

**F.No. 303-1/2006-QOS**  
**Telecom Regulatory Authority of India**  
**Mahanagar Doorsanchar Bhavan,**  
**Jawaharlal Nehru Marg, Next to Zakir Hussain College,**  
**New Delhi – 110 002**

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Dated the 30<sup>th</sup> October, 2007

**DIRECTION**

**Subject: Direction under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and clause 11 of the Telecom Tariff Order, 1999, on provision of value added services to customers.**

F.No.303-1/2006-QOS----- 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 with discharge of certain functions, *inter alia*, to 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 the interest of the consumers of telecommunications service;

2. And whereas the Authority had, in exercise of the powers conferred upon it under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), issued the Direction F.NO. 305-8/2004-QOS dated the 3<sup>rd</sup> May, 2005, directing all Cellular Mobile Service Providers and Unified Access Service Providers that no chargeable value added service shall be provided to a customer without his explicit consent and that any value added service, which was earlier being provided free of charge, shall not be made chargeable without the explicit consent of the customer;

3. And whereas the Authority had, in exercise of the powers conferred upon it under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), issued a subsequent Direction F.NO. 303-6/2006-QOS dated the 29<sup>th</sup> August, 2006, directed all the Cellular Mobile Service Providers, Basic Service Operators and Unified Access Service Providers to, *inter alia*, -----

(i) assign a unique docket number for all service request calls made to the customer care helpline numbers and also special numbers for registering complaints and convey the same to the customer at the time of such call and that this shall be implemented within three months from the date of the issue of the said direction;

(ii) acknowledge through short message service (hereinafter referred to as SMS) followed by entry in the next bill the requests made through telephone call, FAX, SMS, e-mail, etc. for value added services, the charges for which are of a recurring nature;

4. And whereas, the Authority received a number of complaints from consumers alleging charging by the service providers for the value added services without their consent which were taken up from time to time by the Authority with the concerned service providers;

5. And whereas, upon examination of the complaints of the consumers and the replies received from the service providers, the Authority found that in most of the cases, the service providers reported that they have obtained the consent of the consumers through tele-calling while the consumers in their complaint made to the Authority denied the fact of having given any such consent;

6. And whereas, the Authority has further noted that the service providers generally do not maintain any record of the offer for the value added services made to the consumers and the consent taken from consumers for the provision of value added services, particularly in respect of consent of consumers for such value added services obtained through tele-calling and in the absence of records, it is not possible to verify the correctness of the claims of the consumers that such consent was not obtained from them or of the service providers that such consent was obtained from the consumers;

7. And whereas, the Authority, upon due consideration of the matter, is of the view that in obtaining the consent of the customer through tele-calling for value added services, there could be possibility of such calls being attended by a person other than the customer, including family members and friends, who may have had access to the mobile phone at the time of such tele-calling and such person without understanding the implications of such offer may give his consent for such value added services, without the knowledge of the concerned customer;

8. And whereas, the Authority, while appreciating the fact that in a competitive market there is a need for the service provider to reach out to its customers through direct marketing of value added services such as tele-calling, is, nevertheless, of the considered view that any offer to the customer needs to be presented in such manner so as to ensure that the customer understands the implications of such offer made by the service provider before giving his explicit consent for the value added services offered and

such explicit consent should be verifiable with reference to records maintained by the service provider;

**9.** And whereas, the Authority also received several complaints from consumers wherein it has been alleged that some service providers, while declining the request of such consumers, made at the respective customer care/ helpline/toll free number of the service providers for unsubscribing of value added services, told such consumers to lodge their requests for unsubscribing of such value added services at certain other telephone numbers as indicated by the personnel manning such customer care/ helpline/toll-free number and that the calls made to such telephone numbers as indicated to the customer are being charged at premium rates;

**10.** And whereas, the Authority, in the light of foregoing paragraphs, is of the opinion that the charging of the premium rates by the service providers for calls made to such telephone numbers, as referred to in the preceding paragraph for the purpose of registering requests of the consumers for unsubscribing of a value added service provided by such service providers, can not be in the interest of the consumers;

**11.** And whereas, the reports of the Audit of the Metering and Billing System of some of the service providers for the year 2006-07 submitted to the Authority by such service providers in accordance with the Regulation on Quality of Service (Code of Practice for Metering and Billing Accuracy) Regulation 2006 (5 of 2006) reveal that many instances of complaints wherein subscribers have been charged for dialer tones and other value added services activated without the explicit consent of the consumers;

**12.** Now, therefore, the Authority, in exercise of the powers conferred upon it under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 ( 24 of 1997) and clause 11 of the Telecom Tariff Order, 1999, for the reasons mentioned in the preceding paragraphs 2 to 11, and to ensure compliance of terms and conditions of licence and to protect the interest of consumers, hereby directs all the Access Service Providers (including M/s Bharat Sanchar Nigam Ltd. and M/s Mahanagar Telephone Nigam Ltd.) to, ---

(a) provide, within one month from the date of issue of this Direction, the facility to all their customers for registering their requests for unsubscribing of any value added service by such customers ---

- (i) through e-mail or FAX or any other means (other than telephone calls and SMS);
- (ii) through telephone calls and SMS made to the customer care/helpline/toll-free number (other than e-mail or FAX) without incurring of any cost for such telephone calls and SMS made by their customers;

- (b) continue to extend the facility referred to in the preceding sub-paragraph to their customers;
- (c) give adequate publicity to the facility, as referred to in sub-paragraphs (a) and (b) above, by publishing complete information about such facility on their websites and by communicating the same through SMS and other means to the customers;
- (d) ensure that-----
  - (i) in case of any offer for any value added service, made in writing or through SMS or FAX or e-mail,(other than tele-calling) to the customer, such offer shall contain all relevant details of the value added service offered to the customer including the charges for 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, for availing by such customers of such value added service, before activation of such value added service; and
  - (ii) in case of any offer for any value added service, made through tele-calling or by any other means [except means referred to in item (i) above] to the customer, such offer shall be subsequently made in writing or through SMS or FAX or e-mail, containing all relevant details of the value added service offered to the customer including the charges for 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 for availing such value added service before activation of such value added service;
  - (iii) the consent referred to in item (i) or item (ii), as the case may be, shall be acknowledged through SMS before activation of such value added service, or immediately after such activation, and also reflect the same in the next bill, if issued to the customer, giving relevant details of the said explicit consent;
- (e) keep complete records of such explicit consent obtained from the customer for subscription to the chargeable value added services and the records of the acknowledgements of such explicit consent by the service provider, for verification, for a period of one year from the date of such explicit consent.

(M.C. Chaube)  
Advisor (QOS)

To

All Access Service Providers,  
Bharat Sanchar Nigam Ltd.,  
Mahanagar Telephone Nigam Ltd.