

RELIANCE

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RCL/TRAI/RP/11-12/2428
Date: 17th December, 2012

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Advisor (CI & QoS),
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg (Old Minto Road)
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Subject: - Comments on Consultation Paper On "Review of the Quality of Service (Code of Practice for Metering & Billing Accuracy) Regulations, 2006".

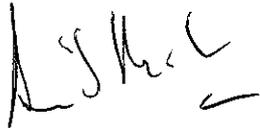
Dear Sir,

M/s Reliance Communications Ltd. (RCOM) welcomes the opportunity extended to comment on Consultation Paper On "Review of the Quality of Service (Code of Practice for Metering & Billing Accuracy) Regulations, 2006".

In this regards, please find enclosed our comments.

Thanking you,

With Regards,
For Reliance Communications Limited



(Authorised Signatory)

Please Reply to: Sh. Amit Mathur
Sr. Vice President
Fax: 30331781

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Comments on Consultation Paper

On

Review of

**The Quality of Service (Code of Practice for Metering
& Billing Accuracy) Regulations, 2006**

Comments on Consultation Paper on Review of The Quality of Service (Code of Practice for Metering & Billing Accuracy) Regulations, 2006

1. Reliance Communications Ltd (RCOM) welcomes the opportunity extended to comment on the issues raised in consultation paper on review of the Quality of Service (Code of Practice for Metering & Billing Accuracy) Regulation, 2006.

Question 1: What are your views on imposing financial disincentives for delay in submitting audit reports of the metering and billing system and what should be the quantum of such financial disincentives? And;

Question 2: What are your views on imposing financial disincentives for delay in submission of Action Taken Reports on audit observations of the metering and billing system and for providing false information or incomplete information and what should be the quantum of such financial disincentives?

RCOM Response:

- TRAI's proposal that TSPs should pay 'financial disincentive' in case of delay in submitting Audit Report or Action taken Report does not seem to be consistent with the TRAI Act, 1997.
- Our views are that the TRAI powers to enforce its regulations and orders are clearly confined to Section 12 and 13 i.e. powers to investigate, power to seek information and power to issue Directions.
- We also note that Airport Economic Regulatory Act, (AERA) 2008 is similar to the TRAI Act, 1997 and even AERA, like TRAI does not have any powers to impose penalties. On the other hand, SEBI and CCI have clear and discernible powers as given to them by the Parliament relating to the imposition of penalty and adjudication of penalty.
- TRAI is also aware that powers to impose penalties are not available with them under the TRAI Act, 1997. **TRAI itself in its recent recommendation dated 2.3.2012 on NTP 2012 has recommended that TRAI Act should be amended to provide it with powers to impose penalties.**
- **Without prejudice to our reservations against the levies of penalty by TRAI on various compliances on Regulation, tariff orders etc, we would like to submit that the completion of audit and submission of audit reports is a combined effort of Auditor as well as Auditee. Further auditing of metering and Billing systems for Wireline, GSM and CDMA systems is an extensive process.**

- **It is not fair to attribute the delay purely on part of telecom operator and penalize for the same to telecom operator.**
- In cases of exigency there should be provisions in the The Quality of Service (Code of Practice for Metering & Billing Accuracy) Regulations, 2006 to provide additional time to submit the Audit Reports and Action Taken Reports.
- In the Companies Act, 1956 also for special reasons ,the Registrar of Companies (ROC) has been empowered to grant extension of time, up to a maximum period of three months under the provisions of Companies Act. Similar provisions can be made part of the Accounting Separation regulations.
- **Imposition of heavy penalties for delay in submission of reports by few days is harsh and TRAI is requested not to impose minor delays in Metering and Billing Audit reports or Action Taken Reports.**

Question 3: What are your views on the proposal for audit of the CDRs for at least twice a year- three months CDR pertaining to first half year and three months CDR pertaining to second half year?

RCOM Response:

- The metering and billing audit is a mammoth and exercise and requires concentrated effort of at least 3-4 months from the auditor and auditee side. A Pan-India dual technology operator is required to get systems audited for GSM as well as CDMA platform for all circles separately. In addition systems are also required to be audited for wireline services. All services are tested for CDRs separately.
- The CDR audit is followed by another enormous exercise of live call testing at all circle levels for technologies viz. GSM and CDMA separately. This involves huge efforts in terms of activation of new SIMs with provisioning of selected tariff plans till the bill generation and extraction of the rated CDRs.
- TRAI would appreciate that there are huge load on service providers on regulatory compliances and regulator reporting. Two audit per year would require huge resources in terms of manpower and money.
- **Hence, we believe that two audits in the one calendar year would not be feasible. We suggest that the present practice of one metering and billing audit should continue.**

Question 4: What are your views on the proposal for simultaneous reporting of instances of overcharging to TRAI by the auditor, monthly progress report on the action taken by service providers on such audit observations and financial disincentives on delayed refund of such overcharged amounts?

RCOM Response:

- In case of any overcharging incident which is above the TRAI set up benchmarks of number of incident or in terms of monetary consideration, the incident may be reported during the audit itself and the compliance report submitted to the auditor accordingly.
- However, we suggest that TRAI should exempt the service providers from the refund requirement in case the overcharging incidents in terms of revenue as well as in terms of number are less than benchmarks set up in the TRAI metering and billing regulation.
- TRAI may suggest timeline for refund in case of overcharging which should be slightly more than maximum permissible time for refund of security deposits. **We suggest TRAI should set a maximum time line of 90 days for refund of excess amount. As maximum time line is proposed for refund of excess charges, we suggest that there should not be any requirement for monthly progress reports.**

Question 5: Do you support mandating service providers to undertake a thorough analysis of each audit observations and the requirement to furnish a detailed comment on each audit observation, as proposed above, including financial disincentives for submitting audit reports without adequate comments? Please give your comments with justification.

RCOM Response:

- As a service provider, the observations of the auditor are always thoroughly analyzed and investigated to address and rectify the non compliance. A detailed comment is also provided as the report is only prepared after going into several rounds of discussion mode between the auditor and service provider.
- The service provider also endeavours to investigate the issue into further depth and provide a convincing reply to the auditor. Hence, the mode of conduct of audit itself ensures that each observation of the audit is handled in details and with full respect.

Question 6: Do you support nomination of auditor by TRAI and appointment of the nominated auditor by the service provider? And;

Question 7: What are your views on the proposal for fixing of remuneration of auditor by TRAI and what should be the quantum and methodology for computation of audit fees, in case the same is to be fixed by TRAI?

RCOM Response:

The appointment of the auditor and audit fee should continue to be allowed to be decided by the service provider. There is no direct correlation between the quality of audit with that of the audit fees paid. There is no known basis to establish the hypothesis of relationship between the quality of audit and audit fee. The terms of references of audit and also agencies capable of conducting such audits are decided by the Authority. However, fees is negotiated and decided between service providers and auditors based on actual work requirement.

The TRAI may note that even Institute of Chartered Accountants of India which had initially prescribed minimum audit fees the Chapter-XII (**Minimum Audit Fee in respect of Audit**) of the Council General Guidelines, 2008. However, ICAI has repealed minimum audit fee with effect from 7th June, 2011

Further, remuneration of Rs 1 Lakh/service area is way too exorbitant. RCOM has centralised telecom architecture for CDMA as well as GSM circles. In our case auditors do not have to run from pillar to post to conduct audit and get CDRs. Complete system related information is centralised.

In view of the above we suggest that audit fee should not be regulated and no minimum audit fee should be prescribed.

Question 8: What are your views on the proposals relating to tariff plans to be covered for audit?

RCOM Response:

We agree with the views of TRAI. We suggest that corporate tariff plans should be excluded from the scope of audit.
