

## **Provision of value added service without explicit consent:**

[Extracts of Direction relating to Provision of Value Added Services (VAS) to Customers. ]

1. 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 (Direction dated 3<sup>rd</sup> May, 2005).
2. In order to address consumers' concerns relating to charging by the service providers for requests made through call/SMS for unsubscribing of value added service and provisioning of value added services without explicit through tele calling etc, the Authority has directed, through direction dated 30th October, 2007, all the service providers *inter alia*, to -----
  - (a) provide, within one month from the date of issue of the said Direction, the facility to all their customers for registering their requests for unsubscribing any value added service by such customers ---
    - i. through e-mail or FAX or any other means (other than telephone calls and SMS);
    - ii. through telephone calls and SMS made to the customer care/helpline/toll-free number (other than e-mail or FAX) without incurring of any cost for such telephone calls and SMS made by their customers;
  - (b) continue to extend the facility referred to in the preceding sub-paragraph to their customers;
  - (c) give adequate publicity to the facility, as referred to in sub-paragraphs (a) and (b) above, by publishing complete information about such facility on their websites and by communicating the same through SMS and other means to the customers;
  - (d) ensure that-----
    - i. in case of any offer for any value added service, made in writing or through SMS or FAX or e-mail, (other than tele-calling) to the customer, such offer shall contain all relevant details of the value added service offered to the customer including the charges for such value added service and seek and obtain the explicit consent of the customer, through telephone or SMS or FAX or e-mail or by other electronic means, for availing by such customers of such value added service, before activation of such value added service; and
    - ii. in case of any offer for any value added service, made through tele-calling or by any other means [except means referred to in item (i) above] to the customer, such offer shall be subsequently made in

writing or through SMS or FAX or e-mail, containing all relevant details of the value added service offered to the customer including the charges for such value added service and seek and obtain the explicit consent of the customer, through telephone or SMS or FAX or e-mail or by other electronic means for availing such value added service before activation of such value added service;

iii. the consent referred to in item (i) or item (ii), as the case may be, shall be acknowledged through SMS before activation of such value added service, or immediately after such activation, and also reflect the same in the next bill, if issued to the customer, giving relevant details of the said explicit consent;

(e) keep complete records of such explicit consent obtained from the customer for subscription to the chargeable value added services and the records of the acknowledgements of such explicit consent by the service provider, for verification, for a period of one year from the date of such explicit consent;

3. In order to address customers' concern relating to unintentional / accidental activation of value added service through pressing of certain key(s) in the telephone instrument / mobile handset such as Press Star to Copy Hello Tunes, Out Bound Dialer (OBD) call, the Authority, directed all the Access Service Providers (including M/s Bharat Sanchar Nigam Ltd. and M/s Mahanagar Telephone Nigam Ltd.) on 27.04.2009 and 04.09.2009 to ensure within forty five days of the issue of this direction that --

i. in case a chargeable value added service is offered through pressing/dialing of certain keys in the mobile handset / telephone set, such as "Press Star to Copy Hello Tunes", service provider initiated call or Out Bound Dialer (OBD) call, the service provider shall, subsequent to the pressing/ dialing of particular key(s) in the mobile handset/ telephone set by the customer, expressing his interest to subscribe to such service, convey to the customer in writing or through SMS or FAX or e-mail, all the details of the offer of value added service including the terms and conditions and charges for provision of the service and also about the fact of his having pressed/dialed the particular keys in his mobile handset for subscribing to such value added service, and seek and obtain the explicit consent of the customer, through telephone or SMS or FAX or e-mail or by other electronic means, for availing by such customer of such value added service, before activation of such value added service;

- ii. in all cases of activation of value added services, including those covered under item (i) above, the explicit consent of the customer shall be obtained by means of -----
  - (a) a customer originated call to a specified number;
  - (b) a customer originated SMS to a specified number;
  - (c) a customer originated interactive session to a specified number;  
or
  - (d) a request made by the customer in writing or by fax or e-mail, --- before activating any value added service;

Provided that nothing contained in this clause or in clause (i) above shall be applicable to the provisioning of a value added service if such value added service is provided by following the double confirmation process as specified hereunder in clause (A) or (B), as the case may be, namely:-

**(A)** in case of service provider initiated call or Out Bound Dialer (OBD) Call, the following steps or process of confirmation and reconfirmation, including procedure for un-subscription, shall be followed for obtaining the explicit consent of the customer, for activation of the value added service, such as Caller Ring Back Tunes, namely:-

**(Step – 1.)** pre-recorded call is made by service provider informing the customer about the value added service and the charges therefor;

**(Step – 2.)** the caller tunes are played and the customer is told through automated announcements to press relevant key(s) in the mobile handset/ telephone set, other than keys ‘\*’(star) and ‘9’, to select his choice of the song and thereby expressing his interest to subscribe the service;

**(Step – 3.)** the charges for the selected value added service is again announced and the customer is told to reconfirm subscription to the value added service by pressing ‘\*’ (Star) key followed by ‘9’ key in the mobile handset/ telephone set;

**(Step – 4.)** the subscription by the customer to the value added service is confirmed through announcement;

**(Step – 5.)** the subscription to the value added service is again acknowledged through Short Message Service (SMS) immediately after the confirmation by way of announcement as referred to in the preceding step, indicating therein the charges and relevant details of the value added service such as monthly

fixed charge, Ring Back Tune (RBT) download charge or its recurring charge, validity period of Ring Back Tune, including toll free telephone number for un-subscribing the service through Interactive Voice Recorder (IVR) or voice or Short Message Service (SMS), as the case may be; and

- (Step – 6.)** in case the subscriber seeks to un-subscribe the value added service within twenty-four hours from the time of its activation on the ground that the subscription to such service was unintentional or accidental, the service provider shall un-subscribe such value added service and shall reimburse or credit to the customer's account the charges, if any, deducted or levied for subscription to such value added service;
- (B)** in case of provision of a value added service through the mechanism of "Press '\*'(star) to Copy Hello Tunes", the following steps or process of confirmation and reconfirmation, including procedure for un-subscription, shall be followed for obtaining the explicit consent of the customer, for activation of the value added service, such as Caller Ring Back Tunes, namely:-
- (Step – 1.)** pre-call announcement is made about the Caller Ring Back Tune (CRBT) or other value added service, as the case may be, and about the applicable charges for such service and the customer is prompted to press '\*'(star) key and '9' key.
- (Step – 2.)** the subscription to the value added service is acknowledged through SMS immediately, indicating therein the charges and relevant details of the value added service such as monthly fixed charge, Ring Back Tune (RBT) download charge or its recurring charge, validity period of Ring Back Tune, including toll free telephone number for un-subscribing through Interactive Voice Recorder (IVR) or voice or Short Message Service (SMS), as the case may be; and
- (Step – 3.)** in case the subscriber seeks to un-subscribe the value added service within twenty-four hours from the time of its activation on the ground that the subscription to such service was unintentional or accidental, the service provider shall un-subscribe such value added service and shall reimburse or credit to the customer's account the charges, if any, deducted or levied for subscription to such value added service."; and
- iii. no chargeable value added service is activated -----
- (a) as in the case of "Press "\*" key to Copy Hello Tunes", referred to in paragraph 7 above; or

(b) through the pressing of “\*” key or “#” key or any other key or any combination of keys/buttons in the mobile handset/telephone instrument by the subscriber,-----

either through outbound dialer or service provider initiated call or during pre-call ring-back announcements (both voice as well as automated) during a customer initiated call to a third party unless the explicit consent of the customer is obtained in accordance with item (i) and (ii) above;

- (iv) music or video related value added services, such as caller ring back tune, background music, wall paper, etc., shall not be provided, even if it is provided free of charge, without taking the explicit consent of the consumer in the manner as indicated in item (ii) above;
- (v) the service provider shall inform the subscriber through Interactive Voice Response (IVR) or voice or Short Message Service (SMS) at least three days before the due date of renewal of a subscribed value added service, the due date for renewal, the charges for renewal and the toll free telephone number for un-subscribing of such value added service.

[\[For more information refer to Direction No. 303-1/2006-QOS dated 27<sup>th</sup> April, 2009\]](#)

[\[For more information refer to Direction No. 305-5/2008-QOS dated 4th September, 2009\]](#)