



भारतीय दूरसंचार विनियामक प्राधिकरण

महानगर दूरसंचार भवन, जवाहर लाल नेहरू मार्ग,
(पुराना मिनटो रोड), नई दिल्ली-110002

TELECOM REGULATORY AUTHORITY OF INDIA

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(Old Minto Road), New Delhi-110002
Fax : 91-11-23213294

Dated the 24th May, 2011

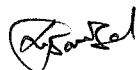
DIRECTION

Subject: Direction under section 13, 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 on rejections of request for porting on the ground of "contractual obligation" and "outstanding payment dues"

No. 116-3/2011-MN ----- Whereas the Telecom Regulatory Authority of India [hereinafter referred to as the Authority], established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) (hereinafter referred to as TRAI Act), has been entrusted with discharge of certain functions, *inter alia*, to regulate the telecommunication services, protect the interests of consumers of the telecom sector, 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 telecommunications service;

2. And whereas 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 TRAI Act, the Authority made the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009) (hereinafter referred to as the regulations);

3. And whereas the Mobile Number Portability has been launched all over the country on 20th January 2011 and the Authority while reviewing the status of its implementation noted that the percentage of rejections of the porting requests of subscriber is very high;
4. And whereas in view of very high rejection rate as mentioned in the preceding para, the Authority, vide its letter dated 4th February, 2011, invited the representatives of all CMTS/UASL, MNP Service Provider and COAI & AUSPI, for a meeting with the Authority on 10th February, 2011 to discuss the operational issues and reasons for rejection of porting request;
5. And whereas during the meeting held on 10th February, 2011, the service providers and their two associations COAI and AUSPI informed the Authority that the main reasons of rejection of porting request are the outstanding amount of the previous bill and the non-compliance of exit clause by the subscriber of his subsisting contractual obligations with the service provider;
6. And whereas during the meeting referred to in the preceding para, the representatives of COAI and AUSPI stated that they would hold consultation with their members and would inform the Authority-
 - (i) about their commitment not to reject the porting request if the outstanding amount in the preceding bill is not more than a certain minimum amount, and
 - (ii) the kinds of contractual obligations under which a porting request can be rejected by the service providers;

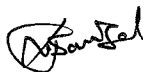


7. And whereas in pursuance of their assurance referred to in the preceding para, COAI & AUSPI have, in a joint letter dated 8th March, 2011, submitted that in their view, rejection on the ground of contractual obligation should be limited to the following:-

- (i) bundled handset offer with a written agreement having exit clause;
- (ii) corporate connection with a contractual agreement having an exit clause;
- (iii) any contractual agreement with a retail customer against any service/premium number with "exit clause", and
- (iv) the prepaid vanity numbers having an exit clause should come under the contractual obligation category of rejections provided that this aspect had been communicated to the customer prior to his porting and there was a contractual agreement with exit clause;

8. And whereas on the issue of outstanding payment dues, COAI and AUSPI have, vide their letter dated 8th March, 2011 suggested that the amount payable by the subscribers may be rounded off to the nearest rupee so that the request of the subscriber for porting of his mobile number is not rejected under the category of "outstanding payment dues" for bills having a component less than a rupee;

9. And whereas the Authority has, while reviewing the status of the implementation of Mobile Number Portability and discussions with the representatives of COAI & AUSPI, noted that in majority of the cases, the rejection of the porting request have been on flimsy grounds such as very nominal outstanding payment due from the previous paid bill of the customer, some kind of arrangement prohibiting the customer from porting etc;



10. And whereas clause (a) of regulation 12 of the regulations provides that a porting request may be rejected if there are outstanding payments due from the subscriber by way of pending bill or bills, as the case may be, issued as per the normal billing cycle but before the date of application for porting;

11. And whereas the Authority is of the opinion that rejection of a porting request for a small amount such as Rs. 0.13, 0.70, 1.50 etc. is against the spirit of the regulations specially when the service provider has liberty to adjust the said outstanding amount in the next bill and such rejection is neither in the interest of subscribers nor in the interest of the service providers as for collection of such a small amount, the service provider has to spend a far higher amount;

12. And whereas clause (h) of regulation 12 of the regulations provides that a porting request may be rejected if there are subsisting contractual obligations in respect of which an exit clause has been provided in the subscriber agreement but the subscriber has not complied with such exit clause;

13. And whereas the Authority is of the view that there is no justification for rejecting a porting request on the ground that premium number or vanity number has been given to the customer as the numbering resource is allocated free of charge by the Licensor, who is the owner of the numbering resource and, therefore, the service providers are not justified in putting any condition for retaining premium numbers/vanity numbers under the garb of contractual obligation;



14. Now therefore, the Authority, in exercise of the powers conferred upon it under section 13, 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) and clauses (a) and (h) of regulation 12 of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009) and to ensure compliance of terms and conditions of license and to protect the interest of consumers, hereby directs all Cellular Mobile Telephone Service Providers and Unified Access Service Providers not to reject a request for porting of a mobile number,--

(a) if the outstanding payment due from the subscriber, in the previous paid bill, is less than rupees ten which the service provider may include in the subsequent bill of the subscriber without any penal charges; and

(b) on the ground of subsisting contractual obligation except in the case of,--

(i) the post paid connection with bundled handset with contractual obligation having exit clause and the subscriber has not complied with the same; and

(ii) corporate connection with contractual obligation having an exit clause and the subscriber has not complied with the same;

and furnish the compliance report to the Authority within a period of ten days from the date of issue of this direction.

This direction shall come into force with immediate effect.


(Sanjeev Banzal)
24/5/11

Advisor (Mobile Network)

To,

All the CMTS, UASL