using registered header assigned to the sender for the purpose of commercial communication;

4. And whereas regulation 8 of the regulations, inter-alia, provides that every Access Provider shall, before allowing any commercial communication through its networks, develop Codes of Practice for registration of preference, recording of consent and revocation of consent as per Schedule-II;

5. And whereas regulation 11 of the regulations, inter-alia, provides that every Access Provider shall give due publicity through appropriate means to make the customers aware regarding procedure and facilities for: registration of preference, registration and revocation of consents, making complaints or reporting of Unsolicited Commercial Communications, and that they shall not get involved in the activity of sending commercial communications, and the Authority may, from time to time, issue such directions as it deems necessary, specifying the content, medium, frequency and manner of such publicity;

6. And whereas regulation 30 and 31 of the regulations provide that Access Providers shall prepare migration plan for existing data, process and role being played at present by different entities to the new system of data, process and role of new entities prescribed in the regulations, as per Schedule-VI of the regulations;

7. And whereas sub-item (a) and sub-item (b) of item (2) of Schedule-VI to the regulations provides for registration of existing assignee of Headers with Header Registrar and read as under: -

“(2) Registration of existing assignee of Headers with Header Registrar;

(a) stop assigning headers without verification of identity and scope of senders;

(b) register existing assignee of headers after verification of identity and scope documents of Unsolicited Commercial Communications sender(s) and bind to phone number(s);”

8. And whereas item (8) of Schedule-VI to the regulations provides for



registration of existing consents on consent register and reads as under: -

"(8) Register existing consents on consent Register;

(a) Register existing consents with consent registrar in robust manner to make it non-repudiable;

(b) stop taking consent not in accordance to these regulations;

(c) and fix deadline for expiry of consent not registered with consent registrar;"

9. And whereas paragraph 3.3.36 of Explanatory Memorandum of the regulations provides that existing consent recorded by entities are valid for a maximum period of six months and after this time period, consent to remain valid after renewing it;

10. And whereas Access Providers have not submitted plan with timelines for migration of existing consents and headers in accordance with Schedule-VI of the regulations;

11. And whereas after having various meetings with Access Providers, it is observed that: -

(a) no significant progress has been shown by Access Providers for migration of existing headers and consents with principal entities to DLT system of Access Providers;

(b) out of approximately 9 lakh unique headers existing in market, as per the information submitted by Access Providers, so far negligible number of headers have been registered by Principal Entities;

(c) many principal entities across all Access Providers are not fully aware about the requirements and steps of registration of entity, header, consent etc;

12. Now, therefore, the Authority, in exercise of the powers conferred upon it under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of

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1997), and the provisions of the Telecom Commercial Communications Customer Preference Regulations, 2018, hereby directs all Access Providers to: -

- (a) not assign new SMS and voice headers without registration in the new system established by Access Providers in accordance with the regulations;
- (b) migrate the existing SMS and voice headers as listed by the Authority, based on the list of headers submitted by Access Providers (consolidated list shared by TRAI with Access Providers vide email dated 9th January, 2020, as provided in Annexure-I), and which are in use in last one year, to new system within four weeks' time;
- (c) ensure that Principal Entities submit list of existing subscriber's consent to Access Providers within fifteen days from the issue of this Directions;
- (d) ensure that consents recorded prior to six months from the date of issue of this Direction, become invalid, and should not be migrated to the new system;
- (e) ensure that all new consents of subscribers shall be registered in the new system, as per provisions of the regulations;
- (f) ensure that Principal Entities are not able to send promotional messages or calls to the subscribers who have not opted for such preference, if they have not shared subscribers' consent with Access Providers or not acquired consent from the subscribers according to the provisions of the regulations;
- (g) ensure that Principal Entities are not able to send any commercial communication till they register themselves with Access Providers;
- (h) ensure that Principal Entities are not able to send any service and transactional messages till they register content template against specific registered header with Access Providers;



- (i) run a media campaign on its own or in collaboration with other Access Providers, within fifteen days from the issue of this direction, by publication of advertisements in at least two leading National newspapers of Hindi and English,
- (i) make Customers aware that in case they make unsolicited commercial communication, their telecom resources may be put under Usage Cap or Disconnected, as per the provisions of the regulations;
- (ii) make Principal Entities aware about the measures they need to take such as registration of header and content template, submission of existing subscriber's consents and acquisition process of consent;
- (iii) make Customer, Principal entities and other stakeholders aware about the measures they need to take, and measures taken by Access Providers including the details of web portal and relevant apps, to curb the menace of unsolicited commercial communications;
- (j) share with the Authority the plan with timelines, in compliance to regulation 11 of the regulations, for periodic publicity specifying content, medium, frequency and manner of such publicity, within thirty days of issue from this direction;
- 13 (a) The directions at sub-clauses (a), (b), (c) , (d), (e), (i) and (j) of clause 12 above, shall come into force with immediate effect;
- (b) The directions at sub-clauses (f), (g) and (h) of clause 12 above, shall come into force after 15 days of issue of this direction.



(Asit Kadayan)
Advisor (QoS)

To

All Access Providers (including BSNL and MTNL)