

**No.416-2/2007-FN**

Dated the 12<sup>th</sup> June, 2008

## **DIRECTION**

**Subject:** Direction 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 Telecom Regulatory Authority of India Act, 1997, to enter into agreement for Intelligent Network based free phone service in compliance of the provisions of the Intelligent Network Services in Multi Operator Multi Service Scenario Regulations, 2006 dated the 27<sup>th</sup> November 2006

**F.No.416-2/2007-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 the TRAI Act, 1997) has been entrusted discharge of certain functions, *inter alia*, to ensure compliance of terms and conditions of licence, regulate the telecommunication services, protect the interests of consumers of the telecom sector, ensure technical compatibility and effective inter-connection between different service providers, lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunications service and lay-down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;

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 the TRAI Act, 1997, the Authority has made the Intelligent Network Services in Multi Operator and Multi Network Scenario Regulations, 2006 (13 of 2006) [hereinafter referred to as the said regulations] and the said regulations having been laid before both Houses of Parliament under section 37 of the TRAI Act, 1997 and

the said regulations apply to all the Basic Operators, Unified Access Services Providers and Cellular Mobile Service Providers;

3. And whereas, M/s Mahanagar Telephone Nigam Limited, vide its letter dated the 20<sup>th</sup> June, 2007(annexed as **Annexure –I** to this Direction), requested the Authority to give another three months' time to it for implementation of the said regulations;

4. And whereas, in pursuance to the request of M/s Mahanagar Telephone Nigam Limited referred to in paragraph 3 above, the Authority, vide its letter dated the 27<sup>th</sup> June, 2007(annexed as **Annexure –II** to this Direction), convened a meeting under the Chairmanship of the Secretary of the Authority on the 3<sup>rd</sup> July, 2007 and requested Shri Rajiv Goel, Sr. Vice President (RA&C) of M/S Mahanagar Telephone Nigam Limited to attend the said meeting;

5. And whereas, in the meeting referred to above in the preceding paragraph, it was agreed to by M/S Mahanagar Telephone Nigam Limited that it would finalise agreement with all the service providers and submit the same to the Authority before the 17<sup>th</sup> July, 2007 and the implementation of the agreement would be as the said regulations (minutes of the meeting annexed as **Annexure –III** to this Direction);

6. And whereas, M/s Mahanagar Telephone Nigam Limited, vide its letter dated the 16<sup>th</sup> August, 2007(annexed as **Annexure –IV** to this Direction), intimated to the Authority that it was instructed during the meeting held on the 3<sup>rd</sup> July, 2007 by the Authority to finalise agreements with all the service providers and submit the same to the Authority before the 17<sup>th</sup> July, 2007, and pursuant to the said instructions it has signed the agreements with M/s Tata and M/s Idea and the negotiation with M/s Bharti, M/s Reliance and M/s Hutch are under finalization and the copy of the agreement will be submitted to the Authority soon after signing the Intelligent Network interconnect agreement;

7. And whereas, the Authority, vide letter dated the 22<sup>nd</sup> August, 2007(annexed as **Annexure –V** to this Direction), addressed to Shri R. S. P. Sinha, Chairman and Managing Director, Mahanagar Telephone Nigam Limited, *inter alia*----

(a) drew attention of M/s Mahanagar Telephone Nigam Limited, to the provisions of the said regulations which required a service provider to enter into an agreement with other service providers within ninety days from date of the commencement of the said regulations;

(b) intimated that the non-compliance of the said regulations is causing concern to the Authority,

and requested M/s Mahanagar Telephone Nigam Limited for a meeting on the 29<sup>th</sup> August, 2007 in office of the Authority because despite agreeing by M/s Mahanagar Telephone Nigam Limited to enter into agreement with all the service providers before the 17<sup>th</sup> July, 2007, as it had entered into agreements with only two service providers and agreements by it with three other service providers were under finalization but there was no mention about the agreements with remaining service providers;

8. And whereas, in pursuance to the Authority's letter dated the 22<sup>nd</sup> August, 2007 (annexed as **Annexure –V** to this Direction), a meeting with M/s Mahanagar Telephone Nigam Limited was held on the 29<sup>th</sup> August, 2007, wherein M/s Mahanagar Telephone Nigam Limited informed the Authority that it had failed to enter into agreements/arrangements with many service providers and requested the Authority to invoke the provisions of sub-regulation (8) of regulation 10 of said regulation and, it was, accordingly, decided that the Authority would specify the standard interconnection arrangement to M/s Mahanagar Telephone Nigam Limited and it will sign the said standard interconnection arrangement with the remaining service providers; and the said sub-regulation (8) reads 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 arrangement.”;

9. And whereas, the Authority, vide letter dated the 5<sup>th</sup> December, 2007(annexed as **Annexure –VI** to this Direction), directed all service

providers including M/s Mahanagar Telephone Nigam Limited to enter into agreement in accordance with the framework suggested therein or enter into mutual agreement within seven days of the said direction and submit the agreement entered into to the Authority for registration within fifteen days from the date of entering into such agreement;

10. And whereas, the Authority, vide letter dated the 24<sup>th</sup> December, 2007 (annexed as **Annexure –VII** to this Direction), advised M/s Mahanagar Telephone Nigam Limited to send the compliance to the decision/direction dated the 5<sup>th</sup> December, 2007 of the Authority and in case of non-receipt of the compliance, the necessary action for violation of the said regulations will be initiated;

11. And whereas, M/s Mahanagar Telephone Nigam Limited, despite agreeing by it to enter into agreement with all the service providers, as referred to in paragraph 7 above, vide its letter dated the 13<sup>th</sup> December, 2007(annexed as **Annexure –VIII** to this Direction), requested the Authority to reconsider the decision/direction dated the 5<sup>th</sup> December, 2007 and modify the call routing and revenue sharing in cases mentioned in its aforesaid letter;

12. And whereas, clarification, (as required by M/s Mahanagar Telephone Nigam Limited) had also been given through telephone on the 17<sup>th</sup> December, 2007 from the office of the Authority to M/s Mahanagar Telephone Nigam Limited, and the Authority, subsequently, vide letter dated the 16<sup>th</sup> January, 2008(annexed as **Annexure –IX** to this Direction), reiterated its decision dated the 5<sup>th</sup> December, 2007 and requested once again M/s Mahanagar Telephone Nigam Limited to take early action for signing of agreements/implementation of the provisions of the aforesaid regulations;

13. And whereas, the Authority, after noticing the unsatisfactory progress to take early action for signing of agreements/implementation of the provisions of the aforesaid regulations by M/s Mahanagar Telephone Nigam Limited and while referring to a complaint received from M/s Bharti Airtel Limited, vide its letter dated the 29<sup>th</sup> January, 2008(annexed as **Annexure –X** to this Direction), decided to convene a meeting with M/s Mahanagar Telephone Nigam Limited and requested Sr. Vice President (RA&C) to attend the said meeting in the Authority's office at 11.00 AM on the 4<sup>th</sup> February, 2008;

14. And whereas, a meeting referred to in paragraph 13 above was held with M/s Mahanagar Telephone Nigam Limited on the 4<sup>th</sup> February, 2008 wherein the issues involved were discussed in detail and M/s Mahanagar Telephone Nigam Limited was informed that by implementing the provisions of the said regulations and the decision of the Authority dated the 5<sup>th</sup> December, 2007, it will earn additional revenue which it is not earning due to its failure to sign the agreements with other service providers in terms of the said regulations and the aforesaid decision of the Authority, and thereupon the representatives of M/s Mahanagar Telephone Nigam Limited informed the Authority that it would discuss the matter internally and would revert back to the Authority at the earliest (a copy of the minutes of the meeting dated the 6<sup>th</sup> February, 2008 is annexed as **Annexure XI** to this Direction). Subsequently after having been recorded in the said minutes, MTNL did not accept all contents of the minutes of the meeting later on.;

15. And whereas, in the meeting referred to preceding paragraph, the representatives of M/s Mahanagar Telephone Nigam Limited were directed to inform the Authority before the 8<sup>th</sup> February, 2008 of its compliance to the said regulations and the decision of the Authority dated the 5<sup>th</sup> December, 2007;

16. And whereas, M/s Mahanagar Telephone Nigam Limited, vide its letter dated the 2<sup>nd</sup> February, 2008, inter-alia, requested the Authority to reconsider its decision and further submitted that call routing and revenue sharing in respect of the cases mentioned therein involving National Long Distance operations may be modified and conveyed early;

17. And whereas, M/s Mahanagar Telephone Nigam Limited, vide its letter dated the 8<sup>th</sup> February, 2008, inter-alia, informed that the decision of the Authority to pay fifty two paise to the originating access provider as origination charge and additional payment of carriage charge is not acceptable to it;

18. And whereas, M/s Mahanagar Telephone Nigam Limited, vide its letter dated the 12<sup>th</sup> May, 2008, has informed the Authority that it has signed Intelligent Network interconnect agreements with all the access service providers, who are operating on pan-India basis and has interconnection with it at Delhi and Mumbai, except those who are operating in circles other than Delhi and Mumbai as the suitable

clarification from the Authority as requested by it, vide its letters dated the 2<sup>nd</sup> February, 2008 and the 8<sup>th</sup> February, 2008, is still awaited;

19. And whereas, the issues raised by M/s Mahanagar Telephone Nigam Limited, vide its letter dated the 2<sup>nd</sup> February, 2008 have already been carefully considered by the Authority and the Authority is of the view that the said issues are devoid of merit due to following reasons, namely:-

(a) that the contentions of the M/s Mahanagar Telephone Nigam Limited, that fifty two paise to be paid to originating access provider as origination charge and an additional payment of carriage charges (up to sixty five paise per minute specified by the TRAI) are below cost and put operators like M/s Mahanagar Telephone Nigam Limited who are operating in few circles to loss, are not tenable as fifty two paise charges to be paid to the originating service provider had been decided based on the additional work involved in Intelligent Network calls, as compared to normal terminating calls, such as identification of appropriate Intelligent Network service provider, upgrading of ports to carry Intelligent Network traffic, acquisition cost and failure of calls due to various reasons and that the said origination charge has been incorporated by the majority of the service providers in their agreements;

(b) that the contentions of the M/s Mahanagar Telephone Nigam Limited are further not tenable as the fifty two paise access charge has been fixed for all types of calls (inter circle and intra circle of both fixed and mobile), and also there is a flexibility of making carriage arrangement in case of stand-alone service providers as this could be done by the originating service provider or the Intelligent Network service provider;

(c) that the integrated operators also incur carriage charges even though they do not have to pay this to other National Long Distance service providers;

(d) that the issues pertaining to calls originating from the standalone service providers such as HFCL, Shyam, Aircel etc. were discussed in the meeting held with the representatives of M/s Mahanagar Telephone Nigam Limited on the 4<sup>th</sup> February, 2008 wherein it was pointed out to M/s Mahanagar Telephone Nigam Limited that the revenue earned by it from terminating the Intelligent Network calls originated

from such standalone service providers would be more than the revenue earned from terminating the normal calls;

(e) that as per the mutual agreements already entered into M/s Mahanagar Telephone Nigam Limited, as an originating service provider, is handing over the calls to Intelligent Network service providers at local Point of Interconnection and is charging up to seventy eight paise per minute for origination of calls which are being carried to terminating service areas by the Intelligent Network service providers and that M/s Mahanagar Telephone Nigam Limited is not paying the carriage charges to such Intelligent Network service providers;

20. And whereas, the regulation 3 of the said regulations requires 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 the said regulation 3 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.”;***

21. 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 multi network scenario and the said regulation 4 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.”;***

22. And whereas, M/s Mahanagar Telephone Nigam Limited, being a service provider, has failed to comply with the regulation 3 and regulation 4 of the said regulations and the decision dated the 5<sup>th</sup> December, 2007 of the Authority despite being persuaded through several discussions and meetings to comply with provisions of the said regulations and the said decision of the Authority;

23. And whereas, due to non compliance of the said regulations by M/s Mahanagar Telephone Nigam Limited subscribers of other service providers are not able to access the Intelligent Network platform of M/s Mahanagar Telephone Nigam Limited;

24. And whereas, non-compliance of the said regulations by M/s Mahanagar Telephone Nigam Limited has adversely affected the overall policy framework being developed by the Authority for improving the availability of modern telecommunication services across the country and thus such non-compliance is against the interests of service providers and consumers of the telecom sector because the telecom consumers such as the hospitals, doctors and other professionals being served by M/s Mahanagar Telephone Nigam Limited's toll free numbers are inaccessible to the subscribers of other service providers with whom M/s Mahanagar Telephone Nigam Limited has not signed the Intelligent Network interconnect agreement, and is hampering the promotion and orderly growth of the telecom sector and adversely affecting the interest of the telecom consumers;

25. 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, in order to ensure compliance of terms and conditions of licence, regulate the telecommunication services, ensure effective inter-connection between different service providers, lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service so as to protect interest of the consumers of telecommunications service and lay-down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers and ensure orderly growth of the telecom sector, and to ensure compliance of the provisions of the Intelligent Network Services in Multi Operator Multi Service Scenario Regulations, 2006 dated the 27<sup>th</sup>

November 2006 (13 of 2006) and for the reasons mentioned in the foregoing paragraphs (including sub-paragraphs (a) to (e) of paragraph 19, and paragraphs 23 and 24 above), the Authority hereby directs M/s Mahanagar Telephone Nigam Limited to,--

(i) enter into agreement for Intelligent Network based service with all the remaining service providers with whom no such agreement had been entered into, within twenty days of the date of issue of this Direction, in accordance with the provisions of the Intelligent Network Services in Multi Operator Multi Service Scenario Regulations, 2006 dated the 27<sup>th</sup> November 2006 (13 of 2006) and the decision of the Authority dated the 5<sup>th</sup> December 2007; and

(ii) submit signed agreements to the Authority for registration within fifteen days from the date of entering into such agreements, as required by sub-paragraph (i) above.

Sd/-  
(Lav Gupta)  
Pr. Advisor FN)

To Shri R.S.P. Sinha,  
Chairman & Managing Director,  
M/s Mahanagar Telephone Nigam Limited.  
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