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Sub:- TRAI directs Access Service Providers on provision of Value Added Services for enhanced transparency with regard to taking explicit consent of consumers and for preventing accidental subscription to value added services.

New Delhi, 27th April, 2009: The Telecom Regulatory Authority of India (TRAI) today directed all access service providers, including BSNL and MTNL, to ensure, within forty five days of the issue of this direction, that ----

- In all the cases of offer for subscription to value added services through pressing of “*” (star) key or any particular key(s), as in the case of “Press Star to Copy Hello Tunes” and Out Bound Dialer (OBD) call, the service provider shall, subsequent to the pressing/ dialing of particular key(s) in the mobile handset/ telephone set by the customer, expressing his interest to subscribe to such service, convey to the customer in writing or through SMS or FAX or e-mail, all the details of the offer of value added service, including the terms and conditions and charges for provision of the service and also about the fact of his having pressed/dialed the particular keys in his mobile handset for subscribing to such value added service, and seek and obtain the explicit consent of the customer, through telephone or SMS or FAX or e-mail or by other electronic means, before activation of such value added service.
- No chargeable value added service shall be activated, as in the case of “Press Star to Copy Hello Tunes” or Out Bound Dialer (OBD) call through pressing of “*” (star) key or any other key(s) in the mobile handset/ telephone set or service provider initiated call or during pre-call/ ring-back announcements (both voice as well as automated) during a customer initiated call to a third party, unless the explicit consent of the customer is obtained. Before activation of the value added service, such explicit consent shall be obtained by means of a customer originated call /SMS to a specified number or an interactive session to a specified number or a request made by the customer in writing or by fax or e-mail.
- Music or video related value added services, such as caller ring back tune, background music, wall paper, etc., shall not be provided, even if it is provided free of charge, without taking the explicit consent of the consumer in the above manner.

2. TRAI had received a number of complaints from consumers alleging activation of caller ring back tunes through the facility of “Press Star to Copy Hello Tunes” without explicit consent. Examination of these complaints revealed that this facility of “Press Star to Copy Hello Tunes” is being provided by most of the service providers for subscription to caller ring back tune i.e. pressing “*” (star) key to copy the caller tune of the called number before the called party answers. Most of the service providers induce the customers while dialing telephone numbers of customers having caller ring back tune to press the star button for copying that caller ring back tune through recorded announcements, before the caller ring back tune is played. This is also known as “pre-call” announcement. Such examination of the complaints further revealed that there is a likelihood of consumers subscribing to such services accidentally or unintentionally by pressing the “*” (star) key in the mobile handset/ telephone set during the call and that the process for obtaining the explicit consent of a customer for subscribing to a value added service through this facility is not in consonance with the direction of the Authority dated the 30th October, 2007 on value added services.

3. The Authority has also received a number of complaints from consumers, from time to time, alleging activation of value added services, such as caller ring back tunes, background music, etc., and charging for these value added services by the service providers without their explicit consent. While examining these complaints, the service providers have, in general, informed the Authority that the value added services were provided only after the complainants had pressed a particular key during an Out Bound Dialer (OBD) call thereby indicating his consent/preference for the value added service, even though the complainants had disputed subscription to the value added service. Out Bound Dialer (OBD) is an automated call from the service provider, during which different tunes are played and the customer is induced to subscribe to value added service such as caller ring back tune, background music etc. by pressing a particular key as per his choice of the tune played.

4. The Authority, after due consideration of the matter, is of the view that there could be chances of accidental activation of value added services through this method. The accidental activation of value added services through Out Bound Dialer (OBD) call could happen through accidental pressing of any relevant key in the mobile handset/ telephone set or pressing of a key without understanding the implications of such offer, leading to subscription to chargeable value added service or anybody else who was using the phone at that time, for example children at home, could have unintentionally pressed a particular key. There may also be possibilities that a customer may not have listened to the announcements fully or did not understand the offer and pressed a particular key unintentionally, thereby activating the value added service.

5. In the light of complaints being received in TRAI about activation and charging of value added services without the explicit consent of the consumers, the Authority had carried out a sample survey about provision of value added service, along with the customer satisfaction survey, through the survey agencies engaged by it for undertaking customer satisfaction surveys. As per the report received from these agencies, about 24% respondents said that the value added services were

provided without their consent. The Authority is seriously concerned regarding the fact that about 24% responses received during the survey, of 22,009 customers, revealed that value added services were provided without explicit consent of the consumers, i.e., one out of every four customers had been, according to survey figures, provided value added services without explicit consent and, therefore, the Authority is of the view that the practices being followed by service providers in the provision of value added services lead to activation of value added services without explicit consent in quite a large number of cases and these practices need to be streamlined with proper opt-in approach for value added services by consumers to prevent activation of value added services without explicit consent.

6. The Authority also received a complaint from a consumer that a ring tune on his mobile number was activated by the service provider, free of charge, but the ring tune activated by the company is very derogatory considering his status in the society as a religious person (“Maulavi”) and the tune is causing him a lot of embarrassment. While examining this complaint, the service provider has stated that “there are no standards that specify that only a particular kind of caller tune is to be played when caller waits for recipient to reply”. The Authority is of the view that activation of a particular caller ring back tune or background music by the service provider, without the customer asking for it, could cause embarrassment to consumers, considering the age, sex, social status, etc. of the consumer.

7. In these circumstances, **with a view to enhance transparency with regard to explicit consent and for preventing accidental or unintentional subscription to value added services and to protect the interest of consumers, the Authority has issued the above directions.**

The full text of the “Direction on provision of value added services to customers dated 27th April, 2009” is available on TRAI’s website: www.traigov.in

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Authorised for Issue

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