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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 1st December, 2010

No.305-17/2010-QoS.- In exercise of powers conferred by section 36 read with sub-clause (v) of clause(b) of sub-section (1) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

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THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE REGULATIONS, 2010
(6 OF 2010)

CHAPTER I

Preliminary

1. **Short title and commencement.** — (1) These regulations may be called the Telecom Commercial Communications Customer Preference Regulations, 2010.

(2) (a) Except as otherwise provided in clause (b) and clause (c), these regulations shall come into force from the date of their publication in the Official Gazette.

(b) Regulations 13, 14, 15, 16 and 17 of these regulations shall come into force on the 15th day of December, 2010.

(c) Regulations 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 19, 20, 21 and 22 of these regulations shall come into force on the 1st day of January, 2011.

2. Definitions.— In these regulations, unless the context otherwise requires-

(a))"Access Providers" includes the Basic Telephone Service Provider, Cellular Mobile Telephone Service Provider and Unified Access Service Provider;

(b) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(c) “Area code” means any number earmarked or allotted to a specific short distance charging area in the National Numbering Plan for accessing the telephone in such area;

(d) “Authority’ means the Telecom Regulatory Authority of India established under sub section (1) of section 3 of the Act;

(e) “Basic Telephone Service” covers collection, carriage, transmission and delivery of voice or non-voice messages over licensee’s Public Switched Telephone Network in the licensed service area and includes provision of all types of services except for those requiring a separate licence;

(f) “Basic Telephone Service Provider” means a service provider who has been granted licence under section 4 of the Indian Telegraph Act, 1885 (13 of 1885) to establish, install, operate and maintain Basic Telephone Service in the specified service area;

(g) “Cellular Mobile Telephone Service”,--

(i) means telecommunication service provided by means of a telecommunication system for the conveyance of messages through the agency of wireless telegraphy where every message that is conveyed thereby has been, or is to be, conveyed by means of a telecommunication system which is designed or adapted to be capable of being used while in motion;

(ii) refers to transmission of voice or non-voice messages over Licensee’s Network in real time only but service does not cover broadcasting of any messages, voice or non-voice; however, Cell Broadcast is permitted only to the subscribers of the service;

(iii) in respect of which the subscriber (all types, pre-paid as well as post-paid) has to be registered and authenticated at the network point of registration and approved numbering plan shall be applicable;

(h) “Cellular Mobile Telephone Service Provider” means a licensee authorized to provide Cellular Mobile Telephone Service under a licence granted under section 4 of the Indian Telegraph Act, 1885 (13 of 1885), in a specified service area;

(i) “commercial communication” means any message, voice or SMS, made through telecommunications service, which is transmitted for the purpose of informing about, or soliciting or promoting any commercial transaction in relation to goods, investment or services;

(j) “customer” means subscriber;

(k) “Customer Preference Registration Facility” means the facility established by an Access Provider, under regulation 3 of these regulations, for the purpose of registration or de-registration of the preference of its subscribers in respect of receipt of commercial communications;

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(l) “fully blocked” means stoppage of all types of commercial communication;
(m) “Header” means alpha numeric identifier of commercial and transactional SMS;
(n) “message” shall have the meaning assigned to it in clause (3) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);
(o) “National Customer Preference Register” means a national data base containing a list of the telephone numbers of all subscribers who have registered their preferences regarding receipt of commercial communications;
(p) “National Numbering Plan” means the National Numbering Plan 2003 made by the Central Government or any such plan, as may be made by the Central Government from time to time;
(q) “National Telemarketers Register” means a national data base containing details of telemarketers registered with the Authority;
(r)“Originating Access Provider” means the Access Provider who has provided the telecom resources to a telemarketer;
(s) “partially blocked” means stoppage of all commercial communications, except SMS in respect of category or categories of preference indicated by the subscriber;
(t) “promotional message” means message containing promotional material or advertisement of a product or service;
(u) “Provider Customer Preference Register” means a data base maintained by an Access Provider containing telephone numbers and other details of its subscribers who have registered their preference regarding commercial communications;
(v) “regulations” means the Telecom Commercial Communications Customer Preference Regulations, 2010;
(w) “SMS” means a message which is sent through short message service and includes a Multi Media message which is sent through Multi Media message service (MMS);
(x) “Subscriber” means a person or legal entity who subscribes to a telecom service provided by an Access Provider;
(y) “telecom resources” means any telegraph used to send voice call or messages;
(z) “telemarketer” means a person or legal entity engaged in the activity of transmission of commercial communications;
(aa) “Terminating Access Provider” means the Access Provider on whose network the subscriber receiving the commercial communication is registered;

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(ab) **"**Transactional message" means an SMS containing only—

(i) information sent to its customer(s) by the Bank or financial institution or insurance company or credit card company or Access Provider pertaining to the account of that customer(s);

(ii) information given by Airlines or Indian Railways or its authorised agencies to its passengers regarding travel schedules, ticket booking and reservation;

(iii) information from a registered educational institution to parents or guardians of its students;

(iv) any other message as may be specified by the Authority, from time to time as "Transactional message";

(ac) "unsolicited commercial communication" means any commercial communication which a subscriber opts not to receive but does not include , ----

(i) any transactional message; or

(ii) any message transmitted on the directions of central Government or State Government or agencies authorized by it;

(ad) "Unified Access Services", --

(i) means telecommunication service provided by means of a telecommunication system for the conveyance of messages through the agency of wired or wireless telegraphy;

(ii) refers to transmission of voice or non-voice messages over licensee's network in real time only but service does not cover broadcasting of any messages, voice or non-voice, however, Cell Broadcast is permitted only to the subscribers of the service;

(iii) in respect of which the subscriber (all types, pre-paid as well as post-paid) has to be registered and authenticated at the network point of registration and approved numbering plan shall be applicable;

(ae) "Unified Access Service Provider" means a licensee authorised to provide Unified Access Services under a licence granted under section 4 of the Indian Telegraph Act,1885(13 of 1885), in a specified service area;

(af) All other words and expressions used in these regulations but not defined, and defined in the Indian Telegraph Act, 1885 (13 of 1885) and the Telecom Regulatory Authority of India Act 1997 (24 of 1997) and the rules and other regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules or such other regulations, as the case may be.

CHAPTER II

CUSTOMER PREFERENCE REGISTRATION

3. Setting up of Customer Preference Registration Facility. — (1) Every Access Provider shall set up a Customer Preference Registration Facility, both for wireless and wireline, for registration or deregistration of their preference

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regarding receipt of commercial communication, in the Provider Customer Preference Register.

Provided that any facility set up under sub regulation (1) of regulation 3 of Telecom Unsolicited Commercial Communications, 2007 (4 of 2007) shall continue for the purpose of this sub-regulation and deemed to have been set up under these regulations.

(2) The facility set up under sub-regulation(1) shall have short code 1909;

Provided that the Authority may specify any other short code, which is duly assigned, from time to time;

(3) The Customer Preference Registration Facility shall be toll free and shall have adequate telecom resources for receipt of customer preferences by way of a voice communication or SMS;

(4)The Access Provider shall, by appropriate means, give due publicity to this facility;

Provided that the Authority may, from time to time, issue such directions, as it may consider necessary, specifying the content, medium, frequency and the manner of such publicity.

Provided further that every Access Provider shall, at the time of providing a telephone connection, whether Basic or Cellular Mobile Telephone, to a new subscriber, provide in the Customer Acquisition Form the information regarding these regulations and Customer Preference Registration facility.

4. **Provider Customer Preference Register.**—(1) Every Access Provider shall maintain and operate a register to be called the Provider Customer Preference Register for registering the preference of the subscriber under -

(a) fully blocked category; or
(b) partially blocked category,-
in accordance with the procedure specified in Schedule-I to these regulations;

Provided that the request of the subscriber for not receiving unsolicited commercial communications registered in the Private Do Not Call List set up under regulation 4 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall continue to be valid, for the purpose of these regulations, under the 'fully blocked' category.

(2) Every Access Provider shall maintain in duplicate the Provider Customer Preference Register in at least two places having regard to the security of the database.

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5. Contents of the Provider Customer Preference Register.— Every Provider Customer Preference Register shall, *inter alia,* include,----

(a) the name of each subscriber who makes a request to the Access Provider indicating his preference;

(b) telephone number of the subscriber including in case of wireline area code;

(c) the date and time of the request by the subscriber;

(d) the details of the preference made by the subscriber;

(e) the unique registration number as referred to in sub-regulation (2) of regulation 7.

6. National Customer Preference Register.-(1) The National Customer Preference Register shall be established and maintained by an agency authorised in this behalf by the Authority:

Provided that the request of the subscribers for not receiving unsolicited commercial communications registered in National Do Not Call Register established under sub-regulation (1) of regulation 6 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall continue to be valid, for the purposes of these regulations, under 'fully blocked' category in the National Customer Preference Register.

(2) The National Customer Preference Register shall contain the following details of those subscribers who have indicated their preference to their respective Access providers regarding receipt of commercial communications,-

(a) the telephone number including in respect of wireline telephones area code;

(b) the details of preference; and

(c) such other details as may be specified by the Authority from time to time.

7. **Registration of preference.** - (1) A subscriber may make a request to his Access Provider, through the Customer Preference Registration Facility, for registration of his telephone number in the Provider Customer Preference Register, in accordance with the procedure specified under Schedule-I to these regulations:

Provided that a subscriber who is already registered in the National Do Not Call Register established under sub-regulation (1) of regulation 6 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) is not required to re-register and his said registration shall be valid, for the purpose of these regulations, under the 'fully blocked' category:

Provided further a subscriber who is already registered in the National Do Not Call Register established under sub-regulation (1) of regulation 6 of the

Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007 may change his preference in accordance with the procedure specified under Schedule-I to these regulations**.**
(2) Every Access Provider shall, immediately on receipt of a request under sub-regulation (1), verify the correctness of the request so received and if the request is found to be correct, communicate, through SMS, within twenty four hours of the request, a unique registration number to the subscriber: *Provided* that in case the subscriber particulars are not found to be correct, the details thereof shall be intimated to the subscriber within twenty four hours.
(3) Every Access Provider shall, in respect of request that have been found to be admissible after verification as per sub regulation (2)**,** record details of such request in the Provider Customer Preference Register.
8. Change of Preference of Subscribers.-(1) Any subscriber may, at any time after expiry of three months from the date of registration or three months from the date of last change of his request, made under regulation 7, change his preference in accordance with the procedure specified under Schedule-I to these regulations.
(2) Every Access Provider shall, on receipt of a request under sub-regulation (1), verify the correctness of the request so received and if the request is found to be correct record details of such request in the Provider Customer Preference Register and confirm the same, within twenty four hours, to the subscriber through SMS: *Provided* that if the request is not found to be correct, the Access Provider shall inform the subscriber, through SMS, within twenty four hours, the details of errors noted by the Access Provider and advise the subscriber to make a fresh request.
9. De-Registration.- (1) Any subscriber may, at any time, after expiry of three months from the date of registration request the Access Provider, through the Customer Preference Registration Facility, for withdrawal of his registration as specified in Schedule-I to these regulations**.**
(2) The Access Provider shall, within twenty four hours of the receipt of request, verify the correctness of the request so received and if the request is found to be correct, the Access Provider shall delete the telephone number of the subscriber from the Provider Customer Preference Register and confirm the same, within twenty four hours, to the subscriber through SMS: *Provided* that if the request is not found to be correct, the Access Provider shall inform the subscriber, through SMS, within twenty four hours, the details of errors noted by the Access Provider and advise the subscriber to make a fresh request

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10. **Updation of content in National Customer Preference Register by Access Providers,-** Every Access Provider shall, within twenty four hours of registration under regulation 7, or a change under regulation 8 or de-registration under regulation 9, update the contents in the National Customer Preference Register, in accordance with the procedure specified in Schedule-II to these regulations.

11. Charge.- No amount shall be charged from the subscriber for registration or change or de-registration of preference in the Provider Customer Preference Register.

CHAPTER III

REGISTRATION OF TELEMARKETERS

12. Commercial communications by subscribers.- No subscriber, who is not registered with the Authority as a telemarketer under these regulations, shall make any commercial communication.

13. National Telemarketer Register.-(1) There shall be a National Telemarketer Register established and maintained by an agency authorised in this behalf by the Authority.

(2) The National Telemarketer Register shall contain,-

(a) the details of the telemarketer such as registration date, application number and registration number;
(b) the details of the fees deposited by the telemarketer;
(c) the details of the telecom resources allotted to a telemarketer;
(d) the number of notices, along with the date of such notices, served upon the telemarketer by the Access Providers for sending unsolicited commercial communication;
(e) the date of blacklisting of telemarketer as specified in regulation 18, if applicable;
(f) such other details as may be specified by the Authority, from time to time.

14. Registration of Telemarketer.-(1) Every telemarketer shall register itself with the Authority in accordance with the procedure and conditions specified in Schedule –III to these regulations and obtain a registration number.

(2) A telemarketer who is already registered with the Department of Telecommunications shall also register with the Authority as a telemarketer under these regulations.

(3) The registration of telemarketer shall be valid for a period of three years unless revoked earlier.

15. Fee.- Every telemarketer shall, for registration with the Authority, pay fees as specified in Schedule III to these regulations.

16. Deregistration of the Telemarketers.- A telemarketer, registered under regulation 14, may deregister itself in accordance with the procedure

specified in the Schedule-III to these regulations.
17. Provision of telecom resources to the telemarketers.- (1) A telemarketer may, after registration with the Authority under regulation 14, apply for telecom resources from one or more Access Providers; *Provided* that the application form shall contain all necessary details and shall be accompanied by Customer Acquisition Form.
(2) Every Access Provider shall, before providing any telecom resource to a telemarketer, verify the details furnished by the telemarketer in its application form, the registration number issued by the Authority and comply with the subscriber verification guidelines issued by the Department of Telecommunications, from time to time.
(3) Every Access Provider shall, before providing any telecom resource to a telemarketer, in addition to any other arrangements as may be required under any other law for the time being in force, enter into a standard agreement with the telemarketer, as specified in Schedule-IV to these regulations, for the purpose of promotional message.
(4) Every Access Provider shall, before providing any telecom resource to a telemarketer, in addition to any other arrangements, as may be required under any other law for the time being in force, enter into a standard agreement with the telemarketer as specified in Schedule-V to these regulations for the purpose of transactional message.
(5) Every Access Provider shall, within one month of entering into an agreement with the telemarketer under sub-regulation (3) or sub-regulaion (4), as the case may be, submit to the Authority an authenticated copy of the agreement along with a softcopy of such agreement.
(6) Every Access Provider shall ensure that no telecom resource is provided to a telemarketer whose telecom resource has been disconnected under sub regulation (5) of regulation 18.
(7) Every Access Provider shall, before activating any telecom resource provided to a telemarketer, ensure that details of all telecom resources provided to a telemarketer are entered into the National Telemarketer Register.
(8) No telecom resource shall be provided to a telemarketer whose name is entered into black list of telemarketers maintained under regulation 18.
(9) Every Access Provider shall ensure that telecom resources provided to a telemarketer for making voice calls do not have facility for receiving incoming call and sending of SMS.
(10) Every Access Provider shall ensure that telecom resources provided to a telemarketer for sending transactional message do not have facility for receiving incoming call or SMS.
(11) Every Access provider shall, within thirty days of coming into force of these regulations, withdraw the telecom resources already allotted to a telemarketer**.**

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18. Blacklisting of telemarketer.-(1) The National Telemarketer Register shall, *inter alia,* include a black list of telemarketers.

(2) The name of a telemarketer shall be entered into the black list upon,-

(a) failure to furnish the additional security amount as agreed to by it in the agreement entered into with the Originating Access Provider; or

(b) upon service of the sixth notice in a calendar year by any Access Provider on such telemarketer for sending unsolicited commercial communication.

Explanation: It is clarified that for the purpose of determining the sixth notice, notices served by any Access Provider on such telemarketer will be cumulatively reckoned.

(3) The name and other details of telemarketer entered into the black list under sub-regulation (2) shall not be deleted before completion of two years from the date of blacklisting of the telemarketer.

(4) The agency maintaining the National Telemarketer Register shall communicate the names of the blacklisted telemarketers to all the Access Providers.

(5) Every Access Provider shall on receipt of intimation under sub-regulation (4) shall, within twenty four hours, disconnect the telecom resources provided by it under these regulations to such telemarketer.

(6) No Access Provider shall provide any telecom resource to a telemarketer whose name appears in the black list.

CHAPTER IV

CUSTOMER COMPLAINTS

19. Setting up of customer complaint registration facility.- (1) Every Access Provider shall set up a facility for registration of the complaint of the customer regarding receipt of unsolicited commercial communications.

(2) The facility set up under sub-regulation (1) shall have short code 1909;

Provided that the Authority may specify any other short code, which is assigned by the licensor, from time to time;

(3) The customer complaint registration facility shall be toll free and shall have adequate telecom resources for receipt of customer complaints by way of a voice call or SMS.

(4) In case any subscriber receives unsolicited commercial communication after expiry of seven days from the date of his registration in the Provider Customer Preference Register under sub-regulation (1) of regulation 7, he may make a complaint to his Access Provider, through voice call or SMS,

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mentioning therein the particulars of telemarketer, the telephone number from which the unsolicited commercial communication originated, the date, time and brief description of such unsolicited commercial communication as specified in Schedule VI to these regulations: *Provided that* every such complaint shall be made by a subscriber within three days of receipt of the unsolicited commercial communication.
(5) On receipt of a complaint under sub-regulation (4), the Terminating Access Provider shall,- (a) immediately acknowledge the complaint by providing a unique complaint number; (b) verify whether, at the time of complaint, a period of seven days has expired from the date of registration of the subscriber in the Provider Customer Preference Register; (c) verify the correctness of the complaint as per the available Call Detail Record (CDR); and (d) complete the steps at (b) and (c) within seventy two hours from receipt of the complaint.
(6) If, on verification, the complaint is found to be correct, the Terminating Access Provider shall, within seventy two hours of the receipt of the complaint, forward the complaint, under simultaneous transmission to the National Telemarketer Register, to the Originating Access Provider from whose network such unsolicited commercial communication has originated.
(7) In case, on verification, the Terminating Access Provider finds that no such unsolicited commercial communication has been made to the complainant, he shall inform the complainant accordingly.
(8) The Originating Access Provider, to whom the complaint has been forwarded, shall within seventy two hours of the receipt of the complaint by it, investigate the nature of call or SMS and if after such investigation, it finds that such call or SMS is an unsolicited commercial communication- (a) issue a notice to the telemarketer, forwarding the detail of the unsolicited commercial communication made by him and informing him of the deduction from the security deposit of an amount as agreed upon in terms of Schedule IV or Schedule V to these regulations; (b) intimate, the result of the investigation and the action taken by it on the basis of the complaint, to the Terminating Access Provider which forwarded the complaint; (c) deposit the amount so deducted in an account specified by the Authority; and (d) update the action taken by it in the National Telemarketer register.
(9) The Terminating Access Provider shall, upon receipt of the intimation from

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the Originating Access Provider under sub-regulation (8), intimate to the complainant, within twenty four hours, the result of the investigation and the action taken by the Originating Access Provider on his complaint.

(10)Notwithstanding any delay on the part of the Terminating Access Provider to forward the complaint, as stipulated in the sub regulation (6), to the Originating Access Provider, it shall be incumbent upon the Originating Access Provider to take action on such complaint in accordance with the provisions of sub-regulation (8).

(11) In case the Originating Access Provider to whom a complaint has been forwarded under sub-regulation (6) finds that the unsolicited commercial communication originated from a subscriber who is not registered with the Authority as a telemarketer, it shall issue a notice to such subscriber to forthwith discontinue the sending of such unsolicited commercial communications and if such subscriber sends a commercial communication to any subscriber on a second occasion, disconnect the telecom resources of such subscriber.

CHAPTER V

OBLIGATIONS OF THE ACCESS PROVIDERS

20. OBLIGATIONS OF THE ACCESS PROVIDERS:- (1) Every Access Provider shall ensure that all commercial communications originating from its network are managed in accordance with these regulations.

(2) Without prejudice to the generality of the provisions of sub-regulation (1),-

(a) every Originating Access Provider shall ensure that no telecom resource is provided to a telemarketer unless has registered itself with the Authority and has entered into an agreement with Originating Access Provider, in accordance with the provisions in Schedule IV to these regulations;
(b) every Originating Access Provider shall, before allotting telecom resources to a telemarketer for sending Transactional Message, enter into agreement with such person in accordance with the procedure specified in Schedule V to these regulations and ensure that no telemarketing SMS is sent through the telecom resources allotted for sending Transactional Message;
(c) every Originating Access Provider shall provide separate telecom resources to telemarketers, for sending transactional message and promotional messages;
(d) every Originating Access Provider shall ensure that the telecom resources provided for sending transactional message are not used for sending promotional message;
(e) every Originating Access Provider shall ensure use of correct header for sending commercial or transactional message, as the case may be, in accordance with the agreement entered into by the Originating Access Provider with the sender of commercial or transactional message, as referred

to in clause (a);

(f) Every Access Provider shall ensure that a telemarketer shall, before sending any SMS to a telecom subscriber, scrub the telephone number of the subscriber with the database received from National Customer preference register;

(g) every Originating Access Provider shall ensure that no telemarketing SMS, other than SMS opted by the subscriber is sent to him;

(h) every Originating Access Provider shall filter all voice calls received through the telecom resources allocated to the telemarketers to ensure that no commercial voice call is made to any subscriber, registered with the National Customer Preference Register.

(i) every Originating Access Provider shall filter all promotional SMS received through the telecom resources allocated to the telemarketers to ensure that only promotional SMSs, preferred by a customer in his preference registered with the National Customer Preference Register, are sent to him;

(j) every Access Provider shall ensure that commercial communication including SMS is sent to a customer, in accordance with the provisions of these regulations, only between 0900 Hrs to 2100 Hrs;

(k) no Access Provider shall provide to any person, other than a telemarketer registered as per regulation 14, any tariff plan or SMS package in any form such as special recharge voucher, student pack, seasonal pack etc. permitting sending of more than one hundred SMS per day per SIM except on 'blackout days' and additional days as may be specified by the Authority by direction issued from time to time and all such SMS packages already provided to any such person shall not be renewed after their expiry:

Provided that all SMS packages already provided to a customer other than to a telemarketer shall be discontinued on coming into force of these regulations;

Explanation: For the purpose of this sub-clause, blackout days mean the days on which free or concessional calls or SMS are not applicable.

(l) no Access Provider shall send any commercial communication, either directly or by mixing such communication with service communication, through voice call or SMS or Unstructured Supplementary Service Device (USSD) unless specifically opted, to a subscriber whose name is registered in the National Customer Preference Register**.**

21. Power of Authority to order inquiry.-(1**)**Where the Authority has reason to believe that any Access Provider has contravened the provisions of these regulations, it may constitute an inquiry committee, consisting of three officers not below the rank of Advisor in the Authority, to inquire into the contravention of the regulations and to report thereon to the Authority.

Provided that if, for reasons other than temporary absence, any vacancy occurs in the office of any member of the inquiry committee, the Authority shall nominate another officer not below the rank of Advisor in the Authority to fill the vacancy and the proceedings may be continued before the inquiry committee from the stage at which the vacancy is filled by such nomination.

(2) The enquiry committee shall give an opportunity to the concerned Access Provider to explain its position, before submitting its findings to the Authority.

22. Consequences for failure of Access Providers to stop unsolicited commercial communications.- (1)If, on enquiry under regulation 21, an Access Provider is found to have contravened of the provisions of these regulations, it shall, without prejudice to any penalty which may be imposed under its licence, be liable to pay an amount, by way of financial disincentive, an amount of Rupees one lakh and in case of second such contravention, to pay an amount of rupees five lakh and rupees ten lakh in case of third or each subsequent such contravention.

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 had been given a reasonable opportunity of representing against the findings of the enquiry committee.

(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.

CHAPTER VI

MISCELLANEOUS

23. **Interpretation.-** In case of any doubt regarding interpretation of any of the provisions of these regulations, the clarification issued by the Authority shall be final and binding.

24. Repeal.- Save as provided in regulation 25 of these regulations, the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) are hereby repealed.

25. Saving.- Notwithstanding the repeal of the Telecom Unsolicited

Commercial Communications Regulations, 2007 (4 of 2007),-

(a) anything done or any action taken or purported to have been done under the said regulations shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(b) the provisions contained in regulations 13 to 15 of the Telecom Unsolicited Commercial Communications Regulations, 2007(4 of 2007) shall remain in effect till the 14th day of December, 2010;

(c) the provisions contained in regulations 3, 4, 5, 6, 7, 8, 9, 10, 11,12,16,17 and 18 of the Telecom Unsolicited Commercial Communications Regulations, 2007(4 of 2007) shall remain in effect till the 31st day of December, 2010;

(R. K. Arnold)

Secretary

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SCHEDULE –I

Procedure for registration of preference under regulation 7, or change of preference under regulation 8 or deregistration under regulation 9 from Provider Customer Preference Register

A. PROCEDURE FOR REGISTRATION OF PREFERENCE OR CHANGE OF PREFERENCE

a. Registration of preference or change of preference through voice call

1. A customer may make a call on toll free short code 1909 and talk to the customer care executive.
2. The customer care executive shall ask the customer whether he wants to register or deregister or change his preference.
3. If the customer wants to register or change his already registered preference, the executive shall inform the customer about the categories available for registration of his preference like fully blocked or partially blocked.
4. If the customer opts for fully blocked category, customer care executive shall confirm and register the customer request in Provider Customer Preference Register.
5. If the customer opts for partially blocked category like Banking/Insurance/Financial products/credit cards, Real Estate, Education, Health, Consumer goods and automobiles, Communication/Broadcasting/Entertainment/IT, Tourism and Leisure, the executive shall ask the customer to exercise his preference(s).
6. The customer care executive shall confirm and register the preference of customer in Provider Customer Preference Register.
7. The customer care executive shall inform the customer through SMS the preferences exercised by the customer and his unique registration number.

b. Registration or change of preference through Interactive Voice Response System (IVRS)

8. The customer may make a call on toll free short code 1909 and select his

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preference to register, de-register or change his preference through the IVRS.

9. If the customer chooses to register or change his preference, IVRS shall prompt him about the categories available for registration of his preference like fully blocked or partially blocked.
10. If the customer opts for fully blocked category, IVRS shall confirm his preference.
11. If the customer opts for partially blocked category, then system will prompt with options 1- Banking/Insurance/Financial products/credit cards, 2- Real Estate, 3- Education, 4- Health, 5- Consumer goods and automobiles, 6- Communication/Broadcasting/Entertainment/IT, 7-Tourism and Leisure.
12. The customer may exercise the desired preference(s) which shall be confirmed by the IVRS.
13. The customer shall be informed through SMS the preferences exercised by him and his unique registration number.

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c. Registration of preference through SMS

14. A customer may also exercise his preference by sending SMS to 1909.
15. If the customer wants to exercise the option of fully blocked, he may send SMS "START 0".
16. If the customer wants to exercise the option of partially blocked, he may send SMS "Start <option>" as given below:

"START 1" for receiving SMS relating to Banking/Insurance/Financial products/credit cards

"START 2" for receiving SMS relating to Real Estate

"START 3" for receiving SMS relating to Education

"START 4" for receiving SMS relating to Health

"START 5" for receiving SMS relating to Consumer goods and automobiles

"START 6" for receiving SMS relating to Communication/Broadcasting/ Entertainment/IT

"START 7" for receiving SMS relating to Tourism and Leisure

17. A customer can also choose multiple preferences from categories of preference mentioned in para 16 above. For receiving commercial SMSs from

Banking/Insurance/Financial products/credit cards and Real Estate, the customer may send SMS in the format "START 1,2".

18. On receipt of option exercised by the customer through SMS, the Access Provider shall send an SMS to confirm the options exercised.
19. After receipt of confirmation from the customer, the Access Provider shall register his preference and send a confirmation SMS indicating his unique registration number.
20. Preference '0' shall always suppress other preferences. If '0' is sent with any other customer preferences, it will be treated as fully blocked preference. For example, "START 0,2,3", shall be considered fully blocked option.

d. Change of preference through SMS

21. A customer can change his option either by stopping the earlier options or by adding new options with the already exercised preferences.
22. For stopping the existing options, the Customer may send the SMS "STOP <OPTION>" which he wants to be stopped.
23. For adding a new option, Customer may send the SMS "START <OPTION>" which he wants to add to the already existing preferences.
24. Illustration:

    A customer with an existing option of 2 (Real Estate) and 3 (Education) wants to opt out of 2 and add 4 (Health) will send SMS as under:

    "STOP 2" for opting out from SMS relating to Real Estate and

    "START 4" for opting to receive SMS relating to Health
25. After sending SMS to 1909 for changing preference(s), SMS indicating customers' options shall be sent seeking confirmation of the customer.
26. After receipt of confirmation from the customer, his preferences shall be registered and a confirmation SMS shall be sent indicating unique registration number.

B. PROCEDURE FOR DE-REGISTRATION

a. De-Registration through voice call

27. Customer may make a call on toll free short code 1909.

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28. The customer care executive shall ask the customer whether he wants to register, deregister or change his preference.
29. If customer wants to deregister, the customer care executive shall accept his request and deregister him.
30. Customer care executive shall inform the customer through SMS about his deregistration.

b. De-Registration through Interactive Voice Response System (IVRS)

31. A customer may make a call on toll free short code 1909 and select his preference to de-register through the IVRS.
32. The IVRS shall confirm the selected option by the customer and inform him through SMS about his deregistration.

c. De-Registration of preference through SMS

33. A customer can de-register by sending SMS "STOP" to 1909.
34. The customer shall be informed through SMS about his deregistration request seeking his confirmation.
35. On receipt of confirmation, the Access Provider shall deregister the customer and inform him through SMS.

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Miscellaneous:

I. The request for all registration/change/de-registration has to be done from the same telephone number for which registration/change/de-registration has been requested.

II. A toll-free short code 1909 shall be available to customers for registration or change or de-registration in the National Customer Preference Register.

SCHEDULE-II

NATIONAL CUSTOMER PREFERENCE REGISTER - UPDATION AND USE BY ACCESS PROVIDERS AND TELEMARKETERS

A. Updation of National Customer Preference Register (NCPR) by Access Providers

1. Every Access Provider shall maintain Provider Customer Preference Register in the format indicated by TRAI from time to time.

2. Every Access Provider shall update the National Customer Preference Register through Provider Customer Preference Register atleast once in twenty four hours.

3. Agency maintaining the NCPR, upon receiving the data from Provider Customer Preference Register shall send the copy of the data thus received to the concerned Access Provider for confirming the correctness of the data.

4. Every Access Provider shall confirm online, the correctness of the data to the Agency. In case of some discrepancies, the details shall also be indicated to the Agency.

5. The agency shall update the NCPR with the data received from the Access Providers (the Provider Customer Preference Register) twice a week on every Tuesday and Friday from 0000 Hrs to 0600 Hrs. During this period NCPR shall not be available for use by the telemarketers and Access Providers.

6. The delta data so updated (both additions and deletions in NCPR) shall be available for download by Access Providers and the telemarketers from 0700 Hrs to 1300 Hrs on every Tuesday and Friday respectively.

7. The Access Providers and telemarketers shall update their national customer preference data with this delta data every Tuesday and Friday. In order that there is synchronization between the telemarketers and Access Providers, the data updated and downloaded on Tuesday will be used from 0000 Hrs of Wednesday to 2359 Hrs of Friday and the data updated and downloaded on

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Friday will be used from 0000 Hrs of Saturday to 2359 Hrs of Tuesday.

8. The agency shall also maintain an updated NCPR database. This data will be the only reference data for both telemarketers and Access providers.

B. Downloading and use of the data from National Customer Preference Register (NCPR)

1. Every Access Provider and registered telemarketer shall be allowed to download NCPR data from website www.nccptrai.gov.in.

2. The agency maintaining NCPR shall provide unique user name and password to each Access Provider and registered telemarketer to download the data from NCPR.

3. Every Access Provider shall initially be provided dump of NCPR data.

4. Every registered telemarketer shall be provided dump of updated NCPR data by the respective Access Provider on execution of agreement as specified Schedule IV.

5. Telemarketers shall do subsequent updation of their data as per the procedure specified under heading **A** above.

6. Every Access Provider and registered telemarketer shall make necessary arrangements to download the updated delta data (both additions and deletions in National Customer Preference Register data) from NCPR and update their database.

7. The database updated on Tuesday shall be operational from 0000 Hrs of Wednesday to 2359 Hrs of Friday. Similarly the database updated on Friday shall be operational from 0000 Hrs of Saturday to 2359 Hrs of Tuesday.

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SCHEDULE – III

PROCEDURE FOR REGISTRATION AND DEREGISTARTION OF TELEMARKETERS

A. PROCEDURE FOR REGISTRATION

1. A person intending to provide telemarketing service shall register online with TRAI using URL www.nccptrai.gov.in.

2. The National Telemarketer Register (NTR) shall be the nodal point for online registration of telemarketers.

3. All telemarketers (both existing and new) have to fill-in online application form for registration as telemarketer in the format specified by TRAI from time to time.

4. On successful submission of application form, a unique application number shall be generated by NTR.

5. NTR shall facilitate creation of a user name and password for each of the successful telemarketers to access or modify his profile. NTR shall facilitate password change by telemarketers.

6. All new telemarketers shall pay Rs 1,000/- as Registration fee and Rs 9000/- as customer education fee.

7. Existing Telemarketers (already registered with the TERM Cell of Department of Telecommunications) shall apply a fresh for re-registration as per the procedure detailed above. However they shall only pay Rs 9000/- as customer education fee.

8. NTR shall facilitate payment of registration fee and customer education fee by the telemarketers through either of two modes of payment i.e. offline or online.

9. All fee i.e. registration fee and customer education fee has to be deposited simultaneously by the telemarketer and no part payment shall be accepted.

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10. In case the telemarketer chooses the option for online payment -

(a) a unique registration number will be generated on successful payment (registration fee and customer education fee) by telemarketer; and

(b) a receipt will be generated giving details of the online financial transactions including date, time, clearance gateway etc. and the telemarketer may take a printout of filled-in form having application reference number, unique registration number along with online payment receipt.

11. In case the telemarketer chooses offline payment mode -

(a) on successful submission of application form, a unique application number will be generated, but no registration number will be allocated at this stage;

(b) the telemarketer shall download appropriate challan for payment, take a print out of challan and make payment in any of the branches of the designated bank;

(c) the designated bank on receipt of payment from telemarketer will update the information on NTR indicating confirmation of the payment by the telemarketer;

(d) once the payment has been made through the bank, a unique registration number will be generated and communicated to telemarketer through e-mail; and

(e)the telemarketer may take a printout of offline registration form indicating the unique registration number and details of payment.

12. A telemarketer shall enter into agreement with the Access Provider, as specified in Schedule IV or Schedule V to the Telecom Commercial Communications Customer Preference Regulations, 2010, as may be applicable, before being allotted any telecom resource by the Access Provider.

13. The telemarketer shall submit the filled-in the customer acquisition form (CAF) to the Access Provider from whom he wants telecom resources along with the copy of the online registration form.

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14. The Access Provider, after receipt of prescribed documents, shall process the request for allocation of telecom resources as per the existing guidelines.

15. The Access Provider shall provide mobile number from allotted number series to telemarketers for making voice calls and identifiable telecom resources including SMS headers as specified by TRAI.

16. The Access Provider shall update the details of telecom resources allotted to a telemarketer on NTR, before activating such resources.

17. After the details of telecom resources allocated to a telemarketer are uploaded on NTR, agency maintaining the NTR shall create a link on telemarketers profile page to facilitate downloading of the data from NCPR.

18. Existing telemarketers may get the waiver for registration fee by following the procedure given below-

    (a) indicate 'Existing' telemarketer in the payment option for registration;

    (b) fill-in the details of the present registration number (as alloted by DoT/ Term cell);

    (c) telemarketer shall choose appropriate payment option and make payment of Customer education fee;

    (d) telemarketer shall submit the copy of the registration form of being registered telemarketer with Department of Telecommunications, to Access Provider for verification;

    (e) all other steps shall be same as for the new registration for telemarketers.

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B. PROCEDURE FOR DEREGISTRATION

19. The telemarketer intending to de-register shall surrender his entire telecom resources taken for telemarketing purpose, to the Access Providers from whom he has taken such resources and get them disconnected.

20. The telemarketer shall apply online to deregister using URL www.nccptrai.gov.in.

21. The telemarketer shall log on to NTR using username and password allotted for profile modification and select de-registration option.

22. On selection of de-registration option by the telemarketer, the NTR shall display a de-registration form, which shall be filled by the telemarketer and submitted online.

23. Access Providers shall confirm surrender of resources to NTR.

24. Based on the information of Access Providers and request of telemarketer, the agency maintaining NTR shall remove the name of such telemarketer from National Telemarketers Register.

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Schedule-IV

Agreement between Access Provider and Telemarketer

This Agreement is executed on the _____ day of ……., 20…… between……(Name of Originating Access Provider) having its office at ……(hereinafter referred to as the "Originating Access Provider" or the first party, which term shall include its successors and assignees), through ……(Name and designation) who is duly authorised to sign and execute the present agreement on behalf of the first party

AND

M/s ……(Name of Telemarketer) having its office at ……(hereinafter referred to as the "telemarketer or the second party, which expression shall include all its executors, administrators, successors, assignees and legal representatives), through Shri/Ms/Smt----------(Give name and designation)_who has been duly authorized to sign and execute the present agreement on behalf of the second party.

Whereas the second party intending to obtain telecom resources for the purposes of carrying out telemarketing services has approached M/s……(name of the Originating Access Provider);

Now the present agreement witnesses as follows: -

(1) The second party hereby declare that it has registered as a telemarketer with the Telecom Regulatory Authority of India vide application No……and the registration number granted by TRAI to it is _____.

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(2) The telemarketer shall be responsible for any misuse of telecom resources allotted it for the purposes of telemarketing.

(3) The telemarketer shall maintain complete confidentiality of the data downloaded from the National Customer Preference Register for the purposes of telemarketing.

(4) The telemarketer has agreed to make all necessary arrangements to download the data from the National Customer Preference Register website and update its Customer Preference data base in accordance with the procedure specified in the Schedule-II to the Telecom Commercial Communication Customer Preference Regulations 2010.

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(5) The telemarketer has agreed that before sending any SMS or making a telemarketing call to a telecom subscriber, he shall scrub the telephone number of such subscriber with the data base received from the National Customer Preference register in the manner as specified in the Schedule-II of these regulations. In case, the telemarketer fails to follow the scrubbing process, telecom resources allotted to him shall be disconnected by the Access Provider from whom the telemarketer has taken the telecom resource for the purpose of telemarketing and his name shall be entered into the black list maintained by the agency maintaining the National Telemarketer Register for a period of two years.

(6) The telemarketer shall use alpha-numeric identifier for sending commercial communication in the format having nine alpha numeric characters, first alpha numeric character being code of Access provider and the second alpha numeric character being code of service area, as

provided under the direction dated 10th December, 2008 issued by TRAI. The third alpha numeric character will be dash(-) and the fourth being any single digit (1-7) with each digit indicating a specific category of SMS as per schedule-I of the regulations and last five characters being five digit unique identification code provided by respective Access Provider to the telemarketer e.g XY-5ZZZZZ, where X stands for code allotted to Access provider, Y stands for service area, 5 indicates that this SMS belongs to consumer goods and automobiles category and ZZZZZ indicates five digit unique identification code allotted to telemarketer by the Access Provider.

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(7) The telemarketer also agrees that the telemarketing calls to the subscriber whose telephone number does not appear in the National Customer Preference Register shall be sent only between 0900 Hrs to 2100 Hrs. The telemarketer also undertake not to send any commercial communication between 2100 Hrs to 900 hrs to any subscriber irrespective of the fact that such subscriber is registered on NCPR or not.

(8) The second party has agreed not to sent commercial communications to any subscriber whose telephone number appears on the National Customer Preference Register, except for sending SMS in respect of categories of preference opted by the customer.

(9) The second party has agreed to deposit with the Originating Access Provider an amount of rupees one lakh only (Rs. 1,00,000/-) as refundable security deposit. Telemarketer also undertakes to deposit additional security deposit as specified in this agreement. The Originating Access provider shall be entitled to deduct from such

security deposit, on issue of each notice for sending unsolicited commercial communication by the telemarketer, an amount as provided under this agreement.

(10) The second party makes any unsolicited commercial communication, through the telecom resources allotted to it by the first party, to any subscriber whose telephone number appears in the National Customer Preference Register, the second party agrees that -

(a) on the issue of first notice by the Originating Access Provider to the telemarketer for sending such unsolicited commercial communication, a sum of rupees twenty five thousand only (Rs. 25000/-) shall be deducted from the security deposit of the telemarketer and deposited in the account as may be specified by TRAI, from time to time;

(b) on the issue of second notice by the Originating Access Provider to the telemarketer for sending such unsolicited commercial communication, a sum of rupees seventy five thousand only (Rs. 75000/-) shall be deducted from the security deposit of the telemarketer and deposited in the account as may be specified by TRAI, from time to time;

(c) on the issue of third notice by the Originating Access Provider to the telemarketer for sending such unsolicited commercial communication, a sum of rupees eighty thousand only (Rs. 80000/-) shall be deducted from the security deposit of the telemarketer and deposited in the account as may be specified by TRAI, from time to time;

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(d) on the issue of fourth notice by the Originating Access Provider to the telemarketer for sending such unsolicited commercial communication, a sum of rupees one lakh twenty thousand only (Rs. 120,000/-) shall be deducted from the security deposit of the telemarketer and deposited in the account as may be specified by TRAI, from time to time;

(e) on the issue of fifth notice by the Originating Access Provider to the telemarketer for sending such unsolicited commercial communication, a sum of rupees one lakh fifty thousand only (Rs. 150,000/-) shall be deducted from the security deposit of the telemarketer and deposited in the account as may be specified by TRAI, from time to time;

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(f) on the issue of sixth notice by the Originating Access Provider to the telemarketer for sending such unsolicited commercial communication, a sum of rupees two lakh fifty thousand only (Rs. 250,000/-) shall be deducted from the security deposit of the telemarketer and deposited in the account as may be specified by TRAI, from time to time;

(11) The second party has agreed that on issue of first notice by the Access Provider to the telemarketer for sending unsolicited commercial communication to the subscriber whose telephone number appears in the National Customer Preference Register, the telemarketer shall deposit additional security amount of rupees two lakh only (Rs. 2,00,000/-) and on issue of third notice by the Access Provider to the telemarketer for sending similar unsolicited commercial

communication, the telemarketer shall deposit an additional security of amount of rupees four lakh only (Rs. 4,00,000/-).

(12) The second party has agreed that in case the telemarketer fails to deposit the additional security deposit or no amount is available in the security deposit of the telemarketer due to deductions made under clauses (10) of this Agreement, the telecom resources allotted to the telemarketer for the purposes of telemarketing shall be disconnected and the name of telemarketer shall be intimated by the Access Provider to the agency maintaining the National Telemarketer Register for entering the name of such telemarketer in the black list and the name of such telemarketer shall not be removed from the black list before the completion of the period of two years from the date of entering his name in such black list and the registration of the telemarketer shall be cancelled by TRAI under the provisions of the regulations.

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(13) The second party has agreed that in case of issue of sixth notice by the Access Provider to the telemarketer for sending unsolicited commercial communication as provided under clause 10(f) of this Agreement, without prejudice to the amount which shall be deducted from the security deposit of the telemarketer under clause 10(f), the telecom resources allotted to the telemarketer shall be disconnected without any further notice. The Access Provider shall intimate the name of such telemarketer to the agency maintaining the National Telemarketer Register for entering the name of the telemarketer in the black list and the name of such telemarketer shall not be removed from the black list before the completion of the period of two years from the date of entering his name in such black list and the registration of the telemarketer shall be cancelled by TRAI under the

provisions of the regulations.

(14) M/s.....(name of telemarketer) has agreed that the telecom resources allotted to the telemarketer shall be disconnected without any further notice on receipt of disconnection notice from NTR.

(15) The second party has agreed to abide by Regulations, Orders and directions issued by the Telecom Regulatory Authority of India, from time to time, regarding commercial communication including the header to be used for sending promotional SMS.

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Signature of subscriber/ Authorized Signatory

(Name of subscriber/ Authorised Signatory)

Address

Seal, if any.

Date:

Signature of Access Provider Representative/ Authorized Signatory

(Name of Access Provider Representative / Authorised Signatory)

Address

Seal, if any.

Date:

Schedule-V

Agreement between Access Provider and Transactional message sending entity or its agency

This Agreement is executed on the _____ day of ....., 20..... between.....(Name of Access Provider) having its office at .....(hereinafter referred to as the "Originating Access Provider" or the first party, which term shall include its successors and assignees), through .....(Name and designation) who is duly authorised to sign and execute the present agreement on behalf of the first party

AND

M/s .....(Name of Transactional message sending entity or its agency) having its office at .....(hereinafter referred to as the Transactional Message sending entity or the second party, which expression shall include all its executors, administrators, successors, assignees and legal representatives), through Shri/Ms/Smt----------(Give name and designation) who has been duly authorized to sign and execute the present agreement on behalf of the second party.

Whereas the second party intending to obtain telecom resources for the purposes of sending Transactional Message has approached M/s.....(name of the Originating Access Provider);

And whereas the second party having represented to the first party that it intends to send Transactional Message to the person with whom it has certain transactions and such Transactional Message does not fall within the definition of promotional message as defined under the Telecom

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Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) (hereinafter referred to as the regulations) and has requested for allotment of telecom resources for the said purpose.

Now the present agreement witnesses as follows: -

(1) The second party) hereby declare that it has registered with the Telecom Regulatory Authority of India vide application No.……..and the registration number granted by TRAI to it is _____.

(2) The second party has agreed to obtain separate telecom resources from the Access Provider for the purposes of sending transactional message and promotional communication from the Access Provider.

(3) The second party shall be responsible in case of any misuse of telecom resources allotted to it for sending Transactional Message.

(4) The second party shall maintain complete confidentiality of the customer information.

(5) The second party has agreed not to send any unsolicited commercial communication and not to mix any promotional communications with its Transactional Message sent to a subscriber through telecom resource allotted to it for the purposes of sending Transactional Message.

(6) The second party shall use alpha-numeric identifier for sending Transactional SMS in the format having nine alpha numeric characters, first alpha numeric character being code of Access provider and the second alpha numeric character being code of service area, as provided

under the direction dated 10th December, 2008 issued by TRAI. The third alpha numeric character will be dash(-) and the last six characters will be the identifier of the company or organization sending transactional SMS (example XY-ZZZZZZ, where X stands for code allotted to Access provider, Y stands for service area, and ZZZZZZ indicates six alphabets for company or organization sending transactional SMS).

(7) The second party has agreed not to make unsolicited commercial communications to any subscriber whose telephone number appears on the National Customer Preference Register, except for sending Transactional Message.

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(8) The second party has agreed to deposit with the Originating Access Provider an amount of rupees one lakh only (Rs. 1,00,000/-) as refundable security deposit. The Transactional Message sending entity also undertakes to deposit additional security deposit as specified in this agreement. The Originating Access Provider shall be entitled to deduct from such security deposit, on issue of each notice for sending unsolicited commercial communication by the second party, an amount as provided under this agreement.

(9) If the second party makes any unsolicited commercial communication, through the telecom resources allotted to it by the first party for sending Transactional Message, to any subscriber whose telephone number appears in the National Customer Preference Register, the second party agrees that-

(a) on the issue of first notice by the Access Provider to the second

party for sending such unsolicited commercial communication, a sum of rupees twenty five thousand only (Rs. 25000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(b) on the issue of second notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees seventy five thousand only (Rs. 75000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(c) on the issue of third notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees eighty thousand only (Rs. 80000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(d) on the issue of fourth notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees one lakh twenty thousand only (Rs. 120,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(e) on the issue of fifth notice by the Access Provider to the second party for sending such unsolicited commercial communication, a

sum of rupees one lakh fifty thousand only (Rs. 150,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(f) On the issue of sixth notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees two lakh fifty thousand only (Rs. 250,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time

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(10) The second party has agreed that on issue of first notice by the Access Provider to the second party for sending unsolicited commercial communication to the subscriber whose telephone number appears in the National Customer Preference Register, the second party shall deposit additional security amount of rupees two lakhs only (Rs. 2,00,000/-) and on issue of third notice by the Access Provider to the second party for sending similar unsolicited commercial communication, the second party shall deposit an additional security of amount of rupees four lakhs only (Rs. 4,00,000/-).

(11) The second party has agreed that in case the second party fails to deposit the additional security deposit or no amount is available in the security deposit of the second party due to deductions made under clause (9) of this Agreement or for any other reason, the telecom resources allotted to the second party for the purposes of sending Transactional Message shall be disconnected and the name of second party shall be intimated by the Access Provider to the agency

maintaining the National Telemarketer Register for entering the name of the second party in the black list and the name of second party shall not be removed from the black list before the completion of the period of two years from the date of entering his name in such black list and the registration of the second party shall be cancelled by TRAI under the provisions of the regulations.

(12) The second party has agreed that in case of issue of sixth notice by the Access Provider to the second party for sending unsolicited commercial communication as provided under clause 9(f) of this Agreement, without prejudice to the amount which shall be deducted from the security deposit of the second party under clause 9(f), the telecom resources allotted to the second party shall be disconnected without any further notice or on receipt of instructions for disconnection of telecom resources from NTR. The Access Provider shall intimate the name of the second party to the agency maintaining the National Telemarketer Register for entering the name of the second party in the black list and the name of the second party shall not be removed from the black list before the completion of the period of two years from the date of entering his name in such black list and the registration of the second party shall be cancelled by TRAI under the provisions of the regulations.

(13) The second party has agreed that the telecom resources allotted to the second party shall be disconnected without any further notice on receipt of the instruction for disconnection of telecom resources from NTR.

(14) The second party has agreed to pay the charges as provided in the

regulations in case the second party sends telemarketing SMSs and/ or mixes telemarketing or promotional SMSs with the transactional SMS.

(15) The second party has agreed to abide by regulations, orders and directions issued by the Telecom Regulatory Authority of India regarding Transactional Message, from time to time, including the header to be used for sending transactional SMSs.

Signature of subscriber/ Authorised Signatory

(Name of subscriber/ Authorised Signatory)

Address

Seal, if any.

Date:

Signature of Access Provider Representative/ Authorized Signatory

(Name of Access Provider Representative / Authorized Signatory)

Address

Seal, if any.

Date:

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SCHEDULE –VI

PROCEDURE FOR REGISTRATION OF COMPLAINT

a. Complaint registration through voice call

1. A customer may make a call to 1909 for registering his complaint.
2. The customer care executive shall ask the customer about the details like particulars of telemarketer, the telephone number from which the unsolicited commercial communication has originated the date, time and brief description of such unsolicited commercial communication.
3. The customer care executive shall register the customer complaint and acknowledge the complaint by providing a unique complaint number.

b. Complaint Registration through SMS

4. A customer may register unsolicited commercial communications related complaint by sending SMS to 1909 in the format given below-

   "COMP TEL NO XXXXXXXXXX, dd/mm/yy, Time hh:mm"

   Where XXXXXXXXXX – is the telephone number or header of the SMS, as the case may be, from which the unsolicited commercial communication has originated.
5. The customer complaint shall be registered and acknowledged by providing him a unique complaint number through SMS.

Miscellaneous: The complaint has to be registered from the telephone number on which unsolicited Commercial Communication has been received.

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Explanatory Memorandum

1. Unsolicited Commercial Communications (UCC) are a major cause of disturbance and inconvenience for telecom users in recent times. These communications invade the privacy of individuals. With growth in telecom services in the country and fall in telecom tariffs, telecommunications is now increasingly being used as a tool to advertise and market various products. TRAI has been receiving for some time now, complaints from telecom customers on the subject of UCC. In order to curb Unsolicited Commercial Communications, the Telecom Regulatory Authority of India (TRAI) notified the Telecom Unsolicited Commercial Communications Regulations, 2007 dated 5th June, 2007, which put in place a framework for controlling unsolicited commercial communications. It envisaged establishment of a National Do Not Call (NDNC) Registry to facilitate registration of requests from customers who do not wish to receive UCC. To improve the effectiveness of the framework, the Authority had subsequently amended these regulations by issue of the Telecom Unsolicited Commercial Communications (Amendment) Regulations, 2008 (1 of 2008) dated 17th March, 2008 and had imposed financial disincentives for non-compliance of regulatory provisions by the telecom service providers. The principal regulations were further amended by the Telecom Unsolicited Commercial Communications (Second Amendment) Regulations, 2008 dated 21st October, 2008, simplifying the customer enrolment process, smoothening the system for redressal of complaints related to UCC and imposing financial disincentives on Access Providers for non-compliance with regulatory provisions.

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2. Despite various measures taken by the Authority for curbing Unsolicited Commercial Communications, dissatisfaction on this account among telecom customers continues. Although the number of unsolicited commercial voice calls has decreased to some extent, the number of unsolicited SMS has increased. Till March 2010, a total of 3,40, 231 complaints regarding receipt of unsolicited calls and SMS have been received. About 65,000 complaints are received every month. This is just the tip of the iceberg as many customers do not lodge UCC complaints. Overall, there is every indication that the framework that has been put in place to curb UCC has been less than effective and needs revision.

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3. With rapid growth in telemarketing activity in the country, the problem has also grown in dimension. As per a recent study by Ernst and Young, India's BPO market was about USD 1.6 billion in 2008, and with a CAGR of 38%, is expected to reach USD 6 billion in FY 2012, with a maximum addressable opportunity of USD 16-19 billion. Customer interactive services, including sales and marketing contribute about 70% to domestic BPO revenues. The sector employ about 7,00,000 persons.

4. The Authority initiated the consultation process and issued a Consultation Paper on "Review of Telecom Unsolicited Commercial Communications Regulations" on 11th May, 2010. Comments were received from 342 stakeholders and Open House Discussions was held in Delhi in August, 2010. The Authority also held further consultations with Access Providers, aggregators, and

telemarketers to explore various possible options to effectively control Unsolicited Commercial Communications.

5. The major issues impacting the effectiveness of existing regulations, as highlighted by stakeholders, during the consultation process, are summarized below:

(i) The registration process for telemarketers is complicated and unfriendly; as a result there are a large number of unregistered telemarketers. The present frame work envisages registration of telemarketers through the NDNC Registry, but payment of registration fee and issue of registration certificate is manual. The process is cumbersome and inconvenient and takes a lot of time, discouraging telemarketers from registering themselves.

(ii) The existing National Do Not Call Registry has prescribed a maximum limit on telephone numbers that can be scrubbed in a day which is too low. The amount of time taken to return the scrubbed list of numbers is also high. The limited scrubbing capabilities provided by the NDNC registry impact the business model of telemarketers and this encourages them to use unscrubbed lists of telephone numbers.

(iii) Identification of defaulters depends on the customer complaints. Customers are not coming forward to complain about violation of the regulations due to ineffective complaint redressal by their Access Providers. The analysis of the available data indicates that percentage of subscribers making complaints regarding unsolicited commercial communications is very low. This has adversely impacted the identification of those telemarketers who flout the norms.

(iv) Existing provisions to ensure compliance are not strong enough to create a deterrent against violation of the regulations. The

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present framework prescribing higher tariff of Rs.500/- in first instance and Rs.1000/- in second instance for making unsolicited commercial communication is not a sufficient deterrent, especially due to very limited complaints registered by subscribers.

(v) Disconnection of telecom resources is not an effective deterrent as the defaulting telemarketer can take telecom resources from other service providers. There is no provision for effectively blacklisting such telemarketers to restrict provision of telecom resources to them.

(vi) The present framework largely depends on proper functioning and adherence to the prescribed procedure by telemarketers. Only minimal checks and balances have been prescribed. No framework has been prescribed to control telemarketing calls / SMSs by the Access Providers before delivery to customers registered on NDNC.

(vii) There is a lack of awareness among customers about the facility for registering their telephone number in the National Do Not Call Register.

6. In view of above, stakeholders expressed the view that there is a need to replace the present regulatory framework with one which facilitates easy registration of telemarketers, builds in flexibility for scrubbing by telemarketers, ensures adequate defensive mechanisms to auto-stop delivery of UCC to customers who do not want such messages, and provides for effective enforcement of regulations.

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7. The object of this regulation is to provide an effective mechanism for curbing Unsolicited Commercial Communications. The Telecom Commercial Communications Customer Preference Regulations, 2010 have been framed keeping in view the interest of the customers and telemarketers while ensuring effective implementation. The main features of the Telecom Commercial Communications Customer Preference Regulations, 2010 are as follows:

(i) Options to customer to exercise his preference

(ii) A simple and easy procedure for exercising option by the customer

(iii) Easy registration of the telemarketer with effective identification

(iv) Sharing of National Customer Preference Register with service providers and telemarketers so that telephone databases can be effectively scrubbed before initiating telemarketing activities

(v) Filtering and auto-blocking of calls and SMS to customers according to their options, if any

(vi) Disconnection of telecom resources of defaulting telemarketers and blacklisting to ensure that they do not get any telecom resources from any other access provider

(vii) Adequate provision to effectively implement the provisions of the Regulations

8. The consultation paper deliberated the option of adopting a Do Call Registry to control UCC. While some consumer organizations and individuals advocated the adoption of a Do Call Registry, most of the telemarketers and service providers and even some individuals,

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have opposed the concept of a Do Call Registry. While the former group felt that the responsibility to restrict unsolicited calls should not be placed on the customer (as is the case in the present system), the latter group pointed out that the implementation of a Do Call Registry would in the first instance, bring all telemarketing activity to a halt, thereby jeopardizing the business and employment of lakh of young workers and hundreds of small entrepreneurs. An important theme of the deliberations in the open house discussions was the need to provide options to customers to exercise their preference. Accordingly, the Authority with due regard to the rights of the customers to exercise preference, has decided to provide a mix of Do call and Do not call options to the customers within the new framework. Regulation 7 provides options to customers to register to receive SMS from specified category or categories or not to receive any commercial communication. The customer can opt to block all commercial communication or can selectively block SMS from specified categories or can continue to get all calls/ SMS. The regulations also lay down a separate number series for telemarketers for voice calls; this will facilitate easy identification of telemarketing voice calls by customers receiving such calls.

9. The consultation paper also highlighted the issue of low registration of customers on the NDNC registry. One of the major reasons is the long time taken for registration in the NDNC (45 days). Stakeholders have suggested further simplification of the registration mechanism. These regulations provide for registration of customers preferences using voice call or SMS on 1909. It has been mandated that all access providers shall intimate the registration number to customers by SMS within 24 hours. These

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regulations provide that the time taken for effecting registration of the telecom customers on the National Customer Preference Register shall be reduced to 7 days instead of 45 days at present. A detailed procedure has been specified to ensure that customer's preference becomes effective within 7 days time. Efforts will be made to further reduce this time period in due course.

10. Unsolicited Commercial Communications are found to be originating from both registered and unregistered telemarketers. A large number of telemarketers including direct sales agents (DSAs) are not registered with Department of Telecommunications (DoT). Stakeholders pointed out that lengthy and complicated procedure for telemarketers to register with the DoT is one of the reasons for low registration of telemarketers. Difficulties faced by the telemarketers in registration were also highlighted during open house discussions. As per the telemarketers, the registration IDs often do not get verified within the prescribed period of 90 days resulting in deactivation of their IDs based on which they scrub telephone numbers on the NDNC. In such cases, the whole process has to be started again. It was also pointed out that if for any reason, the telemarketer's application is rejected within 90 days there is no mechanism for intimating the telemarketer regarding the same. This denies the telemarketers' access to the NDNC for scrubbing, forcing them to send UCC without scrubbing. The Regulations provide for a simplified registration process for telemarketers including online registration. Accordingly, provisions have been made in Regulation 14 that all the telemarketers will now be registered with TRAI through website www.nccptrai.gov.in In order to identify the telemarketer, unique identification information such as PAN and/or TAN is added in the online application form.

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On successful submission of the application form online, a unique application number will be generated. Telemarketers will have the option of payment of fee either online or offline and will be given a unique registration number after payment is successfully made.

11. Stakeholders also pointed out the need to effectively control telemarketers. It emerged that the framework in the 2007 regulations to impose higher tariff for default by telemarketers, has not worked effectively. Stakeholders were of the view that existing penal provisions on telemarketers should be enhanced manifold. In order to ensure effective control, these regulations mandate all telemarketers to enter into an agreement with the Access Providers before any telecom resources are allocated to them. A security deposit will be collected from each telemarketer by Access Providers from which amount for default or contravention of regulations will be deducted. Telemarketers have to deposit additional security deposits as per the provisions in the regulations based on number of defaults or contraventions. The regulations also mandate that all telecom resources shall be disconnected at the sixth violation. These measures are expected to inculcate a greater sense of responsibility among the telemarketers.

12. Stakeholders were of the view that currently disconnection of telecom resources of telemarketers is not effective in controlling UCC, as the defaulting telemarketer can again take telecom resources from another access provider. In order to ensure that telemarketers follow the regulatory framework to control UCC, provisions have been made in the regulations to create a black list of telemarketers whose telephone connections or services have

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been disconnected for violation of the regulations so that a disconnected telemarketer is not able to take connections or services or telecom resources from any other access provider. For this purpose the PAN and /or TAN number is being captured during the registration of Telemarketer. The blacklisted Telemarketers will be identified through their PAN and/or TAN number. Further, access providers shall ensure that no telecom resources are allotted to such blacklisted telemarketers. Blacklisting shall be valid for a period of two years counted from the date of the disconnection of telecom resource and blacklisted companies, individuals and entities will not be provided any telecom resources across the country during this period.

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13. The issue related to limited scrubbing facility provided by NDNC in existing framework was discussed in detail during open house discussions and meetings with various stakeholders. Many stakeholders expressed the view that the list of customers registered on NDNC should be shared with them so that they could use their own scrubbing facility. They were of the view that effectiveness of the framework can be increased if the scrubbing process is decentralized and telemarketers are permitted to make their own arrangements to scrub. Accordingly, provisions have been made in the regulations to simplify the scrubbing process. All telemarketers and Access Providers will be permitted to download the complete National Customer Preference (NCP) data from the NCPR website for which a unique user name and password will be provided.

14. Stakeholders also pointed out exponential increase in unsolicited commercial communications through SMS and desired effective measures to control unsolicited SMS. In this regard, it is noted that telemarketers buy bulk SMS from Access Providers at nominal cost and send these SMS to customers. In many cases, telemarketers hire leased lines to push SMSs to customers. Customers who are registered with the NDNC Registry also receive such SMS. A need was therefore felt to explore possibilities to modify the existing regulatory framework or to bring in a new regulatory framework to effectively control Unsolicited Commercial Communications.

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15. The question of blocking by the service provider an unsolicited commercial communication sent by the telemarketer to customer registered on NCPR was also discussed during the consultation process. Mixed views were expressed. While one set of service providers have opined that filtering of calls and SMS may increase the load on the system and may be difficult to implement, others feel that technical solutions can be worked out to effectively block unsolicited commercial SMS. They felt that the unsolicited commercial calls can also be blocked automatically if an identified number series is given to each service provider. During consultations, some stakeholders suggested that a separate series of numbers could be allotted for telemarketers so that customers could identify a call coming from a telemarketer. The matter was taken up with the Department of Telecommunications and a separate number series has been obtained for telemarketing purposes from mobile number series, out of which service providers can allot numbers to their telemarketers for making voice calls. Further analysis revealed that technical solutions are

available to effectively control unsolicited commercial SMSs. Accordingly, provisions have been made such that all telemarketers ensure scrubbing of numbers using their own arrangement and all Access Providers ensure filtering of unsolicited commercial calls and SMS so that no call or SMS is sent to any customer registered on NCPR unless he has opted for it.

16. Stakeholders have also highlighted the need to define UCC so that it is clear what messages will be considered as unsolicited. They have given certain examples in which indirect consent of the customer is implicit in what might otherwise be classed as UCC, and wanted clarity in the matter. The Authority has considered the issue raised and has separately defined the framework for transactional messages so that there is no ambiguity. The regulations provide a well-defined process for sending transactional messages through separate telecom resources dedicated for the purpose by Access Providers. The SMS header has also been standardized to clearly indicate the nature of the message.

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17. In order to facilitate options for receiving SMS of predefined category or categories by customers, the regulations also define the structure of header. Customers can identify promotional SMS just by looking at the SMS header. This will reduce the inconvenience of even those customers who are not registered on the NCPR.

18. The Authority is also aware that unsolicited commercial communications can be/are being sent by unregistered

telemarketers. Such messages can be sent by any person and they are essentially in the category of P2P communications. However, in order to curb such messages, the Authority has decided that no Access Providers shall provide any SMS packages in any form (through voucher, student pack, seasonal pack etc) permitting sending of more than 100 SMS per day per SIM except on blackout days or days specially notified by TRAI. Any such package already in use shall be withdrawn w.e.f 31.12.2010. Provisions have also been made to disconnect the telecom resources after giving a notice if it is found that telemarketing activities are being done form the unregistered telemarketer.

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19. During the consultation process, some stakeholders expressed the view that imposition of a termination charge on commercial SMSs could prove to be an effective deterrent to the indiscriminate use of SMS for commercial communications. The Authority has deliberated this point, but has felt that prescription of a termination charge basically falls within the purview of the interconnection regime and should be taken up as a separate exercise as and when the interconnection usage charge regulations are reviewed.

20. Stakeholders have also pointed out that complaint redressal mechanism is not effective and customers get no feedback on the complaints registered by them. They are of the view that customers may be informed about the action taken on their complaints. This will encourage customers to register complaints in case of violation of regulatory provisions. The Authority is concerned with effective redressal of customer complaints relating to UCC and has

prescribed a framework in which action is taken within seven days of lodging the complaint and the customer is informed about the action taken.

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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 14th December, 2010

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (AMENDMENT) REGULATIONS, 2010
(7 OF 2010)

IndiaCode

No.305-17/2010-QoS.- In exercise of powers conferred by section 36 read with sub-clause (v) of clause (b) of sub-section (1) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Amendment) Regulations, 2010.

(2) They shall come into force from the date of their publication in the official Gazette.

(3) In sub-regulation (2) of regulation 1 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (hereinafter referred to as the principal regulations),---

(a) for clause (b), the following clause shall be substituted, namely:-

"Regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of these regulations shall come into force, as may be specified by the Authority, from time to time.";

(b) clause (c) shall be deleted.

2. In regulation 25 of the principal regulations,-

(a) for clause (b), the following clause shall be substituted, namely:-

"Regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall remain in force till such time, as may be specified by the Authority, from time to time.";

(b) clause (c) shall be deleted.

(N. Parameswaran)
SECRETARY-IN CHARGE

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Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Amendment) Regulations, 2010 (7 of 2010).

Explanatory Memorandum

The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications. Regulation 13, 14, 15, 16 and 17 of the regulations were required to be implemented with effect from the 15th day of December, 2010, while regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 19, 20, 21 and 22 were required to be implemented with effect from the 1st day of January, 2011.

2. Having regard to the aspect of security audit of the website to be created for the purpose of these regulations and the other processes involved, the Telecom Regulatory Authority of India has found it necessary to re-determine the dates for implementation of the aforesaid regulations. Accordingly, clause (b) and clause (c) of sub-regulation (2) of regulation 1 and clause (b) and clause (c) of regulation 25 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) dated the 1st December, 2010 have been amended.

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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the -- 28th December, 2010

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (SECOND AMENDMENT) REGULATIONS, 2010
(8 OF 2010)

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No.305-17/2010-QoS.- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Second Amendment) Regulations, 2010.

(2) They shall come into force from the date of their publication in the official Gazette.

(2) In sub-regulation (2) of regulation 1 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (hereinafter referred to as the principal regulations),---

(a) for clause (b), the following clause shall be substituted, namely:-

> **"**(b) Regulation 13,14, 15,16 and 17 of these regulations shall come into force on the 15th day of the January, 2011;**"**;

(b) after clause (b) so substituted, the following clause shall be inserted, namely:-

"(c) Regulations 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 19, 20, 21 and 22 of these regulations shall come into force on the 1st day of the February, 2011.".

3. In regulation 25 of the principal regulations,-

(a) for clause (b), the following clause shall be substituted, namely:-

"The provisions contained in regulations 13 to 15 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall remain in effect till the 14th day of January, 2011;";

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(b) after clause (b) so substituted, the following clause shall be inserted, namely:-

"(c) The provisions contained in regulations 3,4,5,6,7,8,9,10,11,12,16,17 and 18 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall remain in effect till the 31st day of January, 2011.".

(R. K. Arnold)
SECRETARY

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2: The principal regulations were amended vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Second Amendment) Regulations, 2010 (8 of 2010).

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Explanatory Memorandum

The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications. Regulation 13, 14, 15, 16 and 17 of the regulations were required to be implemented with effect from the 15th day of December, 2010, while regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 19, 20, 21 and 22 were required to be implemented with effect from the 1st day of January, 2011.

2. Having regard to the aspect of security audit of the website to be created for the purpose of these regulations and the other processes involved, the Telecom Regulatory Authority of India has found it necessary to re-determine the dates for implementation of the aforesaid regulations. Accordingly, clause (b) and clause (c) of sub-regulation (2) of regulation 1 and clause (b) and clause (c) of regulation 25 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) dated the 1st December, 2010 have been amended.

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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the – 31st January, 2011

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (THIRD AMENDMENT) REGULATIONS, 2011 (1 OF 2011)

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No.305-17/2010-QoS.- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations further to amend "The Telecom Commercial Communications Customer Preference Regulations, 2010, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Third Amendment) Regulations, 2011.

(2) They shall come into force from the date of their publication in the official Gazette.

2. In sub-regulation (2) of regulation 1 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (hereinafter referred to as the principal regulations),---

(a) for clause (c), the following clause shall be substituted, namely:-

"(c) Regulations 3, 4, 5, 6, 7, 8, 9, 10 and 11 of these regulations shall come into force on 10th day of the February, 2011;"

(b) after clause (c), so substituted, the following clause shall be inserted, namely:-

"(d) Regulations 12, 18, 19, 20, 21 and 22 of these regulations shall come into force on the 1st day of March, 2011."

3. In regulation 17 of the principal regulations, ----

(a) for sub-regulation (11), the following sub-regulation shall be substituted, namely:-

"(11) Every Access provider shall withdraw the telecom resources already allotted to a telemarketer from the 28th February 2011."

4. In regulation 25 of the principal regulations, ----

(a) for clause (c), the following clause shall be substituted, namely:-
"(c) the provisions contained in regulations 3, 4, 5, 6, 7, 8, 9, 10 and 11 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall remain in effect till the 9th day of February, 2011;"

(b) after clause (c), so substituted, the following clause shall be inserted, namely:-
"(d) the provisions contained in regulations 12, 16, 17 and 18 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall remain in effect till the 28th day of Feburary, 2011."

(R. K. Arnold)
SECRETARY

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2: The principal regulations were amended vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th December, 2010.

Note 4: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Third Amendment) Regulations, 2011 (1 of 2011).

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Explanatory Memorandum

The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications. Regulation 13, 14, 15, 16 and 17 of the regulations were required to be implemented with effect from the 15th day of December, 2010, while regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 19, 20, 21 and 22 were required to be implemented with effect from the 1st day of January, 2011.

2. Having regard to the aspect of security audit of the website to be created for the purpose of these regulations and the other processes involved, the Telecom Regulatory Authority of India has found it necessary to re-determine the dates for implementation of the aforesaid regulations. Accordingly, clause (b) and clause (c) of sub-regulation (2) of regulation 1 and clause (b) and clause (c) of regulation 25 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) dated the 1st December, 2010 have been amended on 14th December, 2010 and on 28th December, 2010. After these amendments, Regulation 13, 14, 15, 16 and 17 of the regulations were required to be implemented with effect from the 15th day of January, 2011, while regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 19, 20, 21 and 22 were required to be implemented with effect from the 1st day of February, 2011.

3. As per the DoT letter No. 16-5/2009-AS.III/(pt.)/(3)/1124 dated 18.10.2010, a separate number series starting with '70' level has been allocated for telemarketing purpose. This series was to be used for both mobile as well as basic service. Accordingly provisions has been made in the regulations. However, DoT has issued a letter vide No. 16-5/2009-AS.III/(Vol. IV) dated 31st January, 2011 stating that in order to have better utilization of number series starting with '70', new level starting with digits '140' has been allocated now for mobile network for telemarkters. The levels allocated are only for mobile services of the licenses. Same numbering scheme can not be used for both for basic and mobile services as per the notification of DoT. Levels for basic services will be allocated after resolving the issue of CLI for telemarketing operations using basic services. This new series will be required to be implemented by all access service providers before allocation of resources to telemarketer. For this purpose

time will be required by access providers to change the configuration in their system and testing of new series.

4. As per the existing provisions under sub-regulation 11 of regulation 17, Access providers have to withdraw the telecom resources already allotted to a telemarketer by 15th February, 2011. Regulation 17 has come into force from 15th January, 2011 and service providers may have allotted the new resources as per the provisions of these regulation. However, various provisions of Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) have been continued upto 1st March 2011 under these regulations, for which, telemarketer may required the existing resources to comply with it. Therefore, sub-regulation 11 of regulation 17 has been amended accordingly.

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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the -- 28th February, 2011

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (FOURTH AMENDMENT) REGULATIONS, 2011 (3 OF 2011)

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No.305-17/2010-QoS.- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) of sub-section (1) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Fourth Amendment) Regulations, 2011.

(2) They shall come into force from the date of their publication in the official Gazette.

2. In sub-regulation (2) of regulation 1 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (hereinafter referred to as the principal regulations), ---

(a) for clause (d), the following clause shall be substituted, namely:-

"(d) Regulations 12, 18, 19, 20, 21 and 22 of these regulations shall come into force on the 21st day of March, 2011."

3. In regulation 17 of the principal regulations, ----

(a) for sub-regulation (11), the following sub-regulation shall be substituted, namely:-

"(11) Every Access Provider shall withdraw the telecom resources already allotted to a telemarketer from 20th day of March 2011."

4. In regulation 25 of the principal regulations, ---

(a) for clause (d), the following clause shall be substituted, namely:-

"(d) the provisions contained in regulations 12, 16, 17 and 18 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall remain in effect till the 20th day of March, 2011."

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(R. K. Arnold)
SECRETARY

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2: The principal regulations were amended vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th December, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31st January, 2011.

Note 5: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (fourth amendment) Regulations, 2011 (3 of 2011).

Explanatory Memorandum

The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications. Regulation 13, 14, 15, 16 and 17 of the regulations were implemented with effect from the 15th day of January, 2011, while regulation 3, 4, 5, 6, 7, 8, 9, 10 and 11 were implemented with effect from the 10th day of the February, 2011.

2. DoT vide letter No. 16-5/2009-AS.III/(Vol. IV) dated 31st January, 2011 has provided '140' number series to be allocated to telemarketers for mobile network. However, number series for fixed network are still not allocated. The matter has been taken up on urgent basis to allocate number series to telemarketers for fixed network. Access Providers have indicated that it will not be possible to provide all the resources to call centres from mobile network only due to high traffic originated from such call centres. It is expected that number series for telemarketing activities from fixed network will be allocated by DoT shortly. This new series will be required to be implemented by all Access Providers before allocation of resources to telemarketer. For this purpose time will be required by Access Providers to change the configuration in their system and test the new series. Accordingly, relevant clauses of The Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) have been amended.

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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the – 18th March, 2011

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (FIFTH AMENDMENT) REGULATIONS, 2011
(4 OF 2011)

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No.305-17/2010-QoS.- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) of sub-section (1) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Fifth Amendment) Regulations, 2011.

(2) They shall come into force from the date of their publication in the official Gazette.

2. In sub-regulation (2) of regulation 1 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (hereinafter referred to as the principal regulations), ---

(a) for clause (d), the following clause shall be substituted, namely:-

"(d) Regulations 12, 18, 19, 20, 21 and 22 of these regulations shall come into force, from such date as may be notified by the Authority."

3. In regulation 17 of the principal regulations, ----

(a) for sub-regulation (11), the following sub-regulation shall be substituted, namely:-

"(11) Every Access Provider shall withdraw the telecom resources already allotted to a telemarketer from such date as may be notified by the Authority."

4. In regulation 25 of the principal regulations, ---

(a) for clause (d), the following clause shall be substituted, namely:-

"(d) the provisions contained in regulations 12, 16, 17 and 18 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall remain in force till such time, as may be notified by the Authority."

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(R. K. Arnold)
SECRETARY

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2: The principal regulations were amended vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th December, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31st January, 2011.

Note 5: The principal regulations were further amended (forth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (fifth amendment) Regulations, 2011 (4 of 2011).

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Explanatory Memorandum

The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications. Regulation 13, 14, 15, 16 and 17 of the regulations were implemented with effect from the 15th day of January, 2011, while regulation 3, 4, 5, 6, 7, 8, 9, 10 and 11 were implemented with effect from the 10th day of the February, 2011.

2. DoT vide letter No. 16-5/2009-AS.III/(Vol. IV) dated 31st January, 2011 has provided '140' number series to be allocated to telemarketers for mobile network. However, number series for fixed network are still not allocated. The matter has been taken up on urgent basis to allocate number series to telemarketers for fixed network. Access Providers have indicated that it will not be possible to provide all the resources to call centres from mobile network only due to high traffic originated from such call centres. Due to non availability of numbering resources from fixed line network from DoT date of implementation of relevant clauses of The Telecom Commercial Communications Customer Preference Regulations, 2010 has been extended upto 21st March, 2011 through the forth amendment to the regulations on 28th February, 2011 . However, till date DoT has not allocated the numbering resources for telemarketers from fixed line network. This new numbering series will be required to be implemented by all Access Providers before allocation of resources to telemarketer. For this purpose time will be required by Access Providers to change the configuration in their system and test the new series. No time frame has been specified by DoT as of now. Accordingly, relevant clauses of The Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) dated the 1st December, 2010 have been amended.

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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the – 05th September, 2011

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (SIXTH AMENDMENT) REGULATIONS, 2011
(5 OF 2011)

No.352-4/2011-CA (QoS) pt.- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) of sub-section (1) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Sixth Amendment) Regulations, 2011.
(2) They shall come into force from the date of their publication in the official Gazette.

2. In sub-regulation (2) of regulation 1 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (hereinafter referred to as the principal regulations),---

(a) for clause (d), the following clause shall be substituted, namely:-

"(d) Regulations 12, 18, 19, 20, 21 and 22 of these regulations shall come into force on the 27thday of September, 2011."

3. In regulation 2 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (hereinafter referred to as the principal regulations),----

(a)after clause (m), the following clause shall be inserted, namely:----

"(ma) "licensee" means any person licensed under sub-section (1) of section 4 of Indian Telegraph Act, 1885 (13 of 1885) for providing specified public telecommunication services;"

4. In clause (ab) of regulation 2 of the principal regulations,---

(a) for sub-clause (i), the following sub-clause shall be substituted, namely:-

"(i) information pertaining to the account of its customer sent to the customer by a licensee or Bank or financial institution or insurance company or credit card company or depositories registered with Securities and Exchange Board of India or Direct to Home Operators;"

(b) for sub-clause (iii), the following sub-clause shall be substituted, namely:-
"(iii) information from a registered educational institution to its students or their parents or guardians;"

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5. In clause (ac) of regulation 2 of the principal regulations,---

(a) for sub-clause (ii), the following sub-clause shall be substituted, namely:-
"(ii) any message transmitted by or on the directions of the Central Government or State Government;"

(b) after sub-clause (ii), the following sub-clauses shall be inserted, namely:-

"(iii) any message transmitted by or on the directions of bodies established under the Constitution; or
(iv)any message transmitted by or on the directions of the Authority;

(v) any message transmitted by any agency authorized by the Authority from time to time;"

6. In regulation 8 of the principal regulations,-

(a) In sub-regulation (1), for the words, 'three months', the words 'seven days' shall be substituted.

7. In regulation 17 of the principal regulations, ----

(a) for sub-regulation (11), the following sub-regulation shall be substituted, namely:-

"(11) Every Access Provider shall withdraw before the 26th September, 2011 all telecom resources allocated to a telemarketer except those telecom resources which have been allocated in accordance with the provisions of the regulations."

8. In sub-regulation (2) of regulation 20 of the principal regulations,---

(a) in clause (a), after the word 'unless' and before the word 'has', the word 'it' shall be inserted.

(b) for clause (j), the following clause shall be substituted, namely:-

"(j) every Access Provider shall ensure that any commercial communication including SMS, other than transactional messages, is sent to a customer only between 0900 Hrs to 2100 Hrs;"

(c) after clause (k), the following clauses shall be inserted, namely:-

"(ka) no Access Provider shall permit sending of more than one hundred SMS per day per SIM:

Provided that in case of post paid telephone number the Access Provider shall not permit more than three thousand SMS per SIM per month:

Provided further that in case of post paid telephone number, the Access Provider shall not permit sending of more than one hundred SMS per day per SIM from a date to be notified by the Authority;

(kb) the Authority may by direction, from time to time, specify the category of SMS which shall be excluded from the limit of one hundred SMS per day per SIM:

Provided that before permitting a customer to send specified category of SMS beyond the limit of one hundred SMS per day per SIM, the Access Provider shall obtain an undertaking from

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such customer that he shall not use such telephone number for sending any commercial communications:

Provided further that the Access Provider shall enter, in the list maintained in the National Telemarketer Register, the telephone number, name and address of the customer, category of exempted SMS and date of permitting sending of SMS beyond limit of one hundred SMS per day per SIM and the said list shall be updated every Monday."

9. In regulation 25 of the principal regulations,---

(a) for clause (d), the following clause shall be substituted, namely:-

"(d) the provisions contained in regulations 12, 16, 17 and 18 of the Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) shall remain in force till the 26th day of September, 2011."

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10. In Schedule-I to the principal regulations ---

(a) under the heading 'Miscellaneous', after serial number II, the following shall be inserted, namely:-

"III. A customer may exercise his option to receive messages for the following preferences: 1- Banking/Insurance/Financial products/credit cards, 2- Real Estate, 3- Education, 4- Health, 5- Consumer goods and automobiles, 6- Communication/Broadcasting/Entertainment/IT, 7-Tourism and Leisure.

IV. The Authority may by direction, from time to time, specify additional preferences in the partially blocked category.

V. For sending the promotional messages, the telemarketers shall use alphanumeric identifier in the format XY-RZZZZZ where X stands for code allotted to Access provider, Y stands for service area, as specified by the Authority from time to time and R being any digit from 0 to 7, where 0 indicate that the SMS is commercial communication but does not belong to any preference specified under serial number III, 1-7 indicates the preference specified

under serial number III and ZZZZZ indicates five digit unique identification code allotted to telemarketer by the Access Provider. As and when additional preferences are specified by the Authority, the same will be assigned number 8 onwards for 'R'."

11. In Schedule-III to the principal regulations ---

(a) for clause (15), the following clause shall be substituted, namely:-

"(15) The telecom resources allotted by an Access Provider to the telemarketer shall be from the number series '140' allocated by Department of Telecommunications for voice calls and SMS header as specified by the Authority."

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(R. K. Arnold)
SECRETARY

Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28thDecember, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31stJanuary, 2011.

Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Sixth Amendment) Regulations, 2011 (of 2011).

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Explanatory Memorandum

The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications. Regulation 13, 14, 15, 16 and 17 of the regulations were implemented with effect from the 15th day of January, 2011, while regulation 3, 4, 5, 6, 7, 8, 9, 10 and 11 were implemented with effect from the 10th day of the February, 2011. Regulation 12, 18, 19, 20, 21 and 22 of these regulations were to be implemented, from a date to be notified by the Authority.

2. DoT vide letter No. 16-5/2009-AS.III/(Vol. IV) dated 31st January, 2011 had provided '140' number series to be allocated to telemarketers for mobile network. However, number series for fixed network was not allocated. Due to non-availability of numbering resources from fixed line network, date of implementation of relevant clauses of The Telecom Commercial Communications Customer Preference Regulations, 2010 was amended to be effective from a date to be specified by the Authority. Now, DoT vide letter no. 16-5/2009-AS.III/Vol. IV dated 16th August 2011 has provided '140' number series to be allocated to telemarketers for fixed line network. Access Providers have to make relevant provisions in their network before allocation of resources to telemarketers using '140' numbering series from fixed line network. Accordingly, relevant clauses of regulations has been amended and the regulations are being implemented from 27th September, 2011.

3. The Authority also considered the need to modify the definition of the transactional messages considering the practical aspect of business. Accordingly the Authority has made certain changes in definition of Transactional message.

4. The need to send SMSs in public interest by the Authorities established under the Constitution was also considered. Accordingly, any message

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transmitted by or on the directions of the Authority established under the Constitution or Telecom Regulatory of India (TRAI) or agencies authorized by the Authority has been exempted from the definition of Unsolicited Commercial Communications.

5. As per the existing provisions of regulations, a customer after registering or changing his preference in NCPR cannot change it before a period of three months. In order to provide flexibility to a customer to change his preference, the existing restriction of three months has been reduced to seven days.

6. In order to ensure smooth flow of the transactional messages without any restrictions as specified for commercial communications, the relevant clauses of regulation have been amended.

7. The Authority also considered the operational requirements of certain categories for sending non-commercial SMS in excess of one hundred SMS per SIM per day. Accordingly necessary provision has been made.

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PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the – 25th October, 2011

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THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (SEVENTH AMENDMENT) REGULATIONS, 2011

(6 OF 2011)

No.352-4/2011-CA (QoS)- In exercise of powers conferred by section 36 read with sub-clauses (v) of clause (b) of sub-section (1) of section 11 and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Seventh Amendment) Regulations, 2011.

(2) They shall come into force from the date of their publication in the official Gazette.

2. In regulation 2 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) (hereinafter

referred to as the principal regulations) after the clause (t), the following clause shall be inserted, namely:-

"(ta) "promotional SMS charge" means the charge payable by an Originating Access Provider to the Terminating Access Provider for each promotional SMS sent by a registered telemarketer from the network of the Originating Access Provider to the network of the Terminating Access Provider."

3. After regulation 16 of the principal regulations, the following regulation shall be inserted, namely:-

"16A. **Communication of Transactional Message.-**Every Transactional message originated by an entity shall be sent directly by such entity or through a registered telemarketer."

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4. In regulation 17 of the principal regulations, ----

(a) for sub-regulation (4), the following sub-regulation shall be substituted, namely:-

"(4) Before providing any telecom resource to an entity or a telemarketer for the purpose of sending Transactional message, every Access Provider shall, in addition to any other arrangements as may be required under any other law for the time being in force, enter into a standard agreement as specified in Schedule-V to these regulations.

Provided that nothing contained in this sub-regulation shall apply to the Access Provider for the purpose of sending Transactional messages to its employees using its own network."

5. In sub-regulation (2) of regulation 20 of the principal regulations, ----

(a) for clause (k), the following clause shall be substituted, namely:-

"(k) no Access Provider shall provide to any person, other than a telemarketer or an entity sending transactional message, any tariff plan or SMS package in any form such as special recharge voucher, student pack, seasonal pack etc. permitting sending of more than one hundred SMS per day per SIM except on 'blackout days' and additional days as may be specified by the Authority by direction issued from time to time and all such SMS packages already provided to any such person shall not be renewed after their expiry:

Provided that all SMS packages already provided to a customer other than to a telemarketer shall be discontinued on coming into force of these regulations;

Explanation: For the purpose of this sub-clause, 'blackout days' means the days on which free or concessional calls or SMS are not applicable."

(b) After second proviso to clause (ka), the following proviso shall be inserted, namely:-

"Provided also that the limit of one hundred SMS per day per SIM shall not apply to a telemarketer or entity sending transactional messages;"

6. After regulation 20 of the principal regulations, the following regulation shall be inserted, namely:----

" **20A. Promotional SMS charge.**- (1) The promotional SMS charge shall be Re. 0.05 (five paisa only).

(2) The Originating Access provider may collect the promotional SMS charge from the registered telemarketer."

7. In Schedule-V to the principal regulations ---

(a) in heading after the words "Access Provider and" and before the words "Transactional message", the words "telemarketer or" shall be inserted;

(b) for the clause (1) of the agreement following clause shall be substituted, namely:-

"(1) The second party hereby declare that it has registered with the Telecom Regulatory Authority of India vide application No……and the registration number granted by TRAI to it is _____(applicable in case of telemarketer)."

8. In Schedule-VI to the principal regulations ---

(a) for para 4, the following para shall be substituted, namely:-

"4. A customer may register unsolicited commercial communications related complaint by sending SMS to 1909 in the format given below-

"COMP TEL NO XXXXXXXXXX;dd/mm/yy;Time in hh:mm; short description of Unsolicited Commercial Communication."

Where XXXXXXXXXX – is the telephone number or header of the SMS, as the case may be, from which the unsolicited commercial communication has originated."

(R. K. Arnold)

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Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

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Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th December, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31st January, 2011.

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Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05th September, 2011.

Note 8: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Seventh Amendment) Regulations, 2011 (6 of 2011).

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Explanatory Memorandum

1. The Telecom Regulatory Authority of India made the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) (hereinafter referred to as the principal regulations) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications.

2. The principal regulations provide a framework for sending of transactional messages, wherein an entity can only send a Transactional message through a telemarketer registered with TRAI. TRAI received several representations from customers and other organizations stating that Transactional messages are generally informative in nature and, therefore, the provisions of the principal regulations permitting the sending of Transactional messages only through registered telemarketers may be amended so as to allow such entities to send the Transactional messages directly without registering as a telemarketer. The Authority has considered these representations and has amended the principal regulations accordingly, by inserting regulation 16A in the principal regulations. However, to ensure that sending of Transactional messages by such entities is effectively regulated, the Authority has decided to amend sub-regulation (4) of regulation 17 of the principal regulations making it mandatory for the Transactional message sending entity to enter into an agreement with the Access Provider, as specified in Schedule –V of the principal

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regulations, for obtaining the telecom resources for the said purpose.

3. The Authority has also made amendments in clause (k) of sub-regulation (2) of regulation 20 of the principal regulations by inserting the words, " or an entity sending transactional message", thus permitting the Access Provider to provide to such entity any SMS package or tariff plan permitting sending more than 100 SMS per day per SIM.

4. Clause (ka) of sub-regulation (2) of regulation 20 of the principal regulations provides that no Access Provider shall permit sending of more than one hundred SMS per day per SIM. As the requirement of telemarketer and the entity sending the Transactional message is more than the limit of one hundred SMS per day per SIM provided under said clause (ka), the Authority has decided to add a proviso to the said clause thereby exempting the telemarketer and the entity sending the Transactional message from the said limit.

5. Representations were also received from some service providers requesting the Authority to permit them to send Transactional messages directly to their employees through their own network and resources. Accordingly, a proviso has been added to sub-regulation (4) of regulation 17 of the principal regulations.

6. The principal regulation had prescribed a format for lodging a complaint of Unsolicited Commercial Communications (UCC)by sending an SMS. This format of SMS should

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contain telephone number from which the UCC was received, date of the call or SMS and time of call or SMS. However, it has come to the notice of the Authority that to ascertain that the complaint is regarding a UCC, the Access Provider needs to know the content of the message. To resolve the issue and to streamline the lodging and redressal of the complaint, the Authority has decided to add a brief description of UCC into the SMS format specified in schedule VI.

7. During the consultation process, relating to the principal regulations, several stakeholders expressed a view that imposition of a termination charge on commercial SMSs would be an effective deterrent to the sending of promotional SMSs. The Authority, at the time of issuing the principal regulations, felt that imposition of a termination charge was in the realm of Interconnect Usage charge (IUC). During the consultation process on IUC, while there was wide support for imposing a charge to deal with the menace of unsolicited commercial communications, particularly SMSs, an alternative view was that imposition of termination charge has to be cost based. The Authority found that promotional SMSs are being sent largely by the telemarketers. In order to deter private persons from sending the promotional SMS, the Authority has already imposed the limit of 100 SMS per SIM per day. But in case of telemarketers, there is a tendency to dump the promotional SMSs, resulting in inconvenience to consumers as well as networks.

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8. After careful consideration of the above factors, the Authority felt the need to impose a promotional SMS charge. Accordingly a provision has been made for promotional SMS charge of Re 0.05 sent by registered telemarketer.

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PART III, SECTION 4
TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the – 1st November, 2011

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (EIGHTH AMENDMENT) REGULATIONS, 2011
(7 OF 2011)

No.352-4/2011-CA (QoS)- In exercise of powers conferred by section 36 read with sub-clauses(v) of clause (b) of sub-section (1) of section 11 and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Eighth Amendment) Regulations, 2011.

(2) They shall come into force from the date of their publication in the official Gazette.

2. In sub-regulation (2) of regulation 20 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), ----

(a) in clause (k) for the words "one hundred SMS per day per SIM" , the words "two hundred SMS per day per SIM" shall be substituted;

(b) in clause (ka), ---

(i) for the words “one hundred SMS per day per SIM” , the words “two hundred SMS per day per SIM”;
(ii) in first proviso, for the words “three thousand SMS per SIM per month” the words “six thousand SMS per SIM per month”; and
(iii) in second and third provisos, for the words “one hundred SMS per day per SIM”, the words “two hundred SMS per day per SIM”, ---
shall be substituted;

(c) in clause (kb) and its provisos, for the words “one hundred SMS per day per SIM” , the words “two hundred SMS per day per SIM” shall be substituted.

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(R. K. Arnold)
SECRETARY

Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28thDecember, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31stJanuary, 2011.

Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05thSeptember, 2011.

Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25thOctober, 2011.

Note 9: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Eighth Amendment) Regulations, 2011 (7 of 2011).

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Explanatory Memorandum

1. The Telecom Regulatory Authority of India made the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) (hereinafter referred to as the principal regulations) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications.

2. The principal regulations provide a restriction on providing any SMS package or tariff plan permitting sending more than 100 SMS per day per SIM except for telemarketer or entity sending transactional messages. Principal regulation also provides that no Access Provider shall permit sending of more than one hundred SMS per day per SIM except a telemarketer or transactional message sending entity. The Authority has received representations from some of the service providers and consumers requesting that the limit of one hundred SMS per day per SIM may be increased. The Authority has considered these representations and decided to increase the limit of one hundred SMS per day per SIM to two hundred SMS per day per SIM to facilitate such customers. Accordingly, the Authority has amended clause (k), (ka) and (kb) of sub-regulation (2) of regulation 20 of the principal regulation.

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PART III, SECTION 4
TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 14th May, 2012

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (NINTH AMENDMENT) REGULATIONS, 2012
(11 OF 2012)

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No.305-24/2011-QoS(SP)- In exercise of powers conferred by section 36, read with sub-clause(v) of clause (b) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Ninth Amendment) Regulations, 2012.

(2) They shall come into force from the date of their publication in the official Gazette.

2. In regulation 18 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010),after sub-regulation (5), the following proviso shall be inserted, namely:-

"*Provided* that in case the telemarketer is blacklisted for sending unsolicited commercial communications through the telecom resources allotted to it for sending promotional messages, the telecom resources provided to it for sending promotional messages shall only be disconnected;

Provided further that in case the telemarketer is blacklisted for sending unsolicited commercial communications through the telecom resources allotted to it for sending transactional messages, the telecom resources provided to it for sending

transactional messages and promotional messages shall be disconnected."

(Sudhir Gupta)
SECRETARY-IN-CHARGE

Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.
Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.
Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28thDecember, 2010.
Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31stJanuary, 2011.
Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.
Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.
Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05th September, 2011.
Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and

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published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25th October, 2011.

Note 9: The principal regulations were further amended (Eighth amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 1st November, 2011.

Note 10: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Ninth Amendment) Regulations, 2012 (11 of 2012).

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EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India made the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) (hereinafter referred to as the principal regulations) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications. All the provisions of regulations came into force from 27th September 2011.

2. The principal regulations provide that every Access Provider shall provide separate telecom resources, for sending transactional message and promotional messages and has to enter into separate agreements before providing promotional or transactional resources in accordance with Schedule-IV and Schedule-V of the principal regulations, respectively.

3. The principal regulations also provide that in case of receipt of a complaint regarding the receipt of Unsolicited Commercial Communication by a subscriber who is registered on National Customer Preference Register (NCPR), the originating access provider shall issue a notice to the concerned telemarketer, forwarding the detail of the UCC made by him and informing him of the deduction made from the security deposit of an amount as agreed upon in terms of Schedule IV or Schedule V to the principal regulations and upon service of the sixth notice in a calendar year by any Access Provider on a telemarketer for sending UCC, the name of such telemarketer will be entered into the blacklist for two years. Once a telemarketer is blacklisted, every Access Provider shall disconnect the telecom resources provided by it under the regulations to such telemarketer.

4. With regards to the importance of transactional messages to the telecom consumers, the Authority considered that in case a telemarketer is blacklisted for sending Unsolicited

Commercial Communications through promotional resources, the disconnection of all the resources procured by him from Access Providers including the transactional resources would cause inconvenience to the consumers. However, in case the transactional pipe is misused to send promotional messages, the telecom resources of the telemarketer for both the promotional messages and transactional messages shall be disconnected. Whenever a telemarketer is blacklisted for sending Unsolicited Commercial Communications either through promotional resources or through transactional resources, it will not get any telecom resources under these regulations for the period of blacklisting. Accordingly, the Authority has amended sub-regulation (5) of regulation 18 of the principal regulations.

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TO BE PUBLISHED IN THE GAZETTE OF INDIA,

EXTRAORDINARY,

PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 5th November, 2012

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (TENTH AMENDMENT) REGULATIONS, 2012

(23 OF 2012)

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No. 311-13/2012-QoS- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012.

(2) They shall come into force from the date of their publication in the official Gazette.

2. In regulation 2 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) (hereinafter referred to as the principal regulations), after the clause (v), the following clause shall be inserted, namely:-

"(va) "signature" means contents of commercial communications having same or similar characters or strings or variants thereof, but does not include subscriber related information."

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3. In regulation 3 of principal regulations, in sub-regulation (4), for the second proviso, the following proviso shall be substituted, namely:-

"*Provided* further that every Access Provider shall, after one month of coming into force of these regulations, at the time of providing a telephone connection, whether Basic Telephone Service or Cellular Mobile Telephone Service, to a new subscriber, other than a telemarketer registered with the Authority, provide in the Customer Acquisition Form the details of Customer Preference Registration facility and obtain from such subscriber

an undertaking that the SIM or connection purchased by him shall not be used for telemarketing and in case such SIM or connection is used for telemarketing, the telecom resources used for the purpose of telemarketing shall be liable to be disconnected."

4. In regulation 19 of the principal regulations, in sub-regulation (4), for the words "the date, time and brief description", the words "the date and description" shall be substituted.

5. In regulation 20 of the principal regulations, in sub-regulation (2),---

(a) for clause (k), the following clause shall be substituted, namely:-

"(k) no Access Provider shall, after fifteen days of coming into force of these regulations, permit any person, other than a telemarketer registered under regulation 14 or an entity sending transactional message, to send more than one hundred SMS per day per SIM at a rate lower than the rate specified in Schedule-XIII of the Telecommunication Tariff Order, 1999;"

(b) after clause (l), the following clauses shall be inserted,

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namely:-

"(m) every Access Provider shall, within fifteen days of coming into force of these regulations, send an SMS to its subscribers advising them not to send any commercial communications if they are not registered with the Authority as telemarketer, as sending of commercial communication shall result in disconnection of resources:

Provided that the Access Provider shall send a second such SMS within fifteen days of sending of the first SMS and thereafter repeat sending of such SMS to the subscriber every six months;

(n) every Access Provider shall, after three months of coming into force of these regulations, ensure that no SMS, having similar signature, from any source or number originating more than two hundred such SMSs per hour, is delivered through its network:

Provided that nothing contained under this clause shall apply to a telemarketer registered under regulation 14 or a transactional

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message sending entity or the telephone number exempted by the Authority, by direction, from time to time;

(o) every Access provider shall, within forty-five days of coming into force of these regulations, establish a 'web based unsolicited commercial communication complaint lodging system' and a dedicated email address to enable the consumers to lodge Unsolicited Commercial Communications related complaints."

6. 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.

7. In Schedule-VI to the principal regulations, for para 4, the following para shall be substituted, namely:-

"4. A customer may register his complaint pertaining to receipt of unsolicited commercial communication by forwarding such communication to 1909 along with the telephone number or header, as the case may be, and the date of receipt of the unsolicited commercial communication in the following format:-

"the unsolicited commercial communication, XXXXXXXXXX,

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dd/mm/yy"

Where XXXXXXXXXX– is the telephone number or header of the SMS, as the case may be, from which the unsolicited commercial communication has originated.

Explanation: The telephone number or header and the date of receipt of the unsolicited commercial SMS may be appended with such SMS, while forwarding to 1909, with or without space after comma."

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(Rajeev Agrawal)
SECRETARY

Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.
Note 2: The principal regulations were amended vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.
Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th December, 2010.
Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31st January, 2011.
Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published

in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05th September, 2011.

Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25th October, 2011.

Note 9: The principal regulations were further amended (Eighth amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 1st November, 2011.

Note 10: The principal regulations were further amended (Ninth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th May, 2012.

Note11: The Explanatory Memorandum explains the objects and reasons of The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012 (23 of 2012).

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EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing Unsolicited Commercial Communications (UCC). All the provisions of regulations came into force from 27th September 2011. With the implementation of these regulations, the number of complaints relating to UCC has reduced considerably.

2. As per the provisions of current regulations, Access Providers are required to upload the UCC complaints and action taken on such complaints on TCCCP portal www.nccptrai.gov.in, on regular basis. From the data available on TCCCP portal it was seen that most of the complaints lodged by consumers are from numbers who are not registered with the Authority as a telemarketer. Hence, to further tighten the current regulatory framework, TRAI issued a Consultation Paper "Review of The Telecom Commercial Communications Customer Preference Regulations, 2010" and draft "The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012" on 3rd August, 2012. Comments received from various stakeholders were uploaded on TRAI website. Open House Discussion on the various issues and proposals was held at Delhi on 10th October, 2012. The comments received from stakeholders during consultation process have been duly considered while framing these regulations.

3. It is observed that unregistered telemarketers generally send bulk promotional SMS as a SMS blast using special equipment and software applications. These applications enable unregistered telemarketers to send a large number of SMS within a short time. Hence, the Authority is of the view that it is technically possible to identify bulk promotional SMS having

similar characters or strings or variants. The service providers then could restrict the delivery of such SMSs over their network using technical solutions. In this way, customers sending non-UCC SMS through mobile phones will not be affected by any such restrictions. Similar solution was found to be successful for unsolicited commercial communications from international routes. The Authority has mandated the service providers to implement a solution in their networks which will not allow sending of more than 200 SMS with similar 'signature' in one hour from any source or number, other than from a registered telemarketer or transactional message sending entity or a number exempted by the Authority.

4. Further, it is also noticed that subscribers undertaking telemarketing activities using normal telephone connections use discounted SMS packages available in the market, for sending bulk promotional SMSs. During the consultation, some of the stakeholders have 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 a provision will also encourage unregistered telemarketers to get themselves registered as telemarketer. Accordingly, regulation 20 has been amended mandating the service providers not to allow sending of more than one hundred SMS per day per SIM at a concessional rate. Subscribers can send SMS beyond one hundred SMS per day per SIM. However all such SMSs will be charged at the rate specified in Schedule- XIII of the Telecommunication Tariff Order, 1999.

5. The principal regulations provide that no subscriber, who is not registered with TRAI as a telemarketer shall make any commercial communications. After the implementation of regulations, representations have been received from

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consumers that they are not aware of such provision of regulation till they receive notice from the service provider. Accordingly, to increase consumer awareness and also to warn subscribers against such activities, Access Providers have been mandated to send SMS to their subscribers on periodic basis advising them not to send any commercial communications if they are not registered with the Authority as a telemarketer and that sending of commercial communication using ten digit numbers shall result in disconnection of telecom resources.

6. Access Providers have been also mandated that at the time of providing a telephone connection, they shall obtain an undertaking from the subscriber that the SIM purchased shall not be used for telemarketing purposes.

7. As per the current provisions of regulations, customers registered on NCPR may lodge a complaint regarding receipt of unsolicited commercial communications through call or SMS to 1909. For complaint through SMS, customer has to send SMS "COMP TEL NO XXXXXXXXXX; dd/mm/yy; Time in hh:mm; short description of Unsolicited Commercial Communication" to 1909, where XXXXXXXXXX - is the telephone number or header of the SMS, from which the UCC has originated. However, representations were received from customers that the process of complaint lodging is time consuming and needs to be simplified.

The Authority considered the representations and accordingly has amended the regulation. For easy lodging of a complaint regarding Unsolicited Commercial SMS, provision has been made for forwarding of such SMS by appending the telephone number or header of the SMS, as the case may be, from which the unsolicited commercial communication has originated and date of receipt of such SMS to 1909.

For example, if a NCPR registered customer received a promotional SMS "buy xyz" from a 10 digit number 9812345678 on 27th September 2011, he may forward the SMS to 1909 as "buy xyz, 9812345678, 27/09/11" for registration of UCC complaint. This will obviate the need for inputting the contents of the SMS for complaining through SMS.

Further, to broaden the options available for consumers to lodge UCC complaints with their service providers, the regulation has also mandated Access Providers to establish a web based UCC complaint lodging system and a dedicated email address to enable the consumers to lodge UCC related complaints.

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TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 24th May, 2013

No.311-23/2013-QoS - In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) and clause (c) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

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THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (ELEVENTH AMENDMENT) REGULATIONS, 2013

(5 OF 2013)

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Eleventh Amendment) Regulations, 2013.

(2) They shall come into force on the 1st day of June, 2013.

2. In regulation 2 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) (hereinafter referred to as the principal regulations), ----

(a) for clause (va), the following clause shall be substituted,namely :-

"(va) "signature" means characters or strings, or variants thereof, of a commercial communication and does not include subscriber related information;"

(b) clause (aa) shall be numbered as clause (za);

(c) clause (ab) shall be numbered as clause (zb);

(d) after clause (zb), the following clause shall be inserted, namely:-

"(zba) "transactional SMS charge" means the charge payable by an Originating Access Provider to the Terminating Access Provider for each transactional SMS sent by a registered telemarketer or transactional message sending entity from the network of the Originating Access Provider to the network of the Terminating Access Provider;"

(e) clause (ac) shall be numbered as clause (zc);

(f) clause (ad) shall be numbered as clause (zd);

(g) clause (ae) shall be numbered as clause (ze);

(h) clause (af) shall be numbered as clause (zf);

3. After regulation 20A of the principal regulations, the following regulation shall be inserted, namely:-

"**20B. Transactional SMS charge** – (1) The transactional SMS charge shall be Re. 0.05 (paisa five only):

Provided that there shall be no transactional SMS charge on,-

(i) any message transmitted by or on the directions of the Central Government or State Government;

(ii) any message transmitted by or on the directions of bodies established under the Constitution;

(iii) any message transmitted by or on the directions of the Authority;

(iv) any message transmitted by any agency authorized by the Authority from time to time;

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(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."

(Rajeev Agrawal)
SECRETARY

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28thDecember, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31stJanuary, 2011.

Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05thSeptember, 2011.

Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25thOctober, 2011.

Note 9: The principal regulations were further amended (Eighth amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 1st November, 2011.

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Note 10: The principal regulations were further amended (Ninth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th May, 2012.

Note11: The principal regulations were further amended (Tenth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 5th November, 2012.

Note 12: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Eleventh Amendment) Regulations, 2013 (05 of 2013).

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EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing Unsolicited Commercial Communications (UCC).

2. The principal regulations provide a framework for sending transactional messages, wherein an entity can only send a transactional message through a registered telemarketer or through the service provider. In the Seventh Amendment to the principal regulations, the Authority has prescribed a promotional SMS charge of 5 paise per SMS.

3. During examination of the need for determining the termination charge on SMSs on a cost based basis, the Authority has also collected inter-operator SMS traffic data. While analyzing the data, it has been noted that apart from the promotional SMS, the transactional SMS also contribute in a major way in creating large traffic imbalance between different networks. In case of Application to Person (Promotional and transactional) SMSs, the institution/enterprise/advertising agencies, are having commercial agreement with one or more service providers, either directly or through a registered telemarketer. As is evident from Table 1, the flow of A2P SMS traffic is unbalanced (some of the service providers are originating more A2P SMSs), leading to loading of resources of the terminating operators. Therefore, the Authority has decided that similar to the Promotional SMS charge prescribed for promotional SMSs, 5 paise per SMS should be prescribed for transactional SMSs also. Provision has been made in the regulations to exempt government agencies from the transactional SMS charge.

Table:1 A2P Off-Net SMSs (In Million)- March 2013					
S.No	**Service Provider**	**A2P (Transactional)**		**A2P (Promotional)**	
		Originating	**Terminating**	**Originating**	**Terminating**
1	A	189	223	49	72
2	B	152	912	64	94
3	C	1,048	9	198	5
4	D	219	223	9	55
5	E	0.1	1	0.1	0.2
6	F	181	795	48	96
7	G	806	12	82	4
8	H	138	215	18	18
9	I	5	14	0.5	4
10	J	644	233	16	58
11	K	49	47	29	8
12	L	11	44	3	3
13	M	167	885	24	201
Total		**3,609**	**3,613**	**539**	**617**

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PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 24th May, 2013

No.311-23/2013-QoS- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) and clause (c) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

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THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (TWELFTH AMENDMENT) REGULATIONS, 2013

(6 OF 2013)

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Twelfth Amendment) Regulations, 2013.

(2)(a) Except as otherwise provided in clause (b), these regulations will come into force from the date of their publication in the official Gazette.

(b) clause (b) of sub-regulation(11) of regulation 19 of these regulations shall come into force after 30 days from the date of their publication in the official Gazette.

2. In regulation 13 of the principal regulations, in sub-regulation (2), after clause (e), the following clause shall be inserted namely:-

"(ea) the date of blacklisting of the subscriber under sub-regulation (3) of regulation 18;"

3. For regulation 18 of the principal regulations, the following regulation shall be substituted, namely:-

"**18.Blacklisting of telemarketer**.—(1) The National Telemarketer Register shall, inter alia, include a blacklist of telemarketers and a blacklist of subscribers.

(2) The name and address of a telemarketer shall be entered into the black list upon, ---

(a) failure to furnish the additional security amount as agreed to by it in the agreement entered into with the Originating Access Provider; or

(b) upon service of the sixth notice, in a calendar year, by any Access Provider, on such telemarketer for sending unsolicited commercial communication.

Explanation: It is clarified that for the purpose of determining the sixth notice, notices served by any Access Provider on such telemarketer will be cumulatively reckoned.

(3) The name and address of a subscriber shall be entered into the blacklist of subscriber as specified under sub-regulation (11) of regulation 19**.**

(4) The name and address of a telemarketer entered into the blacklist under sub-regulation (2) and the name and address of subscriber entered into blacklist under sub-regulation (3) shall not be deleted before completion of two years from the date of entry in the respective registers.

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(5) The agency maintaining the National Telemarketer Register shall, immediately on entering into the name and address of a telemarketer or subscriber under sub-regulation (2) or sub-regulation (3), communicate the name and address of such telemarketers or subscribers to all the Access Providers.

(6) Every Access Provider shall on receipt of intimation under sub-regulation (5) shall, within twenty four hours, disconnect all the telecom resources provided to the subscriber or the telemarketer as the case may be.

(7) No Access Provider shall provide any telecom resource to a telemarketer or subscriber, whose name appears in the blacklist.

4. In regulation 19 of the principal regulations, for sub-regulation (11), the following sub-regulation shall be substituted, namely:-

"(11) If after investigation under sub-regulation (8), the Originating Access Provider finds that the unsolicited commercial communication has originated from a subscriber who is not registered as a telemarketer with the Authority, it shall -----

(a) disconnect all the telecom resources allotted to subscriber; and

(b) enter the name and address of such subscriber into the blacklist maintained under regulation 18:

Provided that a subscriber whose telecom resources have been disconnected, may file a complaint with the Originating Access Provider under the provisions of "The Telecom Consumers Complaint Redressal regulations, 2012 (1 of 2012)"."

5. After regulation 19 of the principal regulations, the following regulation shall be inserted, namely:-

"**19A. Examination of disconnection of telecom resources.------**The Authority may, if it considers expedient so to do or on receipt of complaint, call for the details of the disconnection of the telecom resources made by the Access Provider under sub-regulation (11) of regulation 19 and upon examination, for reasons to be recorded, the Authority may direct the Access Provider to restore all the telecom resources of a subscriber and delete the name and address of such subscriber from the blacklist."

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(Rajeev Agrawal)

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Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28thDecember, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31stJanuary, 2011.

Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05thSeptember, 2011.

Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25thOctober, 2011.

Note 9: The principal regulations were further amended (Eighth amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 1st November, 2011.

Note 10: The principal regulations were further amended (Ninth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th May, 2012.

Note11: The principal regulations were further amended (Tenth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 5th November, 2012.

Note12: The principal regulations were further amended (Eleventh amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 24rd May, 2013.

Note 13: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Twelfth Amendment) Regulations, 2013 (6 of 2013.

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EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing Unsolicited Commercial Communications (UCC). These regulations have been amended from time to time to tighten the regulatory framework and also for addressing implementation issues.

2. As per the provisions of these regulations, Access Providers are required to upload the UCC complaints and action taken on such complaints on the TCCCP portal www.nccptrai.gov.in, on a regular basis. From the data available on the TCCCP portal, it was seen that most of the complaints lodged by consumers are from subscribers who are not registered with the Authority as a telemarketer. Hence, to further tighten the current regulatory framework and to address the menace of UCC from unregistered telemarketers, TRAI issued a Consultation Paper on the "Review of The Telecom Commercial Communications Customer Preference Regulations, 2010" and a draft "The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012" on 3rd August, 2012. Comments received from various stakeholders were uploaded on the TRAI website. Open House Discussion on the various issues and proposals was held at Delhi on 10th October, 2012. The comments received from stakeholders during consultation process were considered and TRAI had issued "The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012" and Telecommunication Tariff (Fifty Fourth Amendment) Order, 2012 on 5th November 2012 prescribing certain measures to address the menace of unsolicited commercial SMS from normal subscribers.

3. It is observed now, through monitoring of complaints in the TCCCP portal that UCC by normal subscribers who have not registered with the Authority as a telemarketer, has increased considerably in recent times. The Authority has also observed that such unregistered Telemarketers deliberately masquerade themselves as normal subscribers for indulging in telemarketing activities by using cheap Special Tariff Vouchers. Such subscribers, without any such rights, avoid payment of promotional or any other tariff (or deposits) as may be payable by registered telemarketers. They also circumvent the process laid down by the Authority for registration of telemarketers and the procedures for telemarketing by registered telemarketers. Such unregistered Telemarketers acting in the guise of normal subscribers indulge in sending unsolicited commercial communications to even customers registered in NCPR, for not receiving unsolicited commercial communications. This has been a major irritant and inconvenience to such customers who have preferred not to receive unsolicited commercial communications. These regulations seek to address this menace.

4. The regulations prescribe that in case a valid complaint is received against a subscriber regarding sending of UCC, the originating service provider shall disconnect all the telecom resources allotted to him. However, before disconnecting the telecom resources of such subscribers, the service provider has to investigate and analyse the complaint in accordance with sub-regulation (8) of regulation 19.

5. It is also understood that presently even after disconnection of the telecom resources of such unregistered Telemarketers, they continue to take subsequent connections and tend to continue the telemarketing activities. For addressing the menace of UCC by such telemarketing subscribers who have not registered with the Authority as a telemarketer, the regulations have for the first time prescribed a separate blacklist for subscribers whose telecom resources were disconnected for sending UCC. Once the telecom resources are disconnected, the name and address of such subscriber shall be entered into the blacklist of subscribers and it shall not be deleted before completion of two years from the date of entry in the National Telecom Register. Further, the agency maintaining such register has to communicate the name and address of such blacklisted subscriber to all the access providers. On receipt of such intimation, all

Access Providers have to disconnect the telecom resources provided by it to such subscriber within twenty four hours. No Access Provider shall provide any telecom resource such subscriber, whose name appears in the blacklist. The subscriber whose resources have been disconnected may file a complaint to the Complaint Center of his Access Provider, and subsequently to the Appellate Authority of his Access Provider, if the subscriber is not satisfied with the complaint redressal. The Authority feels that the measures prescribed in these regulations will be effective in addressing the menace of UCC by unregistered Telemarketers who act in the guise of a normal subscriber. Provision exists in the regulation for complaining to the Authority, in case of a wrong blacklisting.

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TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 22nd August, 2013

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER

PREFERENCE (THIRTEENTH AMENDMENT) REGULATIONS, 2013

(10 OF 2013)

No.311-27/2013-QoS- In exercise of powers conferred by section 36, read with sub-clause(v) of clause (b) and clause (c) of sub-section (1), of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Thirteenth Amendment) Regulations, 2013.

(2)(a) Except as otherwise provided in clause (b), these regulations shall come into force from the date of their publication in the official Gazette.

(b) Sub-regulation (4) and clause (b) of sub-regulation (11) of regulation 19 of these regulations shall come into force after 15 days from the date of their publication in the official Gazette.

2. In regulation 19 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) (hereinafter referred to as the principal regulations),---

(a) in sub-regulation (4), for the words "brief description of such unsolicited commercial communication" appearing after the words "the date and" and before the words "as specified in Schedule VI to these regulations", the words "brief description of such unsolicited commercial communication alongwith the details of the person on whose behalf and the telephone number on which the commercial transaction has been solicited" shall be substituted;

(b) for sub-regulation (11), the following sub-regulation shall be substituted, namely:-
"(11) If after investigation under sub-regulation (8), the originating Access Provider finds that the unsolicited commercial communication ----

(a) has originated from a subscriber who is not registered as a telemarketer with the Authority, it shall----

(i) disconnect all telecom resources allotted to such subscriber; and

(ii) enter the name of such subscriber into the black list maintained under regulation 18;

(b) has solicited commercial transaction on behalf of a person either on the same mobile number or a different telephone number, it shall,----

(i) if the subscriber of the telephone number or the person or both , referred to in clause (b), belongs to his network, issue notice separately to such subscriber or person, other than the subscriber making unsolicited commercial communications referred under clause (a), directing them to discontinue sending such communication; and

(ii) in case such telephone number and the person belongs to a different service provider, forward the details of such unsolicited commercial communication to that service provider who shall issue notice to the subscriber of such telephone number and to the person, referred to in clause (b), directing him to discontinue sending such communication:

Provided that more than one complaint, pertaining to similar unsolicited commercial communication, sent on a particular date, shall be treated as a single complaint:

Provided further that if, after the second notice to a subscriber under sub-clause (i) and (ii) of clause (b), a complaint is received against such subscriber, the service provider shall disconnect all telecom resources of that subscriber:

Provided also that a subscriber, whose telecom resources have been disconnected, may file a complaint with the originating Access Provider under the provisions of the Telecom Consumers Complaint Redressal Regulations, 2012 (1 of 2012)."

3. In regulation 20 of the principal regulations, in sub-regulation(2), after clause (o), the following clause shall be inserted, namely:-

"(p) every Access Provider shall submit to the Authority, by the 15th day of every month, the details of all bulk connections provided by it to the subscriber during the previous calendar month."

4. In regulation 22 of the principal regulations, after sub-regulation (1), the following sub-regulation shall be inserted, namely:-

"(1A) -If the Authority finds that an unsolicited commercial communication has been sent by a subscriber who is not registered with the Authority as telemarketer, the originating Access Provider of such subscriber shall, without prejudice to the terms and conditions of its licence, or the Act or rules or regulations or orders made, or, directions issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding five thousand rupees for every such complaint, as the Authority may, by order, direct:

Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the Access Provider has been given a reasonable opportunity of representing against such order of the Authority.

(Rajeev Agrawal)
SECRETARY

Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1stDecember, 2010.

Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14thDecember, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th December, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31stJanuary, 2011.

Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05thSeptember, 2011.

Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25thOctober, 2011.

Note 9: The principal regulations were further amended (Eighth amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 1stNovember, 2011.

Note 10: The principal regulations were further amended (Ninth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14thMay, 2012.

Note11: The principal regulations were further amended (Tenth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 5thNovember, 2012.

Note12: The principal regulations were further amended (Eleventh amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 24thMay, 2013.

Note 13: The principal regulations were further amended (Twelfth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 24thMay, 2013.

Note 14: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Thirteenth Amendment) Regulations, 2013 (10 of 2013).

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EXPLANATORY MEMORANDUM

1. Unsolicited Commercial Communications (UCCs) in the form of SMSs or voice calls to promote commercial activity are a widespread irritant experienced by telecom customers.

2. In 2009-10, TRAI reviewed the regulatory framework for controlling UCCs and, on 1st December 2010, issued "The Telecom Commercial Communications Customer Preference Regulations, 2010". These regulations provided for :
    a. Mandatory registration of telemarketers with TRAI after payment of a one-time fee of Rs 10,000/-;
    b. Enabling consumers to block receiving of promotional messages by registering their number in the National Consumer Preference Register (NCPR);
    c. Requiring telemarketers not to send messages to those customers who specifically elect not to receive such messages by registering in NCPR; and
    d. Deduction from the security deposit of registered telemarketers who breach the provisions of the regulations by sending commercial messages to the customers registered in NCPR.

3. The aforesaid provisions were made in the regulations with the aim that if all telemarketers registered themselves with the Authority and the consumers electing not to receive promotional commercial messages register themselves in NCPR, the menace of UCCs would be controlled. However, subsequent events proved otherwise. Though some did register as telemarketers, many others chose to continue operating as telemarketers without registering themselves as such. That is, most of those sending UCCs, operated beyond the pale of TRAI's regulations; they obtained multiple SIMs as "normal subscribers" and made calls or sent out messages (SMSs) in bulk as UCCs to other telecom subscribers.

4. The UCC menace persisted leading consumers to complain about the number of UCCs being received. At various points of time, the Authority has responded to consumers' concerns by intervening through Regulations and Directions to curb the problem. The significant measures taken by the Authority are as under:

    (i) *Stopping UCCs sent through international routes*: It was found that commercial messages without proper headers or telephone numbers were being sent through servers located outside the country. To address this problem, a direction dated 20th Jan. 2012 was issued by TRAI directing all Telecom Service Providers (TSPs) and ILD operators to block bulk international SMSs with similar signatures. On account of these measures, unsolicited SMSs sent through the international route were largely checked.

    (ii) *Providing a ceiling on the number of SMSs per SIM per day*: Since unregistered telemarketers were sending messages in bulk through multiple SIMs the Authority, through an amendment to the regulations dated 5th Sept 2011, prohibited the sending of more than 100 SMS per day per SIM to prevent subscribers who were not registered as telemarketers with TRAI from misusing cheap SMS packs/plans for sending UCCs. This limit was raised to 200 SMS per day per SIM for prepaid customers and 6000 SMS per SIM per month for post-paid customers to accommodate the needs of certain category of subscribers. However, on being challenged, the Hon'ble High Court of Delhi through its decision dated 13th July 2012 quashed the limit imposed by the Authority.

    (iii) *Economic deterrent to sending more than 100 SMSs per SIM per day*: The Authority decided that there should be a financial deterrent against using normal telephone connections for sending UCCs in the form of SMSs. Accordingly, the Regulation was revised and, through an amendment dated 5th Nov 2012, TSPs were mandated not to allow more than one hundred SMS per day per SIM at a concessional rate.

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All SMSs beyond one hundred SMS per day per SIM were to be charged at a rate not lower than 50 paise per SMS.

(iv) *Mandating signature verification of bulk SMSs*: The Authority found that the unregistered telemarketers were using 'modem farming' for sending unsolicited commercial messages. Modem farming refers to the practice of using multiple SIM cards in a single modem to send multiple SMSs. It is technically possible to identify bulk promotional SMSs having similar characters or strings or variants (called 'signature') and block them. The Authority through an amendment to the regulations dated 5th Nov 2012, mandated TSPs to put in place technical solutions that restrict the delivery of such SMSs from any source or number over their network.

(v) *Enhancing consumer awareness and obtaining an undertaking from subscribers against sending commercial SMSs*: To increase consumer awareness and also to warn subscribers against indulging in unauthorised telemarketing activities, through the amendment to the regulations dated 5th Nov 2012, TSPs have been mandated to send SMSs to their subscribers every six months advising them not to send any commercial communications if they are not registered with the Authority as a telemarketer and that sending of commercial communication shall result in disconnection of telecom resources. TSPs have also been mandated that, at the time of providing a telephone connection (or SIM), they shall obtain an undertaking from the subscriber that the SIM purchased shall not be used for telemarketing purposes.

(vi) *Making it easy for consumers to file a complaint*:
The amendment of 5th Nov 2012 has simplified the procedure for filing of a complaint. Consumers receiving UCCs (as SMSs) can register a complaint on 1909 which is common across all TSPs. They can either make a call or send an SMS to 1909. They can also forward the SMS received to 1909 by appending the date and the number from which the UCC was received.

(vii) *Disconnection and blacklisting of subscribers who do telemarketing without registering themselves with TRAI*: The latest amendments to the Regulations dated the 24th May 2013 mandated all TSPs on receipt of the first complaint, to disconnect telephone numbers from which an UCC has originated. The name and address of that telephone subscriber shall then be shared with all other service providers. No service provider will provide any telecom resource in that name and address for a period of two years.

5. While the Authority's regulatory interventions have tempered the menace of UCCs, it has not altogether abated. The problem is that UCCs (SMSs or calls) from persons not registered as telemarketers continue to irritate and harass normal subscribers. Such individuals deliberately masquerade themselves as "normal subscribers" even though their primary purpose for obtaining telecom resources is for telemarketing activities. There are a number of reasons why the unregistered telemarketers mask themselves as "normal subscribers":

    i. *Savings in cost of registration*: The unregistered telemarketer saves costs by not paying the one time registration fee. It is, therefore, cheaper to remain unregistered.

    ii. *Higher promotional SMS charges*: There is an additional 5 paise per SMS for every promotional message sent by a registered telemarketer; this additional cost can be avoided by remaining unregistered and masquerading as a normal subscriber.

iii. *Large outreach of potential customers including those registered under NCPR*: Registered telemarketers are obliged to abide by TRAI's regulatory discipline which proscribes outreach to customers registered with the NCPR; no such restriction hampers the unregistered telemarketer who, as an individual subscriber, can send SMSs or calls to any subscriber including those registered under NCPR. This is why the UCCs are a major irritant and inconvenience to subscribers registered with NCPR.

iv. *TSPs' eagerness to garner additional revenues*: The TSPs are constantly looking for ways to improve their topline and garner additional revenues. There are many TSPs whose networks are underutilized viz. they have excess capacity. To increase capacity use, TSPs have incentives to sell cheap special tariff vouchers for bulk SMS dispatch. This augments TSPs' revenues and network capacity use. The availability of cheap plans through which bulk SMSs can be sent is an added incentive for unregistered telemarketers.

v. *Engagement of agencies not registered as telemarketers by organizations for marketing*: Organizations such as financial institutions (banks, insurance agencies, NBFCs), builders and other entities, acting as principals engage agents to promote their (the principal's) business. The cost to the principal of engaging an unregistered telemarketer is lower than that of engaging a registered telemarketer. Hence, the preference is to engage unregistered telemarketers precisely because they offer cheaper delivery of promotional services.

6. For the aforesaid reasons there is a tendency to flout the regulations and directions issued by the Authority. Since the unregistered telemarketers are not complying with the directions and regulations issued by the Authority, it has become necessary to make the regulatory framework more stringent, so that not only the unregistered telemarketer, but the TSPs and entities engaging such telemarketers to promote their business are held accountable. All three parties are responsible for the problem of UCC. The TSPs are encouraging such activities by providing attractive SMS packages and allowing bulk/multiple connections fully aware that these will be used for telemarketing activities. In so doing, they are breaching the Customer Acquisition Form (CAF) directives issued by the Department of Telecommunication (the licensor). The proposed new Regulation brings within their ambit the TSPs who provide bulk connections for 'modem farming' for sending of bulk UCC messages as also the organizations(principals) which engage unregistered telemarketers (as agents) for promoting the businesses interests of their principals

7. The Authority is of the view that if the details of the name and address filled by consumer in the Customer Acquisition Form and the documents furnished by him are properly verified by the service provider, the misuse of the service provider's network for UCC by subscribers not registered as telemarketer can be controlled. TSPs license condition requires that they should ensure that their franchisees/ dealers/agents follow the directions issued by DoT while enrolling a new subscriber. Any failure and negligence on the part of their agents is the responsibility of the TSPs and thus, the Authority is of the view that TSPs are liable for acts and omission of their agents. For bulk mobile connections, physical verification of the subscriber has been made mandatory before activation of the connection. Further, bulk user premises have to be inspected by the TSPs at least once in six months and the TSPs should satisfy themselves about the bonafide use of such facilities as per the license condition. These instructions have been issued to ensure that the misuse of the SIM for unauthorised activities is avoided. It is the duty and responsibility of the TSP to ensure that such misuse does not happen in their network chain. The Authority is of the view that if such procedures are scrupulously followed the misuse of the TSP's network by the customers for UCC without registering with the Authority can be minimised.

8. Accordingly, the Authority has prescribed that if, on verification of a complaint, it is found that the UCC has been sent by a subscriber who is not registered as a telemarketer, the TSPs shall be liable to pay a financial disincentive for each such complaint.

9. To ensure that the TSPs implement systems for proper checks of the CAFs together with the Proof of Address and Proof of Identity, the Authority has mandated TSPs to submit to the Authority by the 15th day of every month the list of all bulk connections provided during the preceding month.

10. The Authority has also noticed with concern that a large number of complaints received from consumers pertain to calls or messages originated by or on behalf of banks, insurance companies, builders etc. who are promoting their business by engaging unregistered telemarketers in total disregard of the regulations made by the Authority. These organisations, being the principal are equally responsible for the non-compliance of the regulations and directions issued by the Authority to address the problem of UCC. It is the responsibility of these organisations (the principals) to ensure that the telemarketer engaged by them (the agent) for promoting their business either directly or through an intermediary follows all rules and regulations and if such organisation (the agent) fails in this responsibility, they (the principals) are to be held responsible for the acts and omissions of their agents. Hence, in order to make these entities accountable, the Authority has decided to amend the regulations to provide for disconnection of all telecom resources of such organisations if they are found to be engaged in telemarketing through unregistered telemarketers. The Authority is of the view that disconnection of the principal entity's telecom resources will act as a deterrent and inculcate a greater sense of responsibility in these organisations.

11. The issues sought to be addressed through these Regulations and the measures prescribed in these Regulations are a follow-up of the consultations undertaken by the Authority through the Consultation Paper "Review of The Telecom Commercial Communications Customer Preference Regulations, 2010" and draft "The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012" issued on 3rd August, 2012. They are also in continuation of the 12th amendment to the TCCCPR 2010, which stipulates action against telemarketers who send UCC. This amendment brings within its ambit the organisations on whose behalf the telemarketing is being carried out as well as prescribes liability for TSPs who sell SIMs to subscribers without ostensibly verifying the credentials of the subscriber.

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TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 03rd December, 2013

No.311-28/2013-QoS- In exercise of powers conferred by section 36, read with sub-clause(v) of clause (b) and clause (c) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

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THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (FOURTEENTH AMENDMENT) REGULATIONS, 2013

(15 OF 2013)

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Fourteenth Amendment) Regulations, 2013.

(2) (a) Except as otherwise provided in clause (b),these regulations shall come into force from the date of their publication in the official Gazette.

(b) Regulation 4, regulation 5 and regulation 6 of these regulations shall come into force afterthirty days from the date of their publicationin the official Gazette.

2. In regulation 14 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (hereinafter referred to as the principal regulations),

(a) in sub-regulation (3), for the word "three" the word "five" shall be substituted;

(b) after sub-regulation (3), the following sub-regulation shall be inserted namely : -

"(4) A telemarketer registered with the Authority may, sixty days before to the expiry of its registration, submit an application to the Authority, along with the specified fee, for renewal of its registration on the same terms and conditions."

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3. In regulation 20 of the principal regulations, in sub-regulation 2,---

(a) in clause (a), the following *proviso* shall be inserted namely : -

"*Provided that,* the Authority may, from time to time, amend the provisions of the agreement specified in Schedule-IV and every agreement entered into between the access provider and telemarketer shall be modified accordingly, within fifteen days of such amendment";

(b) in clause (b), the following *proviso* shall be inserted namely : -

"*Provided that,* the Authority may, from time to time, amend the provisions of the agreement specified in Schedule-V and every agreement entered into between the access provider and transactional message sending entity shall be modified accordingly, within fifteen days of such amendment";

4. In Schedule-III to the principal regulations,---

(a) for clause 6the following clause shall be substituted, namely:-

"6. All new telemarketers shall pay Rupees Five Thousand only (Rs. 5000/-) as Registration fee. Existing telemarketers, renewing their registration as per regulation 14, shall pay Rupees Five Thousand only(Rs. 5000/-) as fee for renewal of their registration";

(b) for clause 7 the following clause shall be substituted, namely:-

"7. Telemarketers registered with the TERM Cell of Department of Telecommunications shall apply afresh for new registration as per the procedure in the Schedule."

(c) in clause 8,after the words "registration fee" and before the word "by", the words "and customer education fee", shall be deleted.

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(d) for clause 9 the following clause shall be substituted, namely:-

"9.Full registration fee has to be deposited by the telemarketer and no part payment shall be accepted."

(e) insub-clause (a) of clause 10, after the bracket andwords"(registration fee" and before the bracket and word") by", the words "and customer education fee", shall be deleted.

(f) clause18 shall be deleted.

(g) clause19 shall be renumbered as clause 18.

(h) clause20 shall be renumbered as clause 19.

(i) clause 21 shall be renumbered as clause 20.

(j) clause22 shall be renumbered as clause 21.

(k) clause23 shall be renumbered as clause 22.

(l) clause24 shall be renumbered as clause 23.

5. In Schedule-IV to the principal regulations,----

(a) in clause 9, for the words, letters, figures and brackets “rupees one lakh only (Rs. 1,00,000/-)”, the words, letters, figures and brackets “rupees fifty thousand only (Rs. 50,000/-)” shall be substituted.

(b) for clause 11, the following clause shall be substituted, namely:-

“(11) The second party has agreed that on issue of first notice by theAccess Provider to the second partyfor sending unsolicitedcommercial communication to the subscriber whose telephone numberappears in the National Customer Preference Register, the second partyshall deposit additional security amount of rupees one lakh only (Rs.1,00,000/-). The second party has also agreed that on issue of second notice by the Access Provider to the telemarketer for sending similar unsolicited commercial communication, the second party shall deposit additional security amount of rupees one lakh fifty thousand only (Rs. 1,50,000/-) and on issue of third notice by the Access Provider to thetelemarketer for sending similar unsolicited commercial communication, the second partyshall deposit an additional securityof amount of rupees four lakh only (Rs. 4,00,000/-).”

6. In Schedule-V to the principal regulations,----

(a) in clause 8, for the words, letters, figures and brackets “rupees one lakh only (Rs. 1,00,000/-)”, the words, letters, figures and brackets “rupees fifty thousand only (Rs. 50,000/-)” shall be substituted.

(b) for clause 10, the following clause shall be substituted, namely:-

“(10) The second party has agreed that on issue of first notice by the Access Provider to the second party for sending unsolicited commercial communication to the subscriber whose telephone number appears in the

National Customer Preference Register, the second party shall deposit additional security amount of rupees one lakh only (Rs. 1,00,000/-). The second party has also agreed that on issue of second notice by the Access Provider to the second party for sending similar unsolicited commercial communication, the second party shall deposit additional security amount of rupees one lakh fifty thousand only (Rs. 1,50,000/-) and on issue of third notice by the Access Provider to the second party for sending similar unsolicited commercial communication, the second party shall deposit an additional security of amount of rupees four lakh only (Rs. 4,00,000/-)."

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(Rajeev Agrawal)

SECRETARY

Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28thDecember, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31stJanuary, 2011.

Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28th February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05thSeptember, 2011.

Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25thOctober, 2011.

Note 9: The principal regulations were further amended (Eighth amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 1st November, 2011.

Note 10: The principal regulations were further amended (Ninth amendment) vide notification No. 305-24/2011-QoS(SP)and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th May, 2012.

Note11: The principal regulations were further amended (Tenth amendment) vide notification No. 311-13/2012-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 5th November, 2012.

Note12: The principal regulations were further amended (Eleventh Amendment) vide notification No. 311-23/2013-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 24rd May, 2013.

Note13: The principal regulations were further amended (Twelfth amendment) vide notification No. 311-23/2013-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 24rd May, 2013.

Note14: The principal regulations were further amended (Thirteenth amendment) vide notification No. 311-27/2013-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 22nd August, 2013.

Note 15: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Fourteenth Amendment) Regulations, 2013 (15 of 2013) .

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EXPLANATORY MEMORANDUM

1. Telecom customers are aggrieved with Unsolicited Commercial Communications (UCCs) in the form of SMSs or voice calls to promote commercial activity for quite a long time. In 2009-10, TRAI reviewed the regulatory framework for controlling UCCs and, on 1st December 2010, issued "The Telecom Commercial Communications Customer Preference Regulations, 2010". These regulationshave provision for mandatory registration of telemarketers with TRAI after payment of a one-time fee of Rs 10,000/-. These regulations also provided that before taking the telecom resources from service provider, a telemarketer has to deposit initially an amount Rs. 1,00,000/- with service provider as security deposit.

2. The aforesaid provisions were made in the regulations with the aim that if all telemarketers registered themselves with the Authority and the consumers electing not to receive promotional commercial messages register themselves in NCPR, the menace of UCCs would be controlled. However, subsequent events proved otherwise. Though some did register as telemarketers, many others chose to continue operating as telemarketers without registering themselves as such. That is, most of those sending UCCs, operated beyond the pale of TRAI's regulations; they obtained multiple SIMs as "normal subscribers" and made calls or sent out messages (SMSs) in bulk as UCCs to other telecom subscribers.

3. The UCC menace persisted leading consumers to complain about the number of UCCs being received. At various points of time, the Authority has responded to consumers' concerns by intervening through Regulations and Directions to curb the problem. The significant measures taken includes *Stopping UCCs sent through international routes, [Providing a ceiling on the number of SMSs per SIM per*

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day,]Economic deterrent to sending more than 100 SMSs per SIM per day, Mandating signature verification of bulk SMSs, Enhancing consumer awareness and obtaining an undertaking from subscribers against sending commercial SMSs, Making it easy for consumers to file a complaint, Disconnection and blacklisting of subscribers who do telemarketing without registering themselves with TRAI etc.

4. While the Authority's regulatory interventions have tempered the menace of UCCs, it has not altogether abated. The problem is that UCCs (SMSs or calls) from persons not registered as telemarketers continue to irritate and harass normal subscribers. Such individuals deliberately masquerade themselves as "normal subscribers" even though their primary purpose for obtaining telecom resources is for telemarketing activities.

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5. The Authority has noticed with concern that a large number of complaints received from consumers pertain to calls or messages originated by or on behalf of banks, insurance companies, builders etc. who are promoting their business by engaging unregistered telemarketers in total disregard of the regulations made by the Authority. These organisations, being the principal are equally responsible for the non-compliance of the regulations and directions issued by the Authority to address the problem of UCC. Hence, in order to make these entities accountable, the Authority has decided to amend the regulations (13th Amendment) to provide for disconnection of all telecom resources of such organisations if they are found to be engaged in telemarketing through unregistered telemarketers.

6. Authority has noticed that after implementation of The Telecom Commercial Communications Customer Preference (Thirteenth

Amendment) Regulations, 2013 majority of complaints pertaining to entities such as banks, insurance, builders etc. are against those subscribers who were not registered as telemarketers and were making the UCC through their normal 10 digit mobile numbers. Authority has asked all the major erring banks to submit their action taken report in respect of complaint. In response, some of the major banks have submitted thatthere are small dealers/ agents,in their business model,who do not have much incentive to afford the initial security deposit of Rs. 1,00,000/- with service providers for working as a telemarketer. Although, banks assured that they have mandated the condition of registration as telemarketer with TRAI is compulsory for becoming the dealers/ agents of bank, however, they also requested to reduce the registration charges and initial security deposit for becoming a telemarketer to motivate and provide the opportunity to these small agents/ dealers to do the business in a legitimate manner.

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7. Authority has also observed that one of the primary reason for non registering as telemarketer by such agents/ agencies is saving in cost of registration and initial security deposit. Therefore, Authority considered the request and is of the view that unsolicited commercial communication may be significantly reduced if majority of these unregistered callers are registered as telemarketer with TRAI and use the prescribed telemarketing resources for making the commercial calls/ SMS. Accordingly, to facilitate and to motivate these agencies/ agents to register themselves with TRAI, the Authority reviewed the registration period, registration feeand initial security deposit amount through these regulations.

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 7th April, 2014

No.311-33/2014-QoS- In exercise of powers conferred by section 36, read with sub-clause(v) of clause (b) and clause (c) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

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THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (FIFTEENTH AMENDMENT) REGULATIONS, 2014

(4 OF 2014)

1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Fifteenth Amendment) Regulations, 2014.

(2) These regulations shall come into force from the date of their publication in the official Gazette.

2. After regulation 19A of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), the following regulation shall be inserted, namely :-

"**19B.Restoration of telecom resources—**If a subscriber, whose telecom resources have been disconnected for contravention of the provision of clause (b) of sub-regulation (11) of regulation 19, makes a request, within thirty days of such disconnection, to the Authority for restoration of his telecom resources and satisfies the Authority that it has taken reasonable steps to prevent recurrence of such contravention, the Authority may order restoration of the telecom resources of such subscriber on payment of an amount of five hundred rupees to the Authority for restoration of each telecom resource, subject to the condition that the total amount payable by the subscriber shall not exceed five lakh rupees."

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(Sudhir Gupta)

SECRETARY

Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1st December, 2010.

Note 2:The principal regulations were amended vide notification No. 305-17/2010-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14th December, 2010.

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Note 15: The principal regulations were further amended (Fourteenth amendment) vide notification No. 311-28/2013-QoSand published in the Gazette of India, Extraordinary, Part III, Section 4 dated 3rd December, 2013.

Note 16:The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Fifteenth Amendment) Regulations, 2014 (4 of2014) .

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EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India issued The Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing Unsolicited Commercial Communications (UCC). These regulations have been amended from time to time to tighten the regulatory framework.

2. One of the major provisions of The TCCCP (Thirteenth Amendment) Regulations, 2013, which was issued on 22nd August, 2013, is disconnection of all telecom resources of entities for whom the commercial transactions have been solicited, after second notice.

3. Some of these entities have represented to the Authority requesting for re-connection of their disconnected resources as per the provisions of the TCCCP Regulations, 2010 under regulation 19A of TCCCP Regulations, 2010. The Authority had considered the various measures taken by these entities, by their channel partners, dealers, agents etc. to comply with the regulations. After examination, wherever the Authority was satisfied about such measures, the Authority had ordered reconnection of disconnected telecom resources of such entities, except the resources which were used for originating UCC.

4. To streamline the reconnection procedure for such entities the Authority proposed to levy an administration charge and draft "Telecom Commercial Communications Customer Preference (Fifteenth Amendment) Regulations, 2014 was posted on 29/1/2014 on the TRAI's web site for comments of the stakeholders by 12th February, 2014. Through these draft amendment Regulations, the Authority has proposed to levy a charge of Rs.500/- per telecom resource for reconnection of resources

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of entities on whose behalf commercial transaction were found to be solicited. Comments were received from 12 stakeholders, (7 from TSPs; 2 from insurance companies; 2 from TSP association; 1 from other organization).

5. Most of the stakeholders were in favour of levying a charge for reconnection of resources of entities on whose behalf commercial transaction was found to be solicited. The stakeholders have suggested levying a charge varying from Rs. 500/- to Rs. 5000/- per connection. Accordingly, the Authority is of the view that administrative charges may be levied. However, since the charges are intended to meet the administrative costs and also to create further deterrent against misuse of telecom resources should be reasonable. Hence the Authority has decided that an administrative charge @ Rs. 500/- per telecom resource, subject to maximum of Rs. 5,00,000/- may be levied for reconnection of disconnected telecom resources, other than the telephone connection from which UCC has originated.

6. Some of the stakeholders have suggested that the Regulation should specify a defined time-limit within which the affected entities can approach TRAI for restoration. Some of the service providers also suggested that the disconnected resources of entities on whose behalf UCC were made (except those telecom resources from which UCC were made) should be kept under suspension for a specified period. This will facilitate retention of the telephone numbers of the entity and quick restoration of telecom resources for the entity, if the Authority decides restoration of the resources. The Authority considered the suggestion and is of the view that giving time limit for approaching TRAI could enable the entities to take corrective action in a time bound manner. The Authority has observed that in case of restoration, service providers

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have to allocate the same telephone numbers to those entities. Therefore, defining a time limit for such restoration will help the service provider to reserve disconnected telephone numbers for a defined time period. Hence, the Authority has decided that disconnected entities can approach TRAI within thirty days from the date of disconnection of their telecom resources. The service provider should not allocate such disconnected telephone numbers to any other person or entity for such reasonable period to facilitate the restoration.

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TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 10th December, 2014

No.311-35/2014-QoS- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) and clause (c) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER PREFERENCE (SIXTEENTH AMENDMENT) REGULATIONS, 2014

(13 OF 2014)

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1. (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Sixteenth Amendment) Regulations, 2014.

(2) These regulations shall come into force from the date of their publication in the official Gazette.

2. In regulation 2 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) (hereinafter referred to as the principal regulations), ...

(a) in clause (m), after the words "alpha numeric" and before the word "identifier", the words "or numeric" shall be inserted; and

(b) in clause (ab), after sub-clause (iii), the following sub-clauses shall be inserted, namely :-

"(iiiA) information sent by e-commerce agencies in response to ecommerce transactions made by their customers;

(iiiB) information sent by a company or a firm or depository participant, registered with Securities and Exchange Board of India or Insurance Regulatory Development Authority or Association of Mutual Funds in India or National Commodity & Derivative Exchange Ltd. or Multi Commodity Exchange of India Ltd. to its clients pertaining to the account of the client;

(iiiC) information sent by a registered company to its employees or agents or customers pertaining to goods or services provided by it;

(iiiD) information sent by a registered company or charitable trust or society or telecom service provider, pertaining to its services or activities to the telecom subscriber in response to a verifiable request of such subscriber;

3. In regulation 17 of the principal regulations,---

(a) in sub-regulation (4), the following proviso shall be inserted, namely:-

"*Provided* that a telemarketer, who intends to receive reply from the recipient of the transactional message, in response to the transactional message sent by him, shall enter into an agreement with the Access Provider under Schedule VII to these regulations.";

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(b) in sub-regulation (10), the following proviso shall be inserted, namely:-
"*Provided* that the telecom resources provided to a telemarketer, who enters into an agreement with the Access Provider as specified in Schedule VII, may have facility of receiving incoming SMS".

4. In regulation 19 of the regulations, in sub-regulation (8), in clause (a), after the words "Schedule V" and before the words "to these regulations", the words "or Schedule VII" shall be inserted.

5. In regulation 20of the principal regulations, in sub-regulation (2) ---
(a) in clause (b),---
(i) after the word "Schedule V" and before the word "to these regulations", the words "or Schedule VII" shall be inserted;
(ii) in the proviso, after the word "Schedule V" and before the words "and every agreement", the words "or Schedule VII" shall be inserted;
(iii) in clause (e), after the words, bracket and letter "in clause (a) ", the words, bracket and letter "and clause (b)" shall be inserted.

6. After Schedule-VI of the principal regulations, following Schedule-VII shall be inserted ---

Schedule-VII

Agreement between Access Provider and Transactional message sending entity seeking telecom resources having facility to carry reply message (SMS) from the recipient of the transactional message.

This Agreement is executed on the _____ day of ....., 20..... between.....(Name of Access Provider) having its office at .....(hereinafter referred to as the "Originating Access Provider" or the first party, which term shall include its successors and assignees), through .....(Name and designation) who is duly authorised to sign and execute the present agreement on behalf of the first party

AND

M/s .....(Name of the Telemarketer)having its office at .....(hereinafter referred to as the Transactional Message sending entity or the second party, which expression shall include all its executors, administrators, successors, assignees and legal representatives), through Shri/Ms/Smt----------(Name and designation) who is duly authorized to sign and execute the present agreement on behalf of the second party.

Whereas the second party intending to obtain telecom resources for the purposes of sending Transactional message with the facility to receive message (SMS) from the recipient of Transactional message, has approached M/s.....(name of the Originating Access Provider);

And whereas the second party having represented to the first party that it intends to send Transactional message to the person with whom it has certain transactions and receive message in response from such person and such Transactional message does not fall within the definition of promotional message as defined under the Telecom Commercial Communications Customer Preference Regulations, 2010 (6

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of 2010) (hereinafter referred to as the regulations) and has requested for allotment of telecom resources for the said purpose.

Now the present agreement witnesses as follows: -

(1) The second party hereby declare that it has registered with the Telecom Regulatory Authority of India (hereinafter referred to as TRAI) vide application No.....and the registration number granted by TRAI to it is _____.

(2) The second party has agreed to obtain separate telecom resources from the Access Provider for the purposes of sending transactional message with the facility to receive message in response.

(3) The second party has agreed to bring only through International long distance operator the transactional message originated by an entity based outside the country.

(4) The second party shall be responsible in case of any misuse of telecom resources allotted to it for sending Transactional message.

(5) The second party shall maintain complete confidentiality of the customer information.

(6) The second party has agreed not to send any unsolicited commercial communication and not to mix any promotional communications with its Transactional message sent to a subscriber through telecom resource allotted to it for the purposes of sending Transactional message.

(7) The second party shall use number allocated by the first party, from its short codes starting with '5', which should be used as header for sending Transactional message.

(8) The second party has agreed that while sending information, pertaining to its services and activities, to the subscribers, it shall,

(a) sends information to the subscriber only after receipt of a verifiable request from him;
(b) inform the subscriber through SMS that the information requested for will be provided for a maximum period of six months, unless renewed and also the procedure for the subscriber to opt out at any time during the six months period from receiving such information;
(c) obtain a fresh request from the subscriber every six months for continuing to receive such information;
(d) intimate to the subscriber at least once in 180 days about the procedure to opt out from receiving such information;
(e) provide details regarding procedure to opt out from receiving such information in every advertisement wherein the details of its services and activities are published
(f) maintain a record of the request made by the subscriber for receiving such information for at least three months and provide such record as and when required by the Authority;
(g) not send any objectionable, obscene, unauthorized content, message or communication which is against public interest or national security or which infringes any copyright, intellectual property right etc, and or law of the land;

(9) The second party has agreed to deposit with the Originating Access Provider an amount of rupees one lakh only (Rs. 1,00,000/-) as refundable security deposit as specified in this agreement. The

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Originating Access Provider shall be entitled to deduct from such security deposit, on issue of each notice for sending or allowing unsolicited commercial communication by the second party, an amount as provided under this agreement.

(10) If the second party makes or permits any unsolicited commercial communication, through the telecom resources allotted to it by the first party for sending Transactional message, to any subscriber whose telephone number appears in the National Customer Preference Register, the second party agrees that-

(a) on the issue of first notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees fifty thousand only (Rs. 50,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(b) on the issue of second notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees one lakh fifty thousand only (Rs. 1,50,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(c) on the issue of third notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees one lakh sixty thousand only (Rs. 1,60,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(d) on the issue of fourth notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees two lakh forty thousand (Rs. 2,40,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(e) on the issue of fifth notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees three lakh only (Rs. 3,00,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time;

(f) On the issue of sixth notice by the Access Provider to the second party for sending such unsolicited commercial communication, a sum of rupees five lakh only (Rs. 5,00,000/-) shall be deducted from the security deposit of the second party and deposited in the account as may be specified by TRAI, from time to time.

(11) The second party has agreed that on issue of first notice by the Access Provider to the second party for sending or permitting unsolicited commercial communication to the subscriber whose telephone number appears in the National Customer Preference Register, the second party shall deposit additional security amount of rupees two lakh only (Rs. 2,00,000/-). The second party has also agreed that on issue of second notice by the Access Provider to the second party for sending or permitting similar unsolicited commercial communication, the second party shall deposit additional security amount of rupees three lakh only (Rs. 3,00,000/-) and on issue of third notice by the Access Provider to the second party for sending similar unsolicited commercial communication, the second party shall deposit an additional security of amount of rupees eight lakh only (Rs. 8,00,000/-).

(12) The second party has agreed that in case the second party fails to deposit the additional security deposit or the amount sufficient to meet the deductions agreed to under clause (9) is not available in the security deposit of the second party due to deductions made under clause (9) of this Agreement or for any other reason, the telecom resources allotted to the second party for the purposes of sending

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Transactional message shall be disconnected and the name of second party shall be intimated by the Access Provider to the agency maintaining the National Telemarketer Register for entering the name of the second party in the black list and the name of second party shall not be removed from the black list before the completion of the period of two years from the date of entering his name in such black list and the registration of the second party shall be cancelled by TRAI under the provisions of the regulations. In case second party is an entity, which is authorized to bring the transactional message from outside India for the customers of first party, then, the first party shall also terminate all the agreements for bringing the international Transactional message by second party originated from outside India for its customers.

(13) The second party has agreed that in case of issue of sixth notice by the Access Provider to the second party for sending unsolicited commercial communication as provided under clause 11(f) of this Agreement, without prejudice to the amount which shall be deducted from the security deposit of the second party under clause 11(f), the telecom resources allotted to the second party shall be disconnected without any further notice or on receipt of instructions for disconnection of telecom resources from National Telecom Register. The Access Provider shall intimate the name of the second party to the agency maintaining the National Telemarketer Register for entering the name of the second party in the black list and the name of the second party shall not be removed from the black list before the completion of the period of two years from the date of entering his name in such black list and the registration of the second party shall be cancelled by TRAI under the provisions of the regulations.

(14) The second party has agreed that the telecom resources allotted to the second party shall be disconnected without any further notice on receipt of the instruction for disconnection of telecom resources from National Telemarketer Register or TRAI.

(15) The second party has agreed to pay the amount provided in clause 9 of this agreement in case the second party sends unsolicited commercial communications or mixes telemarketing or promotional SMSs with the transactional SMS.

(16) The second party has agreed that in case it brings the transactional message from outside India for the customers of the first party, it shall ensure that the transactional message sending entity shall comply with the provisions of the regulations and other regulations/ directions/ orders issued by licensor or TRAI from time to time. In case any violations is observed on part of such entity, the second party shall be liable to pay financial disincentive not exceeding rupees five lakh per violation as may be decided by TRAI. First party shall deposit, such financial disincentive, into an account specified by TRAI.

(17) The second party has also agreed to abide by all the regulations, orders and directions issued by the Telecom Regulatory Authority of India regarding Transactional message, from time to time, including the header to be used for sending transactional SMSs.

Signature of subscriber/ Authorised Signatory

(Name of subscriber/ Authorised Signatory)
Address
Seal, if any.
Date:

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Signature of Access Provider Representative/ Authorized Signatory

(Name of Access Provider Representative / Authorized Signatory)

Address

Seal, if any.

Date:"

(Sudhir Gupta)
SECRETARY
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सचिव/Secretary
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Note 16: The principal regulations were further amended (Fifteenth amendment) vide notification No. 311-33/2014-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 7th April, 2014.

Note 17: The Explanatory Memorandum explains the objects and reasons of Telecom Commercial Communications Customer Preference (Sixteenth Amendment) Regulations, 2014 (XX of 2014).

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EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) (TCCCP Regulation) dated the 1st December, 2010 to provide an effective mechanism for curbing Unsolicited Commercial Communications (UCC). These regulations have been amended from time to time to tighten the regulatory framework.
2. One of the provisions of The TCCCP Regulations, 2010, is that service providers are not allowed to provide the incoming call or SMS facility on the telecom resources being used for sending the transactional message.
3. There have been a number of representations from various stakeholders requesting Authority for allowing a two way communication facility for transactional messages. The stakeholders have claimed that they have developed many applications, which requires two –way or interactive communication through SMS between users or between users and application. Various ILD service providers have also requested the Authority to allow carrying international transactional messages from international entities.
4. As per the existing provisions of the regulations, header for sending the transactional message has been specified in form of "XY-ABCDEF" (all alpha characters). Due to limitation of existing systems two way communications through alpha headers is not feasible and it has to be numeric header to support such two-way messaging.
5. The Authority has considered all such requests of all application providers, access providers, ILD operators and users and decided that there is a definite requirement for a two-way interactive SMS transactional communication because of various user friendly applications. Hence, there is a need to review the existing provisions of the regulations to allow such two way interactive SMS with sufficient safeguards.
6. The Authority is also of the view that telemarketers and ILD operators registered as telemarketers will be able to make two way communications if access providers allocate short codes starting with 5 as an header for such transactional messages. Accordingly, the regulations have been amended.
7. To ensure suitable safeguards, the penalties for such transactional messages with two way communications are double than that for normal transactional messages. Also in case of transactional messages by international entities carried by various entities, provisions have been made for additional penalties on these entities for violations.

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