

No.101-3/2003-MN-Pt-II

Date: March 03, 2004

To

Shri
Chief
M/s.Bharti
Qutab
H-5/12,
New Delhi - 110 030.

Narendra
Regulatory
Cellular

Mehrauli

Gupta
Affairs,
Limited
Ambience
Road

Subject: Directive on Offer of Voice Mail Service by CMSP without consent of the mobile subscribers.

Your attention is invited to this office letters of even number dated 31/7/03, 8/8/03, 1/9/03 and 10/9/03 (copies enclosed) wherein the Authority had prescribed and laid down the requirement that CMSPs should take subscribers` consent before providing them voice mail service. The Authority had also advised you to discontinue this service with immediate effect in respect of those subscribers who have not provided their consent till date.

2. Your submission dated 02.09.2003 received in response to Authority`s letter dated 01.09.2003 has been examined and it is observed that the same is not in compliance of TRAI`s instructions dated 1st September 2003. Like other CMSPs, M/s.Bharti Cellular should give an undertaking that Voice Mail Service is being/and will be offered to subscribers with their prior consent only. Informing subscriber about the message retrieval charges through SMS or the facility given to subscriber to de-activate the Voice Mail Service does not mean that subscriber`s consent has been obtained for offering this service.

3. In such an arrangement there is a possibility that the called subscriber may not retrieve the message. This would result in not only the calling subscriber being charged for sending the voicemail message but also the originating operator would be required to pay termination charges to the terminating cellular operator, even though the called subscriber may not retrieve the voice mail and in effect the call has really not matured. Such an arrangement is anti consumer for two reasons. Firstly, it results in calling subscriber paying call charges for voicemail message, which the called subscriber may not retrieve. Secondly, the mere fact that the calling subscriber has left a voicemail message would give a false assurance to the calling subscriber that the message would reach the called subscriber, which may not always be the case. Such a situation would lead to confusions/problems amongst subscribers. In the view of the Authority, these issues could be resolved if prior consent of the subscriber is taken before providing such services.

4. In order to protect interest of consumers, the Authority in exercise of its power conferred upon it under Section 13 read with Section 11(1)(b)(i), (iv) and (v) of the Telecom Regulatory Authority of India Act, 1997 as amended by TRAI (Amendment) Act, 2000 hereby directs M/s. Bharti Cellular Ltd to stop offering Voice Mail Service, without the prior consent of the subscriber, with immediate effect and report compliance within three days of the issue of this directive.

This issues with the approval of the Authority.

Yours faithfully,

(Rajendra Singh)
Advisor (MN)

Copy to: All CMSPs/UASLs.