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NOTIFICATION

New Delhi.----- the,-----, 2007

THE TELECOM UNSOLICITED COMMERCIAL COMMUNICATIONS
REGULATIONS, 2007

No. 101-60/2006-MN.-----In exercise of the powers conferred by section 36, 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), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

CHAPTER I

Preliminary

1. **Short title and commencement.** —(1) These regulations may be called the Telecom Unsolicited Commercial Communications Regulations, 2007.

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

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

(a)“Act” means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(b)“Access Providers” includes the Basic Telephone Service Provider, Cellular Mobile Telephone Service Provider and Unified Access Service Provider;

(c) “Application Services” means services tele-banking, tele-medicine, tele-education, tele-trading, e-commerce, call center, network operation center by using telecom resources provided by service provider authorised by the

Government of India, the Ministry of Communication and Information Technology, Department of Telecommunication;

(d) “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;

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

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

(g) “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;

(h) “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;

(i) “Cellular Mobile Telephone Service Provider” means a licensee authorized to provide Cellular Mobile Telephone Service under a licence granted under section

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;

(j) “existing subscriber” means a subscriber who has obtained the telephone connection before the commencement of these regulations;

(k) “message” shall have the meaning assigned to it in clause (3) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);

(l) “National Do-Not-Call Register” means a data base or register,---

(a) established and maintained by a person as may be authorized and specified, by notification, by the Central Government, Ministry of Communication and Information Technology on the recommendation of the Authority, in the Official Gazette;

(b) containing list of the telephone numbers of all subscribers who have opted not to receive unsolicited commercial communication;

(m) “National Numbering Plan” means the National Numbering Plan 2003 made by the Government of India, Ministry of Communications and Information Technology, Department of Telecommunication or any such plan subsequently made by it;

(n) “new subscriber” means a subscriber who obtains the telephone connection on or after the commencement of these regulations;

(o) “notification” means a notification published in the Official Gazette and the expression “notified” shall be construed accordingly.

(p) “Other Service Provider” means a person providing Application Services;

(q) “Private Do Not Call List” means a data base or register, ----

(i) maintained by an Access provider for its exclusive use and such database or register not being in public domain;

(ii) containing details of the telephone numbers and other details of all of its subscribers who had opted not to receive unsolicited commercial communication;

(r) "regulations" means the Telecom Unsolicited Commercial Communications Regulations, 2007;

(s) “sender” means the Other Service Provider who initiates an unsolicited commercial communication;

(t) “specified message” means any message, through telecommunications service, which is transmitted for the purpose of informing about, or soliciting or promoting any commercial transaction in relation to goods, investments or services but does not include, –

(i) any message relating to service (other than promotional message) transmitted by the Access Provider to its subscribers; or

(ii) any messages relating to charities, national campaigns or natural calamities transmitted on the directions of Government or its authorized registered agencies;

(iii) messages transmitted, on the directions of the Government or any authority authorized by it, in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;

(u) “subscriber” means any person or legal entity, who or which, subscribes to service from the Access Provider;

(v) “unsolicited commercial communication” means any specified message which a subscriber of a service provider opts not to receive;

(w) “Unified Access Service”, --

(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;

(x) “Unified Access Service Provider” means a licensee authorised to provide Unified Access Services under a licence in a specified service area;

(y) all other words and expressions used in these regulations but not defined, and

defined in the Act and the rules and other regulations made thereunder, shall have the meanings respectively assigned to them in the Act or the rules or other regulations, as the case may be.

CHAPTER II

DO NOT CALL LIST

3. Setting up of mechanism for registering request of subscribers for not receiving unsolicited calls.-- (1) Every Access Provider shall, within fifteen days from the date of the notification by the Government of India, the Ministry of Communication and Information Technology, Department of Telecommunication establishing the National Do not Call Register under clause (1) of regulation 2, establish a Call Center or any such office or mechanism for the purpose of receiving the request of its subscribers for registration of their telephone number in the National Do Not Call Register

(2) Every call center or any such mechanism set up under sub regulation (1) shall earmark or allot or establish a specific basic telephone or cellular mobile telephone number having sufficient lines or connections generally known as the “toll free number” or “customer care number” or “help line number” at every such call center or such mechanism for the purpose of registering the requests of its subscribers for not receiving unsolicited commercial communication and all such calls shall be treated as free calls.

4. Setting up the Private Do Not Call List. —Every Access provider shall, within fifteen days from the date of notification by the Government of India, the Ministry of Communication and Information Technology, Department of Telecommunication establishing the National Do not Call Register under clause (1) of regulation 2, maintain and operate for the purposes of these regulations, a Private Do Not Call List in which the preference of its subscribers for not receiving unsolicited commercial communication shall be entered in accordance with the provisions of these regulations.

5. Contents of the Private Do Not Call List. —(1) Every Private Do Not Call List shall include, *inter alia*,----

(a) the name of each subscriber who make a request to the Access provider

for not receiving the unsolicited commercial communication ;

(b) telephone number and area code of the subscriber referred to in clause (a) above;

(c) the date and time of making of request by the subscriber referred to in clause (a) above;

(d) the name of each subscriber who makes a request to the Access provider for revocation of his earlier request for not receiving the unsolicited commercial communication ;

(e) telephone number with area code of the subscriber referred to in clause (d) above;

(f) the date and time of making of request by subscribers referred to in clause (d) above;

(g) details of the option referred to in sub-regulation (1) of regulation 11

(2) Every access provider shall maintain in duplicate the Private Do Not Call list at such two places as may be considered appropriate having regard to the security of the database or register.

6. Contents of the National Do not call Register. —(1) The person authorized by the Central Government under clause (l) of regulation 2, shall maintain the National Do Not Call Register which shall contain the particulars relating to, ---

(a) the telephone number and area code of each subscriber who makes a request to the Access provider for not receiving the unsolicited commercial communication and whose name and other particulars have been entered in the Private Do not call list under regulation 5;

(b) details of option included in such request as indicated in clause (g) of sub-(1) of regulation 5.

(c) such other particulars as may be specified by the Authority.

(2) No particulars other than those referred to in sub-regulation (1), shall be entered in the National Do Not Call Register.

CHAPTER III

PROCEDURE FOR REGISTRATION OF REQUEST FOR NOT RECEIVING
UNSOLICITED CALLS

7. Registration for not receiving unsolicited calls.----- (1) Every existing subscriber and new subscriber, may immediately after establishment of call center or office or mechanism under sub-regulation (1) of regulation 3, make a request, through telephone or electronic means or through a letter to his Access Provider, for registration of his telephone number in the National Do Not Call Register.

(2) Every Access Provider shall, at the time of providing the telephone service, whether Basic telephone or cellular mobile service, to a new subscriber, give him an option for registration of his telephone number in the National Do Not Call Register.

(3) No amount shall be charged from the subscriber for giving option under regulation 7.

8. Procedure for registration of requests for not receiving unsolicited commercial communication.-- (1) Every Access Provider shall, immediately on receipt of a request under sub-regulation (1) of regulation 7, for not sending unsolicited commercial communication, at a Call Center or any such office or mechanism referred to in sub-regulation (1) of regulation 3,----

(a) verify the correctness of the request so received;

(b) communicate, within ten days of such receipt, a unique registration number to the subscriber who made the request for registering his telephone number in the National Do Not Call Register;

(2) Every Access Provider shall, within fifteen days after receipt of request under regulation 7, record details in respect of each such request as the case may be in the Private Do Not Call List after verification of such request as per clause (a) of sub regulation 1.

9. Withdrawal of request or option of subscribers relating to unsolicited commercial communication.----- (1) Any subscriber may, at any time after the expiry of three months from the date of making the request or giving the option under regulation 7, revoke his request or option as the case may be made or exercise to the access provider.

(2) Every Access Provider on the receipt of request for withdrawal under sub-regulation (1) shall,----

- (a) verify the correctness of such request;
- (b) record details within fifteen days in respect of each such request in the Private Do Not Call List.

10. Updation of content in National Do Not Call Register.-----

(1) Every Access Provider shall, within fifteen days after receipt of request under regulation 7, update by incorporating, the content referred to in clause (b), clause (e) and clause (g) of sub-regulation (1) of regulation 5, in the National Do Not Call Register.

(2) Every Access Provider shall update the Private Do Not Call List and the National Do Not Call Register incorporating therein, ----

- (a) the changes, if any, in the National Numbering Plan and other changes on the request of its subscribers;
- (b) omission of telephone number upon permanent disconnection of such number registered in Private Do Not Call List and National Do Not Call Register.

11. Inclusion or exclusion of class or classes or type or category or categories of unsolicited commercial communication in the Private Do Not Call list and National Do Not Call Register.----

(1) Any subscriber may, after expiry of period of six months from the date the National Do Not Call Register has been notified under clause (1) of regulation 2, may make a request to the Access Provider for inclusion in, or, exclusion from, the request made earlier under regulation 7, any class or classes or type or category or categories of unsolicited commercial communication.

(2) Every Access Provider shall, within fifteen days of receipt of request made under sub-regulation (1), update the data, referred to in clause (g) of sub-regulation 1 of regulation 5, in the Private Do Not Call List and the National Do Not Call Register.

CHAPTER IV

OBLIGATIONS OF THE ACCESS PROVIDERS

12. Reporting Requirements. --- (1) Every Access Provider shall furnish to the

Authority such information relating to the Private Do Not Call List as may be required by the Authority to protect the interests of the consumers or discharge of functions by the Authority under the Act.

(2) The person authorized to maintain the National Do Not Call Register under clause (l) of regulation 2 shall furnish to the Authority such information relating to the National Do Not Call Register as may be required by the Authority to protect the interests of the consumers or discharge of functions by the Authority under the Act.

13. Confidentiality.-----Without prejudice to the provisions of any law for the time being in force, every Access Provider and the person authorized to maintain the National Do Not Call Register under clause (l) of regulation 2 shall, keep confidential all the information disclosed by the subscriber and entered in the Private Do Not Call List and the National Do Not Call Register maintained under these regulations, and, not disclose the contents thereof to any person except as allowed under these regulations.

14. Registration of Other Service Provider, ----(1)For providing application services such as tele-banking, telemedicine, tele-trading, e-commerce, call centers etc., Other Service Providers are to operate by using Telecom Resources provided by various authorized Access Service Providers only and they are required to be registered with the Government of India, the Ministry of Communication and Information Technology, Department of Telecommunications as per their circular No. 11-4/2006-OSP dated 22nd Feb, 2007.

(2) Every Other Service Providers who have not registered with Government of India, the Ministry of Communication and Information Technology, Department of Telecommunication, shall within three months after the commencement of these regulations, register with Department of Telecommunication.

15. Undertaking from the Other Service Provider.-----**(1)** Every Access Provider, after the commencement of these regulations, at the time of providing Basic telephone or Cellular mobile telephone connections or service to an Other Service Provider, shall obtain an undertaking in the Form annexed to these regulations.

(2) Every Access Provider, in relation to its Basic telephone or Cellular mobile telephone connection or service allotted before the commencement of these regulations, shall , within three month of the commencement of these regulations,

obtain an undertaking from the Other Service Provider of such telephone in the Form annexed to these regulations.

16. Disconnection of Basic telephone or Cellular mobile telephone connection or service in certain cases.-----(1) In case the Other Service Provider fail to register with Government of India, the Ministry of Communication and Information Technology, Department of Telecommunication as referred to in regulation 14 his telephone connection shall be disconnected or provision of telecom service be discontinued, as the case may be, by the Access Provider.

(2) In case the Other Service Provider referred to in sub-regulation (1) of regulation 15, fails to give the undertaking referred to in that sub-regulation, he shall not be provided telephone connection or telecom service by the Access Provider.

(3) In case the Other Service Provider referred to in sub-regulation (2) of regulation 15 fails to give the undertaking referred to in that sub-regulation, his telephone connection shall be disconnected or provision of telecom service discontinued, as the case may be, by the Access Provider.

(4) The telephone connection of a subscriber shall not be disconnected or services to him discontinued under sub-regulation (2) by the Access Provider unless such subscriber had been given a notice of not less than seven days before such disconnection or discontinuation, as the case may be.

17. Complaint relating to Unsolicited Commercial Communications and its consequences,— (1) In case any subscriber receives unsolicited commercial communication after expiry of thirty days from the date of his request for registration in the National Do Not Call Register under sub-regulation (1) of regulation 7, he may make a complaint mentioning the call originating number, to his service provider.

(2) The service provider shall, within seven days of the receipt of the complaint under sub-regulation (1),---

(a) acknowledge every such complaint with a unique complaint number;

(b) verify the registration of the telephone number of the complainant in

the National Do Not Call Register at the time of receiving unsolicited commercial communication;

(c) forward the complaint (including call detail record and other relevant information and documents in respect of the complaint) to the service provider (hereafter referred to the Originating Access Provider) from whose network such unsolicited commercial communication originated.

(3) The Originating Access Provider to whom the complaint has been forwarded under clause (c) of sub-regulation (2) shall examine the nature of call so received and if after such examination, the Originating Access Provider finds that such calls is an unsolicited commercial communication, it shall,---

(a) direct, in writing, the sender of such unsolicited commercial communication to forthwith discontinue the sending of such unsolicited commercial communication to the complainant;

(b) in case the sender referred to in clause (a) sends unsolicited commercial communication after direction under the said clause, the Originating Access Provider shall charge the tariff in respect of each subsequent unsolicited commercial communication at the rate specified in paragraph ----- of the Telecommunication Tariff Order, 1999.

(4) Without prejudice to the provisions contained in sub-regulations (3), if the Originating Access Provider finds that the subscriber, being the sender, whose originating number had been mentioned under sub-regulation (1), has made an unsolicited commercial communication after having such communication been charged at the rate specified in clause (b) of sub-regulation (3), the originating access provider shall disconnect the telephone of such sender.

UNDERTAKING
(See regulation 15)

I _____, (Name of the person responsible for the managing affairs of the Other Service Provider) son of/ daughter of/ wife of _____ being the person responsible for the managing affairs of -----
----- (Name of the Other Service Provider) having principal/registered office (mention address----- holding registration Number (Mention registration details with the Central Government, in the Ministry of Communication and Information Technology, Department of Telecommunication as Other Service Provider)-----who has been allotted basic / cellular telephone Number or Numbers._____ do hereby give the following undertaking in respect of following, namely:-

(a) That I/we hereby agree not to make unsolicited commercial communications to any other subscriber whose telephone number appears on the National Do Not Call Register;

(b) That in case I/we make any unsolicited commercial communications through my such telephone allotted to me/us to any other subscriber whose telephone number appears on the National Do Not Call Register, my telephone connection may be liable to be disconnected;

(c) That in case I/we am/are required to make an unsolicited commercial communication to any subscriber whose telephone number does not appear on the National Do Not Call Register, such communication shall be prefixed with the following text in English or Hindi or regional language with which the recipient of the message is conversant:-
--

“This is a commercial message, if you do not want to receive further messages, please register with your service provider’s Do Not Call List”.
--

Date;

Signature of subscriber/ Authorised Signatory
(Name of subscriber/ Authorised Signatory)
Address
Seal, if any.