

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

NEW DELHI, THE 7th August, 2015

**TELECOM CONSUMERS PROTECTION (EIGHTH AMENDMENT)
REGULATIONS, 2015 (5 OF 2015)**

No. 308-1/2015-QoS -----In exercise of the powers conferred by section 36, 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), the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Telecom Consumers Protection Regulations, 2012 (2 of 2012), namely:-

1. (1) These regulations may be called the Telecom Consumers Protection (Eighth Amendment) Regulations, 2015.
 - (2) (a) Regulation 10A of these regulations shall come into force on the 1st day of November, 2015.
 - (b) Regulation 10B of these regulations shall come into force on the 1st day of September, 2015.
2. In Chapter III of the Telecom Consumers Protection Regulations, 2012 (2 of 2012) (hereinafter referred to as the principal regulations), after regulation 10, the following regulation shall be inserted, namely:-

“10A.Information to consumers on data usage---- (1) Every service provider shall, through SMS or USSD, provide to all consumers of the Cellular Mobile Telephone Service on whose mobile phone data services are activated, except those consumers who have availed data service through special tariff vouchers or combo vouchers or add-on pack or under a tariff plan which provides for free or discounted tariff in the tariff plan for usage of data upto a certain limit, after every ten megabytes of data used by the consumer, the quantum of data used during a session:

Provided that there shall be no obligation on the service provider to provide the quantum of data used during a session, if the consumer opts not to receive such information by sending an SMS “NO INFO” to short code 1925.

Explanation: I -Discounted tariff means the rate for data service which is lower than the regular tariff for such service in the plan applicable to the consumer.

Explanation: II - Add-on-pack is an offer which on subscription by the post paid consumer, alters one or more items of the tariff plan.

(2) Every service provider shall, through SMS or USSD, provide to all consumers of the Cellular Mobile Telephone Service, who have availed data service through Special Tariff Voucher or Combo Voucher or add-on pack or under a tariff plan which provides for free or discounted tariff for usage of data upto a certain limit, an alert each time, immediately, -

(a) on consumption of –

(i) fifty percent of data;

(ii) ninety percent of data; and

(iii) one hundred percent of data, -

available in the account of the consumer; or

(b) when the quantum of data available in the account of the consumer reaches-

(i) five hundred megabytes;

(ii) one hundred megabytes; and

(iii) ten megabytes.

(3) After the consumer, referred to in sub-regulation (2), has consumed ninety percent of the data or the quantum of data available in his account reaches ten megabytes, the service provider shall provide to the consumer, through SMS or USSD, the details of tariff applicable on usage of data beyond the quantum of data available in the account of the consumer.

(4) Every service provider shall, through SMS or USSD, provide to all consumers of the Cellular Mobile Telephone Service, having international roaming facility on their mobile connection, an alert, immediately after the consumer roams outside the territory of India, advising the consumer to deactivate the data services in his mobile phone if he does not intend to use data services while roaming outside the country.

10B. Activation or deactivation of data services-----(1) No service provider shall activate or deactivate the data service on the Cellular Mobile Telephone connection of a consumer without his explicit consent:

Provided that nothing contained in this sub-regulation shall apply for usage of data service through Special Tariff Voucher or Combo Voucher or add-on pack till the expiry of the validity period of such voucher or add-on pack, or on consumption of entire data by the consumer, whichever is earlier.

(2) Every Cellular Mobile Telephone Service provider shall provide toll free short code 1925 for receiving request of the consumer for activation and deactivation of data service.

(3) The request and consent of the consumer for activation or deactivation of data service shall be obtained in accordance with the procedure specified in Schedule-III.

(4) Every Cellular Mobile Telephone service provider shall send an SMS to the consumer, on whose Cellular Mobile Telephone connection the data service is activated, within thirty days from first day of September two thousand and fifteen and at periodic interval not exceeding six months, informing him about the procedure for deactivation of data service specified in Schedule-III.”

3. In the principal regulations, after Schedule-II, Schedule-III shall be inserted.

(N. Parameswaran)
Secretary-in-charge

Note.1.—The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 6th January, 2012 vide notification number No.308-5/2011-QOS dated the 6th January, 2012.

Note.2.—The principal regulations were amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 11th January, 2012.

Note.3.—The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21st February, 2012.

Note.4. –The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 7th March, 2012.

Note.5. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 22nd October, 2012.

Note.6. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 27th November, 2012.

Note.7. –The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21st February, 2013.

Note.8. –The principal regulations were further amended vide Notification No.308-3/2013-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 3rd December, 2013.

Note.9. –The Explanatory Memorandum explains the objects and reasons of the Telecom Consumers Protection (Eighth Amendment) Regulations, 2015 (5 of 2015).

SCHEDULE - III

Procedure for activation or deactivation of data services on request of the consumer through Interactive Voice Response (IVR) and SMS to toll free common short code 1925 under regulation 10B.

(a) Through Interactive Voice Response (IVR):

Step – 1. On receipt of request from the consumer through IVR, the service provider shall provide to the consumer, over the recorded IVR, the choice of language for interaction, which shall be in English, Hindi and in the regional language;

Step – 2. The consumer is given an option to select the activation or deactivation of data service by pressing the appropriate key for the service to be activated or deactivated;

Step – 3. On pressing the appropriate key, an SMS shall be delivered to the consumer informing him that his request has been received and the service shall be activated or deactivated, as the case may be, within four hours and that he shall receive an SMS confirming action taken on his request;

Step – 4. In case the consumer presses an inappropriate key in step-3, IVR shall inform the consumer that the key pressed is wrong and the procedure listed at step-1 to step-3 shall be repeated;

Step – 5. In case the consumer again presses an inappropriate key in step-4, IVR shall inform that the key pressed is wrong and the call shall be transferred to a call centre agent who shall record the request of the consumer for activation or deactivation of data service, as the case may be, and shall inform the consumer that the service shall be activated or deactivated and that he shall receive an SMS confirming action taken on his request;

Step – 6. In case any key is not pressed for 10 seconds in step-2, the consumer shall be given an option advising him to press 0 to repeat, press 9 to connect to a call-center agent;

Step – 7. On pressing '9' in step-6, the call shall be transferred to a call centre agent who shall take the request of the consumer for activation or deactivation of data service, as the case may be, and shall inform the consumer that the service shall be activated or deactivated within four hours and he shall receive a SMS confirming action taken on his request;

Step – 8. An SMS shall be sent to the consumer, immediately after activation or deactivation of the service, as the case may be, informing him about the successful activation or deactivation of the service.

(b) Through SMS:

Step – 1. On receipt of a request on short code 1925 from the consumer to activate or deactivate data service, the consumer is informed through SMS to send “START” to 1925 for activation of data service and “STOP” to 1925 for deactivation of data service;

Step – 2. In case of receipt of an incorrect response from the consumer, an SMS shall be sent to the consumer advising him to send through SMS “START” to 1925 for activation of data service and “STOP” to 1925 for deactivation of data service;

Step – 3. On receipt of the request through SMS in step-1 or step-2, an SMS shall be delivered to the consumer informing him that the request to activate or deactivate the requested data service, as the case may be, has been received and the service shall be activated or deactivated within four hours and that he shall receive an SMS confirming action taken on his request;

Step – 4. An SMS shall be sent to the consumer, immediately after activation or deactivation of the service, as the case may be, informing him about the successful activation or deactivation of the service.

Explanatory Memorandum

TRAI had issued the Telecom Consumers Protection Regulations, 2012 on 6th January, 2012 to address the concerns of consumers relating to transparency in tariff offers, transparency in the provision of information relating to activation of vouchers, usage, tariff plan subscribed etc. These regulations were amended seven times in the past to address new issues affecting the interest of consumers.

2. Recently TRAI has been receiving several complaints from consumers relating to charging for data services. These complaints mainly relate to the following:

- (1) Non-availability of information relating to data usage. In many cases the customer knows about it only after the balance is exhausted.
- (2) Non-availability of information to consumers whenever the data pack is exhausted or when the quantum of concessional or discounted tariff in a plan is exhausted and for further usage the customer is charged at the default tariff for data.
- (3) Non-availability of information to roaming consumers to other countries about the tariff for using data on roaming and information relating to usage.
- (4) Activation of internet service on mobile phones without the explicit consent of the consumer and deduction of charges for data usage at periodic intervals.

3. Presently the data service is pre-activated with every mobile connection and the moment the connection is activated the data services are also activated. Currently, the use of smart phones in India is increasing rapidly along with the use of data because of availability of various applications and content. These smart phones are loaded with lot of applications which require regular updation using data services. Also a lot of location based services are available on these phones which constantly use data for updation. Unless the consumer sets the mobile data off in the handset, data is regularly used for these activities. In many cases a consumer does require data services but is ignorant about the procedure for stopping on his handset. Also in many cases the consumer may not know about such use of data as information is provided only at the end of the session, by which time the entire balance in the account might be consumed. As such, there is a need for making suitable provisions for taking the explicit consent of the consumer for activation of data services and deactivation of data services.

4. Prepaid consumers, who are regularly using data services, generally subscribe to data packs, which could be Special Tariff Voucher (STV) or Combo Voucher, which provide for concessional tariff of data services upto a certain limit. In case of post-paid connections, some of the tariff plans also have concessional tariff for data upto certain limit. Also post-paid consumers who use data services may subscribe to add-on packs for data. In many cases the user does not know when this limit has reached since the consumer may be continuously using data services and charged for data services beyond the limit provided in STV or Combo Voucher or Tariff Plan, at the default rate of the tariff plan subscribed by him and the consumer gets a bill shock. In many cases it is observed that the default rate of tariff plan is substantially higher than the tariff under the STV or Combo Voucher or concessional tariff provided in the tariff plan. As such, there is a need to alert the consumer when the usage reaches a certain limit and also when the said limit is reached. Any usage beyond the limit should be with the knowledge of the consumer.

5. TRAI has also received complaints from consumers who had gone on international roaming about huge charges levied for data services and they had no knowledge about such usage and charges while on roaming. Since the charges for data on roaming is substantially higher, it is felt that the consumer should be advised to set the data services off in the handset in case they do not want to use data services.

6. Considering the above, a draft Telecom Consumers Protection (Eighth Amendment) Regulations, 2015 was released for public consultation on 29th April, 2015. The last date for receiving comments was 12.5.2015, which was extended by two weeks upto 26.5.2015. The various issues for consultation are discussed below:-

7. Provision of information about quantum of data used, after every 5000 kilobytes of data usage, to mobile consumers who are not using any data pack:

7.1 The existing regulations already provide for provision of information to prepaid customers relating to quantum of data used, charges and balance in the account at the end of every data session. Postpaid consumers should also have information about the usage. The summary of main comments received from various stakeholders are:-

- a) One of the service provider association opined that operators may be allowed the option of giving the information about usage and charges at the end of every data session or the option to send an SMS/USSD after every 5 MB of data used, the quantum of data used during the billing cycle and tariff. However for prepaid consumers, the quantum of data used since the last alert and tariff of data used.

- b) Some of the stakeholders including some service providers agreed that an SMS/USSD alert may be sent after every 5MB of data used, about the quantum of data used and charges for the same and also the customer will be prompted to opt for data. However, some suggested a few modifications that for prepaid consumers alert will be given after 5 MB as they are low data consumers and for postpaid consumers alert will be given after 25 MB as sending alert after 5MB for 3G and 4G consumers will give a poor customer experience. One of the service provider, however, requested for time for implementation of the provision.
- c) Some of the other stakeholders were not in support of sending such notifications after 5 MB of usage as they were of the opinion that end of session notification would be sufficient. Also in 3G/4G, there will be frequent notification because of heavy data usage and this will create to customer dissatisfaction apart from putting significant additional load on billing platform, SMSC and radio network resources.

7.2 As per the existing provisions of the regulations the prepaid consumers using data services are provided information, at the end of the session, about quantum of data usage, charges deducted and the balance in the account. These provisions of the regulations will continue to be in force. However, in the case of long data sessions, the session may cost substantially to the consumer. Therefore, there is a need to alert the consumer, who has not taken any data pack or add-on pack or does not have any free or discounted tariff for usage of data under a tariff plan, about his usage at periodic intervals during the session for such long data session. Such alerts will be sent to post-paid consumers also so that they could manage their account prudently. Earlier it was proposed to mandate provision of information during the session, after periodic intervals, about usage as well as charges. However, considering the submission of some of the service providers, the Authority decided not to mandate provision of information relating to charges during the data session. Accordingly, the Authority has prescribed that in case of those consumers who have not taken any data pack- STVs or Combo or add-on packs, information about quantum of data used during the session, should be given to such consumers during data session after every 10000 kilobytes (10 MB) of data. For example, if a consumer has used 12000 kilobytes of data in a session, he should be given information after consuming 10000 kilobytes and at the end of the session after consuming 12000 kilobytes. The information given at 10000 kilobytes and 12000 kilobytes should be cumulative.

8. Provision of information to mobile consumers who are using data pack, through SMS/USSD, about quantum of data used after consumption of 50% of data, 90% of data and 100% of data. Also after 90% usage, provision of information about the applicable tariff after exhausting the said pack:

8.1 The above proposal was for protecting the interest of consumers who are using data packs through STV or Combo Voucher or add on pack. The summary of comments received from various stakeholders were:-

- a) Most of the stakeholders were broadly in agreement with the proposal. One service provider association opined that operators may be either allowed the option that an alert may be sent when the balance in customer's account approaches the data usage quota (eg. at 50MB, 30 MB etc.) or an alert at 80% data usage and 100% data usage as per existing direction.
- b) Some of the service providers opined that for post-paid customers an alert at 50%, 90% and 100% could be implemented and also prompting the customer to opt for a new pack. However, for prepaid customers, since they may have opted for multiple data pack an alert may be sent when the balance in customer's account approaches the data usage quota (eg. at 50MB, 30 MB etc.)
- c) One service provider opined that the existing practice of giving the information after data session may be sufficient.

8.2 In the case of consumers who have taken data pack such as STV or Combo Voucher or add-on pack or if the tariff plan provides for free or discounted tariff for data usage upto a certain limit, an alert should be given to such consumers each time immediately after consumption of 50%, 90% and 100% of data limit in such data pack or tariff plan. Since most of the stakeholders were in agreement and taking into consideration the submission of some of the service providers, the Authority has also provided an alternative provision for giving such alert when the quantum of balance data available reaches 500 megabytes, 100 megabytes and 10 megabytes.

8.3 Further after consumption of ninety percent of data or when his account reaches ten megabytes, the details of tariff applicable on usage of data beyond the quantum of data available in the account of the consumer should also be communicated.

8.4 For example, a prepaid consumer has taken a data pack providing for 800 megabytes valid for 30 days or a postpaid consumer with a tariff plan offering free usage of data upto 800 megabytes. The alert should be given at 400 megabytes, 720 megabytes and after exhausting 800 megabytes. Alternatively the alerts can be given when the balance data available reaches 500 megabytes, 100 megabytes and 10 megabytes. Also when the limit reaches 720 megabytes or balance reaches 10 megabytes, as the case may be, in addition to the alert, details of tariff applicable on usage of data beyond the data limit should also be communicated.

9. Provision of alert to international roaming customers about deactivation of data service in mobile phone:

9.1 This proposal for provision of alert to international roaming customers was to caution them to 'switch off' data in their handset in case they do not intend to use data service as the charges for data in international roaming is substantially high. All the stakeholders have agreed that alerts can be given to international roaming customers. Hence the Authority has accordingly mandated provision of such alerts to international roaming customers.

10. Activation or deactivation of data services:

10.1 Considering the various complaints being received in TRAI about activation of data services and charging for the same even though the customer does not require data services it was proposed that data services should be activated on mobile only with the explicit consent of the customer. It was also proposed that the consent should be taken through toll free short code 1925 in the prescribed manner and the procedure for deactivation should also be conveyed to consumers through SMS at regular intervals. The summary of comments received from stakeholders is given below:-

- a) Most of the service providers and their associations have not supported the proposal for activation of service while supporting re-activation and deactivation of services through the short code. They opined that the current mechanism of deactivation of the data services through short code of 1925 implemented by service providers could give customers, not requiring data services, adequate option to discontinue the services. They also insisted that data services are core service similar to voice and SMSs. Presently customers are not required to activate voice calling and SMS and the same non-discriminatory approach should be exercised for data access.
- b) One of the service provider mentioned that 3G/4G are data centric services and such consumer, therefore must be excluded.
- c) Some other stakeholders including few service providers have agreed with the proposal but sought time for implementation.

10.2 Subsequently, at the request of Cellular Operators Association of India, a meeting was held in TRAI on 12th June, 2015 with the representatives of Industry Associations and their member service providers to discuss the draft proposals.

10.3 After considering the views of stakeholders, including discussions with the service providers and industry associations, and the interest of consumers, the

Authority decided to mandate the service providers to take the explicit consent of the consumer before activating data services, because of various complaints from the consumers that data services are being activated without their consent. However, considering the views of service providers, the Authority decided that those consumers taking data packs such as STV or Combo Voucher or add-on pack will be deemed to have given their consent for data services. Such consent will be deemed to be only for the duration of validity of data pack or on exhausting the data limit, whichever is earlier. For example, a consumer has taken a data pack of 500 megabytes valid for 30 days and consumes the pack within 20 days. The data in his mobile should be deactivated after 20 days. At the request of TRAI, Department of Telecommunications has also allotted toll free short code 1925 for activation/ deactivation of data services. The Authority has also decided to prescribe the procedure for obtaining the explicit consent of the consumer for activation/ deactivation of data service so that there is no ambiguity or dispute about the consent for data services. Further, for the benefit of consumers, the Authority has mandated that the service providers should inform the customer periodically about the procedure for activation / deactivation of data.

10.4 For activation of data services for consumers with data only connection, the existing prescribed procedure for CAF verification can also be followed, with explicit consent through 1925.