



सत्यमेव जयते

भारतीय दूरसंचार विनियामक प्राधिकरण  
TELECOM REGULATORY AUTHORITY OF INDIA  
भारत सरकार /Government of India



**DIRECTION**

Date: 30<sup>th</sup> November 2017

**Subject: Direction under Section 13 of the Telecom Regulatory Authority of India Act, 1997 to deposit in TRAI Consumer Education and Protection Fund, the excess amount charged from the subscribers in violation of the licence conditions.**

No.108-8/2006-NSL-II (Part) (Vol.II) --- Whereas the Telecom Regulatory Authority of India (hereinafter referred to as the Authority), established under sub-section (1) of section 3 of Telecom Regulatory Authority of India Act, 1997 (hereinafter referred to as TRAI Act), has been entrusted with discharge of certain functions, inter-alia, to regulate telecom services, ensure compliance of terms and conditions of licence, protect interests of the consumers of the telecom services;

2. And whereas the Department of Telecommunication, vide its letter dated 20<sup>th</sup> May, 2005 and subsequent clarification dated 16<sup>th</sup> June 2005, amended the licences issued to the Cellular Mobile Telephone Service Providers, Unified Access Service Provider, Basic Telephone Service Providers and National Long Distance Service Providers, inter-alia—

(a) permitting inter-service area connectivity between access service providers within the States of Maharashtra, West Bengal, Tamil Nadu and Uttar Pradesh treating the calls made within a State in the aforesaid four States as intra-service area calls for the purpose of routing of calls and levying of access deficit charge;

(b) clarifying that the Interconnection Usage Charges, the access deficit charge and the tariff shall be applicable as per the prevailing Regulation, Determination, Direction and Order of the Authority; and

(c) giving option to the access service providers to take lease lines to establish inter-service area connectivity or to continue with the existing interconnect arrangement for routing of calls in these service areas, however, the calls will be treated as intra-service area calls;

3. And whereas subsequent to the aforesaid amendment of licence conditions, the access service providers of the respective service areas restructured their tariff plans and filed with the Authority;

4. And whereas from tariff plans, referred to in the preceding para, the Authority noted that some private access service providers had specified a higher tariff for the calls terminating in the mobile network of Mahanagar Telephone Nigam Limited (hereinafter referred to as MTNL) and Bharat Sanchar Nagar Limited (hereinafter referred to as BSNL) in different service area located within the same State;

5. And whereas the Authority also received complaints from subscribers alleging levying of discriminatory charges by the private access service providers;

6. And whereas the Authority examined the tariff plans of the access service providers, referred to in para 4, and the complaints received from the consumers, referred to in the preceding para, and found that the private access service providers were levying differential tariff on the calls terminating in the mobile network of BSNL and MTNL and, vide its Direction dated 27<sup>th</sup> February 2006, directed mobile service providers operating in the aforesaid four states to immediately discontinue differential tariff and report compliance to the Authority;

7. And whereas the Cellular Operators Association of India (hereinafter referred to as COAI) and some access service providers challenged the Direction of the Authority, referred in the preceding para, before the Hon'ble Telecom Dispute Settlement and Appellate Tribunal (hereinafter referred to as TDSAT) and continued charging differential tariff for the calls terminating on the networks of BSNL and MTNL located in the same State;

8. And whereas the Hon'ble TDSAT, vide its Order dated 22<sup>nd</sup> December, 2006 dismissed the appeal referred to in the preceding para;



9. And whereas consequent to the dismissal of the appeal by the Hon'ble TDSAT, the Authority, vide its Order dated 15<sup>th</sup> January 2007, asked M/s Vodafone India Ltd (erstwhile M/s Hutchison Essar Cellular Limited; M/s Hutch Essar South Ltd., M/s Hutchison Telecom East Ltd.; and M/s Aircel Digilink India Ltd.) to furnish the compliance of its Direction dated 27<sup>th</sup> February, 2006 and also intimate the date from which it was complying with the said Direction dated 27<sup>th</sup> February, 2006;

10. And whereas M/s Vodafone India Limited, vide its letters dated 24<sup>th</sup> January 2007 and 25<sup>th</sup> January 2007, reported that they have complied with the Direction dated 27<sup>th</sup> February 2006 in different service areas on the dates indicated below:-

<b>Service Area</b>	<b>Date on which complied</b>
Mumbai	23 <sup>rd</sup> January 2007
Maharashtra	16 <sup>th</sup> January 2006 (prepaid), 23 <sup>rd</sup> January 2007 (postpaid)
Tamil Nadu	7 <sup>th</sup> March 2006
UP (West)	23 <sup>rd</sup> January 2007
UP (East)	13 <sup>th</sup> January 2007
West Bengal	20 <sup>th</sup> December 2005
Kolkata	17 <sup>th</sup> December 2005 (prepaid) 15 <sup>th</sup> December 2005 (postpaid)

11. And whereas in exercise of the powers conferred upon it under section 13, read with clause (b) of sub-section (1) of section 11 of TRAI Act, the Authority, vide its Direction dated 22<sup>nd</sup> March 2007, directed M/s Vodafone India Limited in Mumbai, Maharashtra, Tamil Nadu, West Bengal, Kolkata, Uttar Pradesh (East) and Uttar Pradesh (West) service areas to-

(a) furnish the number of subscribers adversely affected by charging differential tariff w.e.f. 20<sup>th</sup> May, 2005, being the date from which the respective Telecom Service (CMTS/UAS/Basic Service/NLD Service) stood amended accordingly, within 15 days of the Direction;

(b) assess the total excess amount charged from the subscribers along with the manner of calculating such amount and intimate the same to TRAI within 15 days of the Direction;

(c) Keep the entire excess amount charged from the subscribers in a separate bank account and intimate the name and address of the bank to TRAI;

(d) Not utilize the excess amount charged from the subscribers for any other purpose other than refunding the same to the consumers until further directions by the Authority;

12. And whereas COAI and some access service providers filed a Civil Appeal before the Hon'ble Supreme Court challenging the Order dated 22<sup>nd</sup> December, 2006 passed by the Hon'ble TDSAT and also requested the Authority to keep in abeyance its Direction dated 22<sup>nd</sup> March, 2007 until the appeal is heard by the Hon'ble Supreme Court;

13. And whereas the Hon'ble Supreme Court, vide its Order dated 5<sup>th</sup> April, 2007, stayed the refund of the excess amount charged by the access service providers from the subscribers;

14. And whereas the Authority, during the pendency of the appeal of COAI and some access service providers before the Hon'ble Supreme Court, did not seek the compliance of its Direction dated 22<sup>nd</sup> March 2007;

15. And whereas the Hon'ble Supreme Court, vide its judgment dated 30<sup>th</sup> January, 2015, dismissed the civil appeal filed by COAI and some access service providers;

16. And whereas the Authority, vide its letter dated 2<sup>nd</sup> February 2016, asked the access service providers to comply with the Direction dated 22<sup>nd</sup> March, 2007;

17. And whereas M/s Vodafone India Ltd, vide its letter No.VIL/LT/17-18/196 dated 5<sup>th</sup> October 2017, submitted the details of the excess amount of Rupees eight crores thirty three lakhs forty six thousand three hundred and thirty three charged from the subscribers along with the methodology used for such computations;


18. And whereas the Authority examined the computation of the excess amount submitted by M/s Vodafone India Limited, referred to in the preceding para, and found that due to non-availability of call data records,



the said amount cannot be refunded to the subscribers by the access service provider and, therefore, the same should be deposited in Telecom Consumers Education and Protection Fund (hereinafter referred to as TCEPF);

19. Now, therefore, in exercise of powers conferred upon it under section 13, read with clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997, the Authority hereby directs M/s Vodafone India Limited to deposit the amount of Rs. 8,33,46,333/- (Rupees eight crores thirty three lakhs forty six thousand three hundred and thirty three only), charged in excess from its subscribers during the period from May 2005 to January 2007, as computed by M/s Vodafone India Limited, in TCEPF as per the bank details given below and report compliance within fifteen days of the date of issue of this Direction:

**Account No.:** 520101223026359  
**Bank & Branch:** Corporation Bank, Asaf Ali Road, New Delhi  
**IFSC Code:** CORP0000679

  
30.11.2017  
**(S.T. Abbas)**

**Advisor (Networks, Spectrum & Licensing)**

To,

**Shri Sunil Sood,**  
**Managing Director & Chief Executive Officer,**  
**M/s Vodafone India Limited,**  
Peninsula Corporate Park,  
Ganpatrao Kadam Marg,  
Lower Parel,  
Mumbai - 400013.