



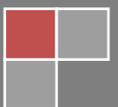
# Consumer Protection Directorate (CPD), PTA

## Unsolicited/ Spam Messages/ Calls

### Consultation Paper

October 24, 2019

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## **1. Issue:**

Unwanted and undesired messages and calls, which may formally be called, spam, unsolicited, fraudulent and obnoxious communication, always cause inconvenience and irritation for the recipient. It is also an admitted fact that such communication cannot totally be eradicated or there is no such system which guarantees protection for the consumer to avoid any such communication. Nonetheless, PTA being committed to fulfill its functions as defined under Section 4(c) of the Pakistan Telecommunication (Re-organization) Act 1996 (the Act), to promote and protect the interests of users of telecommunication services, promulgated the *Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009* and *Telecom Consumers Protection Regulations, 2009*.

Recently the Hon'able Lahore High Court, Lahore while adjudicating a writ petition No. 83600/2017 titled "Rao Zafar Mehmood vs GoP, etc. has taken cognizance of transmission of text messages by unauthorized housing societies and directed to assist the court regarding measures taken by PTA to curb the menace of unsolicited and spam messages including messages from unauthorized societies without seeking permission of advertisement.

## **2. Background:**

PTA under the Telecom (Re-Organization) Act, 1996, is obligated to protect consumer interests and ensure the redressal of consumer complaints by telecom licensees through effective Regulatory framework. Telecom Consumers' Complaint Cell was established at Pakistan Telecommunication Authority (PTA) Headquarters on January 01, 2002 followed by establishment of a dedicated Consumer Protection Directorate in September 2008 at PTA Headquarters at Islamabad as well as at its Zonal Offices at Karachi, Lahore, Peshawar, Quetta, Rawalpindi, Muzaffarabad, Multan and Gilgit Baltistan with a view to provide expeditious relief to the general public and to facilitate and resolve the complaints made by an individual or a group against telecommunication services.

PTA has been mandated under Section 4(1) (m) and 6 (f) of the Pakistan Telecom (Re-organization) Act, 2006 to promulgate regulations. Under the same functions of the Authority, "*Telecom Consumers Protection Regulations, 2009*" were issued that provide a comprehensive framework of receipt, lodging and redressal of consumer grievances against various categories of complaints - both at the Regulator's as well as telecom

licensees' end. At the same time, in order to protect consumers from misuse of telecom services and systems in the form of spamming, obnoxious, fraudulent and unsolicited communication; "*Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009*" were issued that provide technical solutions to curb misuse of telecom services. Additionally, complaint lodging and redressal mechanism has also been provided for consumers who have become a victim of such communication. PTA has taken number of steps to take punitive actions against such unsolicited communication as per provisions of regulations. Moreover, following SOPs were also issued to safeguard the consumers:-

- a) SOP to Control Spamming
- b) SOP for SPAM Reporting Through Short Code 9000
- c) SOPs on Unsolicited, Fraudulent and Obnoxious Communications

### **3. Types of Sources:**

The Sources from which a user/consumer can receive spam, unsolicited, fraudulent obnoxious communication (massages/call) may be as following:

- i. National geographic numbers
- ii. International Geographic Numbers/masked number
- iii. National Large Accounts (Short code, SMS API interface / web based interface)
- iv. International Large Accounts ( Short code/ API/ Web based content)

### **4. Available Regulatory Solutions to curb the menace:**

- i. **Regulation 11(4) (c) of the Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009:** Warning shall be issued within 24 hours and grey list shall be maintained by the operator (Obnoxious SMS/Call).
- ii. **Regulation 11(4) (d) of the Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009:** In case, after issuance of warning, if originator is repeatedly involved in obnoxious communication, the outgoing communication of the originator shall be blocked within 24 hours after receipt of complaint (Obnoxious SMS/Call).

- iii. **Regulation 11 (3) (i) of the Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009:** Warning shall be issued to the fraudulent SMS originator within 24 hours (Fraudulent Communication).
- iv. **Regulation 11 (3) (ii) of the Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009:** and if balance transfer has resulted, the subscription of the originator will be terminated along with IMEI number will be blocked within 24 hours (Fraudulent Communication).
- v. As per sub-regulation (2) of regulation 5 of "*Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulation, 2009*", in the case of more than one instance of indulging in fraudulent activity, the subscriber is not eligible for any other cellular mobile service subscription.
- vi. **Spamming-** As per Annex-A of the Protection of Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009, all operator have **anti-spam filters** which block the outgoing SMS facility of individual mobile subscription who send bulk SMS.
- vii. As per Regulation 7(1) of Protection of Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009, central Do Not Call register (DNCR) shall be established however, the same is not in place presently. (Only the Internal DNCR of all operators are functional.)
- viii. As per Regulation (8) of Protection of Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009 all operators shall ensure the registration of all those telemarketers who are in business of Telemarketing on or before the promulgation of these said regulations.
- ix. As per clause 4 of the Internal Processes for Centralized Do not Call Register (DNCR) Mechanism of "*SOP to Control Unsolicited Communication and Establishment of DNCR*", transmission of own promotional messages by Cellular Mobile Operators (CMOs) to their respective consumers is only allowed between 0900 to 2100 hours.

## 5. Facilities at CMOs Network:

- i. **Short Code 420:** The call/ SMS blocking facility is available by Calling at 420 or by Dialing \*420#.
- ii. As per Annex- C of Spam Regulations, 2009, the Grey and Black list should be maintained by the operators and submitted to the Authority as and when required by the Authority.
- iii. The subscriber can lodge his complaint at helpline of concerned operator and after verification; the operator shall block the mobile subscription of the fraudulent caller. In case complaint is not resolved, complaint can be lodged at [complaint@pta.gov.pk](mailto:complaint@pta.gov.pk), PTA website ([www.pta.gov.pk](http://www.pta.gov.pk)) or at 080055055.
- iv. As per Regulation 5(2), the operator shall maintain black list of subscribers whose subscription have been terminated on account of fraudulent communication.

In case of more than one instance of indulging in fraudulent activity the subscriber shall not be eligible for any other cellular mobile service subscription and updated list shall be provided to the Authority on a monthly basis and the same shall be posted on the website of the operator.

- v. **Subscribers who opt-in to receive SPAM:-** In accordance with Regulation 4(3) In case where a subscriber opts-in to receive spamming messages, the operator shall facilitate it, where applicable.
- vi. **Handling of Unsolicited Communication-** As per Regulation 7(3), the operator shall establish a specific toll free number or special provision on the existing helpline for the purpose of registering the request of subscribers for not receiving unsolicited calls.
- vii. **Provision of Short code 9000:-** Spam Reporting Mechanism through short code 9000 has been implemented. The consumer can send received marketing SMS by this method. (Telemarketer number) Space {Received Message} to 9000 Short Code.

The number shall be blocked after verification as per Serial No. (b) of Annex A of SOP to control Unsolicited Communication.

- viii. In accordance with clause 3.4 after receipt of complaint, the unsolicited communication originator mobile subscription shall be suspended with a notification to the said caller (Registered Courier mail, short messaging or USSD) to register in line with the prescribed procedure for the purpose of telemarketing.
- ix. **Short Code 3627:** The Subscriber can register in DNCR by typing reg and send it to 3627 and unreg for un-subscription to 3627.

## 6. Recommendations:

i. The existing regulations, namely the Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009 may be amended as provided below.

- a) Regulation 4 (1) of Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009 & Regulation 12 (5) of Number Allocation & Administration Regulations, 2018:

“In case of delivery of SMS through a large account by a licensee to the subscribers who have not opted for receipt of such messages or the contents are contrary to the Authority approved content/text, scope or extent, the short code shall be liable to be cancelled on immediate basis.”

ii. In the SOP for Controlling of Spamming under regulation 4 of the Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009 the following additional clauses are proposed to be inserted:

- a) CMOs to discontinue selling bulk SMS packages unless approved by the Authority and SMS should be charged on per SMS basis. In addition, SMS charges/tariff should be uniform across the industry.
- b) The Maximum number of SMS should be restricted to 500 per day per subscription.

- c) All (Long Distance Internationals) LDIs to establish /create large accounts with international operators subject to provision of following information to the Authority:
  - i. Sender ID of large account
  - ii. Content of SMS such as one time password, transaction acknowledgement from a Bank etc.
- d) All CMOs and CVAS registration holders to establish /create large accounts with each other subject to the following conditions:
  - i. Sender ID should be set to PTA's approved short code or PTA's approved alphanumeric ID against approved short code.
  - ii. Content should be PTA approved.

iii. Scope of available short codes to control such communication be extended as submitted through Way Forward below:

- a) Regulation (6-10) of Protection from Spam, Unsolicited, Fraudulent & Obnoxious Communication Regulations, 2009:- Instead of Do Not Call Register (DNCR), DO Call/ SMS Register will be developed and introduced so the consumer receives the desired communication only. However DNCR may continue until a Do SMS register is developed.
- b) Regulation 12:- Awareness campaign needs to be launched on large scale through SMS, national and local newspapers, social media accounts of PTA and FM radio. However, awareness should be in simple and plain language (English, Urdu and if possible primary local languages) so that it would be understandable for general public.

iv. In case a subscriber receives obnoxious call, warning through call/text message by the relevant operator will be issued to the caller after verification from the CDR. In case of repetition, caller number and IMEI of caller will be blocked. However, the complainant may also forward the content of SMS received on short code 9000 for verification/blocking. The action on obnoxious call/SMS shall be initiated on complaint accordingly.

v. In case of fraudulent, /unsolicited/marketing call/SMS, number/ IMEI of caller will be blocked after verification from CDR without issuing warning.

vi. The action on fraudulent, /unsolicited/marketing call/SMS shall be initiated on complaint of the consumer as stated above; in addition, the complainant may also forward the content of SMS on short code 9000 for verification/blocking.

vii. The operators will ensure without any restriction, limitation and nature of communication, the availability of the common short code (420) or any other short code which PTA designate / allocate for the facilitation of the subscribers to opt/use for blocking of unwanted call/SMS.

viii. No LDI operator will bring any traffic in the country which does not have a proper geographic number except by inserting access code as a source number.

ix. LDI operators will ensure that their contracts with foreign entities/individuals must contain clauses with regard to protection against Spam, Unsolicited, Fraudulent and Obnoxious Communication. Further, a termination clause, in case of violation of PTA's Spam Regulations.

x. LDI operators are required to submit their contracts with international entities / individuals with PTA to ensure that the contracts are compliant to the Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009.

xi. A subscriber can file a complaint under regulation 11 under the Protection from Spam, Unsolicited, Fraudulent Communication Regulations, 2009 about undesired communication received from International Geographic Numbers/masked number. The concerned Cellular Mobile Operator (CMO) will resolve the complaint as per applicable regulations and will also forward the complaint to the concerned LDI operators for appropriate measures/ action against the foreign entities / individuals as per their contract. CMO will keep PTA under intimations so that appropriate action be taken in case of non-compliance / non-action by the concerned LDI.

xii. As a preventive measure, LDI operators will develop software to block such calling party numbers at their network.

xiii. LDI operators will also develop software to block any incoming international call/SMS from foreign operator with calling party number with Pakistan Code like +92-000000.

xiv. The operators will ensure the availability of the above mentioned common short code (420) for the facilitation of the subscribers to opt/use for blocking of International Geographic Numbers call/SMS as mentioned hereinabove.

## **7. Comments/ Feedback Submission:**

Considering the aforementioned issue, all telecom consumers, stakeholders, and general public are requested to submit their comments/ suggestions/ feedback on each recommendation proposed in this consultation paper by 25<sup>th</sup> November, 2019 at [consultation.cpd@pta.gov.pk](mailto:consultation.cpd@pta.gov.pk) to proceed further.

*The comments received after due date would not be considered.*

PTA assures that all the comments received would be duly analyzed and would be taken into account while making changes in existing regulations/ SOPs solutions.