

PUBLIC CONSULTATION  
Regulation on Unsolicited Bulk Messages



**Issues related to Consumer Protection -  
Regulation on Unsolicited Bulk Messages**

**A public consultation document issued by the  
Telecommunications Regulatory Authority of the  
Kingdom of Bahrain**

**5 July 2009**

The address for responses to this document is:

The General Director  
Telecommunications Regulatory Authority (TRA)  
PO Box 10353, Manama, Kingdom of Bahrain  
Alternatively, e-mail responses may be sent to the  
Authority's email address at [consult@tra.org.bh](mailto:consult@tra.org.bh)  
The deadline for responses is **4pm on 5 August 2009**

**Purpose:** To seek stakeholders' views with respect to a proposed regulation on the consumer protection issues arising from Unsolicited Bulk Messages.

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## 1. Introduction and Background

This Consultation is issued pursuant to the Telecommunication Regulatory Authority's ("TRA") Consultation Process Regulation issued by TRA on 10 August 2003.<sup>1</sup>

On 25 January 2006 TRA launched a public consultation on three areas in which Subscribers and Users of Telecommunications services in Bahrain may require protection (the "First Consultation"). The three areas on which TRA consulted were:

- a. the provision of pre-paid Telecommunications services and whether action should be taken to protect consumers if a provider of such services becomes insolvent;
- b. the provision of bulk short message services ("SMS"), telemarketing, fax broadcasting and bulk emails, and whether guidelines or regulations should be introduced to protect consumers from the nuisance and invasion of privacy to which such services may give rise; and
- c. the procedure for disconnecting Subscribers to Telecommunications services for non-payment of bills, and whether guidelines should be implemented to ensure that consumers are protected against the potential harm that may arise from premature disconnection.

On 4 February 2007, TRA launched a second public consultation on the three areas covered by the First Consultation (the "Second Consultation").<sup>2</sup>

TRA received feedback both through submissions from interested parties in response to the First Consultation and the Second Consultation, as well as at a public hearing held by TRA on 26 February 2006.

## 2. Proposed Measures

TRA proposes to take the following measures:

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<sup>1</sup> Arabic and English versions of the Consultation Process Regulation can be found at <http://www.tra.org.bh/en/LegalRegulations.asp>. Note that only the Arabic version of Consultation Process Regulation may be relied upon for legal purposes. The English translation is published for information purposes only.

<sup>2</sup> [http://www.tra.org.bh/en/pdf/Secound\\_Consumer\\_Consultation\\_English\\_Final.pdf](http://www.tra.org.bh/en/pdf/Secound_Consumer_Consultation_English_Final.pdf)

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**2.1. The provision of pre-paid Telecommunications services:**

Pursuant to the responses received to the First and Second Consultations, TRA has decided to collect more information to identify viable solutions to ensure consumer protection without placing unnecessary financial burdens on Licensed Operators or creating barriers to new entrants to the market.

**2.2. Provision of bulk SMS, telemarketing, fax broadcasting and bulk email:**

Pursuant to the responses received to the First and Second Consultations, TRA has confirmed its earlier finding that consumers are more concerned about receiving unsolicited promotional communications by means of bulk SMS than about either telemarketing or fax broadcasting. TRA is therefore of the view that clear rules are needed to regulate sending of bulk SMS. As such TRA now consults upon the attached Draft Regulation on Unsolicited Bulk Messages

TRA considers that no action needs to be taken by it in the areas of telemarketing and fax broadcasting. Licensed Operators either do not use such marketing methods or have demonstrated to TRA that sufficient safeguards are already in place to protect consumers, such as the provision of an opt out system and a restriction on the number of telemarketing calls made to consumers.

Pursuant to the responses received to the First and Second Consultations, TRA has confirmed its previous conclusion that any problems associated with unsolicited bulk emails are best addressed by individual consumers making use of available anti-spamming software rather than through regulation.

**2.3. Procedure for disconnecting Telecommunications Subscribers for non-payment:**

Pursuant to the responses received to the First and Second Consultations, TRA has confirmed its earlier finding that currently the disconnection policies and procedures of Public Telecommunications Operators do not adequately protect consumers. There is also a lack of consumer awareness as to the contractual protection that they should expect to receive. TRA therefore proposes introducing a regulation that will set out best practice standards relating to the disconnection of Subscribers for non-payment in a separate Regulation.

**3. Consultation**

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TRA attaches a Draft Regulation on Bulk Messages.

TRA seeks the comments of stakeholders in the Bahraini Telecommunications industry (including users, and any other interested parties) on the proposed Regulation **by 4:00 pm on 5 August 2009**.

All comments shall contain a brief statement explaining the interest of the party submitting the comments. In addition, the interested party must include as part of its comments its:

- (a) name;
- (b) name of principal contact person;
- (c) physical address;
- (d) telephone number;
- (e) fax number; and
- (f) email address.

Upon receipt of the comments from stakeholders TRA will consider such comments to assist in considering and determining whether to issue the proposed Regulation.

In the interest of transparency, TRA will make all submissions received available to the public, subject to the excision of information that in TRA's view is confidential.

Respondents are required to clearly mark as confidential any information included in their submission that is considered confidential. Where such confidential information is included respondents are required to provide both a confidential and non-confidential version of their submission. If a submission is marked confidential in part or its entirety, reasons should be given. TRA may publish or refrain from publishing any document or submission at its sole discretion.

TRA will evaluate whether or not information is confidential in line with relevant legal provisions and TRA's published guidance on the treatment of confidential and non-confidential information.<sup>3</sup>

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<sup>3</sup> TRA, A Guidance Paper issued by the Telecommunications Regulatory Authority on its treatment of Confidential and Non-confidential Information, Guidance Paper No. 2 of 2007, 10 September 2007



## **Draft Regulation on Unsolicited Bulk Messages**

A Regulation issued by the  
Telecommunications Regulatory Authority

**DRAFT**

## 1. Preamble

- 1.1 Under article 3(b)(1) of the Telecommunications Law promulgated by Legislative Decree No. 48 of 2002 ("Telecommunications Law"), the Telecommunications Regulatory Authority of the Kingdom of Bahrain ("TRA") must carry out its duties in the manner best calculated to, amongst other things, protect the interests of Subscribers and Users in respect of the provision of service, the quality of service and the protection of personal particulars and privacy of services.
- 1.2 To ensure that the privacy of Subscribers and Users are adequately protected, TRA issues this regulation pursuant to article 3(c)(1) of the Telecommunications Law.

## 2. Definitions

- 2.1 Any word, phrase or expression used in this Regulation shall, unless the context requires otherwise or it is expressly defined in this Regulation, have the same meaning as it has in the Telecommunications Law.
- 2.2 References to a specific gender encompass all other genders.
- 2.3 References to a word or phrase in the singular encompass references to words or phrases in the plural, and vice versa.
- 2.4 For the purposes of this Regulation the following terms and expressions have the following meanings:

**"Bulk Messages"** means short text messages ("**SMS**") or multi media messages ("**MMS**") sent to a group of End Users at one time via short message or multi media systems over a Licensed Operators' public mobile telecommunications network.

**"End User"** means a Subscriber and/or User that is not a Licensed Operator.

**"Bulk Messenger"** means any person that is entitled by virtue of an arrangement with a Licensed Operator to send Bulk Messages to Recipients over Licensed Operators' networks.

**"Recipient"** means any End User that receives a Bulk Message

## 1. Scope

- 1.1. This Regulation outlines best practices applicable to Licensed Operators and Bulk Messengers with regard to dissemination of unsolicited Bulk Messages.

## 2. Objectives of this Regulation

- 2.1. The objective of this Regulation is to regulate the dissemination of unsolicited Bulk Messages and safeguard Users and Subscribers privacy of services.

### **3. Unsolicited Bulk Messages**

- 3.1. A Bulk Message will be an unsolicited Bulk Message if the Recipient has not consented to receiving the message.
- 3.2. Licensed Operators shall observe the following requirements when sending or allowing Bulk Messengers to send unsolicited Bulk Messages to Users:
  - (a) Unsolicited Bulk Messages shall only be sent to Recipients between the hours of 09:00 and 20:00 Bahrain time;
  - (b) Licensed Operators shall limit the number of Bulk Messages sent from any one Bulk Messenger to a Recipient to two messages per day;
  - (c) Unsolicited Bulk Messages shall identify the party on whose behalf the Bulk Messenger is sending the unsolicited Bulk Message and that party's contact details, in order to allow Recipients to directly contact that party;
  - (d) Licensed Operators shall provide their Subscribers with a clear and simple method for opting out of receiving some or all unsolicited Bulk Messages from specific Bulk Messengers. Such an opt-out system shall be available through either a free-of-charge SMS or a toll free number. Licensed Operators shall make Recipients aware of such means;
  - (e) Any other cost of replying to unsolicited Bulk Messages shall be specified in the unsolicited Bulk Message sent to Recipients.
- 5.3 Licensed Operators shall ensure that Bulk Messengers are aware of the requirements of this Regulation.

### **4. Enforcement and penalties**

- 4.1. TRA shall enforce this Regulation and the provisions mentioned hereunder through decisions, determinations and orders issued, in particular under section 35 of the Telecommunications Law.
- 4.2. Any material breach of this Regulation shall also be deemed to constitute a material breach of the Telecommunications Law and, where appropriate, of any relevant Telecommunications License held by the relevant Licensed Operator.

**- End of Consultation -**