
A Modernized Robinson List: Turkey Introduces Its Commercial Electronic Message Management System

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Turkey introduced on January 4, 2020 the Commercial Electronic Message Management System ("**IYS**" or "**System**") through the Regulation on the Amendment of the Regulation on Commercial Communication and Commercial Electronic Messages ("**Amendment**")¹. With the Amendment, companies (or persons) ("**Service Providers**") that send commercial electronic messages² for marketing purposes will be obliged to comply with certain rules, including being registered with the IYS – a system similar to donotcall.gov of the U.S. Federal Trade Commission³ or the Telephone Preference Service of the U.K. Office of Communications⁴, all of which serves as a Robinson list of the consumers ("**Recipients**")⁵.

The new System is considered to be a part of Turkey's recent and rapid developments in the field of data protection. Throughout this article, we will explain the details of the System and then discuss the steps to be taken for compliance.

Commercial Electronic Message Management System

In accordance with the Amendment, a centralized system (IYS) shall be established, which will allow (i) the Service Providers to obtain permission to send commercial electronic messages, and (ii) the recipients of such commercial electronic messages to opt-out from the communications. IYS shall also be authorized to handle the complaints made by the Recipients and conduct investigations regarding the unsolicited communications.

All Service Providers sending commercial electronic messages are obliged to register with the IYS (<https://iys.org.tr/>), although the system is yet to be open for registration, which appears to contradict with the timeline brought by the Amendment as the registration period should have started as of January 4, 2020. The website states that the System will be up and running soon for the Service Providers and offers a free notification service (through e-mail) for whoever wishes to be notified when the System is up.

The deadline for the Service Providers to register with the IYS is June 1, 2020. As such, the Service Providers are required to upload their list that includes the Recipients who gave their permission for communications. The Recipients then through the System will be able to see the Service Providers that identified them as permissioned contacts. The Recipients will be able to reject the entries of the Service Providers by September 1, 2020 through the System, after when the consumers who have not rejected the entries will be deemed to have given their permission for the communications.

However, they will always have the right to opt-out from the communications.

If a Service Provider has taken a person's permission for the communications with a different method than using the System, such permission shall be reported to the System in three business days by the concerned Service Provider. If a Service Provider fails to report the permission to the System, such permission shall be deemed invalid. The 3-day period also applies for opting out by the consumer, whom will be notified following a permission is reported to the System. As also described in the "citizens" section of the System (<https://iys.org.tr/vatandaslar>), consents shall be easily monitored and managed by the recipients through the System.

Until today, complaints related with the unsolicited commercial electronic messages have been made via e-Devlet (Turkey's electronic government system) or the Turkish Ministry of Trade's website. Following the Amendment, complaints will also be made through the System.

Compliance with the System

In order to comply with what the Amendment has brought; the following steps should be followed:

- Assessing whether the right to send commercial electronic messages to the Recipients have been obtained from the Recipients. In this regard, the Service Providers should make sure that they have the means to prove, if needed, the approval of the Recipient.
- Establishing a process that can communicate with the System's interface and that has all the elements the System requires.
- Registering with the System by June 1, 2020.
- Providing the required opt-in and opt-out processes brought by the System. Service Provides should register with the System by June 1, 2020.
- Updating the policies and inventories such as Data Storage and Destruction Policy and Personal Data Inventory (which are required by the data protection rules) in accordance with the Amendment.

Conclusion

The System aims to provide a centralized mechanism for the electronic commercial messages' recipients, where they would be able to see and edit which Service Providers are allowed to send electronic commercial messages and the means of communication. The IYS website also states that the Recipients will be able to reach the System through different platforms including its mobile application, website, and call-center, which will be instantly synchronized.

The System is expected to provide certainty and transparency to the Recipients whereas it imposes certain obligations on the Service Providers. Service Providers, in that regard, should take necessary steps as soon as possible to ensure compliance with what the Amendment has brought in order to both avoid administrative fines and to build trust with the Recipients.

Footnotes

1 Regulation on the Amendment of the Regulation on Commercial Communication and Commercial Electronic Messages was published on the January 4, 2020 dated and 30998 numbered Turkish Official Gazette (<https://www.resmigazete.gov.tr/eskiler/2020/01/20200104-2.htm>).

Regulation on Commercial Communication and Commercial Electronic Messages was published on the July 15, 2015 dated and 29417 numbered Turkish Official Gazette (<https://www.resmigazete.gov.tr/eskiler/2015/07/20150715-4.htm>).

2 "Commercial Electronic Message" is defined under Article 4 of the "Regulation on Commercial Communication and Commercial Electronic Messages" as messages sent for commercial purposes through data, voice or video message by electronic means such as telephone, call-center, fax, IVR, smart voice mail systems, e-mails, SMS, etc.

3 <https://www.donotcall.gov/>

4 <http://www.tpsservices.co.uk/telephone-preference-service.aspx>

5 A Robinson list provides the list of people who do not wish to receive marketing transmissions.