

Response to Consultation Paper on Unsolicited Commercial Communications

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One97 Response to TRAI consultation paper (08/2010) on UCC in India

Chapter 4 (Issues for Consultation)

4.1. What are the primary factors for poor effectiveness of Telecom Unsolicited Commercial Communications Regulations, 2007 (4 of 2007) in its present form? Give your suggestions with justifications. (Reference Para 2.3)

We strongly believe that the National Do Not Call Registry (NDNC) as proposed by the UCC Regulation in 2007 is the strongest way to prevent unsolicited commercial communications in a vast and diverse market like India. The system ensures that there is a deterrent for anyone wanting to make any such communication and Indian telecom operators have been extremely wary of making any such communications.

However, the primary factors that ensured that this system was not very effective in our view are the below:

- The complaint process is too long. Once a complaint is logged, it typically takes several weeks for the telecom operator to lodge a complaint on their part with the service provider or communication agency and get a response
- The registration process goes on for 45 days. That is too long a time span for a customer to be added to the registry. Customers are not confident of this process and there is no real time process to ensure addition
- As a registered service provider, we have observed several occasions when the NDNC website does not work, or returns incorrect results. This leads to unnecessary complaints rising due to issues on the website and the scrubbing process which in turn leads to the system being considered ineffective
- There is no standard definition for how the system would be considered to be “effective”. In our experience there are occasions where a complaint comes in from a subscriber of having received a UCC, but on investigation it turns out that the message was not commercial in nature (for example a payment reminder or a notification of interruption in services or a bank transaction update), and hence was not applicable for the complaint
- To state that the system is ineffective there need to be a set of parameters and benchmarks decided that would establish the statement. That is lacking in the UCC regulation, hence stating that the system is ineffective is not possible. What should be the number of complaints that would define effectiveness, what would be the complaint categories that would be considered to be valid even though they may be reported by the customer as an UCC etc. are factors to be drilled into
- In our experience most customer complaints come in cases where a customer accidentally subscribes to a service, or felt after subscribing that he/she would not like to have any balance deductions etc. to be done. These cases do not fall under UCC, hence would reduce the number of actual UCC violations to much lower than perceived

4.2. Do you feel that there is need to review the existing regulatory regime of Unsolicited Commercial Call (UCC) to make it more effective? What needs to be done to effectively restrict the menace of Unsolicited Commercial Communications (UCC)? (Reference Para 2.3)

We believe that the regulatory regime of UCC requires review in order to better define some parameters within what comprises UCC, how complaints should be handled etc. Some suggestions are given below:

- One of the primary reasons why customers in the NDNC receive what they consider UCC today is the fact that service providers are unable to consistently get accurate results from the NDNC website. The site is down on at least 2-5 days a month, on which scrubbing becomes impossible. The site returns incorrect/incomplete results from time to time due to the tremendous load it goes through, which results in people getting UCC despite being on the NDNC list. The site needs to have a much more robust infrastructure and capability to handle much larger loads
- Resolution of a complaint takes over 3-4 weeks at present with it taking over 5 minutes over a call with a customer care agent for a complaint to be registered. This leads to a very negative customer experience which in turn impacts the UCC regulation
- In spite of the NDNC list being in existence, there are several cases of a customer getting UCC, in the form of either a voice message or an SMS message on a daily basis. There need to be stronger penalties and more robust complaint mechanisms for this to be handled. All telemarketers are not necessarily registered with the NDNC and there needs to be a greater control on who is sending out promotional messages
- Registration on the NDNC needs to be a much smoother process. At present it takes over 40 days for a registration to happen which erodes customer trust in the system. There should be an instant subscription and unsubscription system
- TRAI needs to clearly define some metrics for the success of the program. This could be in terms of number of complaints received from customers, it could be results of random audits and number of compliance issues found in them, it could be in terms of the number of registrations by telemarketing companies (indicating operator success in enforcing the program) etc.

4.3. Do you perceive do call registry to be more effective to control Unsolicited Commercial Communications as compared to present NDNC registry in view of discussions held in para 2.4 to 2.9? Give your suggestions with justification. (Reference Para 2.10)

We strongly believe that a Do Call registry will prove to be more deterrent for improvement than it will be helpful. For starters, the number of complaints will increase to several times their current number. Both TRAI and telecom operators are not equipped with the infrastructure in terms of technology and manpower to handle such large volumes of complaints. Once the number becomes unmanageable, the monitoring of results and improvements will see a gradual decline and the

system will fail.

A Do Call registry will ensure that most (out of 27000+) telemarketers would see a complete wipeout of business which would be highly detrimental as they employ several lakh employees. Moreover many of the promoted services have a very high degree of customer interest and likeness, in which case it would be unfair to subscribers of these services to not get the requisite promotions. The better way out would be to increase awareness of the NDNC which is a more relevant and valid option and serves to penalize telemarketers who are indulging in UCC.

The primary issues around UCC come due to telemarketing agencies that do not adhere to the process of the NDNC registry. Irrespective of the introduction of a "do call registry", these agencies would continue to indulge in the UCC activities, hence increasing the number of complaints multifold.

Thus we strongly believe that it is very important to firstly take care of process issues around the NDNC regulation, complaints process, metrics for evaluating success and failure, controlling errant telemarketers and valid complaints

4.4. Do you perceive the need to control telecom resources of telemarketers to effectively implement provisions of Unsolicited Commercial Communications and to encourage them to register with DoT? What framework may be adopted to restrict telecom resources of defaulting telemarketers? (Reference Para 2.11.3)

Absolutely! As of today, there are several telemarketers that do not follow the norms set by the TRAI and DoT. These telemarketers should be penalized appropriately with strict action, which could even include asking them to stop services altogether. Such examples will force other such telemarketers also to ensure that all processes and norms are followed without exception, and customer convenience is always placed at top priority.

This is a requirement that can also be enforced by telecom operators as customers of telemarketers. A strict code of conduct would be the ideal way to control such activities. We recommend that only those companies be allowed for telemarketing activities that are registered with and authorized by DoT/telecom operators. All other companies if found indulging in telemarketing activities should be derostered and asked to stop operations.

4.5. Do you agree that maximum number of calls as well as SMS per day from a telephone number (wireless as well as wireline) can be technically controlled to force telemarketers to register with DoT? What other options you see will help to effectively control telemarketers? (Reference Para 2.12.4)

A limit on the number of calls per number per day will not be effective as it limits the overall benefits of telecom as a medium. It will also not serve the purpose as telemarketers will then adopt multiple such communication mediums to ensure that they are able to make the calls/SMSes that they require for business. We believe that telemarketers should be forced however possible to register with the DoT. That is the best possible mechanism to control usage of promotional resources as well as not overuse them to customers' inconvenience. All such communication should be stopped the moment it becomes intrusive and an irritant and there should be measures in place to ascertain that.

4.6. Do you envisage that second screening at SMSC as proposed in para 2.12.3 will effectively control unsolicited SMSs? Give your comments with justification. (Reference Para 2.12.4)

No, we do not support this proposal. There are several SMS based messages that are required to be delivered to customers inspite of them being registered with NDNC. Some examples are updates on bank transactions, credit card transactions, subscription to opt-in services like video delivery, magazines etc. If there is an invalid transaction that takes place on a customer's bank account, he should be notified and a second filter will ensure that such messages that would be highly critical would get filtered out and cause significant financial damage.

4.7. What changes do you suggest in existing provisions to control the Unsolicited Commercial Communications effectively? Give your suggestion with justification. (Reference Para 2.13.6)

We would like to make the following recommendations to ensure this process is more robust and effective:

- Regularly monitor the number of complaints, and segregate them into categories to identify the actual number of violations of the UCC regulation. This would given an insight into how effective the program really is today
- All telemarketers should register with DoT or with the telecom operator. This will ensure that only registered companies are able to send promotional messages and calls, hence ensuring that penalizing becomes easier and responsibilities can be assigned more easily. Also, in case there are calls going out from companies that are not registered telemarketers, it would be easier to penalize them. There would be an overall smoothening of the NDNC and anti-UCC process
- Technology upgrades into the NDNC system. There is a strong need to ensure that NDNC servers are able to handle the load that is seen on the system and ensure that incorrect results are not passed out ever. This will ensure that only those complaints come into the system that are genuine and not cases of UCC happening inspite of the telemarketers following all processes
- Promote the NDNC concept among the subscribers. Telecom operators should send out

NDNC awareness messages to their subscribers regularly to ensure that they are aware of the options they have

- We can have categories that a customer can opt-in for to receive communication. For example a customer in the NDNC can opt-in to receive updates for caller ring back tones and nothing else. This ensure a customer's freedom of choice is available to him

4.8. Do you agree that present panel provisions to charge higher tariff from telemarketers are resulting in undue enrichment of service providers? What penalty framework do you propose to effectively control UCC without undue enrichment of service providers? (Reference Para 2.13.7)

Yes, we support higher penalties from service providers who flout the NDNC and anti-UCC rules. These penalties should even include derostering if there are bases of multiple and repeated flouting of these rules.

4.9. Do you feel that present UCC complaint booking mechanism is effective? What more can be done to enhance its effectiveness? (Reference Para 2.13.8)

The complaint booking process is effective, however it is quite lengthy with each call spanning more than 5-6 minutes each. This can be looked into. Also, a follow up of any such call is quite cumbersome. There should be a web interface wherein a customer cal log in and check the status of his complaint. This would also be effective in case of a toll free IVR based system where a customer can call in and find out the status of his complaint.

4.10. Do you feel that there is a need to enact legislation to control the Unsolicited Commercial Calls? Give your suggestion with justification. (Reference Para 2.13.9)

We feel that while legislations can certainly help make things more transparent and compulsive, it is not required as of today. We feel that once we resolve all process issues (technical issues with the website, complaint logging and redressal system etc.) there would be no need for legislation as the process would be highly optimized and robust.

4.11. Do you agree that definition in para 2.14.1 correctly define Unsolicited Commercial Communications in Do Call registry environment? Give your suggestions with justification. (Reference Para 2.14.2)

We do not agree. We believe that with a NDC, a customer will start receiving all telemarketing messages whether or not they are of a category that he was actually interested in.

4.12. Do you feel that proposed framework to register on NDCR will be user friendly and effective? What more can be done to make registration on NDCR more acceptable to customers as well as service providers? (Reference Para 3.7)

We feel that a Do Call Registry will ensure that all conveniences available to a user will be negated by the sheer issues involved in making them available. If a user is required to individually acknowledge the willingness to received promotions for a certain service, it will always remain inefficient as a user will have to individually register for his bank transactions, credit card transactions, magazine subscriptions, willingness for CRBT etc.

Moreover, with a NDC a user will have many more complaints to make compared to the as-is situation hence leading to dissatisfaction.

4.13. In your opinion what are the various options which may be adopted for setting up and operating the NDC registry in India? Among these suggested options which options do you feel is the most appropriate for implementation and why? Give your suggestion with justification. (Reference Para 3.8.3)

We are not in agreement with a Do Call Registry in India as it will not solve any of the existing problems highlighted, however, it will create several other problems

4.14. Do you agree that present NDNC registry can effectively be converted to NDC registry? What measures need to be taken to make it more effective? (Reference Para 3.8.4)

We do not believe that the NDNC registry can be converted to a NDC registry. Creating a NDC registry will be a process that will have to be initiated from scratch and managing it for 500 million existing telecom subscribers in India as well as the millions added every month will be a technological nightmare. In addition, there will be several acceptability issues with customers.

4.15. In view of the discussion held in para 3.9, which option of charging and funding model do you suggest for procuring the data from National Do Call Registry by telemarketers? What should be the various provisions you want to incorporate in suggested model? Give your suggestion with justification. (Reference Para 3.9.5)

We do not support the NDC model, hence the answer to this question is not applicable.

4.16. What measures do you suggest to protect data of NDC registry? Give your suggestions with justification. (Reference Para 3.10.2)

We do not support the NDC model.

However, in response to this question, TRAI and DoT cannot rule out the possibility of a service provider obtaining the subscriber list from the NDC for free on registration, and selling that database forward to other agencies who may not be registered, and be the major flouting parties even as of today. This can hence lead to an even bigger UCC related problem than what is seen today.