



Public Utilities
Regulatory Authority
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DO-NOT-DISTURB GUIDELINES

For

The Telecommunication Sector

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INTRODUCTION

In exercise of the powers conferred on the Authority under section 14(g) of the PURA Act 2001 and Section 9 (2) (c) of the Information and Communications Act 2009, the Authority hereby makes the following Guideline pursuant to Section 154 of the IC Act 2009 specifying inter alia minimum standards and requirements in respect of automated calling system, unsolicited calling and unsolicited text messaging by licensees in The Gambia.

PREAMBLE

At the inception of GSM operations in the Gambia in 2001, subscribers received Short Message Service (SMS), otherwise known as text messages from Telecoms Operators. This medium was used, when the Operators wanted to pass vital information such as network failures in some parts of the country and when they would be fixed. Subscribers received SMS on new coverage areas, especially during expansion by operators to new areas. Information on systems maintenance/upgrade and the period of maintenance, which were usually sent to subscribers at midnight, were also communicated via SMS. These SMS were received without complaints because they were informative.

Over the years, as the use of Telecommunications services for delivery of Business services increased, Operators on behalf of their business clients, began to send bulk SMS to subscribers on their networks as it was seen as a marketing tool. Instead, Consumers received unsolicited promotional SMS across networks, with subscribers sometimes receiving up to 10 or 12 SMS from some operators in a day, which overloaded their phone storage capacity, and constituted a constant drain/nuisance.

The Populace sought assistance from the Authority for a guideline to discourage unsolicited text messages by sanctioning any service provider sending unsolicited SMS to subscribers without their consent.

INTERPRETATION:

In these guidelines unless the context otherwise requires, these terms shall have the following interpretations:

Act: Means the PURA Act, 2001

Authority: Means the Gambia Public Utilities Regulatory Authority as established by section 3 of the Gambia Public Utilities Regulatory Authority Act 2001 (PURA Act 2001).

Automated Calling system: Is a system which is capable of automatically initiating a sequence of calls to more than one destination in accordance with instructions stored in that system and transmitting sounds which are not live speech for reception by persons at some or all the destinations so called.

Direct marketing Call: A person instigating the use of a public communications service for the purpose of making unsolicited calls for direct marketing purposes.

Bulk: Means number of messages or voice calls on the same or similar subject-matter sent, caused to be sent or authorized to be sent more than the following limits: -

- (i) more than 20 during a twenty-four-hour period.
- (ii) more than 100 during a seven-day period; or
- (iii) more than 300 for thirty days period.

Business Day: Means any day other than any Saturday, Sunday or public holiday declared by the Government.

Commercial Communication: Means any voice call or message using telecommunication services, where the primary purpose is to advertise or solicit business for:

- (a) Goods or services.
- (b) A supplier or prospective supplier of offered goods or services.
- (c) A business or investment opportunity.
- (d) A provider or prospective provider of such an opportunity.

Explanation: For the purposes of this guideline, it is immaterial whether the goods, services, land or opportunity referred to in the content of the communication exist(s), is/are lawful, or otherwise. Further, the purpose or intent of the communication may be inferred from:

- (a) The content of the communication in the message or voice call.
- (b) The way the content of message or voice call is presented.
- (c) The content in the communication during call back to phone numbers presented or referred to in the content of message or voice call; or the content presented at the web links included in such communication.

Complainant: Means a person or public utility who files a complaint with the Authority.

Consent: Means any voluntary permission given by the customer to the sender to receive commercial communication related to specific purpose, product, or service.

Consumer: Means a person who purchases, receives, or makes use of a regulated public service provided by a public utility.

Licensee: Means any institution/person holding a public utility license/Authorization

Marketer: Means a person or entities whose duties include the identification of the goods and services desired by a set of consumers, as well as the marketing of those goods and services on behalf of a company.

Public Utility: Means a provider of a regulated public service

Register: An official list or record of subscribers not interested in receiving unsolicited commercial communications.

National Emergency: Any outbreak, pandemic, natural disaster and state emergency that affects the population

CITATION AND COMMENCEMENT

CITATION

The Guideline shall be cited as the “Do Not Disturb Guidelines” for all public utility regulated Sectors in The Gambia.

COMMENCEMENT

The Guideline shall come into force with effect from **1st August 2022**.

OBJECTIVES OF THE GUIDELINES

The objectives of the Guidelines are to:

- a. Protect consumers and ensure ethical marketing and promotional standards by Licenses.
- b. Set minimum requirements and standards for unsolicited text messaging by licensed utility operators in the Gambia.

SCOPE

The Guideline is applicable to all licensed public utilities to curb the barrage of unsolicited text messages and calls on subscriber mobile phones.

The DND service will be categorized into 2 services: **FULL DND and PARTIAL DND.**

FULL DND

The full DND service will be for consumers that do not want to receive any SMS or value-added packages, Automated voice calls and Direct marketing calls. Thus, if a consumer sends a request for a full DND service, an acknowledgement message should be sent as follows.

“Your request for full DND has been received and will be effective within 24 hours.”

On activation of the service, a confirmation message must be sent as follows.

“FULL DND is now active on your line. Thank you.”

PARTIAL DND

The partial DND is for consumers that want to receive some SMS, Value-added package, Automated voice calls and Direct marketing calls. Thus, if a consumer sends a request for a partial DND e.g., text “4” to 1040, an acknowledgement message should be sent as follows.

“Your request for health service has been received and will be effective within 24 hours”.

On activation of the service, a confirmation message should be sent as follows.

“PARTIAL DND is now active on your line”.

SUPPORT SERVICES

Support services will be categorized into two (2) services, HELP and STATUS

HELP SERVICES

On receipt of such request for HELP to 1040, a message should be as follows.

“For Full DND, text STOP to 1040. To receive all messages, Text ALLOW to 1040. To check your DND status, Text STATUS to 1040. For Partial DND, Text any of the following options to 1040.

- SMS “1” for; Financial Services & Real Estate to 1040.
- SMS “2” for: Education to 1040.
- SMS “3” for; Health to 1040.
- SMS “4” for: Entertainment & Tourism to 1040.
- SMS “5” for; Sports 1040.
- SMS “6” for; Religion to 1040
- SMS “7” for; Information on New Products/Services 1040.
- SMS “8” for; Value added Services to 1040
- SMS “9” for; Third Party services to 1040
- SMS “10” for; Others to 1040

STATUS SERVICE

When a subscriber texts “STATUS” TO 1040, a confirmation message should be sent as follows.

“The FULL DND s dated xxxx is now active on your line – FULL DND”

“The PARTIAL DND dated xxxx is now active on your line- PARTIAL DND”

Direct Marketing Calls is the only exception for the 24 hours deactivation period due to Section 155(3) of the IC Act, 2009 which states that the sender is given a maximum of Twenty-eight (28) days for the deactivation of service for uninterested subscribers

who do not want to receive direct marketing calls. However, it can be done earlier than Twenty-eight (28) days.

Exceptions of the Guideline

- National Emergencies DND, however all requests should be sent to the Authority for approval, before broadcast.
- Fault reporting in relation to down-time, technical issues and service interruptions.

GENERAL PRINCIPLES

Consumers have the right to send an SMS, **free of charge**, to the short code **1040** ‘opting’ to be put on the “**Do Not Disturb**” (DND) list which would either stop or restrict the number of unsolicited marketing (voice or text) messages they receive on their phones.

The timeframe for activation of the services is within **24 hours** of choosing an option.

- The opt-in and opt-out process is free of charge.
- The service provider **MUST** inform their subscribers about the existence of the DND service on its networks.
- The consumer has the right to full or partial DND implementation. Full implementation is when you opt out of receiving all unsolicited SMS and calls and PARTIAL implementation is when you choose to receive some messages and calls.
- Customers should only receive messages on their devices from 8.00 a.m. to 8.00 p.m except for national emergencies

REPORTING

All licensees shall send a monthly updated register to the Authority on or before the 5th day of every month.

ENFORCEMENT

Where any licensee is found in contravention of any of the provisions of this Guideline, the Authority shall-

- a. If found liable, impose a fine not exceeding D50,000
- b. The said fine shall be paid within a period of two (2) weeks from the date the fine is imposed.

Failure to provide a monthly updated register to the Authority, a fine of D100,000 will be imposed, and a further sum of D50, 000 per day will be imposed after expiration of the notice for as long as the contravention persist pursuant to the Enforcement Regulations.