



Reliance Jio

Infocomm Limited

RJIL/TRAI/2015-16/93
26th May 2015

To,

Shri A. Robert J. Ravi,
Advisor (TD & QoS),
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg,
New Delhi - 110002

Subject: Comments on Draft Telecom Consumers Protection (Eighth Amendment) Regulations, 2015.

Dear Sir,

Please find attached comments of Reliance Jio Infocomm Limited on the “**Draft Telecom Consumers Protection (Eighth Amendment) Regulations, 2015**”.

Thanking You,

Yours sincerely,
For **Reliance Jio Infocomm Limited,**

Mahipal Singh
Authorised Signatory



Encl.: As above.

Reliance Jio Infocomm Limited (RJIL) comments to the 'Draft Telecom Consumers Protection (Eighth Amendment) Regulations, 2015'

General Comments:

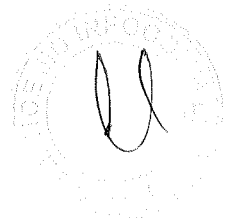
1. Reliance Jio Infocomm Limited (RJIL) welcomes the Authority's decision to hold a public consultation on the Draft Eighth Amendment to Telecom Consumers Protection (TCP) Regulations, 2012.
2. From the explanatory memorandum to the Draft Regulations, it appears that the objective behind issuing this amendment to the regulations is to address the various complaints received in TRAI from consumers relating to charging of data services. As per Para 2 of the explanatory memorandum to the Draft Regulations, these complaints mainly relate to the following:
 - (1) Non-availability of information relating to usage of data.
 - (2) Non-availability of information to consumers whenever the data pack is exhausted or when the quantum of concessional or discounted tariff in a plan is exhausted and for further usage the customer is charged at the default tariff for data.
 - (3) Non-availability of information to international roaming consumers about the tariff for data while on roaming and information relating to usage.
 - (4) Activation of internet service on mobile phones without the explicit consent of the consumer.

Para 3 of the explanatory memorandum to the Draft Regulations also highlights one issue that *"there were complaints from customers using basic phones that the GPRS has been activated and data charges are being deducted without their consent. As such, there is a need for making suitable provisions for taking explicit consent of the consumer for activation of data services and deactivation of data services."*

3. To address the above referred complaints of the subscribers, the Draft Regulations deals with two categories of issues i.e. (a) Information to the consumers on Data Usage and (b) activation or deactivation of data services. For providing information to the consumers, TRAI has proposed that service provider should send information of the quantum of data used and tariff for such usage of data through SMS or USSD after every 5000 Kilobytes of data usage, **except those subscribers who have availed data plan through special tariff vouchers or combo vouchers or add on data pack.**
4. From the need behind framing the regulations, as highlighted by TRAI in the explanatory memorandum, it appears that explicit consent is required from the subscriber who is mainly interested in voice communication, but the GPRS data services are activated without his consent. However, the proposed draft regulations mandate every service provider to receive request of the consumer for activation and deactivation of data.



5. In this connection, it is submitted that data access is an everyday utility/commodity. 3G and 4G based high speed internet services are instrumental for new innovations in data centric services/technologies/OTT services. The technological innovations in 3G/4G data services have ensured that these services are capable of providing high speed data. The 4G services cannot be directly equated with the 2G services. High Speed Internet service over LTE is the core business of RJIL. Even voice services (VoLTE) cannot be provided until the data services are default activated. Thus, as the availability of high speed data is the primary reason for subscribers opting for data centric services like 3G/4G, thereby this choice is an informed decision and not an inadvertent option while going for voice services.
6. With regard to information to the subscriber after every 5000 Kilobytes of data usage, as explained by an example in our issue wise detailed response, in case a subscriber watches Full HD video, he/she would get alert after each 24 seconds. Therefore the threshold proposed is extremely low and would have negative impact on customer's satisfaction. The customer experience while using our data services would be heavily disturbed by many notifications even within one session/download/video. Further, the implementation of so many notifications would put substantial load on critical components like P-GW, PCRF, OCS and Notification Engine.
7. It is also submitted that TRAI's Direction dated 27.07.2012 issued to service providers for delivering broadband services in a transparent manner by providing adequate information to broadband consumers, stipulates to send alert to the customer, each time when the data usage by the customer reaches eighty percent and hundred percent of the data usage limit bundled with plan opted by the customer. The mobile internet can also be covered by similar provisions, as the high speed internet services will anyhow come under the existing definition of Broadband by virtue of speeds offered. Hence, the proposed draft regulations would only be duplication.
8. **In view of the above, the Authority is requested to exclude data centric service based on 3G/4G technology from both the requirement (a) Information to the consumers on Data Usage and (b) activation or deactivation of data services.**
9. Further, kind attention of the Authority is invited to "Digital India" – A programme to transform India into a digitally empowered society and knowledge economy. Under this initiative, government is aiming that every Indian will have a smartphone by 2019 and to use mobile as delivery mechanism to offer one stop shop for all governmental schemes.
10. The Unified Licence also treat data services as core service same as the voice and SMSs. Presently customers are not required to activate voice calling and SMS. Same non-discriminatory approach should be exercised for data access. However, the proposed amendment seems to equate the data services with the Value Added Services (VAS) as the Draft Amendment brought forward the similar activation-deactivation procedure for data services, which are applicable for Value added

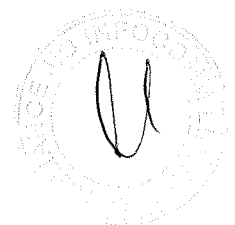


services. Therefore, if the proposed TRAI amendment will be continued in the same form, by putting unwarranted restrictions on the data services, it will go against the basic grain of the Unified Licence as well as 'Digital India' programme.

11. The data and voice services (calls, SMS and roaming) are part of the core bearer services and offered to the consumer as one single bundle of service. The customer consent is obtained through his signature on CAF and Tariff enrolment form. The customer is made aware of the Tariffs for all services activated on SIM i.e voice, SMS, Data and roaming services. The TRAI's specified formats for publishing of tariff plans which are made available to consumers on service provider's website, National Dailies, at point of sale. All these tariff formats individually specified rates for any service and consumers at every point of time is well aware of the services which are activated on his/her SIM. The data service has become a key service and is preferred by number of customers over the voice and SMS service. The vast penetration of smart phones and current levels of imports of smart phones being more than the basic phones confirms the current preference of consumers for Data services. Separation of Data services from the basic bearer service and a separate process for opting for Data service would be a huge inconvenience to a majority of consumers, who look forward to use Data services on their smart phone. With the growing affordability of smart phones the consumer inconvenience will increase manifold and load service provider's infrastructure to handle and process such large demand for activation of Data services. Thus, TRAI's proposal would increase cost of consumer service and inconvenience for consumers. The TRAI vide "Standards of Quality of Service for Wireless Data Services Regulations, 2012 (26 of 2012)" has already set very strict norms for service provisioning/ activation of Data within 4 Hours with 95% success rate therefore any regulation to segregate the basic bearer service and specify a separate opting process within the specified benchmark would not be possible with the current level of deployment of resources.
12. On the amendments proposed by TRAI in the Draft TCPR (Eighth Amendment) Regulations, comments of RJIL are given below:

Proposed Amendment: 1. "10A.Information to consumers on data usage---- (1) Every service provider shall, through SMS or USSD, provide to all subscribers of the Cellular Mobile Telephone Service, on whose mobile phone data services are activated, except those subscribers who have availed data plan through special tariff vouchers or combo vouchers or add-on pack, after every five thousand kilobytes of data usage, the quantum of data used during the validity period or -billing cycle and the tariff for such usage of data.

(2) Every service provider shall, through SMS or USSD, provide to the consumer, who has taken data plan through Special Tariff Voucher or Combo Voucher or add-on pack, or whose tariff plan provides for free or discounted tariff for data usage up to a certain limit, an alert each time immediately after consumption of fifty percent of the data, ninety percent of the data and hundred percent of data available to the consumer under the Special Tariff Voucher or Combo Voucher or add-on pack or the tariff plan, as the case may be:

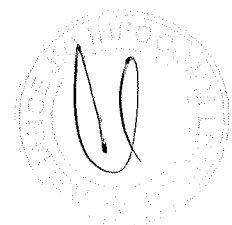


Provided that after the consumer has used ninety percent of data, the service provider shall also provide him, through SMS or USSD, the details of the tariff applicable on the usage of data beyond the quantum of data available to him under the special tariff voucher or combo voucher or add-on pack or the tariff plan, as the case may be.

(3) Every service provider shall, through SMS or USSD, provide to the consumer, having international roaming facility on his mobile connection, an alert, immediately after the consumer roams outside the territory of India, advising him to deactivate the data services in his mobile phone if he does not want to use data services while roaming outside the country.

RJIL Response:

- (i) RJIL has a continued support for a well-informed customer and it supports the tenet that the customer should be clearly informed of their usage and applicable charges. We appreciate the efforts done by the Authority in this regard.
- (ii) At the same time, for proper compliance of the regulations/ Directions/ Orders, while framing the regulations/ Directions/ Orders, it must be ensured that there may not be any overlapping or repetition of the condition in the same or different regulations.
- (iii) Currently, in accordance with regulation 7 of the Telecom Consumer's protection Regulation 2012, every service provider is required to provide information, by means of SMS, to a prepaid subscriber on the data benefits under a Special tariff voucher (STV) and Combo Voucher (CV) post activation of the respective STV, CV. Regulation 7(b) stipulates that every service provider should provide to the prepaid subscriber the following information after every session of data usage over mobile, ---
 - (i) *Quantum of data usage;*
 - (ii) *Charges deducted; and*
 - (iii) *The balance in the account;*
- (iv) Further, the Regulation 9 of the Telecom Consumer's Protection Regulation 2012 mandated the service providers to establish or allot a separate toll free short code to enable the consumers to seek, through SMS, the following information:-
 - (a) *tariff plan opted by the consumer including,--*
 - i. *rates for local and long distance (STD) calls, and differential charges, if any, applicable for on-net and off-net usage;*
 - ii. *rates for SMS;*
 - iii. *rates for data service;*
 - (b) *balance available in the account of the pre-paid consumer; and*
 - (c) *Value Added Services activated on his telephone number;*
- (v) High speed internet services using 3G/4G technology can easily be covered under the existing definition of Broadband by virtue of speeds offered. There is already a clause in the TRAI's Direction dated 27.07.2012, issued to service providers for delivering



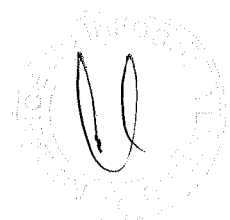
broadband services in a transparent manner by providing adequate information to broadband consumers, stipulates to send alert to the customer either through SMS on his mobile number registered with the service provider or to his registered email, each time when the data usage by the customer reaches eighty percent and hundred percent of the data usage limit bundled with plan opted by the customer, or through Unstructured Supplementary Service Data (USSD) at each login by the customer after the data usage reaches eighty percent of the data usage limit bundled with his plan.

- (vi) In view of the above, it can be easily concluded that currently sufficient modes exist to inform the subscriber of his data usage and applicable charges.
- (vii) Further, in view of the proposal on sending an SMS intimation to a subscriber post the usage of 5000 kb data, we would request the authority to consider following scenarios:
 - (a) Subscriber watching a video on YouTube. The data consumption pattern¹ based on the video quality is as follows:
 - i. 240p - Data used per 5 minute video: 8MB aprox
 - ii. 360p - Data used per 5 minute video: 13MB aprox
 - iii. 480p - Data used per 5 minute video: 20MB aprox
 - iv. 720p - Data used per 5 minute video: 38MB aprox
 - v. 1080p - Data used per 5 minute video: 62MB aprox

As per the proposed Draft Regulation, the TSP will be required to send a SMS alert each 3 minutes of video streaming if the lowest resolution is used or each 24 seconds if customer watches Full HD video.

- (b) Another case study is related to the most popular Internet applications in India, i.e. instant messaging/VoIP calling and video streaming. One minute of Skype call consumes about 3MB of data which means that service providers are required to send SMS alerts to customer about each 1.5 minutes of the conversation.
- (viii) Thus the threshold proposed is extremely low and would have negative impact on customer's satisfaction. This would also lead to significant additional load on billing platform, SMSC and radio network resources, which benefits none, neither the consumer nor the TSP.
- (ix) Further, for data centric services based on 3G/4G technology, most of the subscribers will prefer to have data packs, for which TRAI's Direction dated 27.07.2012 already mandates sending of an alert to the subscriber when the data usage by the customer reaches eighty percent and hundred percent of the data usage limit bundled with plan opted by the customer. **Therefore, proposed provision of Draft Regulations for sending the alert after every five thousand kilobytes of data usage should not be applicable for data centric services based on 3G/4G technology.**
- (x) Regarding International roaming, it is submitted that as can be seen from the explanatory memorandum to the Draft regulations, the need for regulation arise from

¹ Source <http://www.whistleout.com.au/Broadband/Guides/Broadband-Usage-Guide>



the non-availability of information to international roaming consumers about the tariff for data while on roaming and information relating to usage. However, the Draft Amendment proposes that every service provider should provide an alert, immediately after the consumer roams outside the territory of India, advising him to deactivate the data services in his mobile phone if he does not want to use data services while roaming outside the country. It is submitted that instead of advising the subscriber to 'deactivate the services', the proposed regulations may address the availability of information about the tariff for data while on roaming.

- (xi) Further, **we request the Authority to consider another alternative modes of notifying the subscriber of their usage for instance smart message, in lieu of USSD, as the USSD mode is not available under LTE technology and other new upcoming technologies.** These modes are extremely efficient, toll free and are at par with USSD in their functionality. We can supply more material on these modes, if required by the Authority.

Proposed Amendment: 2. 10B. Activation or deactivation of data services----- (1) No service provider shall activate or deactivate the data service on the Cellular Mobile Telephone connection of a consumer without his explicit consent.

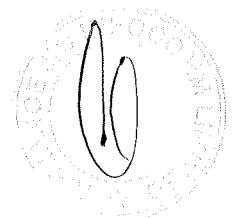
(2) Every Cellular Mobile Telephone Service provider shall provide toll free short code 1925 for receiving request of the consumer for activation and deactivation of data service.

(3) The consent of the consumer, referred to in sub-regulation (1), shall be obtained in accordance with the procedure specified in schedule.

(4) Every Cellular Mobile Telephone service provider shall send an SMS to the consumer, on whose Cellular Mobile Telephone connection the data service is activated, an SMS at periodic interval not exceeding six months, informing him about the procedure for deactivation of data specified in schedule.

RJIL Response:

- (i) From the need behind framing the regulations, as highlighted by TRAI in the explanatory memorandum, it appears that explicit consent is required from the subscriber who is mainly interested in voice communication, but the GPRS data services are activated without his consent. However, the proposed draft regulations mandate every service provider to receive request of the consumer for activation and deactivation of data services.
- (ii) 3G/4G based data centric services will be preferred by the subscriber, who is more interested in data, after informed decision taken by such consumer, **therefore from the proposed clause, 3G/4G based data services, which are mainly data centric should be excluded.**
- (iii) Further, as per the scope of the Unified Licence, data services are core service same as the voice and SMSs. Presently customers are not required to activate voice calling and

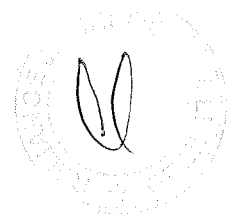


SMS. Same non-discriminatory approach should be exercised for data access. Equating the data services with the Value Added Services (VAS) by way of prescribing similar activation-deactivation procedure for data services as that of Value added services and putting unwarranted restrictions on the data services will go against the basic grain of the Unified Licence as well as 'Digital India' programme.

- (iv) Throughout the Indian telecom regulatory journey starting with the Telecom Tariff Order 1999, the TRAI has strived hard to ensure that the subscriber makes an informed decision with respect to the tariff plan. The Authority has extensively discussed the issue of transparency in tariff communications and has agreed that-

"... one of the important aspects of good quality of service is transparent manner of offering tariff plans that are easily understandable and comparable, so as to facilitate the telecom subscribers to choose the tariff plans that best meet their requirements."

- (v) In order to ensure the transparency of tariff plans, the Authority has taken various measures like the SMS, USSD and Flash message notifications to the subscriber. Today the Indian prepaid telecom subscriber is intimated of his usage and charges post each and every activity he carries out on his phone be it a voice call, sms or/and data session. We at RJIL appreciate the efforts made by the Authority and support the principle of "well informed consumer" for growth of the telecom sector.
- (vi) Further the Authority has taken efforts to ensure that no channel remains uncovered and the clause 9 of the Telecommunication Tariff Order, 1999 dated 9th March 1999, *inter alia*, provides that tariffs to be charged by service providers from subscribers for telecommunication services along with conditions thereof shall be published in such manner as the Authority may, from time to time, direct.
- (vii) In order to ensure the complete transparency of tariff plans the Authority vide direction dated 16th January 2012, directed all the telecom access service providers:-
- (i) to publish, service area wise, within fifteen days of the date of issue of this Direction, all tariff plans for post-paid subscribers in the format 'A' at Annex - I and make available such tariff plans in the format 'A' to the subscriber at the Customer Care Centres, the points of sale, retail outlets and on the website of the telecom access service provider;*
- (ii) to publish, service area wise, within fifteen days of the date of issue of this Direction, all tariff plans for pre-paid subscribers in the format 'B' at Annex - II and make available such tariff plans in the format 'B' to the subscriber at the Customer Care Centres, the points of sale, retail outlets and on the website of the telecom access service provider;*
- (iii) to ensure that the tariff plans published in formats 'A' and 'B', referred to in sub-*paras* (i) and (ii) above, are updated on the website and Customer Care Centre of the service provider every time there is a change in any of the tariff plans and make*



available the updated tariff plans in formats 'A' and 'B', by the 7th day of January, April, July and October at their points of sale and retail outlets;

(iv) to publish, within thirty days of the date of the issue of this Direction, all tariff plans in the respective formats 'A' and 'B' along with the address of the website and the contact details of Customer Care Centres at least in one regional language newspaper of the service area and one English newspaper and repeat such publication at an interval of not more than six months; and

(v) to confirm to the Authority the fact of the publications, as directed at sub-para (iv) above along with the dates and names of the newspapers, within fifteen days of such publication.

(viii) The tariff formats A and B in the above direction contains the home and roaming tariff for the following line items-

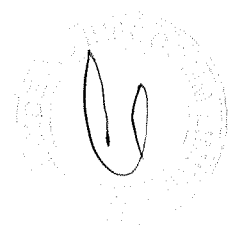
1. Local Calls
2. STD/ISD Calls.
3. SMS, Home and Roaming
4. **Data Charges Home and Roaming**

Thereby, clearly establishing that the Authority has always considered the Data as a part and parcel of the tariff plan.

(ix) Also, we can conclude that the essential services provided in a tariff plan are **Voice, SMS and Data**. The tariff for these services are provided to a prepaid subscriber on SUK and to a postpaid subscriber on Tariff enrolment/intimation form.

(x) Further the subscriber activation instructions issued by DoT vide File No. 800-09/2010-VAS dated 9th August 2012 mandated that the "*Tariff plan Applied*" is a mandatory field in the Customer Acquisition Form (CAF) and the subscriber signs on this CAF in such a way that the explicit consent of the subscriber is taken in writing at the time of plan activation.

(xi) In view of the above, it is submitted that the Indian subscriber is making an informed decision on the tariff plan he/she chooses and all efforts are made to inform him of the applicable charges. However, the existing form of proposed regulation seems to draw on the premise that the subscriber is not making an informed decision, when he/she opts for a tariff plan, thereby mandating the subscriber to re-opt his option through the explicit consent on IVR. Further, the proposed draft amendments completely ignore the market reality of data only plans. In case of data only plans, when a customer is purchasing a data only SIM for his tablet or he is purchasing a dongle then the customer makes an informed decision to buy only data. In such a situation, the draft amendment would imply that after purchasing a data only plan the subscriber shall now again give an explicit consent using a short code to start using data. Which sounds unreasonable at the least.



- (xii) While framing the regulations, kind attention of the Authority is also invited on the fact that now a days the handsets are already equipped with the functions to start/stop the mobile data. The subscriber already has a ready tool in hand that enable him to stop data whenever he chooses and he does not need the IVR option to deactivate the data services.
- (xiii) Hence, if the subscriber has made informed choice by selecting data centric 3G/4G technology, that must be honoured and subscriber should not be required to re-opt the same.
- (xiv) Furthermore, the Authority is making tenacious efforts in propagating the data usage and increase the data penetration in order to achieve the targets of Digital India programme. We would also request the Authority to refer to the best practices from other markets (including mature and developing ones) which clearly show that data access in always ON for new connections and there after it is the subscriber's choice to use it or not.
- (xv) It is needless to say that in data centric technologies like 3G/4G, there is seldom a possibility of accidental data usage. **However, in such cases the Authority can always propose a provision such that in case of first such complaint by a subscriber on his first data usage, the entire amount charge may be waived off in case the usage is less than 1 MB, subject to the complaint being filed within 72 hours of usage.**
- (xvi) Additionally the Authority can also mandate that after acquisition, whenever a subscriber is first time activated, the service provider should send a welcome message to the subscriber, notifying the following-
- That data services are activated.
 - The current tariff(s) for data usage.
 - SMS/IVR command to deactivate data.

To avoid the bill shocks, if the consumer is on volume based charging, daily alert to opt the data pack can also be provided to the consumer.

