



Telecom Regulatory Authority of India



Draft

**THE TELECOMMUNICATION CONSUMERS EDUCATION AND
PROTECTION FUND (FIFTH AMENDMENT) REGULATIONS, 2019
(___of 2019)**

18th October 2019

**Mahanagar Doorsanchar Bhavan,
Jawahar Lal Nehru Marg (Old Minto Road),
New Delhi – 110 002**

Written comments on the draft Telecommunication Consumer Education and Protection Fund (Fifth Amendment) Regulations, 2019 are invited from the stakeholders by **18th November, 2019**. Comments will be posted on TRAI's website www.trai.gov.in. The comments may be sent, preferably in electronic form, to Shri Sanjeev Banzal, Advisor (CA & IT), Telecom Regulatory Authority of India, on the e-mail:- ca@trai.gov.in and smk.chandra@trai.gov.in. For any clarification/ information, Sh. Sanjeev Banzal, Advisor (CA&IT) may be contacted at Tel. No.: +91-11-23210990.

**TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4
TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION**

New Delhi, the _____, 2019

No. 324-5/2018-CA ---In exercise of the powers conferred upon it under section 36 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Telecommunication Consumers Education and Protection Fund Regulations, 2007 (6 of 2007), namely :-

**TELECOMMUNICATION CONSUMERS EDUCATION AND PROTECTION FUND
(FIFTH AMENDMENT) REGULATIONS, 2019
(of 2019)**

1. (1) These regulations may be called the Telecommunication Consumers Education and Protection Fund (Fifth Amendment) Regulations, 2019.

(2) They shall come into force from the date of their publication in the Official Gazette.
2. In regulation 3 of the Telecommunication Consumers Education and Protection Fund Regulations, 2007 (6 of 2007), -
 - (a) in sub-regulation (1), -
 - (i) the words “in excess of” shall be omitted;
 - (ii) for sub-clause (i), the following sub-clause shall be substituted, namely: -
“**(i) in excess of the rates of telecommunication service determined under any regulation or order or direction made under the Act, in a case where the rates have been determined and notified under sub-section (2) of section 11 of the Act; or**”;
 - (iii) for sub-clause (ii), the following sub-clause shall be substituted, namely: -
“**(ii) in excess of the rates announced by the service providers, in a case where the rates have been notified as rates under market forbearance under sub-section (2) of section 11 of the Act; or**”;

(iv) after the sub-clause (ii) and before the words “which has not been refunded”, the following sub-clause shall be inserted, namely: -

“(iii) which has become refundable to the consumer.”

(b) in sub-regulation (2), the words and numbers “sub-clauses (i) and (ii) of ” appearing after the words “Any amount referred to in” and the words and numbers “sub-clause (i) or sub-clause (ii) of” appearing in the proviso shall be omitted.

(S.K. Gupta)
Secretary, TRAI

Note 1---- The principal regulations were published vide Notification No. 322/4/2006-QoS (CA) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 15th June, 2007.

Note 2----The principal regulations were amended vide notification No. 322-8/2010-CA and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 7th March, 2011.

Note 3----The principal regulations were amended vide notification No. 324-2/2013-CA and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 10th July, 2013.

Note 4----The principal regulations were amended vide notification No. 324-2/2013-CA and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 26th June, 2014.

Note 5----The principal regulations were amended vide notification No. 324-5/2018-CA and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18th July, 2018.

Note 6----The Explanatory Memorandum explains the objects and reasons of the Telecommunication Consumers Education and Protection Fund (Fifth Amendment) Regulations, 2019 (of 2019).

EXPLANATORY MEMORANDUM

The Telecom Regulatory Authority of India had notified the Telecommunication Consumers Education and Protection Fund Regulations, 2007 [(6 of 2007) [hereinafter referred to as the principal regulations] on 15th June 2007. In terms of the principal regulations, a fund called “Telecommunication Consumers Education and Protection Fund” (TCEPF) has been created. The income from the fund is utilized to undertake programmes and activities relating to consumer education and protection as are approved by the Authority following the recommendation of the Committee for Utilization of Telecommunication Consumers Education and Protection Fund (CUTCEF).

2. In terms of Regulation 3 of TCEPF Regulations, 2007, excess amount collected by service providers from the subscribers over the rates of telecommunication services notified by the Authority or notified by the service providers under forbearance - which they are not able to refund to the subscribers and is lying unclaimed with them - is to be transferred to the fund within the timelines stipulated. In accordance with this, telecom service providers have been depositing such amounts to the fund. The money deposited by the service providers is kept in a bank account as corpus of the fund. It has been seen that telecom service providers have mainly been depositing money into the fund on account of excess billing revealed in the audit of billing of systems under Quality of Service (Code of Practice for Metering and Billing Accuracy) regulations, 2006 and other unclaimed amount.

3. It has been noticed that there is some inconsistency on the grounds on which money is being deposited by some of the service providers. Interactions held with service providers and analysis of the amount deposited, have revealed that while some providers are depositing money only on account of excess billing revealed in the audit whereas some of them are depositing money which they are not able to refund to the consumers as they are not able to trace the consumer. As such, it is prudent to deposit any such unclaimed/un refundable amount belongs to consumers in the TCEP fund, which will be utilized for the welfare of consumers. The Authority feels appropriate amendment in the regulation may be carried out to remove any ambiguity and to maintain uniformity across all service providers in depositing any unclaimed consumer money of any form such as excess charges, security amount, plan charges of failed activations, or any amount belonging to a consumer.