

Efforts to Curb Spam Continue:

TRAI Releases Second Amendment to the TCCCPR 2018

02 April 2025

Introduction

On 12 February 2025, the Telecom Regulatory Authority of India (TRAI) issued the Telecom Commercial Communication Customer Preference (Second Amendment) Regulations, 2025 (Amendment). The Amendment seeks to address persisting issues surrounding unsolicited commercial communications (UCC) by refining the existing framework under the Telecom Commercial Communication Customer Preference Regulations, 2018 (Regulations). The Amendments are now in force, except for certain provisions (relating to complaint mechanism) that will come into effect from 13 April 2025.

Key changes and their implications:

1. Stronger curbs on promotional communication

In a bid to prevent a backdoor entry to promotional communication, the Amendment explicitly clarifies that if promotional content is mixed with any other type of communication (say, service or transactional) then such communication will be treated as promotional. Accordingly, the pre-checks for sending promotional messages/ calls (containing promotional material or advertisement of a product or service) will have to be complied with. The simplification of the definition of 'promotional message' is also aimed at fostering compliance by entities. Additionally, provisions concerning autodialers and robocalls have been introduced, requiring senders to notify the Originating Access Provider (OAP) of their intent and purpose to use such means.

2. Separate categorization of Government communications

Previously, the Regulations did not separately classify Government Messages and Voice Calls (Government Communication). Instead, they were included under Service Communication, Promotional Communication, and Transactional Communication. The Amendment now classifies Government Communication separately, recognizing that these messages serve public welfare and should not be clubbed with commercial communications sent by private entities. Consequently, Government messages and voice calls will remain exempt from user consent and preference registration and cannot be fully blocked. Call management applications blocking such communication will be deemed non-compliant. However, to ensure transparency and traceability, all Government Communication must be routed through the Distributed Ledger Technology platform. While this ensures that critical messages reach users without unnecessary filtering, concerns remain regarding potential misuse of this exemption by third parties.

3. Conditions for reliance on *Inferred Consent*

The Regulations define explicit and inferred consent separately. Explicit consent is obtained directly from the user and recorded in the Consent Registrar, allowing commercial communication. Inferred consent is permission derived from a customer's relationship or conduct with the sender. The Amendment now clarifies that inferred consent remains valid only for the duration of a contractual relationship. In other words, once the contract ends, inferred consent is automatically revoked. This change ensures that businesses cannot exploit inferred consent indefinitely, thereby enhancing

consumer rights. Accordingly, organizations must revisit and update their consent management frameworks to comply with these new requirements.

4. Suspension of traffic in case of misuse and annual self-certification requirements

The Amendment strengthens measures against the misuse of headers or content templates, by incorporating directions issued in the past by TRAI within the Regulations. Pursuant to the Amendment, Access Service Providers (ASPs) must immediately suspend traffic from senders in case of misuse of their headers or content templates (possibly to contain the ramifications of the misuse, e.g. in the event of a fraud). The suspension will be in effect till such time the sender files a complaint before law enforcement agencies under relevant laws, and takes prescribed steps to prevent misuse of its headers and content templates. If a telemarketer (TM) is complicit, a complaint must be filed against such TM as well. Additionally, all other ASPs must suspend the sender's traffic for the foregoing period. To further prevent misuse of headers/ content templates of a sender, annual self-certification is now mandatory for registered senders and TMs. While these measures enhance enforcement against unauthorized telecom resource use, the lack of a clear definition of "misuse" could lead to inconsistent interpretation and application.

5. Enhanced obligations for ASPs

Previously, ASPs were responsible for basic authentication and delivery of commercial communications but had limited regulatory accountability. The Amendment now prescribes specific obligations, including: Authenticating senders using registered headers; ensuring the traceability of commercial communications; restricting senders to a maximum of two telemarketers—one for aggregation and one for delivery; utilizing digital platforms to track message transmission, etc. These stricter controls seek to increase ASP accountability in combating UCC. However, compliance may require additional technological infrastructure, posing a challenge for some ASPs.

6. Standardized agreements for ASPs, Senders, and TMs

Previously, there was no prescribed uniform contractual framework governing ASPs, senders, and TMs, leading to inconsistencies in compliance. The Amendment mandates baseline requirements to be incorporated in such agreements that clearly define roles, responsibilities, and obligations. Additionally, senders must maintain up-to-date registration details and content templates. Standardizing agreements will possibly reduce ambiguity, enhance compliance monitoring, and ensure that all stakeholders adhere to uniform rules. Further, the Amendment now provides a regulatory basis for ASPs to impose registration fees and security deposits (with the ability to forfeit them in case of regulatory violations) on TMs and senders.

7. Streamlining of user complaint mechanism and timelines for reporting and investigation

Under the previous framework, complaint mechanisms lacked standardization, resulting in delays and inefficiencies. The Amendment introduces a 7-day deadline for users to report UCC complaints. There is also a standardized complaint format and response template, with mandatory inclusion of sender details and business information (if available). Timelines for investigation by OAPs and informing Terminating Access Provider (TAP) have also been streamlined. These provisions improve complaint resolution process and timelines but may require increased user awareness for effective implementation.

Comments

TRAI's amendments to the Regulations represent a comprehensive effort to tighten the regulatory framework for UCC. By introducing more stringent measures, TRAI aims to enhance consumer protection and ensure a more secure digital communication environment.

One of the significant aspects of the amendments is the imposition of stricter obligations on ASPs. ASPs are now mandated to authenticate senders using registered headers and ensure the traceability of commercial communications. This move is designed to hold service providers accountable for the traffic that traverses their networks, thereby reducing the avenues for UCC. Additionally, the requirement for ASPs to proactively identify and block violators underscores a shift towards real-time monitoring and enforcement.

Further, the Amendment introduces substantial financial penalties on the ASP for non-compliance. It remains to be seen how these changes will now be implemented.

- *Harsh Walia (Partner); Shobhit Chandra (Counsel) and Vanshika Lal (Associate)*



About Khaitan & Co

Khaitan & Co is a top tier and full-service law firm with over 1200 legal professionals, including 270+ leaders and presence in India and Singapore. With more than a century of experience in practicing law, we offer end-to-end legal solutions in diverse practice areas to our clients across the world. We have a team of highly motivated and dynamic professionals delivering outstanding client service and expert legal advice across a wide gamut of sectors and industries.

To know more, visit www.khaitanco.com



This document has been created for informational purposes only. Neither Khaitan & Co nor any of its partners, associates or allied professionals shall be liable for any interpretation or accuracy of the information contained herein, including any errors or incompleteness. This document is intended for non-commercial use and for the general consumption of the reader, and should not be considered as legal advice or legal opinion of any form and may not be relied upon by any person for such purpose. It may not be quoted or referred to in any public document, or shown to, or filed with any government authority, agency or other official body.

www.khaitanco.com | © Khaitan & Co 2025 | All Rights Reserved.

Ahmedabad • Bengaluru • Chennai • Delhi-NCR • Kolkata • Mumbai • Pune • Singapore