

# The Telecom Unsolicited Commercial Communications Regulations, 2007

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# The Telecom Unsolicited Commercial Communications Regulations, 2007

In exercise of the powers conferred by Section 36, read with sub-clauses (i) and (v) of clause 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) They 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) “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;
- (d) “Authority” means the Telecom Regulatory Authority of India established under sub-section (1) of Section 3 of the Act;
- (e) “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;
- (f) “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;
- (g) “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;

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1. *Vide* Notification No. 101-60/2006-MN, dated 5th June, 2007, published in the Gazette of India, Extra., Pt. III, S. 4, dated 6th June, 2007, pp. 19-36.

- (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;
- (h) "Cellular Mobile Telephone Service Provider" means a licensee authorized to 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;
- <sup>2</sup>[(ha) "inquiry committee" means inquiry committee referred to in Regulation 17-D;]
- (i) "message" shall have the meaning assigned to it in clause (3) of Section 3 of the Indian Telegraph Act, 1885 (13 of 1885);
- (j) "National Do Not Call Register" means a data base or register, containing list of the telephone numbers of all subscribers who have opted not to receive unsolicited commercial communication;
- (k) "National Numbering Plan" means the National Numbering Plan 2003 made by the Government of India, Ministry of Communication and Information Technology, Department of Telecommunications or any such plan subsequently made by it;
- (l) "Private Do Not Call List" means a data base or register,—
  - (i) maintained by an Access Provider for its exclusive use and such data base or register is not 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;
- (m) "regulations" means the Telecom Unsolicited Commercial Communications Regulations, 2007;
- (n) "sender" means the Telemarketer who initiates an unsolicited commercial communication;
- (o) "subscriber" means any person or legal entity, who or which, subscribes to any service from the Access Provider;
- (p) "Telemarketer" means any person who transmits any message, through telecommunications service, for the purpose of soliciting or promoting any commercial transaction in relation to goods, investments or services;
- (q) "unsolicited commercial communication" 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 which a subscriber opts not to receive, but does not include,—

- (i) any message (other than promotional message) relating to a service or financial transaction under a specific contract between the parties to such contract; or
  - (ii) any messages relating to charities, national campaigns or natural calamities transmitted on the directions of the Government or agencies authorized by it for the said purpose;
  - (iii) any message transmitted, on the directions of the Government or any authority or agency 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;
- (r) “Unified Access Services”,—
- (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;
- (s) “Unified Access Service Provider” means a licensee authorised to provide Unified Access Services under a licence granted under Section 4 of the Indian Telegraph Act, 1885 (13 of 1885), in a specified service area;
- (t) all other words and expressions used in these regulations but not defined, and defined in the Indian Telegraph Act, 1885 (13 of 1885) and the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and the rules and other regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules or such 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 establishment of the National Do Not Call Register under sub-regulation (1) of Regulation 6, set up 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 of toll free nature for "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.

(3) The Access Provider shall by appropriate means give due publicity of this mechanism.

**4. Setting up the Private Do Not Call List.**—Every Access Provider shall, within fifteen days from the date of establishment of the National Do Not Call Register under sub-regulation (1) of Regulation 6, maintain and operate for the purposes of these regulations, a list to be called 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 makes 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 the subscriber 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 least at such two places as may be considered appropriate by it having regard to the security of the database or register.

**6. Contents of the National Do Not Call Register.**—(1) The National Do Not Call Register shall be established and maintained by a person on the basis of Memorandum of Understanding (MoU) executed with the Authority and 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-regulation (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.

(3) The establishment of the National Do Not Call Register shall be appropriately publicized by the Authority including posting on its website ([www.trai.gov.in](http://www.trai.gov.in)) and shall not be later than three months from the date of commencement of these regulations.

### CHAPTER III

#### PROCEDURE FOR REGISTRATION OF REQUEST FOR NOT RECEIVING UNSOLICITED COMMERCIAL COMMUNICATION

**7. Registration for not receiving unsolicited commercial communication.**—(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 Telephone Service, to a new subscriber, give him an option for registration of his telephone number in the National Do Not Call Register<sup>3</sup>[and such option shall form part of the application form or agreement form or enrolment form, or any other form, as the case may be, required for providing the telephone service connection].

(3) No amount shall be charged from the subscriber for giving option under sub-regulation (2).

**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-regulations (1) and (2) 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 had made the request for registering his telephone number in the National Do Not Call Register.

3. *Ins.* by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

(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 registration of his request or giving the option under Regulation 7, revoke such request or option, as the case may be, already made under these regulations to the Access Provider.

(2) Every Access Provider on the receipt of request for revocation 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 thirty days from the date of receipt of request under Regulation 7 or request for revocation under Regulation 9, 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 <sup>4</sup>[period of two years] from the date on which the National Do Not Call Register has been established under sub-regulation (1) of Regulation 6, make a request to the Access Provider for inclusion in, or, exclusion from the request made under Regulation 7 or revocation under Regulation 9, any class or classes or type or category or categories of unsolicited commercial communication in accordance with the facility developed by the agency establishing National Do Not Call Register.

<sup>5</sup>[Provided that a subscriber may make such request for inclusion or exclusion before the period of two years, in case the facility referred to in this sub-regulation has been developed before a period of two years.]

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4. *Subs.* for "period of nine months" by Noti. No. 15-2/2008-RE, dated 17-3-2008 (w.e.f. 18-3-2008).

5. *Ins.* by Noti. No. 15-2/2008-RE, dated 17-3-2008 (w.e.f. 18-3-2008).



(2) Every Access Provider shall, within thirty 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 AND TELEMARKETERS

**12. Reporting requirements.**—Every Access Provider shall furnish to the Authority such information relating to the Private Do Not Call List as may be required by it to protect the interests of the consumers or discharge its functions under the Act.

**13. Registration of Telemarketer.**—Every Telemarketer is required to be registered within three months of issue of the guidelines for Telemarketers by Department of Telecommunications, Ministry of Communication and Information Technology.

**14. Undertaking from the Telemarketer.**—(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 Telemarketers, 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, to a Telemarketer, before the commencement of these regulations, shall, within three months of the commencement of these regulations, obtain an undertaking from the Telemarketer in the Form annexed to these regulations.

**15. Disconnection of Basic Telephone or Cellular Mobile Telephone connection or service in certain cases.**—(1) In case the Telemarketer fails to register with the Government of India, in the Ministry of Communication and Information Technology, Department of Telecommunications, as referred to in Regulation 13, 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 Telemarketer referred to in Regulation 14, fails to give the undertaking, he or it shall not be provided telephone connection or telecom service or his telephone connection or telecom service shall be disconnected, as the case may be by the Access Provider.

(3) The telephone connection of a Telemarketer shall not be disconnected or services to him discontinued under sub-regulation (2) by the Access Provider unless such Telemarketer had been given a notice of not less than seven days.

**16. Complaint relating to unsolicited commercial communications and its consequences.**—(1) In case any subscriber receives unsolicited commercial communication after expiry of forty-five days from the date of his request for registration in the National Do Not Call Register under Regulation 7, he may

[make a complaint, mentioning therein, the telephone number from which the unsolicited commercial communication was received by the complainant, the date, time and brief description of such unsolicited commercial communication], to his service provider.

<sup>7</sup>[(1-A) Every complaint under sub-regulation (1) shall be made by a subscriber within fifteen days of receipt of unsolicited commercial communication by him.]

(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 <sup>8</sup>[along with the date of lodging of the complaint with the service provider and the particulars of the unsolicited commercial communication as furnished by the complainant under sub-regulation (1)] to the service provider from whose network such unsolicited commercial communication originated (hereafter referred to as the Originating Access Provider).

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

- (a) <sup>9</sup>[direct, without prejudice to levy of charges under clause (b) of this sub-regulation, the sender] of such unsolicited commercial communication to forthwith discontinue the sending of such unsolicited commercial communication to the complainant, being the subscriber referred to in sub-regulation (1);
- (b) in case the sender <sup>10</sup>[\* \* \*] sends the unsolicited commercial communication, the Originating Access Provider shall charge the tariff in respect of <sup>11</sup>[each unsolicited commercial communication] communication at the rate specified in Schedule XI to the Telecommunication Tariff Order, 1999.

(4) Without prejudice to the provisions contained in sub-regulation (3), if the Originating Access Provider finds that the sender, whose originating telephone number had been mentioned under sub-regulation (1), has made an unsolicited

6. *Subs.* by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

7. *Ins.* by Noti. No. 15-2/2008-RE, dated 17-3-2008 (w.e.f. 18-3-2008).

8. *Subs.* by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

9. *Subs.* for "direct the sender" by Noti. No. 15-2/2008-RE, dated 17-3-2008 (w.e.f. 18-3-2008).

10. The words "referred to in clause (a) after being so directed for discontinuance" omitted by Noti. No. 15-2/2008-RE, dated 17-3-2008 (w.e.f. 18-3-2008).

11. *Subs.* for "each subsequent unsolicited commercial" by Noti. No. 15-2/2008-RE, dated 17-3-2008 (w.e.f. 18-3-2008).

commercial communication after having such communication been charged at the rate specified in clause (b) of sub-regulation (3), the Originating Access Provider shall <sup>12</sup>[disconnect the telecom resources like telephone number, internet protocol (IP) or any other form of connectivity with SMS centre] of such sender.

<sup>13</sup>(5) In case any complaint has been forwarded by a service provider, after the expiry of seven days referred to in sub-regulation (2), to the Originating Access Provider, such Originating Access Provider shall, notwithstanding that such complaint had been forwarded to it after seven days referred to in said sub-regulation (2), take action on such complaint in accordance with the provisions of sub-regulation (3) or sub-regulation (4), as the case may be, and forwarding of such complaint after the expiry of seven days referred to in sub-regulation (2) shall continue to be in contravention of the provisions of the aforesaid sub-regulation (2) by such service provider who forwarded such complaint after the said period of seven days.

(6) The Originating Access Provider to whom a complaint has been forwarded under clause (c) of sub-regulation (2), shall, within such time and in such manner, as may be specified by direction issued by the Authority under Section 13 of the Act,—

- (a) complete the investigation referred to in sub-regulation (3) and, if after such investigation, the Originating Access Provider finds that such call is an unsolicited commercial communication, take action referred to in clause (a) and clause (b) of sub-regulation (3) or sub-regulation (4), as the case may be;
- (b) intimate, the result of the investigation and the action taken by it on the basis of the complaint, to the service provider which forwarded the complaint;
- (c) maintain records of the complaints and their redressal, including relevant call detail records, for a period of at least six months from the date of redressal of each complaint.

(7) The service provider who received the complaint of the subscriber under sub-regulation (1) shall, upon receipt of the intimation from the Originating Access Provider under clause (b) of sub-regulation (6), within such time and in such manner, as may be specified by direction issued by the Authority under Section 13 of the Act, intimate, to the complainant, the result of the investigation and the action taken by the Originating Access Provider on his complaint.

(8) In case the service provider to whom a complaint has been made by a subscriber under sub-regulation (1), finds after carrying out the verification under clause (b) of sub-regulation (2), that the unsolicited commercial communication in respect of which complaint had been made by the subscriber, originated from its own network, such service provider, being the Originating Access Provider, shall,

12. Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

13. Ins. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

within such time and in such manner, as may be specified by direction issued by the Authority under Section 13 of the Act,—

- (a) complete the investigation referred to in sub-regulation (3) and, if after such investigation, the Originating Access Provider finds that such call is an unsolicited commercial communication, take action referred to in clause (a) and clause (b) of sub-regulation (3) or sub-regulation (4), as the case may be;
- (b) inform the complainant about the result of the investigation and the action taken by such service provider on the basis of his complaint;
- (c) maintain records of the complaints and their redressal, including relevant call detail records, for a period of at least six months from the date of redressal of each complaint.]

**17. Service Provider not to send unsolicited commercial communications.**—No service provider shall, without prejudice to the terms and conditions of its licence or any penalty which may be imposed under its licence, send any unsolicited commercial communication to its subscriber after expiry of forty-five days from the date on which such subscriber makes a request under Regulation 7 for registration in the National Do Not Call register.

<sup>14</sup>[Provided that nothing contained in this regulation shall authorise a service provider (hereafter referred to as the former service provider) to send unsolicited commercial communication to the subscriber of any other service provider,—

- (a) unless the former service provider has been registered as a telemarketer with the Government of India in the Ministry of Communications and Information Technology (Department of Telecommunications) and possesses a valid certificate of registration on the date of sending of such unsolicited commercial communication;
- (b) unless such subscriber, to whom unsolicited commercial communication is sent, has not been registered in the National Do Not Call Register under these regulations or the period of forty-five days has not expired from the date of making a request under sub-regulation (1) of Regulation 7;
- (c) if such unsolicited commercial communication violates any provisions of the law for the time being in force or any judgment or decree, award or order or direction passed or made by any competent court or tribunal or authority or forum or commission, as the case may be.]

<sup>15</sup>[CHAPTER IV-A

INQUIRY AND PROVISION FOR FINANCIAL DISINCENTIVE FOR  
SENDING UNSOLICITED COMMERCIAL COMMUNICATIONS

**17-A. Consequences for failure of service providers to stop unsolicited commercial communications.**—If any service provider contravenes the

14. *Ins.* by Noti. No. 15-2/2008-RE, dated 17-3-2008 (w.e.f. 18-3-2008).

15. *Ins.* by Noti. No. 15-2/2008-RE, dated 17-3-2008 (w.e.f. 18-3-2008).

provisions of <sup>16</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], it shall, without prejudice to the terms and conditions of its licence or any penalty which may be imposed under its licence, or provisions contained in clause (b) of sub-regulation (3) of Regulation 16 or the provisions of the Act or rules or regulations or orders made, or, directions issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding five thousand rupees and in case of second or subsequent such contravention, to pay an amount not exceeding twenty thousand rupees for each such contravention, as the Authority may, by order under Regulation 17-H, direct.

**17-B. Factors to be taken into account by the Authority for deciding the amount of financial disincentive.**—While deciding the amount of financial disincentive under Regulation 17-A, the Authority shall have due regard to the extent of inconvenience caused to the consumer and the repetitive nature of non-compliance of the provisions of <sup>17</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], as the case may be, by the service provider.

**17-C. Power of Authority to order inquiry.**—Where the Authority or the Chairperson, (hereinafter referred to as “appointing authority”) has reasonable ground to believe that any service provider has contravened the provisions of <sup>18</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], it may, by order in writing, direct the inquiry committee to inquire into the contravention of the provisions of <sup>19</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], as the case may be and as may be specified by the appointing authority, and, to report thereon to the Authority.

**17-D. Composition of inquiry committee.**—(1) The inquiry committee, for the purpose of holding inquiry as referred to in Regulation 17-C, shall consist of three officers not below the rank of Advisor in the Authority comprising of,—

(a) one representative from the Regulatory Enforcement Division in the Authority;  
<sup>20</sup>[\* \* \*]

<sup>21</sup>[(b)] <sup>22</sup>[two representatives] from any other <sup>23</sup>[Divisions] in the Authority, as may be nominated by the appointing authority:

Provided that an Advisor in the Authority, dealing with the case being inquired into, or, directed to be inquired into, shall not be nominated by the appointing authority as member of the inquiry committee in that case.

(2) If, for reasons other than temporary absence, any vacancy occurs in the office of any member of the inquiry committee, then, the appointing authority shall

16. Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

17. Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

18. Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

19. Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

20. Omitted by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008). Prior to omission it read as:

“(b) one representative from the Legal Division in the Authority;”

21. Renumbered as clause (b) by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

22. Subs. for “one representative” by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

23. Subs. for “Division” by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

nominate another officer not below the rank of Advisor in the Authority to fill the vacancy and the proceedings may be continued before the inquiry committee from the stage at which the vacancy is filled by such nomination.

**17-E. Procedure for holding inquiry for determining contravention of the provisions of Regulation 15 or Regulation 16 or Regulation 17.**—(1) In holding an inquiry for the purpose of determining contravention of the provisions of <sup>24</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], the inquiry committee shall, in the first instance, issue a notice to the concerned service provider requiring him to show cause within such period as may be specified in the notice (being not less than fourteen days from the date of service thereof).

(2) Every notice, under sub-regulation (1) to any service provider referred to in that sub-regulation shall indicate the details of contravention of the provisions of <sup>25</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], as the case may be, alleged to have been made by it.

(3) If, after considering the cause, if any, shown by such service provider, the inquiry committee is of the opinion that the concerned service provider should be heard in person, it shall issue a notice fixing a date for the appearance of that service provider through his authorised representative.

(4) The inquiry committee shall give an opportunity to the concerned service provider referred to in sub-regulation (1) to produce such documents or other material as it may consider relevant to the inquiry.

(5) If an authorised representative of any service provider fails, neglects or refuses to appear as required by sub-regulation (3) before the inquiry committee, it may proceed with the inquiry in the absence of such authorised representative after recording the reasons for doing so.

**17-F. Report of inquiry committee.**—(1) After the conclusion of the inquiry under Regulation 17-E, the inquiry committee shall prepare a report indicating whether the service provider referred to in Regulation 17-C has contravened the provisions of <sup>26</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], as the case may be, and submit such report to the Authority.

(2) Every report made under sub-regulation (1) shall specify the provisions of <sup>27</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], which has been contravened and shall contain brief reasons for such conclusion and such report shall be dated and signed by all the members of the inquiry committee.

**17-G. Service of notices.**—The notices referred to in sub-regulations (1) and (2) of Regulation 17-E shall be served on the concerned service provider in the following manner, that is to say,—

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<sup>24</sup> Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

<sup>25</sup> Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

<sup>26</sup> Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

<sup>27</sup> Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

- (a) by delivering or tendering it to that service provider or his duly authorised representative; or
- (b) by sending it to the concerned service provider by registered post with acknowledgement due to the address of its place of business or at its registered office.

**17-H. Order for payment of amount by way of financial disincentive by Authority on report of inquiry committee.**—(1) The Authority may, after considering the report of the inquiry committee, by order, direct the service provider, which violated the provisions of <sup>28</sup>[Regulation 7 or Regulation 15 or Regulation 16 or Regulation 17], as the case may be, to pay such amount, subject to the provisions of Regulation 17-A, by way of financial disincentive, as may be specified in the order:

Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the concerned service provider had been given a reasonable opportunity or representing against the findings in the report of the inquiry committee.

(2) The Authority shall be guided by the principles of natural justice for the purposes of making an order for payment of any amount, by way of financial disincentive, under these regulations.

**17-I. Deposit of amount payable by way of financial disincentive under these regulations.**—The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be mentioned in the order for payment of such amount under these regulations.]

## CHAPTER V MISCELLANEOUS

**18. 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 sub-regulation (1) of Regulation 6 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 or any law for the time being in force.

### UNDERTAKING (See Regulation 14<sup>\*</sup>)

I ..... (Name of the person responsible for managing the affairs of the telemarketer) son of/daughter of/wife of ..... being the person responsible for managing the affairs of ..... (Name of telemarketer) 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

28. Subs. by Noti. No. 104-15/2008-M.N., dated 21-10-2008 (w.e.f. 21-10-2008).

\* Corrected by Noti. No. TRAI, F. No. 101-60/2006MN, dated 19-9-2007.

telemarketer) who has been allotted basic/cellular telephone Number or Numbers .....  
do hereby give the following undertaking, namely:—

(a) that I/we hereby agree not to make unsolicited commercial communications to any 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/our such telephone allotted to me/us to any 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:

<sup>29</sup>[Pls speak to your operator if U do not want commercial msgs].

Date:

Signature of subscriber/Authorised Signatory

(Name of subscriber/Authorised Signatory)

Address

Seal, if any.

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