

THE 100 SMS TYRANNY!

Is stopping everyone from sending more than a hundred text messages a day the best way to stop mobile spam? Or is it a violation of the rights of a consumer who is willing to pay for a service? We take a look at TRAI's latest move to restrict consumers from sending more than 100 SMSes a day

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Anuj, a Delhi University student loves both reading and sending jokes from his mobile. He has a big group of about twenty friends with whom he shares these jokes. He was in for a rude shock on September 27. "I got a huge shock when I was told that I had reached the limit of sending SMSes for the day and would not be able to send any more messages. I had to borrow a phone from my sister to send an important message to my friends," he remembers.

Something similar happened to Divya, a management student at Delhi who uses SMS to coordinate schedules with her classmates. "I am a representative of my class and have to inform my classmates every now and then about lectures, projects and assignments. And I usually use SMS for this purpose as it is more convenient and less intrusive. But this 100 SMS cap in a day has made my work difficult and expensive. Now I am contemplating leaving this responsibility because obviously the college is not going to pay me for this," she

says. And it is not just the college crowd that is feeling the brunt of this cap. Rahul, a marketing professional in Mumbai says this law has been wreaking havoc with his social life. "I generally chat with my girlfriend through SMS and my messages exceed more than 100 in a day very easily. But due to this law, me and my girlfriend are suppose to suffer. This is totally unjust. If the government wants to curb telemarketers then they should make some strict law for them not for users like me," he points out.

As can be seen, none of these consumers are in the least happiness with the new directive from the Telecom Regulatory Authority of India (TRAI), the regulatory body for the telecommunications sector, which has limited the number of SMSes, that one can send to 100 per day. This move comes in order to curb the menace of SMS spamming, when the National Do not Call initiative failed to be effective enough.

Although this move might succeed in curbing unwanted and unsolicited text messages, it does raise the question as to why a mobile



user has to suffer for the excesses of telemarketers? The irony of the situation is that it was the consumer who got harassed by these SMSes and now it is the consumer who is on the receiving end again.

THE RATIONALE BEHIND THE RULE

A person who is not very conversant with how the telecommunication industry works and grows would not find any flaw in the law- after all, most people do tend to send fewer than a hundred texts a day. But a regulator thinking on these lines is flabbergasting. Unfortunately, that is exactly what has happened and ironically, the regulator even has taken feedback from operators while making this rule- very intriguing considering that SMS is still a revenue generator for service providers. However, when we contacted operators to confirm whether they had indeed recommended the figure of 100 texts to the regulator, most of them refused to comment point blank.

The TRAI is of the view that a normal user generally does not send more than 40 to 50 SMS in a day. But it is also true that a significant number of mobile phone users do send more than 100 text messages per day. A number of college students fall into this category, as most of them prefer using text messages on their handsets, rather than making calls which make deep inroads in their limited pocket money. Now, according to the Statistics of Higher & Technical Education 2008-09 report by the Department of Higher Education, Ministry of Human Resource Development, there were almost two crore enrollments in the higher education colleges and universities in the country in one year. Three years since, it is an open fact that the number of colleges as well as enrolments in the higher education institutions is increasing significantly. So, the number of people affected by this draconian law is more than the population of many countries across the world. The 100 SMS per day rule has also been formulated



without considering one very simple fact. A single SMS means 160 characters including spaces. The moment you write the 161st character it becomes the second message, but you can send multiple messages in one go. Now on an average, a SMS can range between two to five SMS lengths generally. In that case you are effectively getting maximum 20 to 50 SMSes in a day depending on the length of the messages themselves. Considering this, the 100 SMS limit seems to be completely unreasonable and one really wonders whether this was an oversight or a deliberate attempt to fulfill selfish business objectives.

THE POWER OF SMS

Text messaging is the most widely used non-voice application in the world with 2.4 billion active users. The service originated from Radio Telegraphy and the first SMS message 'Merry Christmas' was sent in December 1992 by Neil Papworth of UK from his personal computer to Richard Jarvis, a Vodafone GSM network user.

Today SMS has become a massive commercial industry. The service is significantly cheaper than placing a phone call. With the introduction of discounted SMS packs, more and more consumers are opting to send a text rather than make a call. It has not only benefited regular users but also advertisers and service providers.

SMS is used as a VAS service, marketing tool, advertising and is an important medium of communication. Telemarketing firms use SMS for promotional and advertising purpose. Telemarketers drop SMSes in consumer's inbox for selling their services and products, whereas a regular user uses this service in many ways, although mainly as a communicating tool. A majority of people prefer sending an SMS over a phone call- it is cheaper, takes less time, and in most cases, delivers the message.

SMS not only saves money but also proves immensely helpful in those conditions where a person cannot answer a phone call, such as while they are in a meeting or during a lecture. People also send a number of SMSes to participate or vote in reality shows. The service has also proved to be a big revenue earner for telecom companies and is a Godsend for those who cannot hear or speak, as it allows them to communicate using mobile telephony (imagine restricting them to a mere 100 messages a day - would you ask a person to speak only 100 times a day).

According to Portio Research, messaging still dominates non-voice revenues worldwide. As per its report,

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the worldwide mobile messaging market was worth USD 179.2 billion in 2010, will pass USD 200 billion in 2011, will break the USD 300 billion barrier for the first time in 2014 and will reach USD 334.7 billion by end-2015. Placing restrictions on such a service seems unfair.

SMS AS A NUISANCE

But technology can also be used to harass the very people it is supposed to benefit. And SMS has not been immune to misuse. Due to its obvious effectiveness, telemarketers use this service by sending hundreds of unwanted messages to consumers. People who are not registered under the Do Not Disturb (DND) service get a flood of promotional SMSes in a

day- in many cases, even those registered in DND are not spared by these SMS spammers.

The problem is not a new one. It all started when companies realized the potential of reaching out to customers through mobile phones. At the same time, operators decided to cash in by selling the data of mobile numbers of their subscribers. Things reached such levels that special packages were developed to enable these telemarketers to reach out to consumers. After a lot of hue and cry over harassment of consumers by telemarketers, TRAI came out with the National Do Not Call (NDNC) Registry. Through this the subscriber could register their number in the DND list and telemarketers also had to get registered for offering promotional services and had to filter their database through the NDNC database and then make promotional calls to subscribers. If the process was not followed then the telemarketer was to be fined. People adopted NDNC in huge numbers and thus promotional calls became a rare occurrence.

But then started the SMS mayhem and many people started getting promotional SMSes on their phones, highlighting the ineffectiveness of the NDNC system. Even after the announcement of Do Not Disturb service by TRAI, there were many loopholes in the law which led to its failure.

The primary objective of the National Do Not Call Registry (NDNC) was to curb Unsolicited Commercial Communication (UCC) in which the NDNC Registry will be a



data base having the list of all telephone numbers of the subscribers who do not want to receive UCC. To discourage telemarketers who make calls to the numbers registered in the Do Not Call List, a provision was made in which Rs 500/- shall be payable by the telemarketer to the service provider for every first UCC and Rs 1,000/- for subsequent ones. However, the rule was not effective because of the insignificant fine that was levied on the defaulter.

The benefits for the companies promoting their products as well as operators due to the calls and SMSes were too great to be affected by such relatively small fines. Not many subscribers had the time or energy to register a complaint if they got an unsolicited call. What's more, it was not mandatory for the telemarketers to register themselves with the authorities, giving them ample scope to carry on undiscovered and keep pestering the consumer.

Telemarketers fall in two categories: registered and the unregistered one. Registered telemarketers are those who get themselves registered with Department of Telecom (DOT) and can contact consumers for marketing propose but cannot contact those consumers who are registered under National Do Not Call Registry (NDNC). Telemarketing firms that do not abide by the do not call list can receive steep financial penalties.

Now non-registered telemarketers are those who do not register themselves with DoT and contact consumers for various marketing deals using enterprise mass messaging solutions offered by the operators. And these were the ones who were growing exponentially in numbers making it harder for the consumers.

A TWO-PRONGED APPROACH

In its new Telecom Commercial Communications Customer Preference Regulations (TCCCP) implemented on September 27, 2011, TRAI has taken some stringent steps to curb the SMS menace and also to ensure that those who wish to get these SMSes get a choice. Thus, instead of the NDNC, we now have a TCCCP regulation that allows you to pick and choose the categories

for which you wish to get alerts and updates. A special number series '140' has been identified for the telemarketers and they will be given a special registration code that will help in identifying to which category they belong and who is their access provider. A lot of onus has been placed on the operators to ensure that all the processes for registration of telemarketers and its subscribers in the database are done properly, failing that, the operator can be charged Rs 1-10 lakh, depending on the number of times the operator has defaulted. After the third contravention, the authority has set the fine at Rs 10 lakh for every next failure. However once a telemarketer is registered successfully in the database, there is no limit on how many SMSes they can send to the subscriber between 9 AM to 9PM.

On the other hand, the subscribers now can register themselves to either not get any promotional SMSes or choose between various categories like Real Estate, Education, Health, Banking/ Insurance/ Credit cards, Consumers goods and Automobiles, Communication/ Broadcasting/ Entertainment and Tourism and Leisure. Once they do, they can get promotional SMSes on their choice of subjects between 9AM and 9PM. Consumers can now register themselves by dialing 1909 or by simply sending a SMS to 1909. In case users want to opt for a fully blocked category, they can SMS 'START 0' to 1909. There is widespread



appreciation about the regulator's move to curb the SMS menace. "I am very happy with this rule because earlier when my phone beeped for a text message, I expected a message from a person I knew, but was enraged on knowing that it is from some telemarketing firm. Now I'll get relief from these marketing SMSes," says Rajesh Kumar, a businessman from Faridabad.

WHY THE 100 SMS THING THEN?

All the regulations that have been made by the regulator will work only if the telemarketer is registered in the National Telemarketer Register. However, there is no control over those who are not registered in the database. Even if mass SMS solutions are not provided to them, they can opt for SMS packs which offer up to 2000 SMS per day on discounted rates. In order to stop these miscreants, TRAI has introduced the 100 SMS cap for everyone, whether it's commercial or otherwise. Under the new Per Day Per SIM rule access, providers shall withdraw all telecom resources allocated to a telemarketer except those telecom resources which have been allocated in accordance with the provisions of the regulations. They must ensure

that any commercial communication including SMS, other than transactional messages, is sent to a customer only between 0900 Hrs to 2100 Hrs. Before permitting a customer to send a specified category of SMS beyond the limit of one hundred SMS per day per SIM, the Access Provider shall obtain an undertaking from such customer that they shall not use such telephone number for sending any commercial communications. However, TRAI has made some exemptions which say that messages from a bank to its customers or from Airlines to its passengers, and likewise from the schools to the students/parents are classified as Transactional messages and the limit of 100 SMS does not apply to the Transaction messages, and neither does the time restriction of 9 am to 9 pm.

NOBLE INTENTIONS, IMPERFECT IMPLEMENTATION

TRAI's intentions for the 100 SMS rule might be noble, but the whole issue is against an

individual's right to communicate and to choose the medium they wish to communicate through. Why a blanket ban at 100 SMS? What if someone had to send an emergency SMS and has already exhausted their 100 SMSes quota? Why could not the experienced professionals at the helm of affairs in TRAI come up with another solution? Why not limit the discounted SMS rates at 100 per day, and if one wished to send a 101st SMS, allow it to be sent at a normal or even a higher rate. Instead of punishing the customer, why not hold the operator responsible to ensure that its special SMS packs are not misused? We received no convincing answers to these questions. However the industry is abuzz with a conspiracy theory that lays the blame at the door of relatively new operators in the country. These operators entered the market when the 2G spectrum was allocated in 2008, but have been struggling since to establish themselves in the Indian market. With almost negligible revenues from voice or data, selling mass SMS

FUN SMS FACTS

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packs is a lucrative revenue stream for them. This is because the actual landing cost for an SMS is Rs.02 (2 Paisa) and even if they sell a pack at Rs 0.05 or Rs 0.10 per SMS, the profits are quite handsome. Now in order to curb this revenue stream for the newer players, the older ones let the 100 SMS rule be applied because they already have a huge subscriber base to earn from. And in this tug of profits, the poor consumer is getting affected.

Moreover there are still many loose ends in this regulation. For instance, if an individual has to send more than 100 SMSes for non-commercial purposes, he/she has to submit an undertaking to the operator, who will register their names in the national telemarketer register even when they are not telemarketers. Considering the fact that it takes days to get a caller tune deactivated on your cell, one can only imagine what havoc will be wreaked for getting the exemption under this rule. One cannot blame the operator either- the number of requests will be so high that it will become an uphill task to carry out this process smoothly. The 100 SMS limit also applies to SIM cards, rather than their owners, so if one is hell bent on sending more than 100 SMSes they will buy multiple SIM cards (which hardly cost anything these days). R. S Mathews, Director General of COAI has expressed valid concerns and has asked TRAI to reconsider limiting

100 SMS Per SIM Per day (PSPD). "While we are eager to stop the menace of pesky communications, which is essentially an invasion of consumers' privacy, we are equally concerned that consumer rights are protected and that they should have freedom to choose any method of communication be it voice or SMS suitable to their requirements without putting any artificial restriction," points out Mathews.

A CUSTOMER MAY ALSO EXERCISE HIS/HER PREFERENCE BY SENDING SMS TO 1909

SMS Code	Category
"START 0"	For fully blocked list
"START 1"	for receiving SMS relating to Banking/Insurance/Financial products/credit cards
"START 2"	for receiving SMS relating to Real Estate
"START 3"	for receiving SMS relating to Education
"START 4"	for receiving SMS relating to Health
"START 5"	for receiving SMS relating to Consumer goods and automobiles
"START 6"	for receiving SMS relating to Communication/Broadcasting/Entertainment/IT
"START 7"	for receiving SMS relating to Tourism and Leisure

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MESSAGING...WITHOUT SMS

While you might not be able to send more than 100 SMS a day, there are ways through which you can stay connected through text messages, and even end up saving a lot of money. With GPRS getting more affordable by the day, all one needs to do is download mobile instant messengers (IMs) on their mobile handsets and send as many messages as they want. The advantage of these applications is that they are not limited like SMS and also provide various other interesting options like video chat, group chat, send file, share photos etc. One such service that became very popular even before the SMS ban is the BlackBerry Messenger (BBM), which is however, restricted to BlackBerry handsets. There are other options that work on multiple platforms like Nimbuzz, Whatsapp, and RockeTalk.

"We saw some upward trend in terms of registration even 15-20 days before this law came into force. This showed that people were not just aware of the regulation but were also looking at trying out other alternatives," says Jamshed V. Rajan, country head, Nimbuzz India. "We are majorly a smartphone application but the uptake is even higher on the basic feature handsets. We are the one of the Top 3 applications that is downloaded from the Ovi Store," he adds. Apnacircle.com, a business and career networking website which also has an iPhone application will soon be launching a BlackBerry application after this Diwali and an Android-based application in November. "We

will soon be launching different types of applications. These applications are good for consumers as well as for the economy. They will not only allow user to send unlimited texts but will also provide other options like video calling and chat, etc," says Yogesh Bansal, founder and CEO, Apnacircle.com. Most smartphones these days also come with a preinstalled IM client of some sort or the other, and almost major smartphone OS has a powerful array of IM clients available for its users. Google had Google Talk, Facebook has Facebook Chat, Microsoft has MSN Messenger, and even as this is being written, Apple is readying its iChat service which will allow iOS users to swap text messages without having to use the SMS application. So if you are willing to use a little data, you can easily sidestep the SMS limit restriction.

A FINAL WORD

The more one looks at the situation, the more one wishes that TRAI had adopted some other way of curbing unsolicited telemarketers' messages. There is no surety that this new rule will succeed where its predecessors failed. "I think the regulation is good because people were fed up of receiving spam messages. But how effectively will this regulation be implemented is the important thing," said Ravi Sundararajan, VP-marketing, SMS GupShup. Most importantly, it is something absurd that users cannot send more than 100 SMS in a day even on regular tariffs. Even if a majority of people on an average do not send more than 40 SMS in a day, there is still a large population that sends more than 100 in a day. And in a country like India where the mobile subscriber base is so vast, even a minority translates into large numbers. TRAI might think it has bottled the SMS genie, but we think it might just have created more problems than it has solved. ■