

In exercise of powers under clause (o) of sub-section (2) of section 5 read with clauses (c) and (m) of sub-section (1) of section 4 of the Pakistan Telecommunication (Re-organization) Act, 1996, the Pakistan Telecommunication Authority hereby makes the following regulations, namely:-

PART-I

PRELIMINARY

1. Short title and commencement. (1) These regulations shall be called the 'Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2012'.

(2) These regulations shall come into force from the date of gazette notification.

2. Scope and Applicability. These regulations shall apply to all Operators in relation to protecting the interests of telecom consumers to control spam, fraudulent, unsolicited and obnoxious communication as set out in these regulations.

3. Definitions. (1) In these regulations, unless there is anything repugnant in the subject or context, —

- (a) "Act" means the Pakistan Telecommunication (Re-organization) Act, 1996 (XVII of 1996);
- (b) "Authority" means the Pakistan Telecommunication Authority established under section 3 of the Act;
- (c) "Do Not Call Register (DNCR)" means a database, maintained centrally by the operators, containing the particulars of subscriber(s) who make a request for not receiving the Unsolicited communication;
- (d) "Fraudulent Communication" means the transmission of intelligence which is false and misleading; including but not limited to fake prize schemes;
- (e) "Obnoxious communication" means the transmission of message/statement with the intent to cause harassment or disturbance.
- (f) "Operator" means holder of a license or registration granted by the Authority;
- (g) "Regulations" means all or any regulations issued by the Authority including without limitation, these Regulations;
- (h) "Rules" means all or any rules issued by the Federal Government under section 57 of the Act;
- (i) "Spamming" means the transmission of harmful, fraudulent, misleading, illegal or unsolicited messages in bulk to any person without the express permission of the recipient for commercial purpose;

- (j) **‘Telephone subscription’** means a subscription for fixed or wireless service for the purpose of these regulations;
- (k) **“Telemarketer”** means for the purpose of these regulations a person and or a class registration holder providing content based services, who initiates communication for the purpose of marketing of services, investment and goods to public at large; and
- (l) **‘Unsolicited Communication’** means the transmission of intelligence for the purpose of telemarketing to those numbers recorded in the Do Not Call Register, but does not include:
- (a) Any communication relating to a service or financial transaction under a specific contract between parties to such contract;
 - (b) Any communication transmitted on the directions of the Government of Pakistan or any other body authorized by it in the national interest of Pakistan or natural calamities;
 - (c) Any communication transmitted relating to charities which is approved by the Authority.
 - (d) Any communication for which the consumer has specifically subscribed.
- (2) Words and expressions used but not defined herein shall bear the meaning given thereto in the Act or the Rules and Regulations.

PART-II

PROCEDURE TO CONTROL SPAMMING

4. Standard Operating Procedures to control Spamming (1) All Operators shall, with the approval of the Authority, establish a standard operating procedure in connection with -

- (a) minimum standards of technical measures to effectively control Spamming; and
- (b) such other matters as the Authority may require.

Provided that the Standard operating procedure established under sub-regulation (1) shall include at a minimum, the requirements as given in **Annex-A** to these Regulations.

(2) All Operators shall ensure the implementation of the standard operating procedure as required under sub-regulation (1) above:

Provided that the Operators shall revise the standard operating procedure with the approval of the Authority as and when required by the Authority to ensure that all up to date and effective technical measures are being implemented to control spamming.

(3) In the case where a subscriber opts-in to receive Spamming messages, the Operators shall facilitate it, where applicable:

Provided that all Operators shall ensure that all communication as referred to in sub-regulation (3) shall be received by subscribers within normal business hours.

(4) Notwithstanding sub-regulation (3), telephone subscriptions involved in generation of spamming shall be suspended by the concerned operator on receipt of a complaint:

Provided that the telephone subscription may be restored after approval of the Authority on the provision of a written undertaking by the originator.

(5) All operators shall maintain a black list of subscribers involved in generation of spamming and whose subscriptions have been suspended on this account. The updated black list shall be provided to the Authority on a monthly basis.

PART-III

PROCEDURE TO CONTROL FRAUDULENT COMMUNICATION

5. Standard Operating Procedure to Control Fraudulent Communication.

All operators shall develop and ensure the implementation of the standard operating procedure as approved by the Authority from time to time, to control fraudulent communication:

Provided that the standard operating procedure established under sub-regulation (1) shall include at a minimum the requirement as given in Annex B to these regulations:

Provided further that the Operators shall revise the standard operating procedure with the approval of the Authority as and when required by the Authority to ensure that all up to date and effective technical measures are being implemented to control fraudulent communication.

(2) All operators shall maintain *Grey* and *Black* lists of subscribers along with their complete user antecedents whose subscriptions have verified to be involved in Fraudulent Communication.

(3) Operator shall also maintain a list of black listed user antecedents that are involved in repeat fraudulent activity. Features of Grey, Black and black listed user antecedents shall include requirements as given in Annex-B to these Regulations

PART -IV

PROCEDURE TO CONTROL UNSOLICITED COMMUNICATION

6. Standard Operating Procedure to Control Unsolicited Communication.- All Operators shall develop and ensure implementation of standard operating procedure for controlling unsolicited communication as approved by Authority from time to time which shall include at a minimum the following:

- (a) Procedure for registration of Telemarketers and in case of failure to register, subsequent disconnection by the Operator with a prior notice of seven working days;
- (b) Registration mechanism for the DNCR to incorporate all registered Telemarketers;
- (c) Procedure to provide timely, accurate and uninterrupted access to registered Telemarketers to the central DNCR maintained by the Operators.
- (d) Provision for restriction on the access to information by Telemarketer with respect to subscribers, to the extent of the number and area code of the subscriber only.
- (e) Provision for recording particulars of subscriber(s) in the DNCR who do not consent to receive communication made for the purposes of telemarketing;
- (f) Procedure of seeking approval of the Authority for the classification of selected communication to be termed as exempted from unsolicited communication;
- (g) Verification procedure to be followed by a Telemarketer through accessing the DNCR;
- (h) Provision of suspension of telephone subscription involved in unsolicited communication by Operators;
- (i) Subsequent procedure to be followed by the Operators against the Telemarketers if involved in sending unsolicited communication more than 03 times consecutively, followed by disconnection of the allocated short code of the Telemarketer by the Authority; and

- (j) All Operators shall maintain an up-to-date black list of the Telemarketers along with their complete user antecedents whose subscription has been terminated on account of violation of the procedure provided for Telemarketers under these Regulations.

7. Establishment of a 'Do Not Call Register' (DNCR).__ (1) All Operators, for the purpose of controlling the reception of Unsolicited communication shall establish a consolidated and central database of the DNCR.

(2) The operators shall establish, maintain and operate the database of the DNCR at their own cost:

Provided that the DNCR shall be established in accordance with the timeline determined by the Authority.

(3) The operators shall establish and ensure provision of any one of the following modes for the purpose of registering the requests of subscribers for not receiving unsolicited communication:

- i. a specific toll free number ;
- ii. dedicated common short code; and
- iii. make special provision on the exiting helpline.

8. Registration and Managing Tele-marketing by Operators.__ (1) All Operators shall for the purpose of controlling Unsolicited Communication, shall sign service level agreement with the Telemarketers who have a valid short code allocated by the Authority for provision of telemarketing.

(2) All operators shall at the time of reaching service level agreement ensure that the respective system of the telemarketers must be capable to block communication to those subscribers who do not want to receive unsolicited communication from telemarketers or any other platform.

(3) All Operators shall ensure that the Subscribers are well informed regarding the option for their consent or otherwise for entering their particulars in the DNCR at the time of subscription.

9. Operation of the Do Not Call Register.__ (1) All Operators shall set up procedures for registration of subscribers in the DNCR in accordance with the timelines determined by Authority.

(2) The DNCR must contain at a minimum the following particulars:

- (a) Name, number and area code (where applicable) of a subscriber who does not want to receive Unsolicited Communication;
- (b) Date and time of making of request by the subscriber referred in clause (a) above;
- (c) Name, number and area code (where applicable) of subscriber who makes a request to an Operator for revocation of an earlier request for not receiving the Unsolicited Communication;
- (d) Date and time of making of request by the subscriber referred to in clause (c) above.
- (3) All Operators shall update the Do not call register within two working days of the request received from a subscriber.
- (4) The subscribers shall be entitled to revoke their request or options, as the case may be, after the expiry of minimum 30 days from the date of the request for registration in DNCR or other wise.

PART-V

PROCEDURE TO CONTROL OBNOXIOUS COMMUNICATION

10. Standard Operating Procedure to Control Obnoxious Communication. - (1) Subject to the approval of the Authority and the requirements given under Annex-C to these Regulations, all Operators shall set up a standard operating procedure to ensure that all possible technical solutions are available to the subscribers in a transparent and non-discriminatory manner to control Obnoxious Communication.

Provided that the procedure established under sub-regulation (1) shall include at a minimum the requirements given at **Annex-C** to these Regulations.

(2) All technical solutions provided under sub-regulation (1) shall be renewed and updated by Operators regularly on quarterly basis.

PART-VI

COMPLAINT HANDLING PROCEDURE

11. Complaint Handling Procedure.-(1) All Operators shall setup a round the clock complaint handling mechanism for Subscribers in accordance with Part IV of the Telecom Consumers Protection Regulations, 2009 in accordance with the timelines determined by the Authority.

(2) The operators shall acknowledge every complaint by a subscriber with a unique complaint number.

(3) The specified procedure to be followed by an Operator for handling of a complaint filed with respect to Fraudulent Communication shall be as follows:

- (i) The originator shall immediately but not later than 24 hours of receipt of complaint, be issued a warning;
- (ii) In the event that as a result of Fraudulent Communication, if a fraudulent balance transfer has resulted, the subscription of the originator shall be terminated along with the IMEI number of the originating handset, if applicable, immediately but not later than 24 hours of the receipt of the complaint;
- (iii) The Operator shall take all reasonable steps to refund the amount to the complainant.

(4) The specified mechanism to handle complaints against Obnoxious Communication shall constitute the following measures to be adopted by all Operators:

- (a) Recording of all telephone numbers including area code (where applicable) of a complainant;
- (b) Telephone number and area code (where applicable) of the originator of the Obnoxious Communication;
- (c) Issuance of warning immediately but not later than 24 hours of receipt of complaint and record the same in the grey list being maintained by the Operator;
- (d) If the originator is repeatedly involved in obnoxious communication even after issuance of warning, the operator shall suspend the telephone subscription of the originator immediately but not later than 24 hours of the receipt of the second complaint and record the said telephone subscription in the *black list* along with complete user antecedents.

PART -VII

GENERAL PROVISIONS

12. Public Education & Awareness. All Operators shall launch a media campaign both in electronic and print media to educate subscribers and general public of the available preventive and subsequent complaint mechanisms

against Spamming, Unsolicited, Fraudulent and Obnoxious Communication as notified by the Authority from time to time.

13. Reporting Requirements.- (1) All operators shall provide complete information regarding the particulars of subscribers, registered telemarketers, content service providers, Do not Call Register, details related to complaints on spamming, fraudulent, unsolicited and obnoxious communication or any aspect of any provisions under these Regulations as and when required by the Authority.

(2) All Operators shall ensure that the preventive measures and procedures available under these Regulations are available to the subscribers on the operators' website and help lines.

14. Directions of the Authority._ All directives, standard operating procedures, orders and instructions issued by the Authority on or before the notification of these Regulations shall be binding and applicable on the Operators.

15. Confidentiality of Information.- Without prejudice to the provisions of any law for the time being in force, every Operator shall ensure the confidentiality of all information disclosed by the subscribers under the provisions of these Regulations.

16. Repeal and Savings.-(1) The Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009 are hereby repealed.

(2) Notwithstanding the above, all orders, directives, notifications and actions taken under the Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009 shall be deemed to have been made, taken, issued lawfully and validly unless amended, withdrawn, rescinded or annulled by the Authority under these regulations.

ANNEX A

(See regulation 4)

MINIMUM REQUIREMENTS FOR ANTI-SPAM SOLUTIONS

1. An intelligent & robust anti-spam solution at each Operator's end being regularly updated to cater for effective filtering of spam.
2. Anti-spam filter shall not be used for any anti competitive activity.
3. Anti-spam filter shall not violate consumer privacy.
4. Anti-spam filter on each Operator end shall not limit its filtering for on-net or off-net messages.
5. All businesses shall use short codes, registered with PTA, for their marketing campaigns.

Draft for Consultation

(See regulation 5)

MINIMUM REQUIREMENTS FOR FRAUDULENT COMMUNICATION

1. PTA shall issue all the short codes for the provision of content based services.
2. **Businesses:** Operator shall ensure a disclaimer message in case any payments are solicited from SMS recipients.
3. **Peer to Peer:** A handshake between network and the user transferring the money shall occur before the transaction takes place.

This is to counter the incidences where a user receives a message which is apparently harmless but may end up in a default money transfer if ANY key is pressed. To circumvent such incidences the network should ask the transferor to verify each money transfer. The transferor shall have to reply the "Network's Verification Query" by either typing "937" (Yes) agreeing to the transfer or by replying "66" (No) in the body of the text for declining the transfer.

4. **Balance Transfer (BT) Service:** shall not be pre-activated.

Balance transfer service is mostly used by the people with enough knowledge about the Fraudulent Communication. Whereas the victims are those who cannot even read the message (mostly in English). So if a user takes a connection as a source of voice connectivity then he could be saved from the data/advanced services related frauds by just making this service as optional for him/her. An option is that he/she activates by his own consent. Moreover before starting usage user must be provided a pamphlet educating him about the possible fraud situations.

5. Grey and Blacks Lists.-

- (a) All operators shall maintain *Grey* and *Black* lists of subscribers along with their complete user antecedents whose subscriptions have verified to be involved in Fraudulent Communication. Operator shall also maintain a list of *black listed user antecedents* that are involved in repeat fraudulent activity.
- (b) The *Grey list* shall comprise of those telephone subscriptions along with complete user antecedents which have been warned on account of indulging in fraudulent communication whereby the fraudulent transfer of amount has not yet taken place.
- (c) The *Black list* shall comprise of following telephone subscriptions along with complete user antecedents:

- (i) Subscriptions involved in repeated fraudulent communication and to whom a warning has been issued
 - (ii) User antecedents those are common in the *Grey lists* of more than one operator.
 - (iii) Subscriptions that have been terminated along with user handset, if applicable, involved in fraudulent transfer of amount.
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- (d) In the case a user antecedent that is already placed in the *Black list* is involved in indulging in repeated activity of fraudulent communication, the said user antecedents shall be placed in the list of *blacklisted user antecedents* and shall not be eligible for any telephone subscription.
 - (e) An updated *Black list* comprising of telephone subscription along with complete user antecedents defined as per clause (c) above shall be provided to the Authority by the first week of every month. Subscriptions placed in the *Black list* shall only be restored/recycled after approval of the Authority.
 - (f) All record related to the fraudulent activity including complaints *against the* said subscription, date of termination of the subscription and CDR of the said telephone subscription shall be retained for a period of one year from the date of termination of the aforesaid subscription.

Draft for Consultation

(See regulation 10)

MINIMUM REQUIREMENTS FOR OBNOXIOUS COMMUNICATION

1. All operators shall maintain the *Grey and black list* of subscribers involved in obnoxious communication along with complete user antecedents.
 - (a) The *grey list* shall comprise of telephone subscriptions along with complete user antecedents who have been issued a warning on account of making obnoxious communication.
 - (b) The *Black list* shall comprise of telephone subscriptions along with complete user antecedents who are found to be involved in repeat obnoxious activity after issuance of warning and whose telephone subscription has been suspended on account of indulging in obnoxious activity after issuance of warning under clause (c) of sub-regulation (4) of regulation 11:

All warning, suspension/termination of telephone subscription/IMEI shall be carried out after verification of user antecedents of the subject subscription.

2. An updated *Black list* comprising of telephone subscription along with complete user antecedents shall be provided to the Authority on a monthly basis.
3. Subscriptions placed in the *Black list* of obnoxious communication shall only be restored/ recycled after approval of the Authority and subject to a written undertaking by the originator not to indulge in obnoxious communication again: Provided that in the case of more than one instance of indulging in obnoxious activity after the termination of subscription, the said user antecedents shall be placed in the *list of blacklisted user antecedents* and shall not be eligible for any other telecom service.
4. All record related to the obnoxious activity including complaints against the said subscription, date of termination of the subscription along with the CDR shall be retained for a period of one year from the date of termination of the aforesaid subscription.

Draft for Consultation