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**TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION**

New Delhi, the 5th November, 2012

**THE TELECOMMUNICATION TARIFF (FIFTY FOURTH AMENDMENT)
ORDER, 2012**

No.6 of 2012

No. 301-59/2012-F&EA— In exercise of the powers conferred upon it under sub-section (2) of section 11, read with sub-clause (i) of clause (b) of sub-section (1) of the said section, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following Order further to amend the Telecommunication Tariff Order, 1999, namely: -

- 1.** (1) This Order may be called the Telecommunication Tariff (Fifty Fourth Amendment) Order, 2012.
(2) This Order shall come into force on the 20th day of November, 2012.
- 2.** In clause 3 of the Telecommunication Tariff Order, 1999 (hereinafter referred to as the principal tariff order), for the word and figures “Schedule I to XII”, the word and figures “Schedule I to XIII” shall be substituted.
- 3.** After Schedule XII to the principal tariff order, the following schedule shall be inserted, namely:-

“SCHEDULE XIII

(See clause 3)

Tariff for Short Message Services sent by persons other than a telemarketer registered under regulation 14 or an entity sending transactional message, referred in clause (k) of sub-regulation (2) of regulation 20 of The Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010)

ITEM	TARIFF
1. Upto one hundred SMS per SIM per day	Forbearance
2. Every SMS beyond one hundred SMS per SIM per day	Not less than fifty paisa per SMS

(Raj Pal)
Advisor (F&EA)

Note.1. – The Telecommunication Tariff Order, 1999 was published in the Gazette of India, Extraordinary, Part III, Section 4 under notification No.99/3 dated 9th March, 1999, and subsequently amended as given below:-

Amendment No.	Notification No. and Date
1 st	301-4/99-TRAI (Econ) dated 30.3.1999
2 nd	301-4/99-TRAI(Econ) dated 31.5.1999
3 rd	301-4/99-TRAI(Econ) dated 31.5.1999
4 th	301-4/99-TRAI(Econ) dated 28.7.1999
5 th	301-4/99-TRAI(Econ) dated 17.9.1999
6 th	301-4/99-TRAI(Econ) dated 30.9.1999
7 th	301-8/2000-TRAI(Econ) dated 30.3.2000
8 th	301-8/2000-TRAI(Econ) dated 31.7.2000
9 th	301-8/2000-TRAI(Econ) dated 28.8.2000
10 th	306-1/99-TRAI(Econ) dated 9.11.2000
11 th	310-1(5)/TRAI-2000 dated 25.1.2001
12 th	301-9/2000-TRAI(Econ) dated 25.1.2001
13 th	303-4/TRAI-2001 dated 1.5.2001
14 th	306-2/TRAI-2001 dated 24.5.2001
15 th	310-1(5)/TRAI-2000 dated 20.7.2001
16 th	310-5(17)/2001-TRAI(Econ) dated 14.8.2001
17 th	301/2/2002-TRAI(Econ) dated 22.1.2002
18 th	303/3/2002-TRAI(Econ) dated 30.1.2002
19 th	303/3/2002-TRAI(Econ) dated 28.2.2002
20 th	312-7/2001-TRAI(Econ) 14.3.2002
21 st	301-6/2002-TRAI(Econ) dated 13.6.2002
22 nd	312-5/2002-TRAI(Eco) dated 4.7.2002
23 rd	303/8/2002-TRAI(Econ) dated 6.9.2002
24 th	306-2/2003-Econ dated 24.1.2003
25 th	306-2/2003-Econ dated 12.3.2003
26 th	306-2/2003-Econ dated 27.3.2003
27 th	303/6/2003-TRAI(Econ) dated 25.4.2003
28 th	301-51/2003-Econ dated 5.11.2003
29 th	301-56/2003-Econ dated 3.12.2003
30 th	301-4/2004(Econ) dated 16.1.2004

31 st	301-2/2004-Eco dated 7.7.2004
32 nd	301-37/2004-Eco dated 7.10.2004
33 rd	301-31/2004-Eco dated 8.12.2004
34 th	310-3(1)/2003-Eco dated 11.3.2005
35 th	310-3(1)/2003-Eco dated 31.3.2005
36 th	312-7/2003-Eco dated 21.4.2005
37 th	312-7/2003-Eco dated 2.5.2005
38 th	312-7/2003-Eco dated 2.6.2005
39 th	310-3(1)/2003-Eco dated 8.9.2005
40 th	310-3(1)/2003-Eco dated 16.9.2005
41 st	310-3(1)/2003-Eco dated 29.11.2005
42 nd	301-34/2005-Eco dated 7.3.2006
43 rd	301-2/2006-Eco dated 21.3.2006
44 th	301-34/2006-Eco dated 24.1.2007
45 th	301-18/2007-Eco dated 5.6.2007
46 th	301-36/2007-Eco dated 24.1.2008
47 th	301-14/2008-Eco dated 17.3.2008
48 th	301-31/2007-Eco dated 1.9.2008
49 th	No. 301-25/2009-ER dated 20.11.2009
50 th	301-24/2012-ER dated 19.4.2012
51 st	301-26/2011-ER dated 19.4.2012
52 nd	301-41/2012-F&EA dated 19.09.2012
53 rd	301-39/2012-F&EA dated 1.10.2012

Note 2. – The Explanatory Memorandum explains the objects and reasons for the Telecommunication Tariff (Fifty Fourth Amendment) Order, 2012.

EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing unsolicited commercial communications (UCC). All the provisions of regulations came into force from 27th September 2011. The above regulation had put a limit of 200 SMS per day per SIM. This restriction had the desired effect in curbing UCC to a great extent. However, after the removal of the cap of 200 SMS per day per SIM, the number of complaints relating to UCC from 10 digit numbers have increased manifold. This required further regulatory measures to address the increasing menace of UCC.
2. With a view to effectively address the concerns on unsolicited commercial communications, TRAI had undertaken a Consultation process. Keeping in view the feedback received from the stakeholders and other facts and circumstances of the case, TRAI has issued The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012. This Amendment has inter-alia modified sub-regulation (2) of regulation 20 of the principal regulations, specifying that any person other than a telemarketer registered under regulation 14 or an entity sending transactional message shall be charged as specified in the Telecommunication Tariff Order to be notified separately.
3. The Authority has observed that subscribers undertaking telemarketing activities using normal telephone connections use discounted SMS packages available in the market, for sending bulk promotional SMSs. During the consultation, some of the stakeholders have suggested that a differential tariff may be imposed to make it economically unviable for unregistered telemarketers to send commercial communications using ten digit numbers. Such provisions will also encourage unregistered telemarketers to get them registered to get discounted telecom resources. Some service providers offer bundled plans and packages where the SMS charges effectively become close to zero. As far back as 2011, the Authority recognised that such bulk SMS rates are attractive to advertisers and can impose costs on other networks by directing heavy traffic to other operators' networks. The Authority had recognised that such practices justified

- regulatory intervention. Accordingly, TTO has been amended mandating the service providers not to allow sending of more than one hundred SMS per day per SIM at concessional rate. However, subscribers can send SMS beyond one hundred SMS per day per SIM, but all such SMSs will be charged at the rate of not less than fifty paisa per SMS.
4. While arriving at the floor price of 50 paisa in respect of SMS in excess of 100 per day per SIM, the Authority looked into the SMS rates currently levied by various operators in the tariff plans as well as SMS packages. It was noticed that the maximum rates levied by most of the operators for local SMS is Re.1 per SMS. There are also tariff plans where SMS rate is as low as 5 Paisa per SMS. Further, the access service providers are also offering a number of special tariff vouchers providing free and/or concessional SMS rates. With a view to disincentivise the consumers from sending large number of SMS and to augment the objective of The Telecom Commercial Communications Customer Preference Regulations, 2012, the Authority has decided to specify a floor tariff of fifty paisa for SMS exceeding 100 per SIM per day sent by persons other than a telemarketer registered under regulation 14 or an entity sending transactional message referred in clause (k) of sub regulation 2 of regulation 20 of The Telecom Commercial Communications Customer Preference Regulations, 2012.
 5. The above floor price of fifty paisa per SMS exceeding 100 SMS per SIM per day will also apply to the SMS packages offered. Consequently, though consumers shall be able to send any number of SMS on any day, the number of free SMS or SMS at tariff less than fifty paisa per SMS shall not exceed 100 SMS per SIM per day.
 6. After implementation of the TTO 54th Amendment, the subscribers may have to pay a higher rate for SMS in excess of 100 per day per SIM. Therefore, it is essential that this condition is explicitly and transparently conveyed by service providers to all subscribers who are otherwise entitled to lower rates in their tariff plans or SMS packages.
 7. The Authority expects that notifying a floor tariff of fifty paisa per SMS for SMS exceeding 100 SMS per SIM per day would be one of the several measures initiated to effectively protect the telecom subscribers from the menace of unsolicited commercial communications being sent by the unregistered telemarketers.