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7th October 2016

RP/FY/16-17/122/29

To,
Advisor (BB & PA)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
Old Minto Road, New Delhi

Ref: Show Cause Notice no.10-6/2016-BB&PA dated 27th September 2016

Sub: Reply to Show Cause Notice dated 27th September 2016 issued for violation of the Standards of Quality of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations 2009 and the provisions of the License Agreement

Dear Sir,

This is with reference to the above referred Show Cause Notice dated 27th September 2016 issued by TRAI requiring Bharti Airtel Limited ("Airtel") to show cause as to why action should not be initiated for violation of the Standards of Quality of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations 2009 ("Applicable Regulation") and the provisions of the Unified License and Unified Access Service License, as applicable ("License").

At the outset, we would like to state that Airtel is a responsible organization, fully cognizant of its responsibilities, commitment towards its customers and compliance to the terms and conditions of the License, applicable Orders, Directions, Regulations, etc., notified by the Authority both in letter and spirit and:

1. the Show Cause Notice is flawed as it is without justifiable basis and does not take into account relevant material including the significant augmentation of Pols; and
2. the Show Cause Notice and the allegations made therein are ex-facie misconceived and these proceedings require to be closed and given a quietus at this stage itself, for the reasons stated below, in our detailed response to the Show Cause Notice; and
3. in any event there is no violation of the Applicable Regulations or the License and Airtel has provided the necessary number of E1s to Reliance Jio Infocomm Limited ("RJIL") in accordance with the terms of the Interconnect Agreement.

We submit as follows:

Background

Execution of Interconnection Agreements

1. Airtel and RJIL executed Interconnection Agreements dated 3rd March 2014 between their access networks and another Interconnect agreement dated 29th January 2015 between Airtel Access and RJIL as NLD on terms and conditions that were agreed mutually between the parties. (Copy of both Interconnect Agreements enclosed as **Annexure 1A and 1B**).
2. These Interconnection Agreements are structured and aligned to the applicable TRAI Regulations/Directions. Further, in due compliance with "The Register of Interconnection Agreements Regulations, 1999" dated 31st August 1999, we inter-alia also filed both the Interconnection Agreements with TRAI vide Airtel letter bearing No. RP/FY 13-14/013/025 dated 14th March 2014 and another letter bearing no. RP/FY 14-15/013/032 dated 6th February 2015. (Copy of the said letters are enclosed as **Annexure 2A and 2B**).

Test Phase

3. Pursuant to the execution of the above mentioned Interconnect Agreements, the networks of both the Parties were interconnected to exchange the agreed upon traffic for the purpose of testing prior to the date of actual launch by RJIL. In the initial phase, when RJIL was in testing mode, the initial connectivity was mostly established with 2-4 E1s in each service area across India and the limited capacity provisioning at interconnection links was for testing purposes only, i.e., to test the functionalities of Pops, billing, signaling, routing, etc.
4. On 18th January 2016, during the testing phase itself, RJIL, vide letter No. RJIL/Airtel/2015-16/510, demanded 10 additional E1s for access and 5 E1s for NLD in all service areas. Airtel, vide its letter No. RP/15-16/113/001 dated 21st January 2016, replied stating that the current utilization levels at Points of Interconnection (Pops) were dismally low and merely ranging between 13% and 46% and, therefore the situation did not warrant the need for augmentation even for testing. (Copy of RJIL and Airtel reply is enclosed as **Annexure 3A and 3B** respectively).
5. Thereafter, on June 21, 2016, RJIL sent a letter No. RJIL/Airtel/2016-17/158 notifying Airtel, among others, the following:
 - a. RJIL is currently conducting test trials of its services **before the commercial launch**;
 - b. RJIL is expecting 100 million subscribers in the first year post launch of services, thereby admitting that no commercial launch has happened;



- c. RJIL provided its forecast of E1 requirement on the basis of assumptions stated therein about the projected requirement of E1s based on their customer forecast.

The aforesaid letter clearly shows that RJIL itself acknowledged that the E1s are being sought based on customer forecast post commercial launch. The relevant extract of the letter is reproduced below:

“RJIL, on reasonable grounds, is expecting 100 million subscribers in the first year post launch of services. This combined with the initial pent-up demands for services may result in upwards of 25 million subscribers coming on the network with the first quarter post launch.”

RJIL, in the same letter dated 21st June 2016, also forecasted the demand for interconnection capacity at the Pol's as follows:

- o Immediate requirement of 5,246 E1s as on 21.06.2016 assuming 22 million customers on the said date.
- o 9,924 E1s for 50 million projected customers in next 3 months (21.09.2016)
- o 12,754 E1s for 75 million projected customers in 6 months (21.12.2016)
- o 14,164 E1s for 100 million projected customers in 9 months (21.03.2017)

It is to be noted that the above assumptions were given at a time when commercial launch itself was not clear and no date thereof had been communicated to Airtel.

(Copy of RJIL letter dated 21st June 2016 enclosed as **Annexure 4**).

It may be noted that during the months of June-July 2016, on RJIL's insistence, we had increased the capacities to around 505 E1s for testing itself. In August 2016 the capacities were further increased to make the total number of E1s close to 655 E1's.

(Email communications on the E1 allocations made during July and August is enclosed as **Annexure 5**).

6. It is pertinent to mention that RJIL did not mention or provide any indication whatsoever of the launch date nor did it indicate any probable timeline in order to allow preparation for such humongous augmentation. In light of uncertainty around RJIL's launch date, there was no direction/headway for Airtel as to the date by which the capacities were required to be provisioned. Since RJIL was continuing to do beta testing, these forecasts were not based on real estimates but were merely on assumptions and probably only for the purpose of creating an umbrella demand. It cannot be expected for Airtel to act upon unrealistic and hypothetical demands, especially when the commercial launch date was not known and not communicated.

19

7. It is pertinent to note that the letter sent by RJIL to Airtel, RJIL/Airtel/2016-17/558 dated 2nd September, 2016 also did not clearly mention the commercial launch and instead loosely indicated commencement of services. The commercial launch date became clear only on 9th September, 2016 in the meeting conducted by TRAI where RJIL confirmed the commercial launch to have happened on 5th September, 2016. The Authority also took cognizance of their statement and the same was recorded in the Minutes of Meeting dated 12th September, 2016. (Copy of MOM of said meeting enclosed as **Annexure 6**).
8. The License(s) [Clause 27.4 of the Unified License, Clause 26.2 of Unified Access Service License and Clause 27.2 contained in Cellular Mobile Telephone Services] itself provide that reasonable capacities are required to be provided.

The relevant extract of the said clause is reproduced below:

- 27.4 Licensee shall interconnect with other Telecom Service Providers at the Points of Interconnection (POI) subject to compliance of prevailing regulations, directions or determinations issued by TRAI. The charges for accessing other networks for inter-network calls shall conform to the Orders/Regulations/Guidelines issued by the TRAI/Licensor from time to time. The Interconnection Agreements will, inter-alia, provide the following:
- (a) To meet all reasonable demand for the transmission and reception of messages between the interconnected systems.

It is therefore clear that the demands for interconnection capacity ought to be reasonable and not ad-hoc or based on unrealistic assumptions. However, the demands of RJIL were abnormal and unprecedented in the industry, especially in a testing phase when the services were being offered ex-gratia. Accordingly, for Airtel to act on such demands of RJIL for interconnection links could not be acted upon for want of reasonableness and the lack of launch of commercial services.

Post Commercial Launch of Services

9. Upon confirmation of the commercial launch of services, Airtel voluntarily on its part during the meeting held on 9th September, 2016 had explicitly stated and assured the Authority that since the services had been launched on a commercial basis, Airtel would take all necessary measures to provide interconnection capacities sufficient to meet the requirement of traffic.
10. Immediately after the said meeting, on the 10th September, 2016, RJIL was invited via an e-mail (**Annexure 7**), to Airtel office to discuss and deliberate on the requirement of interconnection capacities. It was during the said meeting that RJIL acknowledged that their customer base was already more than 6 million. It is evidently clear that RJIL had been amassing subscribers during the test phase and had acquired a huge customer base without being fully geared up in terms of network, interconnection capacities, etc.

11. Post the discussions in the meeting on 14th September, 2016, Airtel had immediately provided 1350 E1s to RJIL. This was followed by a series of additional interconnection capacities at the Pols provided by us as per details mentioned below:

- 20th September, 2016 - 1,000 E1s
- 25th September, 2016 - 298 E1s
- 27th September, 2016 - 544 E1s
- 29th September, 2016 - 450E1s
- 30th September, 2016- 450 E1s
- 4th October, 2016- 449E1s

12. TRAI, in its direction No.409-9/2005-FN dated 7th June, 2005 provides for the capacities to be augmented within a period of 90 days from the receipt of the payment/s, subject to a notification of 4 weeks demanding capacities. Without waiting for the period of 90 days, Airtel has been swift in releasing the E1 capacities within a much shorter duration by putting massive efforts to operationalize the capacities on an immediate basis despite several issues/hurdles at RJIL's end itself.

The direction of the TRAI reads as follows:

"AND THEREFORE, in exercise of the powers vested in it under section 13 read with section 11(1) (b) (i), (ii), (iii) and (v) of the Telecom Regulatory Authority of India Act, 1997, and in order to ensure compliance of terms and conditions of licence and effective interconnection between service providers and to protect consumer interest, the Authority hereby directs all service providers to provide Interconnection on the request of the interconnection seeker within 90 days of the applicable payments made by the interconnection seeker".

We would also like to reproduce clause 9.1 and 9.2 of the Interconnection Agreement dated 3rd March, 2014 between Airtel and RJIL:

9. Enhancement of Ports

9.1 A minimum of 4 weeks written notice has to be given by either party for augmentation of interconnection links.

9.2 Augmentation shall be completed within 90 days of receipt of requisite charges specified in Schedule 2 from RJIL.

The corresponding clauses in the Interconnection Agreement dated 29th January 2015 are also reproduced herein for reference:

12. **Enhancement of Ports**

12.1 A minimum of 4 weeks written notice has to be given by either party for augmentation of interconnection links.

12.2 Augmentation shall be completed within 90 days of receipt of requisite charges specified in Schedule 2 from RJIL.

As you will appreciate and see above, Airtel has actually completed provisioning of this activity within a period between 1-10 days.

Data Sought

13. The TRAI in its letter No.10-6/2016-BB&PA dated 19th September 2016, had sought information on the steps taken by Airtel and on the traffic on Pols with RJIL during busy hours. With a view to update the Authority on the matter of the augmentation of Pols with RJIL, Airtel filed a status update to TRAI vide its letter No. RP/16-17/122/009 dated 20th September, 2016 (Copy of letter enclosed as **Annexure 8**) and apprised as under:

1. We had invited RJIL for a meeting on 13th September, 2016 at our office to deliberate on the issue of Pol augmentations.
2. During the meeting we conducted due diligence of the present traffic at the interconnection links as well as the demand for capacity projected by RJIL. Based on our assessment of the matter, we agreed for providing additional capacity to the tune of 1350E1s collectively for RJIL's Access and NLD Pols. This was double the present capacity at that point in time. With the augmentations of Pols, the utilization of Pols will become 28-38%.

14. In another update to the Authority, Airtel filed a letter No. RP/ 16-17/122/010 dated 20th September, 2016, apprising the Authority of additional interconnection capacity of 1,000 E1s being provided to RJIL. The relevant extract of the said letter is as under:

".....In order to acquaint you with the latest developments on the matter, we wish to inform you that we are supplementing the interconnect links between Airtel and RJIL networks with an incremental capacity of 1000E1s....."

(Copy of letter enclosed as **Annexure 9**).

15. On 23rd September 2016, we provided the latest update to TRAI on the matter of augmentation of Pols with RJIL vide our letter no. No. RP/16-17/122/011. In the said letter, we have clearly stated that:

"In continuation to our last updates on the matter of augmentation of interconnect capacities between Airtel and RJIO networks, we wish to inform the Authority that the interconnect capacities provided on 14th September, 2016 are being operationalized in an expeditious manner. The capacity of 902 E1s have already been made live out of a total of 1350E1s. Further, the rest of the capacity to be augmented is delayed on account of

either testing or media related issues at RJIO's end. The teams at Airtel are committed to conclude the augmentation at the earliest.

As intimated in our last communication dated 20th September 2016, the additional 1000 E1s are also being provisioned on a fast track basis."

(Copy of letter enclosed as **Annexure 10**).

16. Due to constant persuasion by TRAI for data sought in terms of the letter dated 19th September, 2016, Airtel, in its email response dated 23rd September 2016 cited as under:

"While we submit the data, we would like to specify that post commercial launch of RJIO on 5th September, we had provided augmentations of E1s to the tune of 1350 and 1000E1s to RJIO as already intimated to you in terms of our letters dated 20th September 2016 and another letter dated 23rd September 2016. Therefore, these augmentations are currently being provisioned and majority of E1s out of 1350 are live.

***The data being furnished is prior to the said augmentations.** In parallel, the E1s out of 1000 augmentations provided are also being operationalized as also updated in our letter dated 23rd September 2016."*

Airtel also furnished the data to TRAI in the prescribed format for one day, i.e., for 19th September, 2016.

(Copy of e-mail communication enclosed as **Annexure 11**).

17. Further, Airtel, in terms of its letters dated 26th/27th September 2016 to the TRAI Chairman, DoT, Chairman TC and Secretary, TRAI Secretary, TRAI Principal Advisor (NSL) and TRAI Advisor (BB& PA) intimated the response that was filed with RJIL on the matter of the augmentations of Pols. In the said communications, we had inter-alia disclosed the impact of the augmentation of Pols and the trend of reducing traffic utilizations at the said Pols. (The copies of all such letters are collectively enclosed herewith as **Annexure 12**).
18. The allegations of instances of non-compliance cited in the Show Cause Notice have been framed solely on the basis of the contents of the email reply filed by Airtel on 23rd September, 2016.
19. Airtel, in its letter No. RP/FY16-17/122/027 dated 4th October 2016, has apprised the Authority of the status update on the augmentation of Pols with RJIL. In the said letter, data showing QoS being maintained with the current live capacity at Pols has been provided. (A copy of the said letter is enclosed herewith as **Annexure 13**.)
20. Lastly, in another email dated 6th October 2016, Airtel has sent to TRAI the most recent status update on Pols between RJIL and Airtel. In the said email, Airtel apprised TRAI that the present utilization is at a level lower than required to maintain the Grade of Service of 0.5%. A copy of such email communication is annexed as Annexure 14.

In view of the above stated facts, we hereby provide our grounds as to why no action should be taken and the Show Cause Notice be closed:

A. Provisioning of interconnection capacities is required only post the commercial launch of services

- i) As stated above, RJIL has explicitly admitted in its letter dated 21st June, 2016 that their demand for interconnection capacity is for post commercial launch phase. However, no launch date had been specified at the time of making these demands and forecasts. Even in subsequent correspondences, RJIL never disclosed the launch date proactively and communicated in a non-transparent manner with a view to hide the launch date.
- ii) The launch date holds utmost significance and the lack of disclosure of the same did not allow us any time or ability to plan and dimension the interconnection capacities at the Pols. By the time the same was disclosed to Airtel, RJIL had already acquired approximately around 5-6 million customers.
- iii) Since no capacity can be provided on the basis of hypothetical demands made in a completely opaque manner without even knowing the date when those capacities would actually be required, it is incorrect to state that Airtel did not provide POI's or that Airtel is responsible for the inconvenience to the customers. In fact, it is RJIL that is solely responsible for the inconvenience caused to customers on account of their unplanned launch of services and acquiring a large number of customers even before launch, without making their network ready for the launch.

B. Issuance of Show Cause Notice premature as the same has ignored the persistent and ongoing efforts made by Airtel in augmenting the Pols.

- i) Airtel's commitment and efforts to ensure seamless interconnection are evident from the fact that upon being informed of the launch date and pursuant to the bilateral meeting on 13th September 2016, we had taken immediate action to release E1 capacities. As stated in para 11 above, Airtel had provided a total of 3,642 E1s within a period of 15 days commencing 13th September 2016.
- ii) The promptness was not only exhibited in our action of assigning abundant capacities at interconnection links but also in our action to expedite the operationalization of these E1s. The swift action at our end led to faster augmentation of Pols, that too in the shortest possible time-frame of about 1-10 days from the date of release.
- iii) Airtel on its part has taken steps, deviating from the long-established industry practice and the process, to make these capacities live while conducting acceptance testing simultaneously instead of performing the testing prior to

activating the E1s. This action of ours manifests the fact that we had approached the issue with utmost sensitivity.

- iv) Further, Airtel has been keeping TRAI informed in a transparent manner of the measures taken and have duly apprised the Authority with updates w.r.t the E1s being provided, along with status. The two letters on 20th September 2016 were followed by another letter on 23rd September 2016 to TRAI with a view to apprise the Authority of the same.
- v) We had sent another communication bearing no. RP/FY16-17/131/005 dated 26th September, 2016 to RJIL, a copy of which communication was also marked to TRAI and DoT. In the said communication, we had inter-alia provided a comprehensive account on the augmentations in process and also highlighted issues being faced at RJIL end. Apart from this, we had shared the traffic utilization post augmentations of E1's with RJIL which revealed the reducing trend of traffic at the said POI's.
- vi) It may also be noted that the process of providing POIs is based on normal industry trend derived through past experience and growth & flow of traffic and not on the basis of a single operators unprecedented demand. The present demand by RJIL is a stark aberration from the industry trends. We are attaching a table providing the comparison of the number of E1s that have been provided to RJIL and other operators basis the incoming call traffic and the subscriber base. Please note that the said table also provides for the difference in the number of subscribers per E1 between RJIL and other operators. The table providing the comparison is presented below:

Operator Name	(A)	(B)	(C=B/A)	(D=A/B)
	Total Equipped E1s - Local	Wireless Subscribers (June 16)	Number of Customers supported per E1	Number of E1s per Million Customers
	IC		IC	IC
Vodafone	18,334	199,383,512	10,875	92
Idea	17,846	176,234,152	9,875	101
BSNL	10,024	89,542,516	8,933	112
TTSL	6,447	59,374,378	9,210	109
Aircel	7,133	88,934,189	12,468	80
RCOM	5,986	98,709,655	16,490	61
Uninor	4,184	53,090,968	12,690	79
Reliance JIO	2,533	13,000,000	5,132	195
Sistema Shyam	1,172	7,588,233	6,476	154
HFCL	183	2,933,294	16,029	62
Total	73,841	788,790,897	10,682	94

C. Show Cause Notice issued prematurely without waiting for the outcome of current augmentations in process i.e. till commissioning of all E1s.

- i) TRAI has rushed to issue a Show Cause Notice without waiting for the outcome of the augmentations which were in process and have been done post the commercial launch of the services by RJIL.

- ii) TRAI is well aware of the fact that there have been ongoing augmentations between the networks of Airtel and RJIL as Airtel has communicated its efforts to TRAI in a transparent manner. This information was made available through various letters referred to in this response, including our letters dated 26th and 27 September to RJIL, which were copied to TRAI.
- iii) The information sought by TRAI vide its letter No.10-6/2016-BB&PA dated 19th September, 2016 on the steps taken by Airtel and on traffic on Pols with RJIL during busy hours, was done while the process of augmentations was underway.
- iv) Since regular updates on the status of augmentations was already provided to TRAI and given that the augmentations were still in process, we did not deem it relevant to provide the said data, not being reflective of the factual position. However, due to constant persuasion by TRAI, we collated data for the said period on 19th September, 2016 only and provided the same to the Authority. (A copy of the said data is already marked and enclosed as **Annexure 11**). While submitting the above said data, we had distinctively informed TRAI that the data is for the period prior to the augmentations.
- v) However, TRAI has chosen to ignore the critical information provided and has hastily proceeded with the issuance of the Show Cause Notice.

D. The premise of the Show Cause Notice rests on insufficient data, in contradiction to TRAI own Regulations "The Standards of Quality of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009" dated 20th March 2009.

"The Standards of Quality Of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009" dated 20th March, 2009, issued by TRAI has specified a parameter for congestion of Pols applicable for both basic telephone service and Cellular Mobile Telephone Service, as under:

S.no.	Name of Parameter	Benchmark	Averaged over a period of
I	Point of Interconnection (Pol) congestion (on individual Pol)	Less than or equal to 0.5%	One month

- i) The TRAI has issued the Show Cause Notice based on the data for one day, 19th September, 2016, when the TRAI Regulation dated 20th March, 2009 itself states that the parameter w.r.t congestion at Pols is to be deduced from the average of the data for one month.
- ii) Further, TRAI has not taken cognizance of the actions being taken by Airtel to augment the Pols and has pre-supposed the issue of the QoS violation.

- iii) The data cannot be relied upon given that the same pertains to a highly unstable period when the augmentation of Pols was underway.

E. RJIL was itself not prepared for the operationalization of capacities:

- i) Despite our proactive approach, delays have also been caused due to issues at RJIL's end for testing and commissioning of Pols and it seems that their teams were not prepared to match this pace. During the augmentation exercise/s, RJIL circles had cited issues, w.r.t Acceptance Testing and transmission media related concerns as well as issues regarding separate trunk groups for incoming and outgoing traffic. Hence, the augmentation process took longer solely due to delays at the end of RJIL.

The efficacy of seamless flow of traffic between interconnected networks is only possible if the interconnected network operators ensure, with equal responsibility, that the interconnection will be carried out and in a swift and efficient manner.

A few instances of issues at RJIL's end are:

Illustrative list of circles:

Circle name	Cause for delay in augmentation	Number of days of delay
Tamil Nadu	Transmission Media not ready	6
Gujarat	Transmission Media not ready	5
U.P. East	Resistance against separate trunk group /Acceptance Testing/Transmission Media not ready	5-6
Karnataka	Transmission Media not ready	3
Mumbai	Transmission Media not ready	1-2

(Copies of the emails are enclosed herein for reference as **Annexure 15.**)

- ii) A simple perusal of the emails will establish that RJIL's teams were not fully equipped to undertake the augmentation at the desired pace, and that too in a situation when the issue of call failures has been highlighted by them in all forums. It seems that RJIL was more interested in writing letters on the non-augmentation of POL's but had failed to put its own house in order. Delays at the end of RJIL are responsible for the quality of services issues and cannot be attributed to Airtel.

Conclusion

In background of the submissions made above, we state that we are in compliance with the License Conditions as well as with TRAI's Regulations/ directions and no case of violation as alleged in the Show Cause can be made out against Airtel.

We request the Authority that the Show Cause Notice under reference be withdrawn and the same be considered as closed on the basis that:

- i) The Show Cause Notice is admittedly based on a single day's assessment of traffic which is both unjustified and totally unreasonable in forming a tentative opinion as it is not in sync with the actual PIs provided by Airtel.
- iii) The Show Cause Notice itself is arbitrary because it is entirely one-sided, and has not taken note of RJIL's reciprocal obligation, and therefore and cannot be acted upon.
- ii) The Show Cause Notice is contrary to the Regulations framed by the Authority which require the benchmark for point of interconnecting congestion to be considered over a period of one month (average one month period) in the absence of which the show cause notice is pre-mature and invalid.

Thanking You,

Yours Sincerely
For **Bharti Airtel Limited**



Ravi P. Gandhi
Chief Regulatory Officer

Encl.: As stated above