

May 2020

Ecuador: Mandatory caller ID policy for commercial and advertising calls



While Ecuador still has pending the adoption of a data protection law that sets an effective national regime for the protection, processing, and security of personal data, some secondary regulations have been issued in the past few years that somewhat strengthen the rights and interests of Ecuadorian citizens with respect to personal data protection. Such is the case with Resolution 2020-00074 ('the Resolution') issued on 20 February 2020 by the Telecommunications Regulation and Control Agency ('ARCOTEL'), which establishes, among other things, a procedure for the implementation of the policy for ensuring the transparency caller identification in calls to subscribers, clients, and users of the advanced mobile services. Jaime Mantilla, Partner at Falconi Puig Abogados, discusses the upcoming mandatory caller ID policy and what effect this may have businesses in the different sectors which currently carry out commercial and advertising calls.



Photo by Quino AI on Unsplash

The Resolution, which was published in the Official Registry, on 18 March 2020, establishes an identification policy for calls to users of the advanced mobile services for informational, commercial, advertising, or proselytising purposes, so that they are able to choose which calls they actually want to receive.

This procedure is applicable to mobile service providers and persons and corporations in all sectors who conduct telemarketing and will be mandatory for entities in the financial sector within 90 days from its publication and in 120 days for entities from other sectors.

Among the provisions established, the Resolution provides that:

- calls can only be made to users who have given their prior authorisation, in accordance with Technical Standard ARCOTEL-2017-0143 of 15 March 2017;
- obtaining prior and express authorisation will be the responsibility of the callers;
- calls must come from previously identified numbers for which mobile service providers will implement the necessary technological mechanisms that allow implementing such identification for callers;
- mobile service providers and the callers must send to ARCOTEL a unique number that groups all the numbers from their own or external call centres, so that users can fully identify this number when receiving their calls;
- the identification of calls will be made with a unique identifying name per sector as follows:
 - 'FINANCE' for banks, credit cards, and insurance providers;
 - 'TOURISM' for packages, trips, airlines, and other similar tourist activities;
 - 'SALE' for sales of various products (food, books, furniture, real estate, etc.); or
 - 'PROSELITISM' for political, dogmatic, or preaching activities; and
- informative calls for services that a user has already contracted will not have to comply with these requirements as long as they do not imply a commercial or advertising nature.

Additionally, the Resolution establishes the possibility for users to present a direct claim to the caller if the number is not correctly identified or to file a complaint to ARCOTEL who can order the mobile service provider to suspend the number and terminate their contracts with the infringing caller.

Despite the fact that the Resolution is only applicable to commercial calls and does not include text messages or emails, reducing the excessive telemarketing in Ecuador is a positive step which demonstrates respect for the will of mobile service users regarding the calls they actually want to receive.

It is important for the users to be observant and demand compliance with the Resolution as soon as it becomes effective, using the tools provided, such as direct claims to the callers or complaints before ARCOTEL, if they receive calls that are not adequately identified.

Furthermore, this could be the opportunity for the users to exercise their constitutional right to request the elimination of their personal data from the caller's databases and thereby help to further a culture of respect for data privacy in Ecuador, which, at the time of publication, is very limited mainly due to the lack of a data protection law or appropriate regulations to prevent unauthorised processing.

Jaime Mantilla Partner

jmantilla@falconipuig.com

Falconi Puig Abogados, Quito

RELATED CONTENT

NEWS POST

Belgium: Belgian DPA issues decision on FPS Mobility and Transport's data protection violations

NEWS POST

USA: CGB issues declaratory ruling and order in Anthem request

NEWS POST

EU: EPRS issues studies on AI and GDPR

NEWS POST

EU: IAB Europe issues statement on Conseil d'Etat's decision on CNIL's guidelines on cookies

NEWS POST

Germany: BfDI issues statement on BGH decision on Facebook



Company

- Careers
- Contact Us

Our Policies

- Privacy Notice
- Cookie Notice
- Terms of Use
- Terms & Conditions

Your Rights

- Exercise Your Rights
- Do Not Sell My Personal Information

Follow us



© 2020 OneTrust Technology Limited. All Rights Reserved.
The materials herein are for informational purposes only and do not constitute legal advice.