

New Delhi, the 23rd August, 2007

DIRECTION

Sub : Amendment to the Direction No.301-49/2005-Eco. dated the 16th September, 2005 issued under section 13 of the Telecom Regulatory Authority of India Act, 1997 relating to Tariff plans with misleading titles.

F.No. 301-49/2005-Eco ----- Whereas the Telecom Regulatory Authority of India, established under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) [hereinafter referred to as the Authority] had, in exercise of the powers conferred upon the Telecom Regulatory Authority of India under section 13, read with sub-clauses (i) and (v) of clause (b) and clause (d) of sub-section (1) and sub-section (2) of section 11 and sub-section (4) of section 12 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), issued the Direction F.No.301-49/2005-Eco. dated the 16th September, 2005, [appended as Annexure-I to this Direction and hereinafter referred to as the Tariff Direction] directing, *inter alia*, in subparagraph (ii) of para 4 of the said Tariff Direction, that all monthly fixed recurring charges which are compulsory for a subscriber under any given plan shall be shown under one head and this should also include charges for Value Added Services like CLIP, if such Value Added Services are not optional for the subscriber;

2. And whereas the Authority had, in exercise of the powers conferred upon it under section 13, 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), issued the Direction F.No. 305-8/2004-QOS dated the 3rd May, 2005, [appended as Annexure-II to this Direction, and hereinafter referred to as the QOS Direction] directing all Cellular Mobile Service Providers and Unified Access Service Providers that no chargeable value added service shall be provided to a customer without his explicit consent and that any value added service, which was earlier being provided

free of charge, shall not be made chargeable without the explicit consent of the customer;

3. And whereas Caller Line Identity Presentation (herein after referred to as CLIP) is a value added service offered by service providers which provides the calling users the number, with additional address information (e.g. calling party sub-address) if any, to the called user and most of the service providers in telecom sector are providing CLIP facility to the subscribers free of charge;

4. And whereas it has been noticed by the Authority that certain service providers (a) in cases where the CLIP facility is made chargeable, give an option to their subscribers to subscribe to the CLIP facility and (b) in certain postpaid tariff plans offered by service providers, the CLIP facility has been made a compulsory chargeable value added service;

5. And whereas the Authority has received representations from certain consumers and consumer organizations for (a) charging very high amount in respect of the CLIP facility provided by certain service providers while other service providers do not charge in respect of the CLIP facility provided by them and (b) wide variation in the amounts being charged in respect of the CLIP facility provided by the service providers;

6. And whereas the Authority, with a view to consider the necessity of regulating CLIP charges, reviewed various aspects of CLIP facility provided by the service providers (including the charging therefor) and noted the following, namely:- –

- (a) the information relating to the Caller Line Identity (hereinafter referred to as CLI) is transmitted to the called party's network irrespective of whether the CLI is made available to the called subscriber and the mobile networks send the CLI to the called subscriber over the control panel;
- (b) no significant amount of work is involved in presenting the information relating to the Caller Line Identity to the called subscriber and the incremental cost involved in providing CLIP facility is negligible;

7. And whereas the Authority, though refrains from mandating a cost based charge for CLIP facility keeping in line with the policy of ‘light touch’ regulation and tariff forbearance, in order to protect the interest of consumers, considers it necessary to re-emphasize the need for enhanced transparency with regard to charging for CLI facility;

8. And whereas the Authority, in view of the Direction F.No. 301-49/2005-Eco. dated the 16th September, 2005 referred to in paragraph 1 and the Direction F.No. 305-8/2004-QOS dated the 3rd May, 2005 referred to in paragraph 2 above, is of the opinion that there is no justification for making ‘CLIP’ facility compulsory for the subscriber as a separate item of charge and, accordingly, with a view to further enhance the transparency for the subscriber, the Authority has decided that (a) there shall not be any separate compulsory charge for CLIP services, and, whenever charge for CLIP services are levied by any service provider, such service provider shall give an option to the subscribers to be exercised by him in writing or by any electronic means and charge for CLIP services only in case the subscriber opts to avail the CLIP services, (b) all tariff plans reported to the Authority or launched in the market after issue of this Direction shall comply with the provisions of the earlier Direction as modified by this Direction and (c) all telecom service providers shall restructure, within fifteen days of issue of this Direction, all existing tariff plans so as to make them in conformity with the provisions of the earlier Direction as modified by this Direction ;

9. Now, therefore, in exercise of the powers conferred upon the Telecom Regulatory Authority of India under section 13, read with sub-clauses (i) and (v) of clause (b) and clause (d) of sub-section (1) and sub-section (2) of section 11 and sub-section (4) of section 12 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), and for the reasons mentioned in the foregoing paragraphs 5 to 8, the Telecom Regulatory Authority of India hereby makes the following modifications in its Direction F.No. 301-49/2005-Eco. dated the 16th September, 2005, namely:-

In paragraph 4 of the said Direction,---

- (a) in sub-paragraph (ii), the words “like CLIP” shall be omitted;
- (b) after sub-paragraph (ii), the following sub-paragraphs shall be inserted, namely:-

“(iii) Charges for CLIP facility cannot be made a compulsory item of tariff for the subscribers in any tariff plan. Whenever CLIP charges are sought to be levied by Service Providers, this shall be optional for subscribers.

(iv) all tariff plans reported to the Authority or launched in the market, after issue of the Direction No. 301-49/2005-Eco. dated 23rd August, 2007, shall comply with the provisions of sub-paragraph (iii) of paragraph 4 of the Tariff Direction dated the 16th September, 2005;

(v) all telecom service providers shall restructure, within fifteen days of issue of the Direction No.301-49/2005-Eco. dated 23rd August, 2007, all existing tariff plans so as to make them in conformity with the provisions of sub-paragraph (iii) of paragraph 4 of the said Direction”.

(M. Kannan)
Advisor (Eco)

To

All Access Service Providers
(As per list attached)

Dated: 16th September 2005

To:

All Telecom Service Providers.
(As per list attached).

Subject: Direction under Section 13 read with Sections 11(1)(b)(i) & (v), 11(1)(d), 11(2) and 12(4) of TRAI Act – Tariff plans with misleading titles.

It has been observed that the titles and various charging components of a number of tariff plans offered by telecom service providers lack transparency for the subscribers and are misleading. For example, there are tariff plans with the title 'Zero Rental' which gives the impression to the subscriber that there is no fixed monthly charges applicable under these plans. However, it is seen that these plans do have monthly fixed charges which are levied either explicitly under the head 'Monthly Rental' or under different nomenclature like 'Monthly Plan Fee', 'Club Membership Fee' etc. The Authority is of the view that titles of tariff plans which are of misleading nature or having the potential to mislead the subscribers will be considered as lacking in transparency and the service providers should be prohibited from offering such plans. Illustrative examples of such titles which are not exhaustive, are given below:

- 'Zero Rental'.
- 'ZR 399'.
- 'Zero Rental (six months)'
- 'Rental Free'
- 'NJ 299 Zero Rental Plan'
- 'Do More 399 ZR Plan'

2. Since all the above titles give indication of absence of Monthly Fixed Charges under the plan, it is essential from transparency point of view that such plans do not carry any mandatory Fixed Charge not linked to usage, in any form whatsoever. Similarly, plans the titles of which suggest unlimited usage will be treated as misleading in situations where the features of the plan put restriction in any manner on the usage. Any tariff plan or its title which is offered, presented, marketed or advertised in a manner that is likely to mislead the subscribers, would attract regulatory intervention. The operators, however, shall continue to have the flexibility to offer tariff plans with varying combinations of fixed recurring charges and usage

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charges provided they are not misrepresented to the subscriber. There is also no bar in offering tariff plans without monthly fixed charges or unlimited usage plans with a fixed monthly fee or plans with a minimum commitment of usage provided they are not misrepresented to the subscriber.

3. One other aspect which has the potential of misleading a subscriber is levy of monthly fixed charges under different charging heads. Thus, a post paid tariff plan may have monthly plan fee, club membership fee and monthly commitment charges etc. in addition to Monthly Rental. For the purpose of clarity, it would be appropriate to convey all compulsory fixed charges not linked to usage under one head. This could be shown as monthly fixed charges, monthly rental or any other similar single title. The idea is to convey to the subscriber in a transparent manner, the fixed monthly charges payable under the plan. When such charges are clubbed under one head, it would be easy for the subscriber to make a choice from among all tariff plans available in the market.

4. The Authority, therefore, in exercise of the powers conferred upon it under section 13 read with section 11(1)(b)(i) & (v), section 11(1)(d), section 11(2) and 12(4) of TRAI Act and clauses 7 & 9 of The Telecommunication Tariff Order, 1999 directs All Telecom Service Providers as follows:

- i) No tariff plan shall be offered, presented, marketed or advertised in a manner that is likely to mislead the subscribers. For example, title of a tariff plan which suggests absence of Rental would be misleading if the plan has Monthly Mandatory Fixed Charge in one form or other.
- ii) All monthly fixed recurring charges which are compulsory for a subscriber under any given plan shall be shown under one head. This should also include charges for Value Added Services like CLIP, if such Value Added Services are not optional for the subscriber.

5. All tariff plans reported to the Authority or launched in the market shall comply with the above Directions. The operators shall also restructure titles and the content of existing tariff plans so as to make them consistent with the above Directions within 15 days of issue of this Direction.

(M. KANNAN)
ADVISOR (ECO.)

F.No.305-8/2004-QOS
Telecom Regulatory Authority of India
A-2/14, Safdarjung Enclave, New Delhi – 110 029

Annexure-II

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Dated 3rd May, 2005

To

All Cellular Mobile Service Providers
All Unified Access Service Providers

Subject: Direction on Value Added Services.

1. The Authority has noted a number of instances where consumers are charged value added services without explicit consent of the customer. One such instance is that at the time of launch of any new Value Added Service, the customer is given the service free during a certain trial period. Subsequently, after the expiry of the trial period, the consumer is informed usually by SMS, that if he does not want the service, he should "unsubscribe" by sending a SMS to the service provider.

2. Thus in such cases, the burden of informing the service provider, not to have that service once it has become chargeable, is put on the customer. There could be a possibility that in case the customer misses the SMS/ communication due to any reason, he starts getting charged without his knowledge and concurrence. This amounts to offering value added service without the explicit consent of the customer.

3. Keeping in view the above and in the interests of the consumers, the Authority in exercise of the power conferred upon it under Section 13 read with Section 11(1)(b)(i) and (v) of the Telecom Regulatory Authority of India Act, 1997 and clause 11 of the Telecommunication Tariff Order 1999 hereby directs all the Cellular Mobile Service Providers and Unified Access Service Providers that no chargeable value added service, shall be provided to a customer without his explicit consent. Any value added service, which was earlier being provided free of charge, shall not be made chargeable without the explicit consent of the customer.

This issues with the approval of the Authority.

(Sudhir Gupta)
Advisor (QOS)