

Communications
Regulatory Authority
State of Qatar

هيئة تنظيم
الاتصالات
دولة قطر

Spam Regulation (Amended)

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Consumer Affairs Department

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1. Chapter 1 – General

Article (1) Definitions and General Provisions

- a. The terms, words and phrases used in this Regulation on Spam shall have the same meaning as are ascribed to them in the Privacy Law No. (13) of 2016 (“Privacy Law”), Cybercrime Prevention Law No. (14) of 2014 (“Cybercrime Law”), Telecommunications Law No. (34) of 2006 (the “Telecommunications Law”) and the Executive By-Law to the Telecommunications Law No. (1) of 2009 (“By-Law”), the Emiri Decree No. (42) of 2014 establishing the Communications Regulatory Authority (“Emiri Decree”) and the Telecommunications Consumer Protection Policy (“Consumer Protection Policy”) unless expressly defined in the regulation or the context in which they are used requires otherwise.
- b. The following terms shall have the following meanings:

Table 1: Definitions

Authority	Means the Communications Regulatory Authority
Communications network	Means a Telecommunications Network as per Article 1 of the Telecommunications Law.
Communications Services	Means a Telecommunications Service as per Article 1 of the Telecommunications By-Law.
Complaint	Means an expression of dissatisfaction made by a Customer and received by a Service Provider related to: <ul style="list-style-type: none"> a. A Contract for Service; or b. The Service Provider’s compliance with its obligations with respect to the Customer (including but not limited to those imposed under the Law, the By-Law, the Consumer Protection Policy, The Advertising, Marketing and Branding Code, The

	Spam Regulation, The Premium Services Regulation, and the Service Provider's Licences), And where a response or resolution from the Service Provider would reasonably be expected.
Complaints Team	Has the meaning given to it in Article 94 of the Telecommunications By-Law.
Contract for Services	Means a contract between a Licensee and its Customers for the provision of Communications Services.
Consumer	Means a person who receives, acquires, uses, consumes or subscribes to any Communications Service for his / her own use. For the avoidance of doubt, the term Consumer shall be construed to include a Customer as well as any prospective Consumer or Customer, and does not include a reseller of Communications Services.
Customer	Has the meaning given to it in Article 1 of the Telecommunications Law.
Cybercrime	Has the meaning given to it in Article 1 of the Cybercrime Law.
Direct Marketing	Has the meaning given to it in Article 1 of the Privacy Law.
Dispute Resolution Service	Has the meaning given to it in Article 61 of the Telecommunications Law.
Electronic Communications	Has the meaning given to it in Article 1 of the Privacy Law.
MOTC	Means the Ministry of Transport and Communications as per Resolution No. 8 of 2016.
Licence	Has the meaning given to it in Article 1 of the Telecommunications Law.

Licensee	Has the meaning given to it in Article 1 of the Telecommunications Law.
Personal Data	Has the meaning given to it in Article 1 of the Privacy Law.
Regulation	Means this Spam Regulation.
Regulatory Framework	Includes but is not limited to the Laws, By Laws, Legal and Regulatory Instruments, that are applicable to any activity that is subject to, amongst others, the Privacy Law, the Cybercrime Law, and the Telecommunications Law.
Retail Offer	Means a Communications Service that is available for Consumer subscription and includes, without limitation, such offers of service as advertised.
Service Provider	Has the meaning given to it in Article 1 of the Telecommunications Law.
Spam	Spam is defined as unsolicited Electronic Communication.
Terms of Service	Means the general terms and conditions on which the Licensee provides its Communications Services to the Customers in accordance with the provisions of the Regulatory Framework.

Article (2) Objectives and Purpose of the Regulation

- a. The purpose of this Regulation is to set out the particular obligations on Service Providers, senders and / or users of Electronic Communications for the purposes of Direct Marketing in relation to Consumer Privacy, Personal Data and Cybercrime, in accordance with the Regulatory Framework, and especially but not limited to Article 49 (3) of the Telecommunications Law, Article 4 and 16 of the Emiri Decree establishing CRA, the Privacy Law and the Cybercrime Law.
- b. Further, the Regulation aims to enhance Consumer Protection and improve consumer experience of Communications Services. The Regulation will:-
 1. Introduce measures to effectively limit the amount of Spam in the marketplace;
 2. Prohibit any Electronic Communication with Consumers for the purposes of Direct Marketing without securing prior consent.
 3. Ensure Consumers have an effective remedy if they receive Spam;
 4. Ensure Consumers can send an effective request for the purpose of stopping the Spam and/or Direct Marketing and/or to withdraw prior consent.
 5. Ensure that Consumers are protected from harassing and illegal commercial practices;
 6. Ensure Personal Data is collected, stored and effectively protected from dissemination;
 7. Effectively reduce the number of complaints about Spam, Direct Marketing, Privacy and Cybercrime lodged with Service Providers and the Authority; and
 8. Assist Service Providers and others in understanding their obligations in controlling Spam, and Electronic Communications for the purpose of Direct Marketing and protecting consumers.

2. Chapter 2 – Scope

Article (3) Scope of the Regulation

This Regulation is binding on Service Providers and on any person or organization providing, sending, or using Electronic Communications.

Article (4) Services subject to the Regulation

This Regulation applies to Spam and Direct Marketing transmitted via Electronic Communications.

3. Chapter 3 – Direct Marketing Rules

Article (5) Privacy Protections

Background

Article 52 of the Telecommunications Law 2006 includes requirements that:

- a. A Service Provider shall be responsible for protecting information it holds relating to its Customers and their communications, and must not collect, use, retain or advertise any Customer Information unless the Customer's approval is obtained or as permitted by law.
- b. Service Providers must ensure that all the information submitted is accurate, complete and valid for use.
- c. Customers shall have the right to require that any of their information be corrected or removed.
- d. Article 52 shall not prohibit the lawful access by competent authorities of any confidential information or communications relating to Customers.

Articles 91 and 92 of the By-Law include requirements that a Service Provider:

- a. Shall take all reasonable steps to ensure the confidentiality of Customer communications, and shall not intercept, monitor or alter the content of a Customer communication, except with the explicit consent of the Customer or as permitted or required by applicable laws of Qatar;
- b. Shall identify the purposes for which Customer Information is collected at or before collection and shall not, unless permitted or required by law or with the consent of the person to whom the information relates, collect, use, maintain or disclose Customer Information for undisclosed or unauthorized purposes;
- c. Shall be responsible for any Customer Information and Customer communications records which are under its control or in its custody or those of its agents;
- d. Shall ensure that Customer Information and communications records are protected by security and technical safeguards that are appropriate to their sensitivity;
- e. Shall not disclose Customer Information to any person without the Customer's consent unless disclosure is lawfully required or permitted by the General Secretariat;
- f. Shall retain and use all Customer-specific information only for purposes specifically set out in the Service Provider's terms, or in accordance with rules or orders made by the General Secretariat or in accordance with applicable laws; and
- g. Shall ensure that Customers' Information is accurate, complete and updated regularly for the purposes for which it is to be used.

The *Licenses* restrict the treatment of Customer communications and data by a Service Provider.

Paragraph 22, Part 2 of the Consumer Protection Policy requires that contracts between a Customer and a Service Provider shall specify the purposes for which the Customer's information may be used and shall provide the ability for a Customer to opt-out of providing their information for any of the stated purposes.

- a. Service Providers, senders and users of Electronic Communications must respect the privacy of the Customers.
- b. Service Providers, senders and users of Electronic Communications must respect the confidentiality of Personal Data, and must not sell or distribute such Personal Data to any other party without the express and prior consent of the Customer, except where required to do so by law.
- c. Service Providers, senders and users of Electronic Communications shall take all appropriate administrative, technical and material measures to protect Personal Data.

Article (6) Unsolicited Electronic Communications (“SPAM”)

Background

Chapter 6 of the Data Privacy Law on Electronic Communications for Direct Marketing:

Article 22 prohibits any electronic communications with individuals for the purposes of direct marketing without securing prior consent. The Article further states that the electronic communication should demonstrate the identity of the initiator and proof for direct marketing purposes. The communication should also include a correct address that can be easily accessed through which the consumer can send the request to stop such communications or to withdraw his previous consent.

Paragraphs 70-72 of the Advertising Marketing and Branding Code relate to direct contact advertisements through phone calls, SMS, emails or other direct contact means:

- a) *Paragraph 70* requires advertisers making direct contact with customers to ensure the frequency of contact for advertising purposes are non-intrusive.
- b) *Paragraph 71* limits the sending of such messages to hours that are commonly acceptable in the State of Qatar as being hours that are suitable to call a third party that is not a close friend or relative.
- c) *Paragraph 72* requires advertisers to provide Consumers with option to opt-out of receiving such messages at no cost.

The e-Commerce Law applies to transactions between parties who agree to conduct transactions using electronic communications (*Article 2*). *The e-Commerce Law* also

provides guidance on electronic communications of a commercial nature with customers.

Article 53 requires that any electronic communication which is part of an electronic commerce service of a commercial nature must be clearly identifiable as a commercial communication, identify the sender, must not violate public order and or morality, and regarding any promotional offers or competition must:

- a) Be clearly and accurately identified.
- b) Clearly identify whether it includes any discounts, premiums or gifts.
- c) Any conditions which must be met to qualify are not misleading or deceptive and presented clearly, unambiguously and are easily accessible.

Article 54 provides that:

- a) The service provider shall not send, or require others to send, any electronic communications of commercial nature to any consumer without the explicit consent of the consumer regarding that dispatch.
- b) The consent of the consumer regarding the dispatch shall be presumed to have been obtained in the case of an existing relationship with the service provider which meets the apparent expectation of the consumer to receive the electronic communication provided that the content of the electronic communication is relevant to the purpose for which this relationship has been established and provided that the service provider provides the addressee of the electronic communication with the appropriate opportunity and means to opt out from receiving any further electronic communications, at any time.
- c) The Supreme Council may issue additional rules relating to unsolicited electronic communications.

Clause (1) Identification and Content of Electronic Communications

Electronic Communications shall not contain:

- a. Fraudulent or deceptive subject headers or content; or
- b. Content that is prohibited or contravenes the Cybercrime Law or any law of the State of Qatar.

Clause (2) Provisions of Direct Marketing via means of Electronic Communication

- a. Consent means:
 - 1. An express approval for clearly identified Direct Marketing activity, given by the declared electronic address-holder.
 - 2. A consent given prior to any Direct Marketing activity.
 - 3. A consent for a Direct Marketing activity in direct relation to the commercial activity for which the Customer is entered into with the legal entity seeking consent.
- b. An individual with the authority to do so may give consent to receive Electronic Communications on behalf of an organization. It is the responsibility of the organization to determine who has such authority.
- c. No Direct Marketing shall be sent without the prior consent of the recipient.
- d. No Direct Marketing shall be sent between the hours of 21:00/9:00pm and 9:00/9:00am.
- e. A person who seeks Consent for sending, or causing to be sent, Electronic Communications for the purposes of Direct Marketing, must:
 - 1. When requesting the Consent, set out clearly the precise purpose or purposes for which Consent is being sought and the nature of the Personal Data required and, where applicable, notify of their role as an agent for an organisation.
 - 2. Ensure that the process they use to obtain Consent are clear and transparent and that records are kept with the nature and extent of Consent obtained, the Personal Data involved, including how and when the Consent was received.
- f. Electronic Communication sent for Direct Marketing purposes must bear a direct relationship to the purpose for which Consent was given, and to the legal entity to which Consent was given.
- g. A person who contends that a recipient consented to receiving Electronic Communications for Direct Marketing purposes shall be able, at any point of time, to demonstrate the validity of the Consent.

Clause (3) Withdrawal of Consent

- a. A person who has received an Electronic Communication for Direct Marketing purposes may withdraw his / her Consent to receive such messages in the future by replying with or sending a notice to the effect that they no longer want to

receive such Electronic Communications from the sender. Senders of electronic communications must ensure that:

1. effect is given to a notice of withdrawal of Consent without delay, and at a maximum within two (2) business days of receiving the notice; and
 2. No further Electronic Communications for Direct Marketing purposes are sent to that person after the withdrawal of Consent comes into effect. For the avoidance of doubt, any such messages shall be considered as Spam for the purposes of this Regulation.
- b. Electronic Communications via SMS or MMS for Direct Marketing purposes must contain a mechanism to withdraw Consent/unsubscribe from further communications.
- c. The mechanism for withdrawal of Consent must:
1. be functional and effective; and
 2. be provided free of charge to the person withdrawing consent; and
 3. For SMS or MMS, the sender shall state in the message that messages can be unsubscribed from at any time by replying with the words 'STOP' and ['Arabic word'] (which must not be case-sensitive);
 4. allow the recipient to unsubscribe using the same method of communication that was used to send the message (i.e. the sender shall not require Customers to make a voice call in order to unsubscribe from messages delivered via SMS); and
 5. Send a confirmation message to the Customer to confirm the un-subscription or opt-out.

Clause (4) Electronic Communications for Direct Marketing purposes must include accurate sender information

A person must not send, or cause to be sent, an Electronic Communication for Direct Marketing purposes unless –

1. The message clearly and accurately identifies the person who requested the sending of the message; and
2. The message includes accurate information about how the recipient can readily contact that person; and
3. The information referred to in paragraph (2) above is provided both in Arabic and English; and

4. The information referred to in paragraph (2) is valid for at least 30 days after the message is sent.

Article (7) Service Provider obligations

- a. Service Providers have the responsibility for ensuring compliance with the Regulatory Framework in respect of their own Electronic Communications and in assisting the CRA with compliance actions against others as outlined in the following paragraphs.
- b. Service Providers shall ensure that others are aware of and contractually bound to comply with the Regulatory Framework to the extent applicable to them. The relevant provisions of this Regulation shall apply to any person (legal or natural) providing Communications services irrespective of whether the actual content, product, service or activity which is the subject of the Electronic Communication service is subject to the Regulatory Framework.
- c. Service Providers must ensure that they are in a position to enforce, as against others, any decision of the Authority in the event of finding a breach of the Regulatory Framework. Service Providers shall ensure that their Contracts for Service state that:
 1. any breach of this Regulation is also a breach of their Contract for Service,
 2. any such breach of this Regulation may make the sender or user of Electronic Communications liable for appropriate contractual penalties and damages, and
 3. A breach of this Regulation is sufficient grounds for the Service Provider to terminate the Contract for Service.
- d. Service Providers must also take all reasonable steps required to ensure that their interconnection services are not used for the transmission of Spam or for Cybercrime activity.
- e. Service Providers will have six months from date of publication of this Regulation to amend their existing Contracts for Service to comply with the Regulation.
- f. Service Providers shall take measures to make their Customers aware of this Regulation including placing a link in a prominent place on their websites, containing information about the Regulation and what are the rights and obligations pursuant to the Regulation.

- g. Service Providers should also provide a free of charge, easy to use, service that enables customers to reject or block Spam, in addition to the requirements specified in Clause 4 paragraph 2.
- h. Service Providers must also ensure that their customers are not charged for the delivery of Spam while roaming outside Qatar.

4. Chapter 4 – Compliance and Administration

Article (8) Enforcement and Penalties

Background

The Consumer Protection Policy paragraph 56 provides that a breach of the policy may be addressed in two ways:

- a) A Retail Customer who has been adversely affected by a Service Provider's non-compliance with Part 2 of this Policy may make a complaint against that Service Provider, initially through the Service Provider's internal complaints procedures and, if not resolved, through CRA Customer Complaints Process.
- b) The Authority may exercise its formal enforcement powers against a Service Provider for breaches of any provisions of the Regulatory Framework, ensuring that a Service Provider is notified and given an opportunity to remedy any breach prior to the Authority taking action.

Paragraph 57 further states that, when considering use of its formal enforcement powers under Article 56, the Authority will consider utilizing an escalating enforcement regime.

- a. In the first instance, complaints regarding a breach of this Regulation should be made by Customers to their Service Provider. If this complaint is not resolved, it shall be referred to the CRA as per the Customer Complaint Process. In the event that a Service Provider is not in a position to take appropriate action to address a Customer's complaint regarding a breach of this Regulation, the

- Service Provider shall refer the complaint to the CRA.
- b. The CRA may also identify breaches to the Regulation through monitoring of Service providers' compliance with the Regulation.
 - c. A breach of this Regulation shall constitute a breach of the Regulatory Framework and shall be subject to the relevant compliance, enforcement and penalty provisions as outlined in the Regulatory Framework.
 - d. Parties that routinely cause breaches of the Regulation shall be reported to the Authority by individuals or by Service Providers and Service providers shall provide to the Authority with a detailed list of all measures undertaken to remedy the situation. Where the CRA receives multiple complaints from Service Providers or consumers about Spam or Electronic Communications for Direct Marketing purposes originating from a particular individual, organisation and/or number, the Authority may require enforcement as per the Regulatory Framework.
 - e. Where there is a violation and subsequent non-compliance of a provision of this Regulation, the CRA shall, depending on the nature of the infringement; either refer this matter to the relevant enforcement authority as per the Data Privacy Law, or to the Public Prosecutor as stipulated under Article 67 and 70 of the Telecommunications Law, exposing the violator to criminal proceedings, including fines.

Article (9) Defences

- a. A person who sends Electronic Communications for the purposes of Direct Marketing, or causes such Electronic Communications to be sent, has a defence if –
 1. That person demonstrates it obtained the Consumers prior Consent;
 2. That person sent the message, or caused the message to be sent, by mistake; or
 3. The message was sent without that person's knowledge (for example, because of a computer virus or a malicious software programme.)
- b. A person who wishes to rely on a defence in paragraph (a) above has the onus of proof in relation to that matter.

Article (10) Duty to assist the Authority

When requested by the Authority, Service Providers must:

- a. Provide details and copies of contracts with Customers and parties under enquiry to which they supply services which are suspected by the Authority of originating Spam,
- b. Provide information about traffic levels, including the number of messages and/or length of calls from any number or electronic address suspected of originating Spam, and
- c. Terminate the associated Contract of Service;
- d. Suspend the related Customer's access to the Service Providers' service where this Customer has been found by the Authority to be originating Spam in breach of the Regulation; and
- e. Work co-operatively with each other to investigate cases of spam transmitted across networks and take appropriate actions to resolve those complaints.

Article (11) Education and Awareness

The Authority may:

- a. Require Service Providers to warn their Customers about Cybercrime, Privacy, Protection of Personal Data, Spam, or any other unlawful activity by means of Electronic Communications.
- b. Publish guidance or other material to facilitate public understanding of Spam and compliance with this Regulation.

Article (12) Monitoring and Review

- a. The Authority will monitor the implementation and compliance with this Regulation and may require information and reports that shall be submitted by the Service Provider when required.
- b. The Authority may publish annual results of the number of complaints received regarding breaches of the Regulation.
- c. The Authority requires Service Providers to report results of the number of complaints received and resolved by Service Providers in relation to this Regulation as part of the Quarterly Customer Complaints Report (CCR) filed

with CRA.

- d. The Authority will review the Regulation as part of its review of the Regulatory Framework or as per the Consumer Protection Policy (as required by Part 5 paragraph 61 of the Consumer Protection Policy).

Service Providers shall notify the Authority of compliance with this Regulation within thirty calendar days, following expiry of the 6 month implementation period.

END