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TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

NEW DELHI, THE 21st FEBRUARY, 2013

TELECOM CONSUMERS PROTECTION (SIXTH AMENDMENT)
REGULATIONS, 2013 (2 of 2013)

No. 308-5/2011-QOS. ----- In exercise of the powers conferred under section 36, 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), the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Telecom Consumers Protection Regulations, 2012 (2 of 2012), namely:-

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| <p>1. (1) These regulations may be called the Telecom Consumers Protection (Sixth Amendment) Regulations, 2013;</p> <p>(2) They shall come into force on the 22nd of March, 2013.</p> |
| <p>2. In regulation 2 of the Telecom Consumers Protection Regulations, 2012 (hereinafter referred to as the principal regulations),-</p> <p>(a) after clause (a), the following clause shall be inserted, namely:-</p> <p>“(aa) “activity” means a voice call (outgoing or incoming) or video call (outgoing or incoming) or an outgoing SMS or a data session (upload or download) or usage of Value Added Services or payment of rental in case of post paid connection or any other usage, as may be specified by the service provider, as an activity ;”;</p> |

(b) after clause (b), the following clause shall be inserted, namely :-

“(ba) “Automatic Number Retention Scheme” means protection from deactivation of cellular mobile telephone connection of a pre-paid consumer for non-usage on deduction of specified amount from the account of the consumer.;”;

(c) after clause (h), the following clause shall be inserted, namely:-

“(ha) “Non-usage” means absence of an activity ; ”;

(d) after clause (l), the following clause shall be inserted, namely:-

“(la) “Safe Custody Scheme” means the facility for protection from deactivation for non-usage of a cellular mobile telephone connection of a postpaid consumer on the request of the consumer and on payment of specified amount.;”;

3. In regulation 3 of the principal regulations, after clause (e), the following clause shall be inserted, namely :-

“(f) the details regarding deactivation of cellular mobile telephone connection due to non-usage.”.

4. After Chapter III of the principal regulations, the following Chapter shall be inserted, namely :-

“CHAPTER IV

**DEACTIVATION OF CELLULAR MOBILE TELEPHONE CONNECTION DUE TO
NON-USAGE**

11. Deactivation of cellular mobile telephone connection of pre-paid consumer due to

non-usage.-----Subject to provision of regulation 12, every service provider shall ensure that no cellular mobile telephone connection of a prepaid consumer is deactivated for non-usage, for a minimum period of ninety days or such longer period as may be specified by the service provider.

12. Automatic Number Retention scheme for pre-paid consumers.-----**(1)** No service provider shall deactivate the cellular mobile telephone connection of a pre-paid consumer for non-usage if an amount exceeding twenty rupees or such lesser amount, as may be specified by the service provider, is available in the account of such consumer:

Provided that the service provider may deduct an amount not exceeding twenty rupees, as may be specified by the service provider, from the pre-paid account of the consumer for extension of period of non-usage beyond ninety days.

(2) Upon deduction of the amount mentioned in sub-regulation (1), the non-usage period of the cellular mobile connection of the consumer shall be extended by a further period of thirty days and this process shall be repeated till such time the minimum amount exceeding twenty rupees or such lesser amount, as may be specified by the service provider under sub-regulation (1), is available in the account of the consumer.

(3) If a consumer performs an activity during the extended period of non-usage, he shall be entitled for a fresh period of non-usage of ninety days or such longer period as may be specified by the service provider.

13. Safe Custody scheme for post-paid consumers.-----**(1)** Every service provider shall implement a safe custody scheme for postpaid consumers.

(2) No service provider shall deactivate the cellular mobile telephone connection of a post-paid consumer for non-usage if such consumer makes a request for safe custody of his telephone

connection and makes payment of an amount not exceeding one hundred fifty rupees for every three months or part thereof, as may be specified by the service provider.

(3) The service provider shall not charge monthly rental from the consumer during the period of safe custody of the cellular mobile telephone connection.

(4) If the post paid consumer of the cellular mobile telephone connection has made payment of advance rent for a specified period, the service provider shall not deactivate the mobile connection of such consumer on the ground of non-usage during the period for which advance rent has been paid.

(5) If the consumer of cellular mobile telephone connection makes a request for restoration of his mobile connection during the period of safe custody, the service provider shall, within twenty four hours of receipt of request, restore his mobile connection.

14. The grace period for reactivation-----(1) The cellular mobile telephone connection of a consumer deactivated for non-usage shall not be allocated to any other consumer till the expiry of a minimum period of fifteen days or such longer period, as may be specified by the service provider, from the date of deactivation and during such period the consumer can get his mobile connection reactivated by making payment of an amount not exceeding twenty rupees, as may be specified by the service provider.

15. Communication of information to the consumer.-----(1) Every service provider shall communicate to the consumers, in a transparent manner, the following information:-

- (a) the period of non-usage after which the mobile connection of the consumer is liable to be deactivated;
- (b) the details of the activities, the absence of which shall amount to non-usage;
- (c) the details of Automatic Number Retention scheme;
- (d) the details of Safe Custody scheme; and
- (e) the grace period for reactivation of the cellular mobile telephone connection.

(2) The information mentioned in sub-regulation (1) shall be intimated to the consumer through :-

- (a) Start Up Kit and Customer Acquisition Form;
- (b) tariff leaflets or brochures, if any;
- (c) display on the website, retail points of sale and complaint centres of the service provider;
- (d) publication in one English and one regional language newspaper every six months along with the tariff published under direction F. No. 301-14/2010-ER dated the 16th January, 2012; and
- (e) SMS within ten days from the date of commencement of these regulations and every six months thereafter.

(3) Every service provider shall, immediately on deduction of an amount under regulation 12, provide to the consumer through SMS the following information :-

- (a) the amount deducted;
- (b) the purpose for which the deduction is made; and
- (c) the balance amount available in the pre-paid account of the consumer.”.

(Rajeev Agrawal)
SECRETARY

Note.1. — The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 6th January, 2012 vide notification number No. 308-5/2011- QOS dated the 6th January, 2012.

Note.2. – The principal regulations were amended vide Notification No.308-5/2011-QOS and published in the Gazette of India,Extraordinary, Part III, Section 4 dated the 11thJanuary, 2012.

Note.3.–The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21stFebruary, 2012.

Note.4.- The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 7th March, 2012.

Note.5. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 22nd October, 2012.

Note.6. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 27th November, 2012.

Note.7. –The Explanatory Memorandum explains the objects and reasons of the Telecom Consumers Protection (Sixth Amendment) Regulations, 2013 (2 of 2013).

EXPLANATORY MEMORANDUM

1. Several Telecom Service Providers (TSPs) currently prescribe a condition of deactivation if the Cellular Mobile Telephone connections remain inactive for a certain specified period. On such deactivation the balance amount in the account of the pre-paid consumer gets forfeited. This practice sometimes causes inconvenience to genuine consumers.

2. The TSPs contend that Cellular Mobile Telephone connections in a state of continuous non-usage not only block scarce numbering resource but also block their database space in various systems like the Billing System, Customer Resource Management platforms etc. Keeping such connections active in the system for unduly long period becomes non-remunerative for the TSPs. The Authority observed that the criteria for deactivation followed by TSPs are not uniform and also are not transparently conveyed to the consumers. With a view to protect the interests of the consumers while seeking to ensure better utilization of scarce numbering resources, the Authority had initiated a consultation process for seeking views of stakeholders on various aspects relating to deactivation of SIMs or mobile connections on the ground of non-usage. After considering the views of stakeholders and keeping in view other factors relevant to the issue, the Authority has decided to put in place certain regulatory guidelines through an amendment to the Telecom Consumer Protection Regulation, 2012. The Authority wishes to make it clear that there is no intention to mandate deactivation of Cellular Mobile Telephone connections on the ground of non-usage. It is solely at the discretion of the TSPs whether or not to prescribe any such condition for deactivation.

‘Non-usage’ attracting the condition of deactivation

3. The consultation paper had listed several possible activities which could constitute ‘usage’ of the Cellular Mobile Telephone Service connection. The list of activities, absence of which constitute non-usage given in the regulation, is not exhaustive. While some of the activities have been mandated to constitute usage, the TSPs will continue to have the flexibility to include any other activity like activation of voucher, incoming SMS etc. in the scope of usage, if they wish to do so.

4. Currently, most of the service providers prescribe sixty days of non-usage as the criteria for deactivation of Cellular Mobile Telephone Service connections. The suggestions by stakeholders are generally in the range of 50 days to 180 days. The Authority has decided to prescribe a minimum of ninety days of non-usage with a grace period of fifteen days for reactivation. The service providers will have the flexibility to decide a duration of non-usage longer than ninety days for the purpose of deactivation. During the grace period, the consumer will have the option to seek reactivation of the same number on payment of the prescribed fee which shall not exceed rupees twenty.

Automatic Number Retention (ANR) and Safe Custody Schemes

5. The ANR Scheme which is meant for Mobile prepaid consumers enables the consumers to protect their numbers (Cellular Mobile Telephone connections) irrespective of absence of activity beyond the period (not below ninety days) specified for the purpose, by keeping sufficient balance in their accounts. The service providers shall extend the date of deactivation by thirty days on each occasion after deducting the prescribed amount not exceeding rupees twenty from the balance available. If during such extended period the consumer performs any activity specified as 'usage', his Cellular Mobile Telephone connection shall be considered as active for a fresh period (not below ninety days) specified by the TSPs for deactivation due to non-usage. This process of deducting the specified charge under ANR scheme from the pre-paid balance of the consumer shall continue till such time the balance in the account falls below the prescribed amount under these regulations. This scheme does not require any explicit positive action on the part of the prepaid consumers and works automatically. The service providers also get compensated for the work done in keeping the Cellular Mobile Telephone connections active in the system. The ANR scheme ensures that forfeiture of balance amount in cases of deactivation due to non-usage is kept at the minimum and thus prevents unjust enrichment of TSPs. The amount already deducted from account of the consumer under the ANR scheme is not required to be refunded in case the consumer, performs activity during the extended period of non-usage under ANR scheme.

6. 'Safe Custody Scheme' is meant for Mobile postpaid consumers. The concerns on account of deactivation due to non-usage are different and perhaps less relevant for postpaid

consumers. Unlike in the prepaid platform, consumers in the postpaid plans generally pay monthly rental and are therefore entitled to remain as active consumers despite continuous period of non-usage. However, a postpaid consumer who expects non-usage of the Cellular Mobile Telephone connection for a considerable period, will be in a disadvantageous position as he will need to continue payment of monthly rental of the tariff plan despite non-usage. The safe custody scheme mandated through these regulations enables a postpaid consumer to avoid disconnection by making a request to this effect to his service provider and by paying the charges (not exceeding Rs.150/- for three months) specified for the purpose. Considering that the average revenue from postpaid consumers is several times higher than that of prepaid consumers and that the scheme presumes a voluntary positive action on the part of the consumer, the maximum charges for safe custody has been fixed at a higher level vis-à-vis the charges applicable in respect of ANR scheme for prepaid consumers. Moreover, in the case of safe custody, the postpaid consumer is not required to pay rental during the safe custody period.

7. If a cellular mobile telephone number is deactivated due to non-usage, the same number shall not be recycled or reallocated to any other consumer within a period of 15 days from the date of deactivation. In other words, there shall be a grace period of 15 days within which the consumer shall be entitled for requesting the telecom service provider for reactivation of his cellular mobile telephone connection with the same number on payment of the amount specified for reactivation.