



هيئة تنظيم الاتصالات  
Telecommunications Regulatory Authority  
Kingdom of Bahrain - مملكة البحرين

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

**REVIEW OF & DRAFT AMENDMENTS TO  
BULK MESSAGING REGULATION**

**CONSULTATIVE PAPER**

December 10, 2014/ LAD 1214 179

**The address for responses to this document is:**

The General Director

Telecommunications Regulatory Authority

PO Box 10353, Manama, Kingdom of Bahrain

[LAD@tra.org.bh](mailto:LAD@tra.org.bh)

The deadline for responses is **4pm** on 11<sup>th</sup> of January 2015

**Purpose:** to consult on the proposed amendments to the Bulk Messaging Regulation  
("Draft Amendments")

## Instructions for Submitting a Response

1. The Telecommunications Regulatory Authority (the "TRA") invites comments on this document from all interested parties and, in particular, from undertakings supplying mobile telecommunications services. Comments should be submitted to the TRA by **4pm on 11<sup>th</sup> January 2015**
2. Responses should be sent to the TRA preferably by email (either Word or PDF format) or by fax or post to the attention of:

**The General Director**

[LAD@tra.org.bh](mailto:LAD@tra.org.bh)

Telecommunications Regulatory Authority

P.O. Box 10353

Manama

Kingdom of Bahrain

Fax: +973 1753 2125

3. Responses should include:
  - a. the name of the company/institution/association etc.;
  - b. the name of the principal contact person;
  - c. full contact details (physical address, telephone number and e-mail address);  
and
  - d. in the case of responses from individual consumers, name and contact details.
4. The TRA expects respondents to provide comments in response to each of the questions set out in this document. The TRA invites respondents to substantiate their responses, wherever possible, by providing factual evidence to support their responses.
5. In the interest of transparency, the TRA will make all submissions received available to the public, subject to the confidentiality of the information received. The TRA will evaluate requests for confidentiality in line with relevant legal

provisions and the TRA's published guidance on the treatment of confidential and non-confidential information.<sup>1</sup>

6. Respondents are required to mark clearly any specific information included in their submission which is considered confidential. Where such confidential information is included, respondents are required to provide both a confidential and a non-confidential version of their submission. If a submission is marked confidential in its entirety, reasons for this should be provided. The TRA may publish or refrain from publishing any document or submission at its sole discretion.
7. Once the TRA has received and considered the responses to the Draft Amendments, the TRA intends to issue: (i) a final version of the amendments, (ii) a consolidated version of the amended regulation and (iii) the reasoning for the TRA's position.

## SECTION 1 Background

8. This section is intended to provide a brief overview of the background to this consultation and some information on developments at a domestic level.
9. Pursuant to Article 3(b)(1) of the Telecommunications Law of the Kingdom of Bahrain (hereinafter referred to as “the Telecoms Law”) the TRA is entrusted with the protection of Subscribers and Users in respect of *inter alia* protection of personal particulars and privacy of services. The remit of the TRA to assume responsibility for overseeing and regulating consumer protection is reiterated in Article 29(c)(3) of the Telecoms Law.
10. The TRA has sought to regulate the sending of solicited and unsolicited bulk messages. To this end, a number of consultations have been held in the past including: a consultation on consumer protection issues in 2006, a second consultation on consumer protection in general (a section of which dealt with Bulk SMS) in 2007, another consultation which proposed a regulation on unsolicited bulk messages including Short Message Service (“SMS”) and multimedia message service (“MMS”) in 2009 and yet another consultation in 2010 which culminated in the promulgation of the Bulk Messaging Regulation in 2011 (“the Regulation”).

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<sup>1</sup> The Authority, “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.

11. The TRA acknowledges that certain improvements to the Regulation are required to ensure that the obligations placed on licensees are proportionate but also to ensure that the end-customer's privacy is indeed being safeguarded. In this context, an Article 53 request for information was sent to all Mobile Network Operators ("MNOs") on the 2 October 2014. Responses were received from all three MNOs. Individual meetings with all three MNOs were held during the month of November. The TRA wishes to thank all MNOs for their respective feedback.
12. This document sets out the TRA's view on how the Regulation could and should be amended to address certain inadequacies in its current format. These views are the result of the detailed discussions held with the industry but also take into account the TRA's analysis of the nature of complaints that the TRA and the operators have received on the issue of Bulk Messaging.
13. This document will therefore focus on the specific articles within the current Regulation discussing in some detail which articles could be amended, the proposed amendment and the reasons behind such proposal.
14. Accordingly the document is divided into three parts:
  - The first part discusses the proposed changes, taking into account the feedback already received from the MNOs;
  - The second section contains the draft marked up changes to the Regulation; and
  - The last section consists of a clean version of the Draft Amended Regulation.
15. The TRA is seeking respondents' views on the draft amendments. Subject to the responses received, the TRA plans to publish the Amended Regulation in early 2015.
16. The TRA believes that it is important for all interested parties to see the views of others during a consultation. As such the TRA will publish a summary of all the responses received on the TRA website as part of the Consultation Report. In our Consultation Report, the TRA will give reasons for its decisions and will give an account of how the views of those concerned helped shape those decisions.
17. This consultation document is without prejudice to the legal position or the rights and duties of the TRA to regulate the provision of telecommunications services. Any views expressed in this document are not binding on the TRA and are without prejudice to the final form and content of any decisions the TRA may make. This consultation document including the Draft Regulations is not a substitute for any regulation or law and does not constitute legal advice.

Inappropriate reliance ought not therefore to be placed on the contents of this document.

18. The Amended Regulation will be kept under review and amended as appropriate in the light of further experience and developing law and practice and any change to the TRA's powers and responsibilities.

19. Capitalised terms used throughout this document shall have the same meaning attributed to them by the Regulation and by the Telecoms Law.

## SECTION 2

### A Review of the Regulation and Proposed Changes

#### 2.1 Article 1 – Definitions

20. Article 1 consists of a list of definitions. Neither the TRA nor the MNOs have highlighted any major areas of concern with the definitions included within Article 1.

21. There does seem however, a mild preference to provide a definition to two terms used within the Regulation (in Articles 4 and 5 respectively): Contracted Source and Non-Contracted Source.

22. The TRA therefore proposes the following new definitions:

➤ ““Contracted Source” means a Source who has entered into a contractual relationship, whether in written form or otherwise, with a Licensed Operator for the purpose of sending Bulk Messages over the Licensed Operator’s network.

➤ “Non-Contracted Source” means a Source who, without having entered into a contractual relationship with a Licensed Operator, sends Bulk Messages over that Licensed Operator’s network to the Licensed Operator’s Subscribers.”

**Q1: Do you agree with the proposed new definitions? If not please explain why and suggest alternative wording.**

#### 2.2 Article 2 – Scope of Regulation

23. Article 2 provides exceptions to the applicability of the Regulation to cover issues of security, Governmental requirements and network faults. No major issues were pinpointed by the Licensed Operators on the operation of this Article.

24. One Licensed Operator has however, pointed out that the list should be extended to cover the transmission of Bulk SMS as may be required by law or pursuant to an order of the TRA.

25. The TRA notes that the definition of Bulk Message in Article 2 is restricted to cover messages of a commercial nature “offering to supply goods, services or business opportunities; Advertising or promoting goods, services, events or business opportunities”. Put differently, if a bulk message did not consist of a commercial/promotional nature, then it would not be caught under the definition of Bulk Message in the Regulation. Therefore, it could be argued that the requirement for this exception does not arise. The TRA acknowledges that all the exceptions listed in Article

2 are not of a commercial nature and that as such, based on that premise, Article 2 could have been omitted in its entirety. However, the TRA is mindful of the fact that removing Article 2 at this stage could potentially give rise to a degree of legal uncertainty. Therefore the TRA believes that it would be more prudent to extend the list of exceptions as suggested by the Licensed Operator as opposed to deleting Article 2.

26. Accordingly the TRA proposes a slight rewording of Article 2 as follows:

“This Regulation applies to all Licensed Operators sending Bulk Messages. For the avoidance of doubt, and without prejudice to the definition of Bulk Message in Article 1 hereof, the following shall not be covered by the scope of this Regulation:”

27. The TRA also proposes the introduction of a new sub-article (d):

“d. Any announcement required to be made by operation of any applicable law or pursuant to an order of the Authority.”

**Q2: Do you agree with the proposed new wording of Article 2? If not please explain why and suggest alternative wording.**

**Q3: Do you agree with the introduction of sub-article (d) and its wording? If not please explain why and suggest alternative wording.**

### **2.3 Article 3 – Opt-out Procedures from Receiving List**

28. None of the Licensed Operators highlighted any area of concern with regards to the requirements set out in Article 3. Indeed all Licensed Operators confirmed and provided documentary evidence of their adherence to the requirement to provide a free-of-charge opt-out option from the receiving list of any Bulk Message.

29. The TRA is pleased to note that all Licensed Operators confirmed that they provide a free opt-out option to all their Subscribers either via SMS or through a toll-free number and that information and guidance pertaining to the opt-out option was made available at outlets and through call centres. With the exception of one MNO (who only made such information available for a limited time after the introduction of the Regulation), all Licensed Operators confirmed that their websites contained such information.<sup>2</sup> Another MNO confessed that it only launched the opt-out procedure in April 2014 but that since then in excess of 100 Subscribers availed themselves of the option.

30. The TRA wishes to point out that the requirement of having the opt-out information available on the Licensed Operators’ websites persists.

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<sup>2</sup> That MNO has since updated its website so that the information is now available on line.

31. One Licensed Operator proposed that the options under Article 3.2 be extended to include other options of opting-out mechanisms including websites or outlets of MNOs. The TRA encourages the Licensed Operators to provide an array of options which could be used by Subscribers to proceed with opting-out of receiving Bulk Messages. However, the TRA believes that Subscribers should be able to opt-out without having to leave the comfort of their homes even if they do not have access to the internet. As such the TRA does not agree that the options listed in Article 3(2) should be extended.

32. Licensed Operators have also broadly confirmed their compliance with the requirement to make information and guidance relating to the opt-out option via their websites, call centres and outlets.

33. The TRA happily notes that the number of complaints raised by Subscribers in relation to Bulk SMS is at a considerably low level. The common thread amongst these complaints is invariably lack of knowledge on how to block Bulk Messages. In this context the TRA believes that more should and can be done to raise awareness. The TRA commits to increasing publicity on the local media on the possibility of blocking Bulk SMS. It also believes however, that Licensed Operators should, at all times, display information at all their outlets on the opt-out procedures.

34. The TRA believes that, other than the obligation to display informative material about the procedure to be followed for opting out of Bulk Messages, no changes or amendments are required to be undertaken in respect of Article 3.

35. As such Article 3(3) shall be amended as follows:

“Licensed Operators shall make available all information and guidance relating to the Bulk Messages opt-out option procedures on the Licensed Operator’s websites and call centres. In addition Licensed Operators are required to ensure that such information (including pamphlets and banners) is available and displayed prominently at all times in all their outlets.”

36. It is also being proposed that the TRA should, if it deems necessary, establish procedures and processes to establish a harmonised process for opting-out. The following Article 3(4) is being proposed.

“Licensed Operators shall comply with any procedures and processes that the Authority may establish from time to time for the purposes of establishing a harmonised opt-out option.”

**Q4: Do you agree with the proposed changes to Article 3(3) and the introduction of Article 3(4)? If not, please give reasons.**

**Q5: Do you agree with the TRA’s view that no changes or amendments are necessary in respect of Article 3?**



## **2.4 Article 4 – Sending of Bulk Messages for Contracted Source**

37. Article 4 imposes obligations on Licensed Operators when sending Bulk Messages from a Contracted Source. Through its discussions with the Licensed Operators, it is clear to the TRA that the way that the operators in effect seek to apply this provision is by shifting the responsibility onto the Contracted Source. The Licensed Operators claim, and the TRA has no reason to doubt the veracity of the claim, that without probing the contents of the message, it is technically impossible for them to differentiate between what is a Bulk Message and what is not, unless they are themselves the originator of the Bulk Message.

38. The TRA appreciates the practical difficulties that the strict wording of Article 4 brings about. The TRA also recognizes that the confidentiality of the messages is paramount. The TRA refers to the provisions of Article 75 of the Telecoms Law which make the tapping into or disclosing of any conversation illegal. The TRA would only tolerate the tapping into the content of any communication (including SMS or MMS) where that tapping is carried out pursuant to an order by the Public Prosecutor's Office or pursuant to an order issued by the court of competent jurisdiction.

39. Short of probing into the content of the message, the Licensed Operator are in agreement that they cannot apply the provisions of Article 4 in a blanket manner because that could unwittingly capture certain SMS which would not fall within the definition of a Bulk Message such as SMSs sent by banks to notify their customers of a card transaction, SMSs sent by way of password activation, SMSs received when roaming to inform the Subscriber of the roaming rates, or SMSs sent by way of reminder of hospital appointments. It is for this reason that reliance has to be made on the Bulk Messenger.

40. There can be little doubt that the SMSs referred to in the preceding paragraph are of immense benefit to the Recipient and that the Regulation rightly states that not all SMSs should be viewed as Bulk Messages. It would be therefore wrong and disproportionate to ask Licensed Operators to treat all SMSs and MMSs in the same manner.

41. On the other hand, the TRA's jurisdiction is limited to Licensed Operators. It would be futile therefore for the TRA to seek to extend the obligation under Article 4 to any Bulk Messenger. The conduct of the Bulk Messenger who is a Contracted Source can however, be to a degree controlled by the Licensed Operator by virtue of its commercial agreement with the Contracted Source. The TRA therefore proposes to amend the wording of Article 4 to reflect this opportunity.

42. Article 4(a) of the Regulation provides that Bulk Messages should only be sent to those Recipients who have expressly consented to the receipt thereof. This means that Subscribers must, in the first instance, have opted to receive Bulk Messages before the Licensed Operators proceed with sending them the same. This is commonly referred to as an 'opt-in' approach. On the other hand, an 'opt-out' approach would entail granting the Subscriber the right to stop receiving Bulk Messages but until such time as the Subscriber opts out, it is legitimate for a Bulk Messenger to send Bulk SMS to that Subscriber.

43. The Licensed Operators have stated that they are not in a position to verify that the Bulk Messenger is targeting his Bulk Messages to Recipients who have opted-in. This is due to a number of reasons including the substantial additional resources that would be required, the costs associated with the same and the dependency on the willingness of the Source to share his records with the Licensed Operator.

44. All three Licensed Operators have attempted to address the requirements under Article 4(a) by replicating this requirement in their respective agreements with the Contracted Source. The TRA accepts this reasoning and proposes that Articles 4(a) and 4(b) be amended to reflect this concern.

45. The Licensed Operators have highlighted some concerns as to the accuracy of their respective consent records and have stated that in their view, the Regulation should be amended to move to an opt-out procedure. The TRA does not agree. The Regulation has been very clear since its inception that obtaining the Subscriber's consent before sending out Bulk Messages was a *sine qua non*. It is close to 4 years since the Regulation came into force. The TRA believes that the Licensed Operators have had ample time to ensure that their internal processes were in place such that at least their own records were correct and updated.

46. The changes being proposed will ensure that the obligations being imposed on Licensed Operators are proportionate. It is to be made very clear however, that when Licensed Operators send Bulk Messages to promote their own services or offers, in that instance the Licensed Operator is assuming a dual role of Contracted Source in addition to a Licensed Operator. The TRA expects that the Licensed Operator *qua* Contracted Source would be responsible for ensuring that it complies fully with the provisions of Article 4 including the requirement to adopt an opt-in approach and the requirement to keep an accurate and update list of consents. If such consents are not held, then the Licensed Operator should refrain from sending Bulk Messages (as defined in the Regulation). The TRA reserves the right to ask for evidence that, after the Amended Regulation is adopted, Bulk Messages have been sent according to consent list and for evidence of such consent.

47. Concerns were raised by a Licensed Operator on the applicability of Article 4(c), 4(d) and 4(e) in that, for the reasons mentioned above, reliance has to be made on the Contracted Source abiding by these obligations. The TRA accepts these concerns but

it is confident that the proposed changes to the wording of Article 4 will address these. No changes are deemed to be necessary.

48. Another Licensed Operator stated that the details that were required to be sent pursuant to Clauses 4(e), 4(f) and 4(g) were excessive and should be reduced. The TRA does not agree that the requirements in Clauses 4(e) and 4(f) should be relaxed. However, it does agree with another Licensed Operator that the cost of responding to Solicited Bulk Messages should only be specified where such a response would result in a charge which is different from the standard SMS or MMS charge. In the event that a Licensed Operator fails to specify such charge, then the TRA will expect that the Licensed Operator charges the Recipient who chooses to reply to the Bulk Message the standard SMS or MMS charge as the case may be. The TRA will propose amendments to Clause 4(g).

49. Accordingly the TRA believes that Article 4 should be amended as follows:

“When sending Solicited Bulk Messages by a Contracted Source, Licensed Operators shall, to the fullest extent possible, comply or shall procure that the Contracted Source shall comply with the following:

a) Bulk Messages shall only be sent to Recipients who have expressly consented to the receipt of Bulk Messages.

b) The consent referred to in the preceding paragraph shall be acquired by the Source and the Source shall maintain correct and updated records of such consent.”

“g) Where the cost of responding to Solicited Bulk Messages is different from the standard SMS or MMS applicable charge, then the cost for responding to the Solicited Bulk Message shall be specified in that Solicited Bulk Message.”

**Q6: Do you agree with the proposed changes to Article 4? If not please explain why and suggest changes.**

## **2.5 Sending of Bulk Messages for Non-Contracted Source**

50. Article 5(1) obliges Licensed Operators to take all appropriate procedures to reduce the number of Unsolicited Bulk Messages. In order to achieve this aim, Licensed Operators have introduced SMS Firewall Filters which serve to reduce (but not eliminate) Unsolicited Bulk Messages.

51. None of the MNOs raised major concerns with the wording of Article 5(1) however, the inclusion of the term “all” in that Article is not necessary. Accordingly the TRA proposes to delete that term from the text of the Amended Regulation:

“Without prejudice to the Telecommunications Law and Licences granted to Licensed Operators, Licensed Operators shall take appropriate procedures to reduce the number of Unsolicited Bulk Messages which are sent over their networks by Non-contracted Sources for the purpose of sending Bulk Messages.”

52. On the other hand, Article 5(2) has raised serious question marks. Licensed Operators have all claimed that it is technically impossible to implement the requirements of Article 5(2) without tapping into each message. Moreover, because they have no contractual relationship with the Bulk Messenger, Licensed Operators have no means of controlling (even indirectly) what is the content of the Bulk Message being sent over their own networks. Licensed Operators lack the ability to verify if the SMSs or MMSs sent by a Non-Contracted Source constitute Bulk Messages and to control the frequency and timing of the sending of Bulk Messages. All three MNOs have confirmed that they were unable to source a technical solution that would deliver on the requirements of Article 5(2) without probing the content of the Bulk Message.

53. The TRA agrees that it has proven to be unrealistic to expect MNOs to comply with the provisions of Article 5(2). Ultimately it is to be acknowledged that Subscribers have to do their bit and they should take advantage of the opt-out procedures employed by the Licensed Operators to block unwanted Bulk Messages.

5.4 The TRA therefore proposes to delete Article 5(2) in its entirety.

**Q7: Do you agree with the proposed changes to Article 5? If not please explain why.**

## **2.6 Remaining Clauses**

55. The TRA does not believe that Article 6, 7 and 8 require any modification and as such these will remain unaltered.

## SECTION 3

### Draft Marked-up Version of the Regulation

#### Regulation

#### Bulk Messaging

##### Article 1 - Definitions

For the purposes of this Regulation, any word or expression shall have the meaning given to it in the Telecommunications Law, and the following terms and expressions shall have the following meanings, unless the context otherwise requires:

##### **Bulk Message**

means short text messages (“**SMS**”) or multimedia messages (“**MMS**”) sent or intended to be sent to hundred (100) or more Recipients in the Kingdom of Bahrain at one time via short message or multimedia systems over a Licensed Operator’s public mobile telecommunications network for one of the following purposes:

Offering to supply goods, services or business opportunities;

Advertising or promoting goods, services, events or business opportunities; or any other purpose designated by the Authority from time to time by a determination issued by the General Director of the Authority.

This shall include any Bulk Messages sent by the Licensed Operator with the purposes of offering to supply or promote the Licensed Operator’s goods, services, events or business opportunities.

**Contracted Source**

means a Source who has entered into a contractual relationship, whether in written form or otherwise, with a Licensed Operator for the purpose of sending Bulk Messages over the Licensed Operator's network.

**Solicited Bulk Message**

means a Bulk Message sent to Recipients that have requested that message and permitted the source of the Bulk Message to send to them as Recipients.

**Unsolicited Bulk Message**

means a Bulk Message sent to Recipients that did not request that message and did not permit the source of the Bulk Message to send to them as Recipients.

**Source**

means any licensed operator or bulk messenger or artificial or natural person that sends a Bulk Message over telecommunications networks.

**Bulk Messenger**

means any Person that is entitled by virtue of a contract with a Licensed Operator to send Bulk Messages or send Bulk Messages on behalf of the Source over Licensed Operators' networks.

**Non-Contracted Source**

means a Source who, without having entered into a contractual relationship with a Licensed Operator, sends Bulk Messages over that Licensed Operator's network to the Licensed Operator's Subscriber.

**Recipient**

means any User of or Subscriber to a mobile telecommunications service in the Kingdom of Bahrain.

## Article 2 - Scope of Regulation

This Regulation applies to all Licensed Operators sending Bulk Messages. For the avoidance of doubt, and without prejudice to the definition of Bulk Message in Article 1 hereof, the following shall not be covered by the scope of this Regulation: with the exception of the following:

- a. Public Security Announcement ;
- b. Public Announcement from Government Ministries or Government Agencies;
- c. Network Fault Events report or notice; and
- d. Any announcement required to be made by operation of any applicable law or pursuant to an order of the Authority.

## Article 3 – Opt-out Procedures from Receiving List

1. Licensed Operators shall provide a free-of-charge opt-out option from the receiving list of any Bulk Message which is nationally or internationally originated from any source that is identified by numbers or alphanumeric codes, regardless of whether the Bulk Message is solicited or unsolicited.
2. Licensed Operators shall provide this option either through a free-of-charge SMS or a toll free number.
3. Licensed Operators shall make available all information and guidance relating to the Bulk Messages Opt-out option procedures on the Licensed Operator’s websites and outlets and call centres. In addition Licensed Operators are required to ensure that such information (including pamphlets and banners) is available and displayed prominently at all times in all their outlets.
- 3.4. Licensed Operators shall comply with any procedures and processes that the Authority may establish from time to time for the purposes of establishing a harmonised opt-out option.

## Article 4 – Sending of Bulk Messages for Contracted Source

When sending Solicited Bulk Messages by a Contracted Source for the purpose of sending Bulk Messages, Licensed Operators shall, to the fullest extent possible, comply or shall procure that the Contracted Source shall comply with the following:

- a) Bulk Messages shall only be sent ~~A Licensed Operator shall only send Bulk Messages~~ to Recipients that who have expressly consented to the receipt of Bulk Messages.
- b) The consent mentioned in Paragraph (a) above shall be acquired by the Contracted Source ~~or the Licensed Operator and the Licensed Operators~~ and the Contracted Source shall maintain ~~this consent in the Licensed Operator's~~ correct and updated records of such consent. Licensed Operators shall procure the right to obtain copies of such records and consent forms from the Contracted Source.
- c) Solicited Bulk Messages shall only be sent between the hours of 09:00 a.m. and 08:00 p.m. according to the Kingdom of Bahrain's timing.
- d) Unless expressly agreed with the Recipient, one Solicited Bulk Message shall be sent per day to any single Recipient on behalf of any single Source.
- e) Each Solicited Bulk Message shall specify the identity and contact details of the Source on whose behalf the Solicited Bulk Message is being sent. Specifying the source's details in any Bulk message shall include, as a minimum, a valid telephone number or email address of the Source.
- f) Each Solicited Bulk Message shall specify the details of the opt-out option procedures described in Article 3.2 above.
- g) Where the cost of responding to Solicited Bulk Messages is different from the standard SMS or MMS applicable charge, then the cost for responding to the Solicited Bulk Message shall be specified in that Solicited Bulk Message ~~The cost of responding to Solicited Bulk Messages as well as the cost of services, goods or events the subject of the Message — if any — shall be specified in each Solicited Bulk Message.~~

## **Article 5 – Sending of Bulk Messages for Non-contracted Source**

- 1. ~~Without prejudice to the Telecommunications Law and Licences granted to Licensed Operators, Licensed Operators shall take all appropriate procedures to reduce the number of Unsolicited Bulk Messages which are sent over their networks by Non-contracted Sources for the purpose of sending Bulk Messages.~~
- 2. ~~When sending Bulk Messages by a Non-contracted Source for the purpose of sending Bulk Messages, Licensed Operators shall comply with the following:~~



- ~~a) Bulk Messages by a Non-contracted Source shall only be sent between the hours of 09:00 a.m. and 08:00 p.m. according to the Kingdom of Bahrain's timing.  
one Bulk Message by a Non-contracted Source shall be sent per day to any single Recipient on behalf of any single Source.~~

## **Article 6 - Enforcement**

Without prejudice to the Authority's powers provided for in Article 35 of the Telecommunications Law, the Authority may, in the event that a Bulk Message is sent in a manner violating the provisions of this Regulation, order the Licensed Operator to immediately stop sending Bulk Messages and take any other appropriate procedures.

The breach of any provisions of this Regulation by the Licensed Operator shall also be deemed to constitute a material breach of its Licences and the provisions of the Telecommunications Law.

## **Article 7 – Right of Appeal**

Orders issued by the Authority in accordance with the provisions of this Regulation, shall be subject to the right of appeal in accordance with the provisions of Articles (36) and (66) of the Telecommunications Law.

## **Article 8 – Harmonization of Circumstances**

Each Licensed Operator shall make necessary amendments to its Standard Subscriber Agreement to enforce the provisions of this Regulation in accordance with the procedures set out in its Telecommunications Licences.

## SECTION 4

### Clean Version of the Draft Amended Regulation

#### Regulation

#### Bulk Messaging

##### Article 1 - Definitions

For the purposes of this Regulation, any word or expression shall have the meaning given to it in the Telecommunications Law, and the following terms and expressions shall have the following meanings, unless the context otherwise requires:

##### **Bulk Message**

means short text messages (“**SMS**”) or multimedia messages (“**MMS**”) sent or intended to be sent to hundred (100) or more Recipients in the Kingdom of Bahrain at one time via short message or multimedia systems over a Licensed Operator’s public mobile telecommunications network for one of the following purposes:

Offering to supply goods, services or business opportunities;

Advertising or promoting goods, services, events or business opportunities; or any other purpose designated by the Authority from time to time by a determination issued by the General Director of the Authority.

This shall include any Bulk Messages sent by the Licensed Operator with the purposes of offering to supply or promote the Licensed Operator’s goods, services, events or business opportunities.

##### **Contracted Source**

means a Source who has entered into a contractual relationship, whether in written form or otherwise, with a Licensed Operator for the purpose of sending Bulk Messages over the Licensed Operator’s network.

<b>Solicited Bulk Message</b>	means a Bulk Message sent to Recipients that have requested that message and permitted the source of the Bulk Message to send to them as Recipients.
<b>Unsolicited Bulk Message</b>	means a Bulk Message sent to Recipients that did not request that message and did not permit the source of the Bulk Message to send to them as Recipients.
<b>Source</b>	means any licensed operator or bulk messenger or artificial or natural person that sends a Bulk Message over telecommunications networks.
<b>Bulk Messenger</b>	means any Person that is entitled by virtue of a contract with a Licensed Operator to send Bulk Messages or send Bulk Messages on behalf of the Source over Licensed Operators' networks.
<b>Non-Contracted Source</b>	means a Source who, without having entered into a contractual relationship with a Licensed Operator, sends Bulk Messages over that Licensed Operator's network to the Licensed Operator's Subscriber.
<b>Recipient</b>	means any User of or Subscriber to a mobile telecommunications service in the Kingdom of Bahrain.

## **Article 2 - Scope of Regulation**

This Regulation applies to all Licensed Operators sending Bulk Messages. For the avoidance of doubt, and without prejudice to the definition of Bulk Message in Article 1 hereof, the following shall not be covered by the scope of this Regulation:

- a. Public Security Announcement ;
- b. Public Announcement from Government Ministries or Government Agencies;
- c. Network Fault Events report or notice; and
- d. Any announcement required to be made by operation of any applicable law or pursuant to an order of the Authority.

## **Article 3 – Opt-out Procedures from Receiving List**

1. Licensed Operators shall provide a free-of-charge opt-out option from the receiving list of any Bulk Message which is nationally or internationally originated from any source that is identified by numbers or alphanumeric codes, regardless of whether the Bulk Message is solicited or unsolicited
2. Licensed Operators shall provide this option either through a free-of-charge SMS or a toll free number.
3. Licensed Operators shall make available all information and guidance relating to the Bulk Messages Opt-out option procedures on the Licensed Operator's websites and call centres. In addition Licensed Operators are required to ensure that such information (including pamphlets and banners) is available and displayed prominently at all times in all their outlets.
4. Licensed Operators shall comply with any procedures and processes that the Authority may establish from time to time for the purposes of establishing a harmonised opt-out option.

#### **Article 4 – Sending of Bulk Messages for Contracted Source**

When sending Solicited Bulk Messages by a Contracted Source, Licensed Operators shall, to the fullest extent possible, comply or shall procure that the Contracted Source shall comply with the following:

- a) Bulk Messages shall only be sent to Recipients who have expressly consented to the receipt of Bulk Messages.
- b) The consent mentioned in Paragraph (a) above shall be acquired by the Contracted Source and the Contracted Source shall maintain correct and updated records of such consent. Licensed Operators shall procure the right to obtain copies of such records and evidence of such consent from the Contracted Source.
- c) Solicited Bulk Messages shall only be sent between the hours of 09:00 a.m. and 08:00 p.m. according to the Kingdom of Bahrain's timing.
- d) Unless expressly agreed with the Recipient, one Solicited Bulk Message shall be sent per day to any single Recipient on behalf of any single Source.
- e) Each Solicited Bulk Message shall specify the identity and contact details of the Source on whose behalf the Solicited Bulk Message is being sent. Specifying the source's details in any Bulk message shall include, as a minimum, a valid telephone number or email address of the Source.
- f) Each Solicited Bulk Message shall specify the details of the opt-out option procedures described in Article 3.2 above.
- g) Where the cost of responding to Solicited Bulk Messages is different from the standard SMS or MMS applicable charge, then the cost for responding to the Solicited Bulk Message shall be specified in that Solicited Bulk Message.

#### **Article 5 – Sending of Bulk Messages for Non-contracted Source**

Without prejudice to the Telecommunications Law and Licences granted to Licensed Operators, Licensed Operators shall take appropriate procedures to reduce the number of Unsolicited Bulk Messages which are sent over their networks by Non-contracted Sources for the purpose of sending Bulk Messages.

## **Article 6 - Enforcement**

Without prejudice to the Authority's powers provided for in Article 35 of the Telecommunications Law, the Authority may, in the event that a Bulk Message is sent in a manner violating the provisions of this Regulation, order the Licensed Operator to immediately stop sending Bulk Messages and take any other appropriate procedures.

The breach of any provisions of this Regulation by the Licensed Operator shall also be deemed to constitute a material breach of its Licences and the provisions of the Telecommunications Law.

## **Article 7 – Right of Appeal**

Orders issued by the Authority in accordance with the provisions of this Regulation, shall be subject to the right of appeal in accordance with the provisions of Articles (36) and (66) of the Telecommunications Law.

## **Article 8 – Harmonization of Circumstances**

Each Licensed Operator shall make necessary amendments to its Standard Subscriber Agreement to enforce the provisions of this Regulation in accordance with the procedures set out in its Telecommunications Licences.