



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



Dated 02nd June, 2023

DIRECTION

Subject: Direction under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) regarding implementation of Digital Consent Acquisition under Telecom Commercial Communications Customer Preference Regulations, 2018 (6 of 2018).

F. No. RG-25/(6)/2022-QoS - Whereas the Telecom Regulatory Authority of India (hereinafter referred as the "Authority"), established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) (hereinafter referred to as "TRAI Act"), has been entrusted with discharge of certain functions, inter alia, to regulate the telecommunication services; ensure technical compatibility and effective inter-connection between different service providers; lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such services provided by the service providers so as to protect the interest of the consumers of telecommunication service;

2. And whereas the Authority, in exercise of the powers conferred upon it under section 38, read with sub-clause (v) of clause (b) and clause(c) of subsection (1) of section 11, of the TRAI Act, made the Telecom Commercial Communications Customer Preference Regulations, 2018 (6 of 2018) dated the 19th July, 2018 (hereinafter referred to as the "regulations"), to regulate Unsolicited Commercial Communications (UCC);

3. And whereas regulation 3 of the regulations provides that every Access Provider shall ensure that any commercial communication using its network only takes place using registered headers assigned to the sender for the purpose of commercial communication;

4. And whereas regulation 5 of the regulations, inter alia, provides that every Access Provider shall develop or cause to develop an ecosystem to regulate the delivery of the commercial communications as provided for in the regulations, which includes facility to record consents of the subscribers acquired by the senders for sending commercial communication and maintain complete and accurate records of the consents, facility for revocation of consent by its subscribers and accordingly update records of consent for the Subscribers, and to comply with any other directions, guidelines and instructions issued by the Authority in this regard;

5. And whereas sub-regulation (1) of regulation 6, inter alia, provides that every Access Provider shall establish Customer Preference Registration Facility and make necessary arrangements to facilitate its customers, on 24 hours and 7 days basis, throughout the year, to provide ways and means to record consent or record revocation of consent related to commercial communication;

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6. And whereas regulation 9 of the regulations, inter alia, provides that every Access Provider shall ensure that no commercial communication is made to any recipient, except as per the preferences or digitally registered consents registered in accordance with the regulations;

7. And whereas regulation 11 of the regulations, inter alia, provides that every Access Provider shall give due publicity through appropriate means to make the customers aware regarding the procedures and facilities for registration of preferences, registration and revocation of consents, and the procedures and facilities for making complaints or reporting UCC;

8. And whereas regulation 12 of the regulations, inter alia, provides that Access Providers shall deploy, maintain and operate a system, by themselves or through delegation, to record preferences, consents, revocation of consents, complaints, etc., and to carry out pre-check and post-checks in respect of commercial communication being offered for delivery and also to keep records of actions performed;

9. And whereas, regulation 17 of the regulations provides that the Authority may direct Access Providers to make changes, at any time, in the Code of Practice and Access Provider shall incorporate such changes and submit revised Code of Practice within fifteen days from the date of directions issued in this regard;

10. And whereas sub-item (2) of item 4 of Schedule I to the regulations, inter alia, provides that every Access Provider shall carry out Consent Registration Functions as provided in the regulations, which reads as under:-

"4. Every Access Provider shall carry out following functions: -

....

(2) Consent Registration Function (CRF)

(a) record consent via Customer Consent Acquisition Functionality on Consent Register, on its own or through its agents, to facilitate consent acquirers to record the consent taken from the customers in a robust manner which is immutable and non-repudiable and as specified by relevant regulations;

(b) Presenting content of consent acquisition template to the customer before taking consent;

(c) Taking agreement to the purpose of consent and details of sender;

(d) Authenticate customer giving the consent through OTP;

(e) record revocation of consent by the customer via revoke request in a robust manner which is immutable and nonrepudiable and as specified by relevant regulations;

(f) record sufficient contact information, valid for at least 30 days, required to revoke consent and present it to recipient to enable them to submit request for revoking consent;"

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11. And whereas sub-item (4) of item 4 of Schedule I to the regulations, inter alia, provides that every Access Provider shall carry out Scrubbing Functions (SF) to process Scrubbing as defined in the regulations, in a secure and safe manner, using preferences and consent of customers and category of content;

12. And whereas sub-item (1) of item 6 of Schedule I to the regulations, inter alia, provides that every Access Provider shall ensure that content of any Commercial Communication sent by the senders shall be categorized and compared with the list of preferences of the recipient and/or purpose of consent given by the recipient to the sender for the purpose of Scrubbing as provided in the regulations and the relevant provisions of the said item reads as under;

"6. Every Access Provider shall ensure that

(1) content of any commercial communication sent by the sender(s) shall be categorized and compared with the list of preference(s) of the recipient and/or purpose of consent given by the recipient to the sender for the purpose of scrubbing and for this purpose access provider shall ensure that-

(a) any commercial communication through its network takes place only using registered content template(s) for transaction and/ or content template(s) for promotion;

(b) ...

(c) ...

(d) Every Access Provider shall suffix relevant information required to revoke the consent to the text of promotional message;

(e) ..."

13. And whereas Item 7 of Schedule II to the regulations, inter alia, provides that every Access Provider shall establish facility for revoking the consent by its customers and the relevant provisions of the said item reads as under:-

"7. Every Access Provider shall establish facility for revoking the consent by its customers and shall make necessary arrangements: -

(1) to receive request, from the customer, for revoking the consent, if any, given by the recipient to the sender or to the consent acquirer for the purpose of receiving a commercial communication message or voice call;

(2) to provide modes, free of cost, to the customer, as per his choice, to revoke consent either by: -

(i) sending SMS to short code 1909 with Label <Revoke> and <Sender ID> or to telephone number mentioned in the message or during the voice call received from the sender(s); or

(ii) calling on 1909 or number mentioned for revoking the consent during the voice call received from the sender(s); or

(iii) calling on customer care number; or

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- (iv) Interactive Voice Response System (IVRS); or
- (v) Mobile app developed in this regard either by the Authority or by any other person or entity and approved by the Authority; or
- (vi) Web portal with authentication through OTP; or
- (vii) Any other means as may be notified by the Authority from time to time."

14. And whereas, the Authority has observed that:-

- (a) promotional messages are being sent without scrubbing (verification) of the consents of the customers registered, and further, these messages are being sent under the Service Message category;
- (b) Access Providers have not developed uniform process for registering the consent of the subscribers, as envisaged in the regulations;
- (c) the consents acquired by the Principal Entities are being used by the Access Providers without re-verification and updation as provided for in the regulations;
- (d) Digital Consent Acquisition and Revocation facilities are yet to be developed and to be deployed by the Access Providers;

15. Now, therefore, the Authority, in exercise of the powers conferred upon it under section 13, read with sub-clause (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), hereby directs all Access Providers to-

- (a) ensure that no promotional messages are sent without scrubbing of the consent and preference of the customers;
- (b) ensure that no promotional messages are sent under the Service Message category;
- (c) develop and deploy, within two months, from the date of issue of this Direction, Digital Consent Acquisition(DCA) facility to-
 - (i) enable subscribers to record their consents and revoke the same as given in the regulations,
 - (ii) ensure that short code 127xxx(or any other code as prescribed by the Authority) shall be used by all the Access Providers for sending consent seeking message.
 - (iii) develop a SMS/IVR/Online facility to register unwillingness of the customers to receive any consent seeking message initiated by any Principal Entity and whitelist the telephone numbers of such customers and that no consent seeking message shall be delivered to such customers;
 - (iv) ensure that the scope and Principal Entity/Brand name is mentioned clearly in the consent seeking message sent through the short code;

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- (v) ensure that Principal Entities whitelist existing URLs/APKs/OTT links/Call Back number within one month after development of Digital Consent Acquisition facility and after that only whitelisted URLs/APKs/OTT links/Call Back number and others as may be specified by the Authority from time to time shall be used in the consent seeking messages;
 - (vi) ensure that the consent acquisition confirmation message to the customers shall also have information related to revocation of the consent;
 - (vii) ensure that if a customer has rejected or not responded to the consent seeking requests, no such messages to the customer shall be initiated by the same Principal Entity for next ninety (90) days for the same consent. However, customers shall have the right to initiate the consent registration request at their own;
 - (viii) ensure that Principal Entity initiated consent acquisition process should begin only one month after the Digital Consent Acquisition Facility is fully functional and advertised or 30 days after successful implementation of DCA, whichever is earlier, and until then, only customer-initiated consent acquisition process shall be followed;
 - (ix) ensure that in the first month after the commencement of the Principal Entity initiated Consent Acquisition process, Principal Entities belonging to the Banking, Insurance, Finance and Trading related sectors are on-boarded to initiate Consent Acquisition process and the remaining sector shall be on-boarded in next two months;
 - (x) educate the Principal Entities about the process of taking consent and its verification through Access Providers and facilitate the on-boarding of Principal Entities;
 - (xi) give wide publicity through various media including print media to the Digital Consent Acquisition/Revocation/whitelisting process so that end users are aware of it;
 - (xii) no other mode of consent acquisition process shall be adopted after successful implementation of the DCA platform, as per schedule below and
- (d) update the Code of Practice within fifteen days from date of issue of this direction, ensure compliance of the above direction as per the timelines given below and submit monthly progress report in the format as may be prescribed by the Authority.

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Timelines for implementation for the Direction

(i)	Development and Deployment of the Digital Consent acquisition facility	By 31 st July 2023
(ii)	User initiated consent acquisition	To start from 1 st August 2023
(iii)	Whitelisting of existing URLs/APKs/OTT/Links/call-back numbers	By 31 st August 2023
(iv)	PE Initiated consent acquisition	To start from 1 st September 2023
(v)	On-boarding of Principal Entities belonging to the Banking, Insurance, Finance and Trading sectors	By 30 th September 2023
(vi)	On-boarding of Principal Entities belonging to remaining sectors	By 30 th November 2023

Jaipal Singh 02/06/2023
(Jaipal Singh Tomar)
Advisor (QoS-II)

To,

All Access Providers (including M/s Bharat Sanchar Nigam Limited and M/s Mahanagar Telephone Nigam Limited)