



## COAI response to TRAI Consultation Paper on “Review of The Quality of Service (Code of Practice for Metering & Billing Accuracy) Regulations, 2006

### Preamble:

- l) At the outset, we would like to submit that there should not be any financial disincentives, on the operators. However, in situations where there is a large scale deviation from the Code of Practice for the Metering & Billing Accuracy following approach needs to be adopted by TRAI.
  - 1) If any operator fails to meet the specified benchmark for a quarter, justification should be sought from operators. Operators should be required to explain the reasons for failure.
  - 2) The operator should also be required to submit an action plan to meet the prescribed benchmarks of the parameters in the next quarter’s cycle.
  - 3) Following **escalation process** which was discussed and agreed to in part by Dr. Sarma, former Chairman of TRAI, is suggested on the same:
    - a) In case of non-compliance or violation of TRAI Direction/ Regulation, TRAI would send letters to the nodal officers of the company and seek explanation on the same.
    - b) In case there is no response or the explanation provided by the company is found to be inadequate, TRAI would send letters to the Regulatory Heads of the company and seek explanations. TRAI may also have one to one discussion with the Regulatory Heads.
    - c) In case the explanation provided by the Regulatory Heads of the company is found to be inadequate, a show cause notice may be served to the CEO’s of the companies.
    - d) The CEOs of the companies may then be summoned to provide a response to the show cause notice before the full Authority (Chairman, Members, and Secretary).
  - 4) Further, TRAI should consider the following before taking any action on operators:
    - a) A track record of the operator for the shortfalls i.e. repeated shortfalls of the operator towards non-compliance.
    - b) The explanation given by the operator for the non-compliance i.e. circumstances beyond the control of the operator.
    - c) The violation is due to unavoidable technical issue.
    - d) Impact on the subscribers and other stakeholders due to the alleged non-compliance.
    - e) Whether it is major or minor violation i.e. distinguish between fraud, non-transparency and non-compliance due to technical reasons
    - f) Economic benefits accruing to an operator from delayed or avoided compliance.

- 5) **The above suggested approach would encourage operators to comply with the timelines prescribed by the TRAI but will also provide protection against the un-avoidable external factors causing delay in the processes.**

We would further like to make the following submission on this issue:

## **II) TRAI powers to levy financial disincentives:**

- 1) **The Authority vide this amendment to QoS Regulation proposes to levy financial disincentives on Service providers for ‘failing to comply, false reporting, and delay in reporting’.** The original QoS Regulation, 2006 was made in pursuance to the powers conferred upon TRAI under subsection (1) of Section 11 of the TRAI Act 1997. **This measure of imposing ‘financial disincentive’ is in the nature of a penalty. We believe, the provisions of the TRAI Act 1997 (amended 2000) do not empower the Authority to impose the penalty and the Authority may only through an Amendment in the TRAI Act, seek to include necessary powers to levy financial disincentive / penalty on service providers for any violation under the license.**
- 2) **Section 11 (1) (b) (v) of TRAI Act states that “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 interest of the consumers of telecommunication services”. In this context we would like to submit that the terms “ensure” implies that it would be the Regulator’s role to ensure that there exists a conducive environment for the licensees to be able to achieve the QoS Benchmarks. It does not mean levying a deterrent. Thus we would like to submit that Section 11 (1)(b)(v) does not mean levying of financial disincentives.**

## **III) Our regulation wise response is as below:**

Without prejudice to the above, our regulation wise response is as below:

**Question 1: What are your views on imposing financial disincentives for delay in submitting audit reports of the metering and billing system and what should be the quantum of such financial disincentives? Please give your comments with justification.**

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**Question 2: What are your views on imposing financial disincentives for delay in submission of Action Taken Reports on audit observations of the metering and billing system and for providing false information or incomplete information and what should be the quantum of such financial disincentives? Please give your comments with justification.**

## **COAI Response**

- a) In this regard, we would like to submit that almost all the audit reports and the Action Taken Reports (ATR) are being filed with auditors on time. There are very few incidences wherein the timelines regarding the said reporting requirements are not met. These incidences should not be treated as a case for levy of financial disincentive because there is no mala fide intention for not providing the reports on time.

- b) The entire process of carrying out the Metering & Billing System Audit (from starting to closure) takes around 6 to 9 months as per the activities listed below –
- i) Appointment of Auditors and understanding of Metering & Billing systems processes before commencing the Audit – 1 month
  - ii) Process Audit & Data extraction – 6-8 weeks
  - iii) Rating Checks – 6-8 weeks
  - iv) Observations & Initial Comments – 1 month
  - v) Finalization of Management Comments – 1 month
  - vi) Closure of Audit to ATR submission – 3 months
- c) Since this audit covers various aspects of Metering & Billing systems such as tariff information to customers, the provision of services, CDRs ratings and accuracy of measurement, complaint management etc., it calls for the large scale compilation of information from across service areas covering various processes and data / information extraction from billing & related systems. Further, CDR of sample cases for a period 3 months are being extracted from archived system which generally takes 45-60 days. Similarly, in the past VAS consent logs for sample cases are to be examined which is also a time consuming activity. All these activities are to be necessarily carried out for the completion of the audit and cannot be crunched in any manner.
- d) It is also pertinent to highlight that in a few cases there could be delays from Auditor's side also in terms of – understanding of various processes and data sources/ systems, selecting the tariff plans, providing sample cases for CDR rating, availability of preliminary observations for further discussion and closure etc. Further, the rating of CDRs is also a time consuming activity at the Auditor's end which takes approx 30-40 days.
- e) With regards to the financial disincentives on the false or the incorrect submission of the Audit report, we would like to submit that no service provider is giving false / incorrect information since this impacts the overall reputation of the service provider. Further, the final Audit report and mentioning of the comments against the observation, the same being agreed with Auditor leaves no question of reporting incomplete/ incorrect information in the Audit Report. Similarly, while submitting the Action Taken Report after completion of the Audit, all observations which require action are reviewed and monitored closely to ensure timely closure of the same and accordingly reported to TRAI with necessary evidences. We would also like to submit that the current year ATR are subsequently audited by the auditor appointed for next year audit.
- f) **In light of the same, we request that the Authority should NOT impose any financial disincentive as proposed in the draft amendment of the Regulation.**
- g) Further, we would like to recommend the following for your kind consideration:
- i) We are of the view that the responsibility of submission of the Audit report should be equally shared by Auditors and the service provider, as there are instances when additional data is sought by the auditors towards the closure of the audit which results in delay in submission. It is suggested that the internal timeline for various activities should be discussed and fixed among service provider and Auditor. We believe that this will help in maintaining discipline among both the parties for timely closure of the audit.
  - ii) It is also suggested that time for submission of the Audit Report should be revised to 31<sup>st</sup> August every year, and time for submission of ATR should be 30 November every year.

- iii) It should also be mandated vide this amendment to the regulation that before submitting the Action Taken Report (ATR), Service provider should get sign-off from the Auditor who had carried out the Audit in order to avoid submission of wrong / false / incomplete information to TRAI. This will ensure that Service Provider has taken necessary action for closure of audit observations to the satisfaction of the Auditor. In view of this suggestion, we strongly recommend that there is no requirement of imposing financial disincentive on account of providing false/ incorrect information as same will be duly verified by the Auditor.
- iv) Since ATR (Action Taken Report) is a compilation of open observations and part of the Audit report only which has already been submitted to TRAI, hence it should be kept out of the purview of imposing financial disincentive for delay in submission of the same.

**Question 3: What are your views on the proposal for audit of the CDRs for at least twice a year- three months CDR pertaining to first half year and three months CDR pertaining to second half year? Please give your comments with justification.**

**COAI Response**

- a) Volume of CDRs generated is very high for big service providers having pan-India presence with a huge subscriber base . These CDRs have to be archived on a regular basis and then retrieved from archived data tapes which itself takes retrieval time of 45-60 days to meet the audit requirements. So if the period of CDRs is current, these can be given from online systems, whereas if any prior period is sought, then only archived records will have to be extracted which is a time consuming activity especially since this is to be done for all circles.
- b) Two sets of audits would add extraneous work and would only lead to duplication of work. TRAI vide its recent 12<sup>th</sup>Jun'12 Direction has already asked operators to maintain Master Tables for numbering codes and tariffs configurations, which has been implemented by operators. It has been also directed that these master tables along with refund data would be audited under Metering & Billing audit. We request that the efficacy of these Master tables be observed for the next one to two -years.
- c) Further, as pointed out by TRAI itself in their consultation paper, entire CDRs for the overcharging period is required to be retrieved from the archived system to identify the total number of impacted customers and accordingly refunds are calculated and processed. It is also mentioned correctly that **CDR rating audit is a time consuming and complex process which involves time, energy and cost in addition to specialized manpower** from various internal functions for ensuring correct and timely closure, especially since this is to be done for all circles. The auditor also normally takes one month to audit the CDRs after the same is provided by the Service Providers.
- d) In light of the above we request that TRAI should NOT carry out CDR audit twice a year in view of additional burden on service providers in terms of extra time required, additional cost in view of more IT resources required for extraction CDRs and fee to the Auditor who will be carrying out this audit.
- e) **Hence, we strongly recommend Authority that the present mechanism of CDR audit i.e. 3 month period (once a year) should be continued with.**

**Question 4: What are your views on the proposal for simultaneous reporting of instances of overcharging to TRAI by the auditor, monthly progress report on the action taken by service**

providers on such audit observations and financial disincentives on delayed refund of such overcharged amounts? Please give your comments with justification.

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**Question 5: Do you support mandating service providers to undertake a thorough analysis of each audit observations and the requirement to furnish a detailed comment on each audit observation, as proposed above, including financial disincentives for submitting audit reports without adequate comments? Please give your comments with justification.**

### COAI Response

- a) We agree to the proposal of the Authority for simultaneous reporting of instances of overcharging to TRAI by the Auditor. We believe that this will be instrumental in maintaining the greater transparency between all stakeholders – Service Provider, Auditor & TRAI during the audit and further help in avoiding any confusions/ situation by providing incorrect or incomplete information at a later point of time. **However, it may not be possible for the service provider to identify the impacted customer, calculation of the applicable refund amount and processing the refunds to them within a one month time frame from the date of reporting such incidence to TRAI during the audit period.**
- b) Regarding imposition of financial disincentives on delayed refund of such overcharged amounts, we would like to submit as follows:
  - i) As per the QoS (Code of practice for metering and billing accuracy) regulations, service providers are required to carry out refunds proactively for any wrong charges which may have happened due to configuration errors. It is submitted that Service providers have put in place various checks and balances to ensure right configuration for every plan. Extensive Testing is being done with advanced systems before it gets offered in the market.
  - ii) Despite all these checks and balances, inadvertent error in configuration could result in wrong charging. As per the existing process, immediate corrective measures are taken and refunds are made to all affected customers with appropriate and transparent communication. Any unclaimed refunds are deposited into TRAI's Telecom Consumer and Education Protection Fund. In this context, it is pertinent to highlight that the activity of identifying the impacted customers and calculation of refund amount is initiated immediately from the Service Providers side even sometime without Audit observations, during the audit period itself. Operators ensure that the root cause analysis is carried out and completed by processing of the refunds to impacted customers before submission of the Action Taken Report to TRAI. Further we would also like to submit that same is being duly verified by the auditor while carrying out the Audit for next financial year and capture the same in the Audit report.
  - iii) The above practices and procedures are working well and reflect in the positive trend of improvements, month on month. It is therefore not justifiable for service providers to be penalized with financial disincentives to the maximum amount equivalent to the refunds due to procedural / technical delays in exceptional circumstances. **We strongly recommend continuation of the present practice of refund instead of imposing additional penalties on the service providers.**
- c) It is also pertinent to highlight that the service provider are carrying out this audit very rigorously & seriously and are committed to providing correct, complete and adequate response to each and

every audit observation specified in the Audit Report / ATRs after due deliberation among all internal stakeholders as well as with the Auditor.

- d) **Since all the audit observation with service provider's comments are being duly reviewed by Auditor, hence we strongly recommend that TRAI should not construe the comments/supporting evidence provided by the service provider as incomplete or inadequate and no financial disincentive is required to be imposed on the service provider for the same.**

**Question 6: Do you support nomination of auditor by TRAI and appointment of the nominated auditor by the service provider? Please give your comments with justification.**

#### **COAI Response**

- a) We would like to highlight that each Telecom service providers scale of operations, systems and procedures are different and an assessment of the auditor's capability to manage the scale of operations is imperative which can only be done by the respective service provider after detailed meetings with the officials of the Audit firms.
- b) Further, in order to maintain the quality of audits, the appointment and selection of auditors are done after going a thorough due diligence of the Audit firms on various grounds like the professional strength of the firm, composition of the team they want to deploy for the project, prior experience in handling such and similar Audits, tools they are using to carry out the CDR rating, the time required for completing the project etc.
- c) **In view of above, it is strongly recommended to continue with current practice of appointment of Auditor by the service providers. We also suggest TRAI to increase the number of empanelled Audit firms giving greater freedom to Service Provider for selecting the suitable auditor.**

**Question 7: What are your views on the proposal for fixing of remuneration of auditor by TRAI and what should be the quantum and methodology for computation of audit fees, in case the same is to be fixed by TRAI? Please give your comments with justification.**

#### **COAI Response**

- a) In this regard, we would like to submit that the Audit fees are on best negotiated basis, based on the merit and commitment of the Auditor. Further, audit fees are always agreed for handling the entire project keeping in view the resources and timelines involved irrespective of the License service areas involved. Final price negotiations are done after considering all these factors.
- b) **In light of the above, we are of the view that the current process wherein the remuneration of the auditor is determined by the lowest bid being submitted to the operator should be continued.**
- c) In case TRAI is of the view that the auditor should be nominated by TRAI and the remuneration of the auditor should also be fixed by TRAI, then either TRAI should pay for the remuneration of the auditors and it should be the responsibility of TRAI to ensure that the audit is completed in a timely manner or TRAI should put penal provisions against Auditors for completion of Audit reports/ATR instead of penal provisions on operators.

- d) It is suggested that TRAI should only empanel auditors and may change the list from time to time depending on feedback and quality of audit and there should neither be any forced nomination or fixed remuneration.
- e) As the purpose of such audits is also to do an overall hygiene check of the operator and it is a prime responsibility of the auditors not only to highlight anomalies but also to suggest remedial action, any kind of forced nomination or mandating a remuneration of the auditors will drastically affect the quality of audit and may not achieve the desired result.

**Question 8: What are your views on the proposals relating to tariff plans to be covered for audit? Please give your comments with justification.**

**COAI Response**

- a) It is recommended to continue with the existing practice of considering three prepaid plan vouchers and two postpaid tariff plans launched during the current year in the sample size selected by the auditor.

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