



VIL/LT/12-13/101
25 September 2012

Telecom Regulatory Authority of India
MTNL Telephone Exchange Building,
Jawahar Lal Nehru Marg, Old Minto Road,
New Delhi - 110 002

Kind Attention : Shri A. Robert J. Ravi, Advisor (QoS)

Subject : Draft second amendment to the Standards of QoS of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009 on financial disincentives

Dear Sir,

This is with reference to the Draft Regulation issued by the Authority on 27th August 2012 on the captioned subject.

We are pleased to submit our comments and views on the "Draft second amendment to the Standards of QoS of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009".

We hope that our submissions will merit your kind consideration.

Thanking you,

Yours sincerely,

For Vodafone India Limited, Vodafone Mobile Services Limited, Vodafone West Limited, Vodafone South Limited, Vodafone Digilink Limited, Vodafone Cellular Limited, Vodafone Spacetel Limited and Vodafone East Limited.

A handwritten signature in blue ink, appearing to read 'Sundeep Kathuria', is located above the typed name.

**Sundeep Kathuria
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Vodafone's response to the draft second amendment to the Standards of QoS of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009 on financial disincentives

1. TRAI's power to impose Financial Disincentives

The Authority has recently notified the amended regulation on TTO & MNP where-in they have introduced the regulation on imposition of Financial disincentives. The Authority has provided their reasons for implementing this regulation in the 'Explanatory Memorandum'. We wish to respectfully submit that we do not agree with the reasoning provided and we therefore maintain that TRAI does not have the power to impose penalties. We would request you to refer to COAI's response on this issue as well.

We understand the intent of the Authority, however, we kindly request for a re-consideration of the proposed amendment so that it is consistent with the provisions of the TRAI Act.

2. Consultation Process

The recent Amendments to MNP & TTO Regulations were notified straight after the Authority received written comments from all stake-holders. No Open House discussion or any other meeting (in person) was held by the Authority which is a key component of any consultative process.

Therefore, we request the Authority to provide all stake-holders an opportunity to be heard in person before the Authority chooses to notify this regulation, whereby all the inputs/ suggestions can be placed before the Authority.

3. Without Prejudice to the above, genuine / minor deviations cannot attract any disincentive.

4. Issues beyond control of Operator

We are of the firm belief that the Quality of our Network & Services is the key differentiator for customers in this highly competitive market. It is our constant endeavor to establish quality networks and customer services. We also have complete respect for the quality parameters and benchmarks established by TRAI through their various regulations. However, despite our best efforts, there are circumstances beyond the control of the operator which make it difficult to achieve the QoS benchmarks. We hereby are giving below a few examples of the conditions that we are operating under :

- (a) Scarcity of the spectrum is the single biggest issue which makes condition difficult and challenging in India vis-à-vis any operator in any other part of the world. It is an established fact that operators in India are operating with an average of less than 6 MHz spectrum (per circle). This is bound to have an effect on the various network parameters and benchmarks. To mitigate this, additional cell-sites have been deployed. However, now, in Dense urban areas, the inter-site distance has become so less that there are issues of inter-site interference and there is no more scope of increasing cell-sites.
- (b) Certain Circles and areas within certain circles are constantly affected by Law & Order issues, activities, thus making it a very difficult for the personnel of the operators to service the BTS sites.
- (c) Extremely poor supply of electricity by the SEB's – No supply/ Poor quality supply. This leads to cell-site outages.

- (d) Site acquisition issues in some specific areas like Delhi's Lutyen's zone, Cantonment areas, Hilly areas, areas under the control of railways, forest land, areas where people protesting against radiation hazards etc. lead to poor coverage. The recent events in Jaipur due to EMF issue are examples.
- (e) Steep traffic increase in the network -Increase in traffic/ congestion due to natural calamity or public emergency situations. Additionally, there is also a spike in the call centre load.
- (f) Rural, remote and hilly areas have additional challenges of poor infrastructure and rampant Diesel thefts.
- (g) Frequent fiber cuts due to road expansions in various service areas.
- (h) Border sites / standalone sites with low call volumes causing TCH drop.

We would further like to submit that as per TRAI Act:

11. Functions of Authority: (1) *Notwithstanding anything contained in the Indian Telegraph Act, 1885 (13 of 1885), the functions of the Authority shall be to –*

(b) discharge the following functions, namely:

.....

(v) lay down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect the interest of the consumers of telecommunication service.

The term 'ensure' means that the Authority will do the needful to enable the licensees meeting the quality of service benchmarks. There are many issues mentioned above, which are not in control of the licensees but where the Authority can help the operators. We have raised issues of RoW, Tower Installation, Local Body permissions etc. many times with the Authority to enable us to meet the given QoS parameters.

This is also in line with the preamble of the TRAI Act i.e. **to protect the interest of the service providers and consumers** of telecommunication services; and (c) to ensure orderly growth of telecom sector. From the reading of the various provisions of TRAI Act, it is clear that protection of the interest of both i.e., the service providers and consumers, has been given paramount importance by the legislature.

Section 11 (1)(b)(v) does not mean levying of financial disincentives.

In view of above, we submit that TRAI should not modify the existing QoS regulations and should not introduce clauses for imposing Financial Disincentives.

5. Calculation methodology employed by Auditors

TRAI has appointed external independent Audit agencies to conduct a sample check of QOS in all circles for all operators. The auditors also cross-check the QoS measured vis-à-vis the data submitted by the operators with the Authority. In case of a difference, it is normally construed as incorrect reporting.

We have quite often come across incidences where-in the Auditor has employed a different methodology to arrive at the final QoS benchmark achieved from the same set of raw/ base data (through which the operator calculated his compliance) leading to different conclusions which cannot be construed as incorrect / false information by service providers.

Under the regime of Financial Disincentives, operators would be levied penalties based on the data provided by the Auditors.

In view of above, we submit that TRAI should not modify the existing QoS regulations and should not introduce clauses for imposing Financial Disincentives.

6. Delay in submission of performance reports

We would like to reiterate that it is our constant endeavor to comply with Quality of Service regulation including timely submission. However, there may be few instances wherein the timelines regarding the said reporting requirements are not met due to inadvertent reasons. We believe that this delay is not such a grave violation that a disincentive may need to be levied.

The submission of reports has no direct bearing on the customer service quality or network quality. We, therefore, see no reason for imposing penalty on such reporting delays.

In view of above, we submit that TRAI should not modify the existing QoS regulations and should not introduce clauses for imposing Financial Disincentives.