



भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA

महानगर दूरसंचार भवन, जवाहर लाल नेहरू मार्ग,
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सत्यमेव जयते

No.402-12/2012-I&FN

Dated: the 5th November, 2012

DIRECTION

Subject: Direction under section 13, read with sub clause (ii), (iii), (iv), (vi) and (vii) of clause (b) of sub-section (1) of section 11 of Telecom Regulatory Authority of India Act, 1997 to M/s Bharti Airtel to ensure compliance of the provisions of the Intelligent Network Services in Multi Operator and Multi Network Scenario Regulations, 2006 dated the 27th November, 2006 (13 of 2006).

F.No.402-12/2012-I&FN- Whereas the Telecom Regulatory Authority of India [hereinafter referred to as the Authority] established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) (hereinafter referred to as TRAI Act, 1997) has been entrusted with discharge of certain functions, *inter alia*, to protect interest of the consumers of telecommunications service; regulate telecommunications services; fix the terms and conditions of interconnection; ensure effective interconnection etc.;

2. And whereas in exercise of the powers conferred upon it under section 36, read with sub-clauses (ii), (iii), (iv), (vi) and (vii) of clause (b) of sub-section (1) of section 11 of TRAI Act, 1997, the Authority made the Intelligent Network Services in Multi Operator and Multi Network Scenario Regulations, 2006 (13 of 2006) [hereinafter referred to as the regulations];

3. And whereas M/s Bharti Airtel, vide their letter dated the 17.05.2012, (copy annexed as **Annexure I** to this Direction), inter alia, informed the Authority that M/s MTNL has blocked their SCP codes for Intelligent Network traffic w.e.f. 25th April, 2012 and requested the Authority to direct MTNL to :-

- (i) reopen the code and allow the traffic;
- (ii) discharge its contractual obligation by making suitable arrangement for carriage of its traffic; and
- (iii) make the charges under the IN agreement reciprocal in due compliance with existing regulations;

4. And whereas the regulation 3 of the regulations provides that all Basic Operators, Cellular Mobile Service Providers and Unified Access Service Providers shall provide interconnection to all the Eligible Service Providers for the purpose of giving an option to subscribers of all Access Providers to exercise option for using the Intelligent Network Services of other Eligible Service Providers and reads as under:-

“ 3. Provision for interconnection to all Eligible Service Providers. ---All Basic Operators, Cellular Mobile Service Providers and Unified Access Service Providers shall provide interconnection to all the Eligible Service Providers for the purpose of giving an option to subscribers of all Access Providers to exercise option for using the Intelligent Network Services of other Eligible Service Providers.”;

5. And whereas the regulation 4 of the said regulations provides that no Basic Operator, Cellular Mobile Service Provider and Unified Access Service Provider shall directly or indirectly deny its consumers accessing Intelligent Network Services of his choice which are available in multi-operator and multi network scenario and reads as under:-

"4. Prohibition to deny to subscribers access to Intelligent Network. -No Basic Operator, Cellular Mobile Service Provider and Unified Access Service Provider shall directly or indirectly deny its consumers accessing Intelligent Network Services of his choice which are available in multi-operator multi network scenario.";

6. And whereas the Authority, vide its letter dated 21.05.2012, sought the comments of M/s MTNL on the representation of M/s Bharti Airtel Ltd. dated 17.05.2012 and M/s. MTNL vide their letter dated 31.05.2012, (copy annexed as **Annexure-II** to this Direction), inter alia, informed the Authority as under :-

- (i) all service providers except M/s Bharti and M/s Reliance have opened the IN SCP codes of MTNL No. 180011/22;
- (ii) M/s Bharti and M/s Reliance are not routing MTNL free phone codes 1800-22 and 1800-11 on pan India basis, which has resulted in MTNL customers not getting Free phone calls from Airtel as well as Reliance networks; and
- (iii) MTNL requested TRAI to direct Bharti Airtel and M/s Reliance communications to open MTNL's SCP codes outside Delhi and Mumbai;

7. And whereas the Authority called a meeting in TRAI between M/s Bharti and M/s MTNL on 27.06.2012 wherein both the service providers agreed to sit together to resolve the matter at the earliest and the Minutes of the said meeting are annexed as **Annexure-III** to this Direction;

8. And whereas M/s Bharti, vide its letter dated 11.07.2012, (copy annexed as **Annexure IV** to this Direction), inter alia, informed the Authority that the deliberations with MTNL have not yielded any outcome and urged the Authority to immediately direct MTNL to restore and open SCP codes to allow the traffic which have been blocked from their Mumbai circle and further informed that the IN agreement in place between Airtel and MTNL does not put any obligation upon Airtel to carry inter-circle IN traffic originating in the access networks of Airtel, other than Delhi and Mumbai, for MTNL's toll free number due to the fact that the IN agreements are circle specific i.e. distinct agreements have been executed by Airtel Delhi with MTNL Delhi and Airtel Mumbai with MTNL, Mumbai for the respective service areas of Delhi and Mumbai;

9. And whereas M/s. MTNL has, vide their letter dated 31.05.2012, informed that they have signed IN Addenda with M/s Bharti Airtel Ltd. on 21.11.2007 which, inter alia, provides that UASP and MTNL have agreed to extend the access of their IN based free-phone to the customers and as per the provisions of the regulations, IN SCP codes of MTNL 180011/22 are to be opened by all service providers;

10. And whereas M/s MTNL has, vide their letter dated 31.05.2012, further informed that they have extended all their traffic, local as well as pan India traffic towards M/s Bharti Airtel Ltd. but M/s Bharti Airtel Ltd.

has not routed their pan India traffic towards MTNL which is not only in violation of the terms and condition of agreement entered into between the two service providers but also contrary to the provisions of the regulations which mandates interconnection among all the eligible service providers so that subscriber of an access provider can access the IN services provided by any other service provider;

11. And whereas M/s MTNL has, vide its letter dated 31.05.2012, informed that M/s Bharti Airtel has not opened the SCP codes outside Delhi and Mumbai which has resulted in customers of MTNL not getting Free Phone calls from M/s Bharti Airtel Ltd;

12. And whereas under the provisions of the regulations, the commercial and technical arrangements for providing Intelligent Network services have been left to the mutual negotiations between the service providers but the sub-regulation (8) of regulation 10 provides that in case the service providers fail to enter into agreement or arrangement within stipulated time, the Authority shall specify the interconnection arrangement and read as under :-

“(8). In case any Basic Operator, Cellular Mobile Service provider or Unified Access Service provider fails to enter into agreements or arrangements within the stipulated time, they shall intimate within fifteen days of such failure to the Authority with complete details thereof and after examining such failure and details furnished by the service providers, the Authority shall specify the interconnection arrangements.”;

13. And whereas the Authority has, in exercise of powers under sub-regulation (8) of regulation 10 of the regulations, vide letter dated the 5th December, 2007 (copy annexed as **Annexure-V** to this Direction) specified the access charges to be paid to the originating access provider by the telecom service provider who is providing Free Phone services and have failed to enter into agreement and has also directed all service providers including M/s Bharti Airtel Limited to enter into agreement in accordance with the framework suggested therein or enter into mutual agreement within fifteen days of the said direction;

14. And whereas M/s. MTNL has, vide their letter dated 31.05.2012, also informed that they have signed IN Addenda with M/s Bharti Airtel Ltd. on 21.11.2007 which, inter alia, provides that UASP and MTNL have agreed to extend the access of their IN based free-phone to the customers;

15. And whereas M/s Bharti Airtel has, vide their letter dtd. 04.09.2012, informed that as an interim solution M/s Bharti is carrying the IN traffic of M/s MTNL, without prejudice to their lawful right to claim carriage charge from MTNL failing which M/s Bharti reserve their right to withdraw the carriage;

16. And whereas M/s. MTNL has, vide their letter dated 17.09.2012 (copy annexed as **Annexure VI** to this Direction), informed that they are in receipt of M/s. Bharti Airtel's letter dated 04.09.2012 wherein it is mentioned that "As an interim solution, we shall carry the IN Traffic of MTNL as stated above without prejudice to our lawful right to claim carriage charge from MTNL failing which reserving our right to withdraw the carriage. In view of this, please open the blocked codes on

immediate basis and extend confirmation” and, while referring to the provisions of IN addenda signed with M/s. Bharti Airtel Ltd. in November, 2007, stated that demand of Bharti Airtel for charging of carriage of MTNL toll free originating from Airtel network outside Delhi and Mumbai for handing over to MTNL is not justified and MTNL will not pay any carriage charge for MTNL toll free calls originating from Airtel network outside Delhi and Mumbai for handing over to MTNL network and has also requested Authority to issue suitable instructions to M/s Bharti Airtel to abide by the agreement;

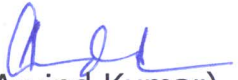
17. And whereas M/s Bharti Airtel Limited, being a service provider, has failed to comply with the provisions of regulation 3 and regulation 4 of the said regulations;

18. And whereas due to non compliance of the said regulations by M/s Bharti Airtel Limited subscribers of M/s Bharti Airtel Limited are not able to access the Intelligent Network platform of M/s MTNL;

19. And whereas non-compliance of the provisions of the regulations by M/s Bharti Airtel Limited has adversely affected the interests of the consumers and also the overall policy framework being developed by the Authority for improving the availability of modern telecommunication services across the country;

20. Now therefore, in exercise of the powers conferred upon the Authority under section 13, read with sub-clauses (ii), (iii), (iv), (vi) and (vii) of clause (b) of sub-section (1) of section 11 of the TRAI Act, 1997 and in order to ensure compliance of the provisions of the Intelligent

Network Services in Multi Operator and Multi Network Scenario Regulations, 2006 dated the 27th November 2006 (13 of 2006) and for the reasons mentioned in the foregoing paragraphs, the Authority hereby directs M/s Bharti Airtel Ltd. to ensure, within fifteen days of the issue of this direction, that their subscribers are able to access Free Phone Services of their choice which are available in multi operator and multi network scenario in accordance with the provisions of the Intelligent Network Services in Multi Operator Multi Service Scenario Regulations, 2006 dated the 27th November 2006 (13 of 2006) and furnish compliance report by the 26th November, 2012.


(Arvind Kumar)
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To

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