


J-24/6/2024-CPU Section-CPU [33783]
Government of India
Ministry of Consumer Affairs, Food and Public Distribution
Department of Consumer Affairs

In exercise of the powers conferred by sub-clause (1) of sub-section (2) of section 18 of the Consumer Protection Act, 2019 (35 of 2019), it is proposed to issue Guidelines for the Prevention and Regulation of Unsolicited and Unwarranted Business Communication, 2024.

2. Department of Consumer Affairs (DoCA) constituted a committee comprising of representatives from telecom industry such as Department of Telecommunication (DoT), Telecom Regulatory Authority of India (TRAI), Cellular Operators Association of India (COAI), Bharat Sanchar Nigam Limited (BSNL), Vodafone Idea, Reliance and Airtel to draft guidelines to address the issue of unsolicited and unwarranted business communication.
3. That based on extensive deliberations and inputs/suggestions received from the committee members, draft Guidelines for the Prevention and Regulation of Unsolicited and Unwarranted Business Communication, 2024 have been framed and attached herewith.
4. The Department seeks views/comments/suggestions of the public on the proposed Guidelines which may be forwarded through email. Draft Guidelines for the Prevention and Regulation of Unsolicited and Unwarranted Business Communication, 2024 are attached as **Annexure A**.
5. views/comments/suggestions on the proposed Guidelines may be sent within 30 days (by 21st July 2024) by email to js-ca@nic.in.


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F.No. XX/XX/2024-CCPA
Central Consumer Protection Authority
NOTIFICATION

Krishi Bhawan, New Delhi

Dated: 20th June, 2024

In exercise of the powers conferred by section 18(2)(1) of the Consumer Protection Act, 2019 (35 of 2019), the Central Consumer Protection Authority hereby issues the following guidelines to protect consumers from unfair trade practices and violation of their consumer rights through unsolicited and unwarranted business communication in the form of voice calls, SMS, and instant messaging applications including through social media platforms:

1. Short title and commencement. —

- a. These guidelines may be called the Guidelines for the Prevention and Regulation of Unsolicited and Unwarranted Business Communication, 2024.
- b. It shall come into force on the date of its publication by the Central Consumer Protection Authority (CCPA).

2. Definitions. —

(1) In these guidelines, unless the context otherwise requires –

- a. “Act” means the Consumer Protection Act, 2019 (35 of 2019);
- b. “TRAI” means the Telecom Regulatory Authority of India established under subsection (1) of Section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);
- c. “DoT” means the Department of Telecommunications;
- d. “CCPA” shall mean the Central Consumer Protection Authority established under section 10 of the Consumer Protection Act, 2019;
- e. “Business Communication” to mean communication related to any goods or services including any transaction or service

communication, but excluding personal communication. It may be in the form of voice calls, SMS and instant messaging including through social media platforms

- f. “establishment” shall have the same meaning as defined under the Act;
- g. “person” has the same meaning as defined under the Act; and
- h. “unfair trade practice” shall have the same meaning as defined under the Act.

(2) The words and expressions used in these guidelines but not defined, and defined in the Act, shall have the same meaning as respectively assigned to them in the Act.

3. **Applicability** – These guidelines shall apply to all persons or establishments:

- a. that makes or causes to make the business communication (Maker);
- b. that engages the Maker of such communication;
- c. that would be the intended beneficiary from such communication; and
- d. in whose name such communication was made by the Maker.

4. No person or establishment to whom these guidelines are applicable shall engage in any unsolicited or unwarranted business communication initiated in violation of the conditions prescribed in Annexure 1.

Illustration 1 – A person M is a consumer of a bank X. M is getting repeated communication for pre-approved loans from multiple telephone numbers claiming to be associated with X. The communication is being made by Y (or its agents) who is engaged by X to make such communication on behalf of X.

Here Y is the Maker. X has engaged Y to make the communication. X is the intended beneficiary from this communication. The communication is made in the name of X. In this scenario, these guidelines would be applicable to both X and Y.

Illustration 2 – A person M is a consumer of a fintech X which is associated with a bank W. M is getting repeated communication for

pre-approved loans from multiple telephone numbers claiming to be associated with W. The communications are being made by Y (or its agents) who is engaged by X to make such communication on behalf of W.

Here Y is the Maker. X has engaged Y to make the calls. W is the intended beneficiary from this communication. The communication is made in the name of W. In this scenario, these guidelines would be applicable to W, X, and Y.

5. **Guidelines not in derogation of other laws.** — Where any unsolicited and unwarranted business communication is regulated under any other law for the time being in force or the rules or regulations made thereunder, the provisions contained in these guidelines shall be in addition to and not in derogation of, such regulation in other laws.
6. **Contravention of guidelines and penalty:** The provisions of the Act shall apply to any contravention of these guidelines.
7. **Interpretation** — In case of any ambiguity or dispute in interpretation of the guidelines the decision of the CCPA shall be final.

Annexure 1

Unsolicited and unwarranted Business Communication means any communication for sale or promotion of goods and services that is neither as per the consent nor as per the registered preference(s) of the recipient.

Any person or establishment shall be considered to be engaging in unsolicited and unwarranted business communication if it initiates a business communication:

- a. through a number series other than the one that has been prescribed by the Authority i.e. TRAI/DoT; or through a SMS header not registered with Telecom Service providers.

For example,

- i. *If a bank engages either directly or indirectly, through an intermediary to make calls to a database of consumers to sell/inform about its various services; and the aggregator makes or causes to make calls to the consumers via number(s) which is(are) not from the series as prescribed by the authority. In this case the initiator of the call (i.e the intermediary) along with the bank will be considered to be in violation of these guidelines.*
- ii. *If a property dealer makes a call to sell his services from his individual telephone number or any telephone number which is not within the series explicitly prescribed by the Authority then the property dealer will be considered in violation of these guidelines.*

Note- DoT has allocated 140xxx numbering series for making promotional calls and 160xxx numbering series for making service/ transactional calls. Further assignment of these numbering series to entities is done by Telecom Service Providers.

- b. despite a request or instruction from the consumer to opt out of any such communication by registering in the DND Registry being managed by the Telecom Service Providers; or

For example, an automobile dealership makes a call, via an authorized employee or agent, to a consumer from a registered number prescribed by the authority for making promotional or service communication and clearly indicate the purpose of call. The call will be treated as violation of the guidelines, if the consumer has registered its preference in the DND/preference registry of Telecom Service provider for not receiving such category of commercial communications.

- c. without obtaining the explicit and specific consent in digital form from the consumer to receive such communication for the particular brand/beneficiary and their respective product; For voice calls and messages, such consents shall be treated as valid only if they are acquired through DCA (Digital Consent Acquisition) facility of Telecom Service providers or

- d. without clearly identifying the calling entity and the purpose of the call; or

For example, an insurance broker makes a call, via an authorized employee or agent, to a consumer from a registered telemarketing number prescribed by the authority; if the caller does not clearly identify the calling entity (i.e the name and identity of the insurance broker) and does not indicate the purpose of the call, then the broker will be considered in violation of these guidelines.

- e. through an unauthorized employee or agent; or

- f. without giving a clear, simple, free, and effective option to opt-out as well as a confirmation of opt-out if consumer chooses to avail opting out.

For example, a pathology lab chain makes a call to a consumer from a registered telemarketing number prescribed by the authority and the caller clearly identifies the calling entity (i.e the name and

identity of the pathology lab chain) and indicates the purpose of the call; however if the caller does not give a clear, simple, free and effective option for the consumer to opt of the current and future business communication related to the stated purpose then the aggregator will be considered in violation of these guidelines.

- g. In contravention of TRAI's regulation "Telecom Commercial Communications Customer Preference Regulations 2018" and Directions issued thereunder, or any other directions issued under any other law/regulations/statute from time to time.

Note: Clause (a) and (b) above applies to unsolicited or unwarranted business communication made through telecom resources, clause (c) to (g) applies to all unsolicited or unwarranted business communication made through telecom resources or through social media platform and its applications.