

No. 310-7(2)/2004-Eco.
Dated: 18th February 2005

Mr. Narender Gupta,
Chief -Regulatory Affairs,
Bharti Cellular Ltd.,
Qutab Ambience (at Qutab Minar),
H-5/12, Mehrauli Road,
New Delhi - 110 030.

Subject: Directive under Section 13 read with Section 11(1)(b) of the TRAI Act 1997 - Levy of migration fee by Bharti Cellular Limited (Airtel) in contravention of the provisions of Telecommunication Tariff Order, 1999.

Sir,

The Authority in exercise of the powers conferred upon it under Section 13 read with section 11(1)(b) of the TRAI (Amendment) Act 2000 had issued the following Directions to M/s Bharti Cellular Ltd. (Airtel) on 26/10/2004.

- i) It shall stop the levy of Rs.50/- and Rs.200/- in the case of prepaid and postpaid customers respectively as reported to TRAI vide their letters dated 31/8/04 and 1/9/04; and
- ii) It shall refund the said one time charge levied from the existing customers since the launch of the new tariff plans by M/s Bharti Cellular Ltd. and report compliance to the Authority within 15 days from the issue of this directive; and
- iii) In the process of refund M/s Bharti Cellular Ltd. shall give wide publicity in the media-newspapers and its own websites - so as to enable all the customers to avail the benefit of refund ordered by the TRAI.

2. M/s Bharti Cellular Ltd. filed the compliance report on 15/11/2004 and furnished detailed information/clarifications on the refund process vide letters dated 24/12/2004 and 28/1/2005. The various submissions made by Airtel are summarized below:-

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- a) A total amount of Rs.34, 91,62,957 has been refunded to 48,32,310 postpaid and prepaid subscribers across 16 service areas of Airtel.
- b) 164 postpaid customers and 1,15,488 prepaid customers in 12 service areas have not been provided with the refund.
- c) The customers who have not been given refund are the customers who have left the Airtel network. Airtel is going to list all such subscribers on their website and they can claim the refund after rejoining the network.
- d) Airtel has given a press release on 26/10/2004 in which it was stated that they are going to comply with the Directive of TRAI.

3. The Authority has carefully considered the submissions of M/s Bharti Cellular Ltd. and arrived at the conclusion that the compliance of the Airtel with respect to part ii) and part iii) of the Directive dated 26/10/2004 are incomplete for the following reasons.

- i) 1,15,652 customers who had left the Airtel network are yet to be provided with the refund and Airtel has not taken any steps to reach out to these customers eligible for refund by way of media advertisements or through addresses of the individual customers given at the time of subscription.
- ii) In the case of above eligible customers, the service provider has made the refund conditional by urging them to rejoin the network if they want to claim the refund. Such a condition is unreasonable since the subscriber has the right to recover the one time fee charged by Airtel in violation of the orders of the Authority, irrespective of whether they left the network or continue to remain with it.
- iii) Apart from the press release issued on 26/10/2004, Airtel has not taken any steps to give wide publicity in the media/newspapers for the benefit of the subscribers.
- iv) The Authority has also taken note of the fact that in the press release M/s Bharti Cellular Ltd. has tried to contest/criticize the decision of the Authority instead of providing useful information to the customers to facilitate the process of refund. The service provider shall take note of the fact that Refund Order was issued by the Authority after giving due consideration to each and every submissions made by it and hence the contents of the Press Release issued by M/s. Bharti Cellular Ltd are not in good taste.

4. Therefore, the Authority in exercise of the powers conferred upon it under Section 13 read with Section 11(1)(b) of the TRAI (Amendment) Act 2000 hereby further directs M/s Bharti Cellular Ltd. that:

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- a) M/s Bharti Cellular Ltd. shall give wide publicity in the media/newspapers so as to enable the customers to avail the benefit of the refund and the refund shall be offered to the customers unconditionally without any pre-requisite that they should rejoin the Airtel network for claiming the refund.
- b) Advertisement shall be published in at least one national daily and one vernacular daily in each of the 12 licensed areas where refund process is still incomplete” and such advertisement shall be specifically intended to extend the refund to the eligible customers and shall not be critical of the refund orders.
- c) The subscribers eligible shall be given a reasonable time (one month from the date of Advertisement) to claim the refund.

5. M/s Bharti Cellular Ltd. is further directed to report compliance of the above along with copies of Advertisements within 7 days from the date of receipt of this Directive.

Yours faithfully,

**(M. KANNAN)
ADVISOR (ECONOMIC)
Tel. No. 26160752**