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PART III, SECTION 4

**TELECOM REGULATORY AUTHORITY OF INDIA  
NOTIFICATION**

New Delhi, the August, 2012

No. 116-15/2012-MN----- In exercise of the powers conferred by sub-section (1) of section 36, read with sub-clauses (i), (iii) 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 to further amend the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009), namely:-

**TELECOMMUNICATION MOBILE NUMBER PORTABILITY  
(FOURTH AMENDMENT) REGULATIONS, 2012**

(----- OF 2012)

1. (1) These regulations may be called the Telecommunication Mobile Number Portability (Fourth Amendment) Regulations, 2012.  
  
(2) They shall come into force sixty days from the date of publication in the Official Gazette.
2. After chapter III of the Telecommunication Mobile Number Portability Regulations, 2009 ( 8 of 2009), the following chapter be inserted, namely;-

**“CHAPTER III A  
FINANCIAL DISINCENTIVES FOR CONTRAVENTION OF THE  
PROVISIONS OF THE REGULATIONS**

17 A – Consequence of failure for non-compliance of the provisions of the regulations:-

- (1) If any service provider contravenes the provisions of sub-regulation (6) of regulation 8 or regulation 10 or sub-regulation (4) of regulation 11 or sub-regulation(6) of regulation 11, it shall, without prejudice to the terms and conditions of its licence or the provisions of the Act or rules or regulations or

orders made, or, directions issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding five thousand rupees for each contravention, as the Authority may, by order direct:

Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the service provider has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.

- (2) If any service provider contravenes the provisions of regulation 12, it shall, without prejudice to the terms and conditions of its licence or the provisions of the Act or rules or regulations or orders made, or, direction issued, thereunder, be liable to pay amount, by way of financial disincentive not exceeding ten thousand rupees for each wrongful rejection of the request for porting, as the Authority may, by order direct:

Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the service provider has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.”

(Rajeev Agrawal)  
SECRETARY

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, part III, section 4 vide notification No. 116-4/2009-MN (Vol.II) dated 23<sup>rd</sup> Sept. 2009 and amended vide:

- (i) Notification no. 116-1/2010 dated 28<sup>th</sup> January, 2010 ( 1 of 2010)
- (ii) Notification no. 116-1/2010 dated 24<sup>th</sup> November, 2010 (5 of 2010)
- (iii) Notificatiion no. 116-5/2012 dated 8<sup>th</sup> June, 2012 (16 of 2012)

Note 2: The Explanatory Memorandum explains the objects and reasons of these regulations.

**Explanatory Memorandum**

The Telecom Regulatory Authority of India issued the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009) dated 23<sup>rd</sup> September, 2009 laying down the basic business process framework for implementation of mobile number portability in the country. The regulation 6,7,8,9,10,11,12 and 13 of the regulations came into effect in all telecom service areas in the country from 20<sup>th</sup> January 2011 through the Authority's direction dated 18<sup>th</sup> January, 2011.

2. In the aforesaid regulations, provisions have been made for an Access Provider, acting as a Donor Operator, to reject a porting request under the grounds mentioned in regulation 12 of the regulations.

3. After implementation of the MNP Regulations, the Authority had received a number of complaints wherein the subscribers have reported that their porting request have been rejected by the donor operators on frivolous reasons. In order to ascertain whether the porting requests are being rejected correctly and as per the provisions of regulation 12 of the regulations, the Authority sought supporting documents from the concerned Access Providers who have rejected porting requests under categories such as 'UPC mis-match', 'contractual obligation', 'less than 90 days from the date of activation of new connection' and 'outstanding payment due'. In a number of cases, the Authority noted that the Access Provider, acting as Donor Operator, could not furnish satisfactory evidence to establish that the rejection of the porting requests of the subscribers done by them were in accordance with the regulation 12. Accordingly, the Authority issued show cause notices to some of the Access Providers.

4. Further, in the regulations, the Authority specified timelines for various activities for the porting process. While reviewing the progress of MNP, the Authority noted that deviations are taking place in the timelines specified by the Authority.

5. The Authority observed that the wrongful rejections of porting requests by Access providers and the deviations in adhering to the timelines prescribed in the MNP regulations, is causing inconvenience to the customer and also resulting in number of consumer complaints.

6. In order to ensure compliance of MNP regulations by Access Providers, the Authority has decided to amend the regulations to incorporate provisions for levying financial disincentives. The following key provisions have been made in the MNP Regulations:-

- a) In the cases where contravention is established in rejection of porting request for an Access Provider acting as Donor Operator, a financial disincentive of an amount of Rs.10,000/- will be levied for each rejection.
- b) In the cases where contravention of regulation is established in the timelines specified in regulation 8(6), 10, 11(4) or 11(6), a financial disincentive of Rs.5,000/- will be levied for each contravention.

7. Before reaching to a conclusion about contravention and imposing the financial disincentives the Authority shall give a reasonable opportunity to the concerned Access Provider to represent before the Authority.

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