

RJIL/TRAI/2023-24/29

1<sup>st</sup> May 2023

To,

**Sh. Tejpal Singh**

**Advisor (QoS-I)**

**Telecom Regulatory Authority of India**

Mahanagar Doorsanchar Bhawan

Jawaharlal Nehru Marg, New Delhi - 110002

**Subject: RJIL's Comments on TRAI's Draft Regulation on "Review of The Quality of Service (Code of Practice for Metering and Billing Accuracy) Regulations, 2023".**

Dear Sir,

Please find enclosed the comments of Reliance Jio Infocomm Limited on the TRAI's draft regulation dated 24.02.2023 on "**Review of The Quality of Service (Code of Practice for Metering and Billing Accuracy) Regulations, 2023**".

Thanking you,

Yours Sincerely,

For **Reliance Jio Infocomm Limited**

**Kapoor Singh Guliani**

Authorized Signatory

**Enclosure:** As above

**Reliance Jio Infocomm Limited's comments on TRAI's Draft Regulation and Guidelines on  
"Quality of Service (Code of Practice for Metering and Billing Accuracy)  
Regulations, 2023"  
dated 24<sup>th</sup> February 2023.**

**Preface:**

1. Reliance Jio Infocomm Limited (RJIL) thanks the Authority for issuing this draft Regulation for stakeholder's comments. **We submit that the draft regulation addresses the changed market scenario at many levels, however there are a few areas that still require Authority's kind attention from the perspective of Ease of doing Business (EODB), consumer convenience and proportionality.** In this context our submissions on specific issues are detailed below.

**A. Self-Evaluation by the Service Provider**

2. We submit that the draft Regulations and Guidelines make it incumbent on the service providers to carry out a self-evaluation of its metering and billing systems prior to the audit by the Auditor and submit a certificate to this effect to the Auditor. We submit that this is an onerous requirement that will add unnecessary compliance burden on TSPs.
3. We submit that with the adoption of state of the art and globally standardized centralized billing systems and prevalence of regular internal audit by TSPs, this additional requirement will add no value and should be repealed. **Therefore, we submit that this requirement should be removed.**

**B. Selection of Plans for Audit**

4. The Authority is aware that the tariff structure offered by Service Providers have become much more simpler and subscriber awareness on tariff has improved considerably. currently most of the plans are in the nature of **"all in one" plans that provide unlimited voice with data component becoming the main differentiator. Further the data component also has two flavours i.e. daily data bucket or long-time data buckets.**
5. Therefore, the criteria for selection of plans for audit needs to be revised to reflect these changes and made representative. **The plans can be categorized into 2 groups of data buckets i.e. daily data bucket or long-time data buckets, besides plans for international tariffs, instead of the proposed indicative list of buckets provided in the draft Guidelines.**

6. We further submit that selection of five most popular tariff offerings or all tariff offerings under a particular group whichever is less, for audit is also excessive. **Instead 2 plans with maximum subscribers in each of the above discussed two groups should be selected for audit. This principle will reduce the audit burden on the TSPs as well as bring in required EODB measures without affecting the objective.**
7. We further submit that while the Authority has acknowledged the adoption of 'State of Art' modern centralized billing systems and all India uniform tariffs by service providers across all LSAs, the same is not reflected in audit requirements.
8. We submit that for TSPs having centralized billing systems and uniform tariffs across LSAs, there is no need to conduct audit for each LSA, **as the tariff configuration will remain unchanged for all LSAs and no purpose will be served by auditing the same for all 22 LSAs. Therefore, we request the Authority that for those tariffs which are common for all the circles, audit be done on a sample LSA of the choice of auditor and observation related to the same may be made applicable for LSAs. Thus, we submit that in case of uniform tariffs, audit for one LSAs tariffs, done at central level should suffice.**

#### **C. Need to remove paper-based information to Consumers**

9. We submit that it was acknowledged in the Open House Discussion dated 3<sup>rd</sup> March 2021 that **the digital means are sufficient to give tariff related information to subscribers, however, the same is not explicitly reflected in the draft Regulations.**
10. We understand the Authority's focus on uniform tariff information across all platforms to customers and submit that this requirement is already being complied with and has become much better with availability of TSP self-care apps and TRAI's tariff portal. The importance of web-based interfaces for enhanced transparency has also been acknowledged by the Authority under direction on Tariff Publication dated 18<sup>th</sup> Sept 2020.
11. Further we reiterate our submissions that in view of the massive adoption of digital mediums by the consumers, **the requirements of giving tariff, regulations and connection related information in paper form should be discontinued and associated changes may be carried out in connected regulations as well.**
12. We submit that currently most of the requisite information is provided as a part of Start up Kit and as part of welcome letter for postpaid customers, however, with the availability of the self-care apps, this information can be accessed with a swipe of a button in an interactive manner. **Therefore, the requirements should pertain only on effective communication through app and website and the audit should also limit itself to monitoring the said communication through these mediums only.**

13. We also reiterate that with the introduction of eSIM and its increasing popularity across device manufacturers, promotion of contactless behaviour including KYC, and the environmental concerns pertaining to unnecessary use of paper implies that the time has come to mandate these requirements to be met only in digital form. **Therefore, we submit that the suitable amendments be made in Telecom Consumers Protection Regulations, 2012 and the Telecom Consumers Complaint Redressal Regulations, 2012 to remove the following requirements**

- **The requirement to provide Start-up kit**
- **The requirement to provide information about Customer Care Number and General Information Number**
- **The requirement to provide abridged version of the Telecom Consumers Charter**
- **The requirement to provide information regarding deactivation due to inactivity.**

14. We reiterate our submission that in order to derive maximum benefits of paperless activities, the above changes need to be incorporated in respective Regulations and the Metering and Billing Regulation should explicitly mention that digital availability of this information suffices to meet the purpose.

#### **D. Financial Disincentives**

15. We submit that draft Regulation prescribes disproportionate levels of financial disincentives, contrary to Industry submissions and there is a need for urgent review to withdraw the same. **The financial disincentives in current draft framework, do not go hand in hand with the philosophy of co-regulation and collective management being promoted by the Authority in last few years.**

16. We submit that Authority should also bring in a sense of proportionality with regards to the financial disincentives. We appreciate that intent to create a deterrent for smooth functioning of the regulations and timeliness of compliance. **However, financial disincentives running into lacs of rupees for as much as a delayed submission is excessive to say the least. We submit that while we believe that the financial disincentives should be completely done away with and if at all, should not exceed Rs. 5000 per TSP, especially for procedural issues.**

17. Further, the sense of proportionality should also be brought in passing of refund in case of refunds arising due to overcharging events. As submitted earlier, the Authority should define the graded timelines for refunds to customers based on the number of customers affected and refund amount to be processed. These graded timelines should start from immediate next working day from the date of acceptance of overcharging by TSP in writing.

**E. Retention of old records for special or peer Audit**

18. We submit that the current process of Metering and Billing audit is exhaustive and sufficient to meet the requirements. **Further, the Authority has complete control and checks on ongoing audit process round the year hence, the provision or even possibility for a special peer audit seems unwarranted.** This requirement also becomes redundant when we consider that the auditors are appointed by TSPs from the list of agencies empaneled by TRAI, and these auditors can be termed as face of TRAI.

19. Accordingly, we submit that there should not be any requirement of peer audit, as this will only burden the manpower and resources of TSPs further. Additionally, it should be borne in mind that TSPs are dealing with billions of Call Data records (CDRs). **Holding and maintaining CDRs for a longish duration than the timelines mandated under the license and their subsequent retrieval would add further pressure on TSP resources and should be avoided. Therefore, any requirements to maintain data should not exceed the timelines prescribed under the Unified License.**

**20. Conclusions**

- 1. The requirement of a self-evaluation by the TSP should not be a mandate.**
- 2. The selection of plans for audit should be representative and the count of plans for audit should be reduced.**
- 3. Two plans should be picked basis the data quota availability.**
- 4. Audit should be done for only one representative LSA for TSPs having centralized billing systems and offering uniform tariffs across LSAs.**
- 5. There should be explicit provisions to remove paper-based information to customers. Corresponding changes should be carried out in related Regulations as well.**
- 6. The Financial disincentives should be toned down and made proportionate and should not exceed Rs 5000 per TSP for procedural violations.**
- 7. The possibility of Peer audit should be removed.**

**Regulation Clause wise comments:**

**I. Regulation 5. Audit of metering and billing systems and Licensed Service Areas–**

**RJIL Comments:**

1. The regulation 5(1) mandates that all of TSPs metering and billing systems, whether centralized or distributed, and all LSAs are audited at least once in a financial year latest by 31st July. **We submit that this is an unnecessary requirement for the service**

**providers having centralized metering and billing systems as well as uniform plans across all LSAs as this will lead to overlapping audits leading to wastage of resources.**

2. While the Authority has sought to address the overlapping of tariff plans under Audit Methodology provided with draft guidelines under para 6.2.10 of Step-3, wherein the Authority mandated as below:

*In case, any tariff offerings viz. tariff plans, plan vouchers, special tariff vouchers, combo vouchers, top up vouchers, add-on plans are offered in multiple LSAs with exactly same configurations from same metering and billing system, then the auditor may audit such tariff offers in one of the LSAs and in remaining LSAs alternate tariff offering of the same group may be selected for auditing of five most popular tariff offering of a group.*

3. **However, this will not address the issue when a service provider has identical plans across all LSAs. We submit that in case a service provider has most, or all plans identical across all LSA, then the Auditor should be required to pick most popular 2 plans across a maximum one representative LSAs for audit.**
4. Of course, the Auditor will be free to pick any LSA specific plan for audit as well. We submit that this should suffice for audit of all 22 LSAs for service provider with centralized metering and billing systems and uniform plans.
5. The Regulation 5 (3) requires the service providers to carry out a self- evaluation of its metering and billing systems and LSAs to be audited for the concerned quarter and to submit a certificate conforming the same to Auditor. **We submit that when the intent of the new Regulation is to simplify the process, while making it more effective, a mandatory quarterly self-evaluation of billing systems seems excessive.**
6. **We submit that the TSPs with centralized billing systems should not be required to carry out a separate self-evaluation.**

## **II. Regulation 8. Submission of audit report and action taken report**

7. Regulation 8 (2) requires the service provider to submit to the Authority, within two months of the date of submission of the audit report to the Authority, the action taken report thereon, in respect of each metering and billing system and each Licensed Service Area audited, along with the status of audit observations pending to be resolved from previous quarters, if any, in such format as the Authority may direct, from time to time.

8. While we understand the importance of action taken report, **we submit that this requirement should be applicable only in case of any actionable observations. The service provider should not be required to submit a 'nil' action taken report or to submit an action taken report on the observations, where the action has already been taken and intimated to auditor and/or has been captured in the audit report submitted to TRAI.**

**III. Regulation 9. Consequences for failure of the service provider to submit audit report or action taken report–**

9. Regulation 9(1) provides for **financial disincentive not exceeding rupees one lakh per report for every week or part thereof during which the default continues, subject to a maximum of rupees fifty lakhs per metering and billing system**, or as the case may be, per Licensed Service Area. We submit that these Financial Disincentive requirements are excessive and should be toned down.
10. **We submit that there is a well-established jurisprudence that the penalty for procedural delays should be reasonable, justifiable and non-excessive and delay in submitting a report that has been carried out by a paneled auditor is a procedural delay and such penalty should not exceed Rs. 5000 per licensee.**

**IV. Regulation 10. Consequences for failure of the service provider to detect instances of overcharging and to refund the overcharged amounts to subscribers–**

11. Regulation 10 (1) provides for financial disincentive not exceeding 10% of the total amount overcharged from all subscribers affected by such instance of overcharging that the service provider was not able to discover on its own. Similarly, Regulation 10(2) provides for graded financial disincentive for delay in refunding the overcharged amount.
12. **We completely disagree with these provisions and submit that the systemic errors are always possible and on detection of such an error the best solution is to immediately refund the amount caused by error.**
13. While the deterrent effect on the Financial Disincentive is not lost on us, we do not agree with the excessive amount of proposed financial disincentive. **We submit that 10% of total overcharged amount for not being able to detect on its own is unprecedented and has no basis in law. When the service provider is anyways required to pay all such overcharged amount either to customers or to TRAI's Fund, the financial disincentive should be proportionate.**

14. We submit that the financial disincentive for not being able to detect any instance of overcharging should not be applicable and the TSP should be required to correct issues linked to such wrong charging within 60 days. Further, there should be no financial disincentive for delay in refunding the amount, as in any case the amount will be transferred to TRAI's Fund as per the prevailing practice.
15. Further, there should be graded timelines for passing the refund in case the number of customers affected is large. The graded timelines should start from immediate next working day from the date of acceptance of overcharging by TSP in writing.

**V. Regulation 11. Consequences for submission of incomplete or false action taken report**

16. **Regulation 11(1) provided for a Rs. 10 lac financial disincentive for incomplete or false action taken report. We again bring to your attention that the financial disincentives should be proportionate and not arbitrary.**
17. In past there has been cases where show-cause notices been issued to TSPs for non-submission of Action taken report, when there was no actionable observations. **Therefore, we submit that excessive penal provisions can prompt over-zealous policing instead of creating a deterrent. Therefore, we submit that financial disincentive requirements should be simplified and capped at Rs. 5000 per TSPs.**
18. Further, as mentioned before, Action taken report should not be required in case of no actionable observations or in cases where action has been taken and recorded in audit report.

**VI. Regulation 13. Retention of records–**

19. The Regulation mandates that the records pertaining to a financial year, required for compliance of these regulations should be preserved for two years after completion of the financial year, subject to the period prescribed in respective license. **We understand that the period prescribed in the license will be the upper limit for preserving the records. We request the Authority to clarify and submit that the record keeping requirements should not exceed 2 years in any case.**

**VII. Code of Practice for Metering and Billing Accuracy**

**1. Information relating to tariffs**



20. The Code requires that a subscriber should be informed of applicable tariffs, applicable regulations and directions, provisions regarding VAS services etc. **The Code also notes that tariff information should be available on TSPs website, mobile App and TRAI's tariff portal.**
  
21. We submit that while all this information is already being provided to the customers, however, in line with the digitization and ever-increasing prevalence of eSIM in the country, **we reiterate that all this requirement should not be mandated to be provided physically to a customer through Start up Kit or tariff enrolment form and the TSPs should be permitted to share all this information through SMS on registered mobile number and/or e-mail.**