

MEMORANDUM CIRCULAR
NO. 03-03-2005

SUBJECT: RULES AND REGULATIONS ON BROADCAST MESSAGING
SERVICE

Pursuant to R.A. 7925, E.O. 546 series of 1979, and in order to address consumer complaints, welfare and protection, the following rules and regulations on broadcast messaging service are hereby promulgated:

Section 1 SCOPE

- 1.1 All Public Telecom Entities and content providers operating within the Republic of the Philippines shall adhere to the requirement prescribed in this circular.
- 1.2 This circular shall cover commercial and promotional advertisements, surveys sent via Broadcast/Push messaging service.
- 1.3 This circular shall not cover emergency, distress, (and) public service information messages, network advisories and consumer welfare and protection related advisories.

Section 2 DEFINITION OF TERMS

- 2.1 Broadcast Messaging Service – allows one to send the same SMS/MMS messages to a large number of mobile phones.
- 2.2 Commission- refers to the National Telecommunications Commission
- 2.3 Commercial advertisements – advertisements for the purpose of soliciting business and to generate revenue.
- 2.4 Content Provider - an organization that creates and maintains databases containing information from an information provider
- 2.5 Multimedia Messaging Service (MMS) – allows users to send and receive messages containing images, videos, audio and text.
- 2.6 Opt-in – the subscriber has requested to be included on the specific list to receive direct marketing through SMS or MMS.

- 2.7 Opt-out – unsubscribing from future unsolicited commercial and promotional advertisements, surveys and other Broadcast/ Push messages.
- 2.8 Promotional advertisements – advertisements designed to increase visibility or sale of a merchandise or product.
- 2.9 Public Telecom Entities – any person, firm, partnership or corporation, government or private, engaged in the provision of telecom services to the public for compensation.
- 2.10 Push Messages - Information transmitted to the mobile phone, either subscribed or unsolicited messages, without a user request and are initiated by the server of the content provider..
- 2.11 Short Messaging Service (SMS) – a service for sending messages to mobile phones that use Global System for Mobile Communications in text format.
- 2.12 Spam Messages – unsolicited and unwanted commercial and promotional advertisements and surveys.

Section 3 GENERAL MEASURES AND GUIDELINES ON PUSH MESSAGING

- 3.1 Commercial and promotional advertisements, surveys, and other Broadcast/Push messages shall be sent only to subscribers who have prior consent or have specifically opted-in to receive said messages. PTEs and content providers shall also provide methods for subscribers who have opted-in to opt-out at some later date.
- 3.2 Broadcast/Push messaging shall not be sent between 9:00 PM to 7:00 AM except on paid subscription services.
- 3.3 A subscribers/recipient of Broadcast/Push messages shall not be charged for the received SMS and/or MMS messages unless the subscriber/recipient opted-in.
- 3.4 Subscribers/recipients who do not reply to Broadcast/Push messages shall be considered to have opted out and such broadcast should be stopped or subscribers may opt-out without being charged.
- 3.5 All broadcast messages shall display the name of the PTE. In the case of Content Provider initiated messages, the Content Providers shall indicate their company names.

- 3.6 PTEs and Content Providers shall include valid addresses or numbers to which recipients can send requests to cease broadcast messages. They shall also provide command/message to opt-out.

Section 4 HANDLING OF SPAM RELATED COMPLAINTS

- 4.1 Complainants may file or phone in their complaints with concerned PTE and PTE shall act on all complaints received in whatever form and manner within thirty (30) days from receipt of such complaints.
- 4.2 Complainants who are not satisfied with the action of the PTE may bring the matter to the Commission.

Section 5 ADMINISTRATIVE AND PENAL SANCTIONS

- 5.1 Non-compliance and/or violation of any of the provision of this Circular and other laws, rules and regulations of this Commission shall subject the violator/respondent to the imposition of appropriate administrative and penal sanctions, in accordance with law.

Section 6 REPEALING CLAUSE

- 6.1 This supersedes any and all existing Orders, Circulars, Memoranda or any part thereof inconsistent herewith.

Section 7 EFFECTIVITY

- 7.1 This circular takes effect fifteen (15) days after publication in a newspaper of general circulation and three (3) certified copies furnished the UP Law Center.

Quezon City, Philippines, 15 March 2005

RONALD OLIVAR SOLIS
Commissioner

KATHLEEN G. HECETA
Deputy Commissioner

JORGE V. SARMIENTO
Deputy Commissioner