

## Comments on the Introduction of Calling Name Presentation in Telecommunication Networks

By email

On November 29, 2022, the Telecom Regulatory Authority of India ("TRAI") released a Consultation Paper on the Introduction of Calling Name Presentation ("CNAP") in Telecommunication Networks ("Paper"). As part of the pre-legislative consultation process to determine the legal and technical challenges involved in the implementation of CNAP, TRAI has invited comments on the Paper from stakeholders. We welcome the opportunity to provide our views on the Paper and participate in the legislation building process. **Our comments are set out in the table below.**

Question No.	Subject Matter	Comments
Question 1	<i>Whether there is a need to introduce the Calling Name Presentation ("CNAP") supplementary service in the telecommunication networks in India?</i>	<p><b>Due to the wide-spread invasive marketing and crimes committed via phishing calls, there is a need to establish a verification mechanisms which protects citizens from being targeted by such unsolicited communications.</b></p> <p>a. Yes; This may counteract phishing, fraudulent and unsolicited promotional calls. The prevalence of spam and telemarketers creates a need for identifying the caller, to help a recipient taken an informed decision for accepting the incoming call.</p> <p>b. Internationally, jurisdictions such as United States of America<sup>1</sup>, United Kingdom<sup>2</sup>, Canada<sup>3</sup> and European Economic Area<sup>4</sup> have caller ID norms in place. These obligate communication services providers to install facilities to display a caller's name when a call is initiated/terminated. Given that communication services facilitated <i>via</i> telecom networks are dynamic in nature, implementation of a CNAP mandated with defined requirements, limitations, exceptions and safeguards may help curb unsolicited communications.</p>

<sup>1</sup> Truth in Caller ID Act, 2009.

<sup>2</sup> General Conditions of Entitlement for Communication Providers issued on January 04, 2021 (accessible here - [https://www.ofcom.org.uk/data/assets/pdf\\_file/0021/112692/Consolidated-General-Conditions.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0021/112692/Consolidated-General-Conditions.pdf)) and Guidance on the provision of calling identification facilities and other related services ("UK Guidelines") issued on April 26, 2018 (accessible here - [https://www.ofcom.org.uk/data/assets/pdf\\_file/0013/113215/annex-statement-guidelines-cli-facilities.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0013/113215/annex-statement-guidelines-cli-facilities.pdf)).

<sup>3</sup> Section 3 of the UK Guidelines (Para 3.2, 3.3, 3.7, and 3.8).

<sup>4</sup> Canadian Radio-television and Telecommunications Commission Unsolicited Telecommunications Rules,

<sup>5</sup> Guidelines for Calling Line Identification issued by the European Telecommunications Office in September, 2004.

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Question 2	Should the CNAP service be mandatorily activated in respect of each telephone subscriber?	<p><b>Disclosing one's identity without requisite consent infringes their privacy. Depending on the nature of the subscriber and purpose of use, telecom service providers may exercise their discretion to mandatorily activate CNAP for certain users (such as, bulk subscribers, telemarketer, etc.).</b></p> <p>a. No. Since the caller name identity constitutes "<i>personal information</i>"<sup>5</sup> as per the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 ("<b>Privacy Rules</b>") (viz., existing data protection legislation), the subscriber's consent shall be required to collect and disclose such personal information to third parties. Consequently, <i>blanket</i> mandate to disclose such information may violate the Privacy Rules and undermine the rights of a data subject (viz., subscriber). For consistency with the data protection norms, an <i>opt-in / opt-out</i> mechanism may be developed which allows the subscriber to choose to avail the CNAP. That said, the mandate to display the caller ID can be stipulated depending on the nature of subscriber viz, individual or businesses.</p> <p>b. In our view, the primary objective of CNAP is for an end-user to determine if the incoming call is relevant to them or spam / promotional. The United Kingdom's Guidelines on Caller ID services<sup>6</sup> allows the caller to prevent display of their name, in-line with their rights under the data protection law, including for security reasons, investigation of offences, etc.<sup>7</sup>. However, calls made for marketing purposes are not allowed to withhold the display of their identity. Rules may be devised that require the telecom service provider to mandatorily display caller ID for:</p> <ol style="list-style-type: none"> <li>1. Business subscribers availing "<i>bulk subscriptions</i>" or for commercial activities.</li> <li>2. Non-business subscribers calling government authorities for emergency services (such as police authorities, medical aid, reporting spam calls etc.).</li> </ol>

<sup>5</sup> Rule 2(1)(l) of the Privacy Rules defines "personal information" as *any information that relates to a natural person, which, either directly or indirectly, in combination with other information available or likely to be available with a body corporate, is capable of identifying such person.*

<sup>6</sup> General Conditions of Entitlement for Communication Providers issued on January 04, 2021 (accessible here - [https://www.ofcom.org.uk/data/assets/pdf\\_file/0021/112692/Consolidated-General-Conditions.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0021/112692/Consolidated-General-Conditions.pdf)) and Guidance on the provision of calling identification facilities and other related services ("**UK Guidelines**") issued on April 26, 2018 (accessible here - [https://www.ofcom.org.uk/data/assets/pdf\\_file/0013/113215/annex-statement-guidelines-cli-facilities.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0013/113215/annex-statement-guidelines-cli-facilities.pdf)).

<sup>7</sup> Section 3 of the UK Guidelines (Para 3.2, 3.3, 3.7, and 3.8).

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<p><b>Question 3</b></p>	<p><i>In case your response to the Q2 is in the negative, kindly suggest a suitable method for acquiring consent of the telephone subscribers for activation of CNAP service.</i></p>	<p><b>Consent of the subscriber should be procured via an affirmative act.</b></p> <p>a. The Privacy Rules require data collectors to obtain the "express consent" of a data subject. In the same vein, the mode of obtaining consent should ensure the subscriber is informed of the activities contingent to such consent. Initially, such consent may be obtained at the time of the individual subscribing the services from a telecom service provider. Subsequently, the consent control functionalities may be included in the mobile applications of the telecom service providers, which are downloaded by subscribers to track details of their subscription.</p> <p>b. A mechanism similar to the <i>opt-in/opt-out</i> facility under the Telecom Commercial Communications Customer Preference Regulations, 2018 ("<b>CCPR</b>") may be developed. For instance, subscribers may be informed of the option to avail this facility by way of notifications/'SMS'-es, on their devices containing a link which accepts the subscriber's choices i.e., permitting display of caller ID, extent of such display, etc. (if applicable).</p>
<p><b>Question 4</b></p>	<p><i>Should the name identity information provided by telephone consumers in the Customer Acquisition Forms ("<b>CAFs</b>") be used for the purpose of CNAP? If your answer is in the negative, please elaborate your response with reasons.</i></p>	<p><b>Yes, this should be the primary data point.</b></p> <p>a. The details provided by the customers in the CAFs may attest to the customer's identity. Details under a CAF may be used, provided the customer is informed that such information shall be used for CNAP, apart from providing them telecom facilities. That said, corresponding obligations must be placed on the telecommunication service providers to prevent unauthorized access to caller IDs and implement necessary technical safeguards to protect such information.</p> <p>b. Since customers are expected to submit accurate information and provide identification proofs to support the information under a CAF, the use of such information for CNAP shall ensure that caller IDs are accurate. Multiple service providers (viz., applications) provide tools for spoofing and/or misrepresent a caller</p>

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		ID <sup>8</sup> . Conformity of caller ID with information under a CAF shall help detection of spoofing attempts and/or misrepresentation of the caller ID.
Question 13	<i>Whether the bulk subscribers and National Toll-free numbers should be given a facility of presenting their preferred name in place of the name appearing in the CAF? Please elaborate your response.</i>	<p><b>Businesses operate under multiple names but may form a part of the same group and/or be related via contractual obligations. The facility of "preferred names" satisfies the dual purpose of image consistency and also help call recipients to ascertain the affiliation of such call.</b></p> <p>a. Yes. From a practical standpoint, bulk subscribers and owners of national toll-free numbers are typically companies and entities using such numbers to communicate with their customers and/or market their goods and services. At times, the goods / services are "marketed" under a brand name whereas the 'name' of the company/entity owing the rights to such brand name may differ.</p> <p>b. Alternatively, service providers to a company may avail bulk subscriptions / toll-free numbers for the services provided by them to such company (e.g., BPOs, local subsidiaries etc.). Accordingly, for ease of business, the facility to present a preferred name would allow companies to operate <i>as is</i> and prevent discrepancies in the mind of its customers. On the other hand, display of preferred name would also ensure the call recipient is informed of the purpose / reference of such call.</p>

We hope these comments are helpful. We are thankful for the opportunity to engage with TRAI in this consultation.

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<sup>8</sup> Report on Caller Identification Information in Successor or Replacement Technologies issued by the Federal Communications Commissions, United states of America (accessible here - [https://docs.fcc.gov/public/attachments/DA-11-1089A1\\_Rcd.pdf](https://docs.fcc.gov/public/attachments/DA-11-1089A1_Rcd.pdf)).