

## **Telecom Commercial Communications Customer Preference (Second Amendment) Regulations, 2025**

On February 12, 2025, the Telecom Regulatory Authority of India (“**TRAI**”), notified the Telecom Commercial Communications Customer Preference (Second Amendment) Regulations, 2025 (“**Latest Amendment**”), to the Telecom Commercial Communications Customer Preference Regulations, 2018 (“**Principal Regulations**”).

The Latest Amendment has broadly brought about the following changes in the Principal Regulations:

1. the Latest Amendment revised the definitions of several terms including ‘Fully Blocked’, ‘Government Message or Government Voice Call’, ‘Promotional Message’, ‘Promotional Voice Call’, ‘Service Message or Service Voice Call’, ‘Transactional Message or Transactional Voice Call’ and ‘Unsolicited Commercial Communication’ (“**UCC**”). The Principal Regulations bifurcated commercial communication based on explicit or inferred consent given by the recipients. However, it was noticed that service messages and voice calls were being misused to send promotional content under the claim of explicit consent. To address this issue, the definition of Service Messages or Voice Calls has been amended to limit them to communications by senders to the existing customers or subscribers based on inferred consent, to provide information about any product or service, or to a recipient to facilitate or complete a commercial transaction involving the ongoing purchase, or as communication to the recipient of a product or services offered by the sender after obtaining explicit consent from the recipient. Promotional messages or voice calls to prospective customers have also been included under the definition of Promotional Messages or Promotional Voice Calls;
2. Regulation 3 of the Principal Regulations is amended to require all Access Providers (“**APs**”) to ensure that all commercial communications transmitted through their networks are conducted exclusively using registered headers and specific number resources allotted to senders of commercial communication from the special numbering series assigned for the purpose of commercial communication. Additionally, if senders not registered with an AP for commercial communication use the APs network for such purposes, the AP may suspend or disconnect all telecom resources associated with such senders ;
3. Regulation 4 of the Principal Regulations is replaced to require all senders to notify the originating APs in advance regarding the use of auto dialers and robo-calls and, to provide the intended objective of such calls in writing;
4. Regulation 22 of the Principal Regulations is replaced by the Latest Amendment to outline additional obligations of Aps. APs must suspend senders who misuse Headers and Content Templates, and update the sender’s status as suspended on the Distributed Ledger Technology platform, enabling other APs to block traffic from these suspended senders;
5. APs must develop a mechanism for registered senders and telemarketers to annually self-certify their registration details along with all their registered Headers and Content Templates. APs must ensure proper traceability of

messages from senders to recipients and make provisions for the registration of grievances by registered senders and telemarketers for their redressal. The APs also have the discretion to set registration fees and impose financial disincentives on senders and telemarketers who fail to discharge their duties under the Principal Regulations;

6. the Latest Amendment streamlines the process for raising complaints against UCC by both registered and unregistered telemarketers and senders. Regulation 23 allows customers can file complaints via email to the designated email addresses of the APs or by any other means specified by TRAI. Regulation 25 further states that APs must establish systems, functions and processes to resolve customers complaints regarding UCC and lay down the process for resolving these complaints;
7. Regulation 26(4)(a) of the Principal Regulations is amended to grant TRAI the authority to verify and assess the process followed by APs for resolving complaints, as well as actions taken, the process of registration of Headers, Content Templates, and other processes undertaken as a part of the Principal Regulations. TRAI may conduct this assessment directly through its officers or employees, or indirectly through appointed agencies. APs must grant TRAI access to the various processes and databases associated with the activities carried out under these Principal Regulations and the directions issued by the TRAI under the Principal Regulations;
8. the Latest Amendment substitutes Regulation 27 and Regulation 28 of the Principal Regulations, outlining the consequences for APs failuring to curb UCC from both registered and unregistered senders and telemarketers . These consequences include financial disincentives, and the Latest Amendment inserts Regulation 28A to the Principal Regulations which states that the maximum amount payable as financial disincentives under Regulation 27 and 28 together is not to exceed INR 50,00,000 (Indian Rupees fifty lakh only) per calendar month per licensed service area;
9. Regulation 29 of the Principal Regulations is substituted by the Latest Amendment to provide that if APs takes action against senders, the senders may challenge the action by approaching TRAI within a period of 60 (sixty) days from the date of action taken by AP. In the event TRAI investigates the matter and concludes that the investigation of the AP lacks adequate evidence against the sender, TRAI may direct the AP to restore the telecom resources of the sender and remove the sender's details from the blacklist;
10. Regulation 33 of the Principal Regulations is substituted by the Latest Amendment granting TRAI, the authority to pass orders or direct action against both registered and unregistered senders and telemarketers, if they violate the provisions of the Principal Regulations and the AP has not taken necessary action against these contravening senders;
11. the Latest Amendment inserts Regulation 34A into the Principal Regulations which provides that call management applications or similar services are not permitted to tag, block, filter or restrict incoming calls or messages originating from designated number series for commercial communication and communication from the government;
12. the Latest Amendment revise Schedule I of the Principal Regulations to introduce stricter verification and monitoring of senders and telemarketers. APs must physically verify entities, authenticate authorised persons biometrically, and link entities with unique mobile numbers. Short Message Services Headers must be identifiable by type and designated executives must review the Header and Content Template registrations, deactivate unused Headers/Content Templates, and handle blacklisting for violations;
13. the Latest Amendment introduces changes to Schedule II of the Principal Regulations and substitutes the list of categories of commercial communication content that customers can opt out from;
14. the Latest Amendment introduces new provisions under Schedule III of the Principal Regulations outlining the requirements of the mobile applications and web portals maintained by APs for filing of UCC complaints. APs must ensure that these applications and web portals prominently display UCC complaint options, allow call/SMS detail capture or manual entry, and support complaint filing via email with corrections if required; and

15. the Latest Amendment introduces new provisions under Schedule V of the Principal Regulations which state that APs must maintain sender wise records of complaints in the format prescribed by TRAI and make the same available to TRAI as and when directed.

## Conclusion

The Latest Amendment to the Principal Regulations is implemented with the objective to foster trust in digital communication, safeguard customer rights, and streamline regulatory compliance for service providers and telemarketers, ensuring a more secure and customer-centric telecom environment. The stricter norms are aimed at tightening the curbs around spam messages and calls. The ease of reporting spam without registering preferences, the mandated capability of mobile app to auto capture call logs and to SMS details after obtaining permission from the subscriber along with necessary details through it for complaint registration, the use of specified headers for identification of promotional, service, transactional, and government messages to let the customers distinguish between different categories, the bar on use of 10 (ten) digit numbers for telemarketing, ensuring that all commercial communication use 140 /1600 series, imposition of higher financial disincentives on the APs including Principal Entity - telemarketer traceability for tracking of communication to reduce the risk of spam and unauthorised commercial communications; are some of the primary measures taken to address the nuisance of evolving methods for misuse of telecom resources by spammers. While the stringent provisions are the need of the hour, the compliance holds key to their success, adding to the responsibilities of APs.

## Telecommunications & Broadcasting Practice

Our Communications practice is handled by a team with specific domain-expertise, and we advise various stakeholders in both Telecom & Broadcasting sectors on a wide range of transactions and assignments that involve constitutional, legal, contractual, commercial, regulatory and policy advice. We advise broadcasters, BPOs, Internet Service Providers (ISPs), operators and investors in the Global System for Mobile Communications (GSM) and the Code Division Multiple Access (CDMA) technologies, and new investors on diverse licensing issues, entry strategies, structuring, national security challenges, and other regulatory issues. Some of the main aspects handled / negotiated / advised by us include commercial arrangements; mergers & acquisitions (including FDI) and joint ventures; spectrum allocation; communication satellites; and regulatory compliances and strategic advice including handling regulatory proceedings. We represent the interests of licensees and other stakeholders in interacting with the licensor and regulators with respect to reforms in the regulatory and policy framework to facilitate business growth drawing upon international best practices. We advise and represent investors, broadcasters, and telecom licensees on commercial transactions in this sector, including restructuring, divestment, licensing, and project financing (vendor financing and corporate finance). We advise telecom service providers and other corporate houses on all aspects of spectrum licensing and allocation, including fundamental issues relating to the scope of spectrum bands, the regulatory framework governing their allocation in India, and planning, strategising and following up on their application to the Government. We advise and represent diverse entities in proceedings before the concerned licensing, regulatory, judicial and quasi-judicial authorities (including DoT, MIB, TRAI, TDSAT, various High Courts and the Supreme Court). In such proceedings we assist clients in developing strategies, render opinions, draft pleadings and lead/assist in the proceedings. We have a strong track-record of providing quality advice and concrete results to the above segments of the communications industry, and have been engaged in handling the key legal, regulatory and policy issues that have historically arisen in the industry.

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