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TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

NEW DELHI, THE 16TH OCTOBER, 2015

TELECOM CONSUMERS PROTECTION (NINTH AMENDMENT) REGULATIONS, 2015
(9 OF 2015)

No. 301-23/2015-F&EA ----- In exercise of the powers conferred by section 36, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997(24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Telecom Consumers Protection Regulations, 2012 (2 of 2012), namely:-

1. (1) These regulations may be called the Telecom Consumers Protection (Ninth Amendment) Regulations, 2015. (2) They shall come into force from the 1 st January, 2016.
2. In regulation 2 of the Telecom Consumers Protection Regulations, 2012 (hereinafter referred to as the principal regulations), after clause (ba), the following clauses shall be inserted, namely:- -- “(bb) “call drop” means a voice call which, after being successfully established, is interrupted prior to its normal completion; the cause of early termination is within the network of the service provider;”; “(bc) “calling consumer” means a consumer who initiates a voice call;”;
3. After Chapter IV of the principal regulations, the following Chapter shall be inserted, namely :-
“CHAPTER V RELIEF TO CONSUMERS FOR CALL DROPS
16. Measures to provide relief to consumers. - Every originating service provider providing Cellular Mobile Telephone Service shall, for each call drop within its network, (a) credit the account of the calling consumer by one rupee: Provided that such credit in the account of the calling consumer shall be limited to

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| | three dropped calls in a day (00:00:00 hours to 23:59:59 hours); |
| (b) | provide the calling consumer, through SMS/USSD message, within four hours of the occurrence of call drop, the details of amount credited in his account; and |
| (c) | in case of post-paid consumers, provide the details of the credit in the next bill.” |

(Sudhir Gupta)
Secretary

Note.1. - The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 6th January, 2012 vide notification number No. 308-5/2011- QOS dated the 6th January, 2012.

Note.2. – The principal regulations were amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 11th January, 2012.

Note.3. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21st February, 2012.

Note.4. - The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 7th March, 2012.

Note. 5. -The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 22nd October, 2012.

Note.6. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 27nd November, 2012.

Note.7. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21st February, 2013.

Note.8. – The principal regulations were further amended vide Notification No.308-3/2012-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 3rd December, 2013.

Note.9. – The principal regulations were further amended vide Notification No.308-1/2015-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 7th August, 2015.

Note.10 - The Explanatory Memorandum explains the objects and reasons of the Telecom Consumers Protection (Ninth Amendment) Regulations, 2015 (9 of 2015).

Explanatory Memorandum

A- Introduction and Background

1. As per the clause 11 of the Telecom Regulatory Authority of India Act, 1997, the function of Telecom Regulatory Authority of India (hereinafter, referred to as the Authority) shall be, *inter-alia*, to lay down the standards of quality of service to be provided by the service providers and to ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect the interests of the consumers of telecommunication service. In exercise of these powers, the Authority has laid down Quality of Service (QoS) benchmarks for Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service through “The Standards of Quality of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009” on the 20th March, 2009. Subsequently, these Regulations have been amended from time to time. The Authority has also prescribed financial disincentive upon access service providers for failure to meet the QoS benchmarks. Presently, the benchmarks for both Call Drop (term commonly used for 2G networks) and Circuit Switched Voice Drop (CSV Drop) in 3G networks are $\leq 2\%$. Both the Call Drop (in 2G network) and CSV Call Drop (in 3G network) have collectively been referred to as Call Drop in this Amendment Regulation.
2. All access service providers in the country furnish reports of their performances on the quality of service parameters on a monthly basis against the benchmark set for each parameter to the Authority. In the past, most of the Cellular Mobile Telephone Service Providers (CMTSPs) have reported to the Authority that they are meeting the benchmark on call drop ($\leq 2\%$). However, in the last one year, consumers, at various fora, have raised the issue of call drops, complaining that their experience of making voice calls has deteriorated.
3. With a view to explore ways to devise a framework to protect the interests of the consumers, the Authority issued a Consultation Paper (CP) on ‘Compensation to the Consumers in the Event of Dropped Calls’ on the 4th September, 2015. The stakeholders were to submit written comments on the issues raised in the CP by the 21st September, 2015 and counter-comments by the 28th September, 2015. In response, written comments were received from four industry associations, 11 CMTSPs, two consumer advocacy groups, two organizations and 518 individual consumers. A total of five counter-comments were also received. The comments and the counter-comments received from the stakeholders were placed on the TRAI’s website—www.trai.gov.in. An Open House Discussion was held on the 1st October, 2015 in New Delhi with the stakeholders. The key

issues raised in the CP and the views of the stakeholders thereupon are examined in the succeeding paragraphs.

B- Analysis of the key issues raised in the Consultation Paper

4. Essentially, stakeholder's views were sought with an aim to devise measures to provide relief to consumers in the event of dropped calls with respect to the following:
 - (i) **Excess Charging:** The consumers may have to pay in excess of what they consume in the event of dropped calls.
 - (ii) **Inconvenience:** The consumers may face inconvenience when their conversations are interrupted due to call drops. They may require making several attempts to complete a conversation.
5. While the CMTSPs and their industry associations have cast aside the option of not charging the consumers for the last pulse of a dropped call, all the consumer advocacy groups, and majority of individual consumers have strongly supported it.
6. The CMTSPs have argued that any tariff intervention cannot resolve the issue of call drops. They have asserted that the main issues plaguing the telecom sector with respect to the problem of call drops are (i) the instances of sealing/closing down of existing sites for towers by municipal authorities, (ii) problems in acquiring new sites for towers owing to consumer concerns related to adverse effects of electro-magnetic radiations, and (iii) spectrum related issues. Also, the CMTSPs have stressed that they need a concerted and continuous support from the Licensor, Regulator and both Central and the State Governments for resolution of these issues.
7. In addition, the CMTSPs have contended that a large proportion of call drops are beyond their control; a call may get dropped due to problem in any of the three systems viz. originating network, terminating network or the consumer's mobile handset. They have argued that a large proportion of call drops occur for reasons which are beyond the control of originating CMTSP.
8. It has further been argued by the CMTSPs that while signing the Customer Acquisition Form, the consumer is made aware that the network availability is not guaranteed and is made available on an as-is-as available basis. The CMTSPs have further contended that a consumer pays for the services delivered to him/her as per his/her tariff plan and, therefore, mandating the CMTSPs not to charge the last pulse of a call which gets dropped would be against the work-done-principle.
9. The CMTSPs have asserted that, as far as the causes of call drops within their control are concerned, they have been taking all possible measures to minimize them proactively and that, in

the wake of growing consumer concerns about call drops in recent times, they have intensified such efforts in the past two months. They have also stated that the Central Government's recent initiatives of requesting the State Governments (i) to allow installation of telecom towers on the Government's land and buildings, (ii) to establish single window clearance system for Right of Way (ROW) and (iii) to rationalize ROW charges have started yielding results; however, a time frame of three to six months would be required for these initiatives to yield results and to assess their impact.

10. The CMTSPs have also stressed that there are a number of implementation difficulties/ technical constraints in not charging for the last pulse of the dropped call.
11. On the other hand, the consumers have asserted that a consumer derives value from a call only when the sum and substance of the intended conversation stands completed. A large number of consumers have argued that call drops cause inconvenience to them. Some consumers have also contended that the present level of disincentive levied upon the CMTSPs for failing to meet the benchmark for call drop rate should be revised upwards and also the benchmark for call drop rate should be reviewed. They have suggested that the performance of the various CMTSPs must be displayed transparently by the Authority subsequent to QoS tests and have further suggested that CMTSPs must make public disclosures of their capacities, coverage and steps taken to improve quality. They have further pointed out that the CMTSPs must upgrade their networks and be spurred to invest in capacity addition to cater to the ever increasing demands of voice and data.
12. After a careful analysis of the submissions of the CMTSPs stressing the implementation difficulties/ technical constraints in not charging for the last pulse of the dropped call, the Authority has decided not to mandate the non-charging of the last-pulse of the dropped call.
13. On the other hand, providing compensation to the calling consumers for the dropped calls has been strongly supported by most of the consumer advocacy groups and individual consumers. However, it did not receive support from any of the CMTSPs and their industry associations.
14. The CMTSPs have contended that the compensation for call drops by way of crediting talk time/monetary value to consumers is neither justifiable nor practicable on account of a number of reasons that have already been enumerated in earlier Paragraphs.
15. On the other hand, most of the individual consumers and consumer advocacy groups have strongly supported the option of compensation to the consumers for call drops. They have

argued that the compensation to the calling consumers would not only assuage the inconvenience to the consumers but would also serve as a financial disincentive to the CMTSPs.

16. Though some individual consumers and consumer advocacy groups have opined that compensation by way of credit of talk-time in minutes/seconds would be preferable, it being rate neutral, others have stated that compensation to consumers should be given in monetary terms as it is a transparent mechanism. The monetary limits that have been suggested range from Re. 1 to Rs. 5 for each dropped call. Some consumers have argued that there should be no cap/ceiling on the number of dropped calls for which compensation is to be given, while others have suggested compensation with a limit of 10 dropped calls per week.
17. Most of the consumers have also submitted that an acknowledgement of dropped calls should be sent to the consumer immediately after the occurrence of a call drop.
18. Based on the above, it is clear that while all CMTSPs and the industry associations have argued that question for compensation to the consumers on call drops does not arise as it is neither justifiable nor practicable, most of the consumers and consumer advocacy groups have insisted that they should be compensated by the CMTSPs for the inconvenience caused to them.
19. After a careful analysis, the Authority has come to the conclusion that call drops are instances of deficiency in service delivery on part of the CMTSPs which cause inconvenience to the consumers, and hence it would be appropriate to put in place a mechanism for compensating the consumers in the event of dropped calls. The Authority is of the opinion that compensatory mechanism should be kept simple for the ease of consumer understanding and its implementation by the CMTSPs. While one may argue that amount of compensation should be commensurate to the loss/ suffering caused due to an event but in case of a dropped call it is difficult to quantify the loss/suffering/inconvenience caused to the consumers as it may vary from one consumer to another and also in accordance to their situations. Accordingly, the Authority has decided to mandate originating CMTSPs to credit one Rupee for a dropped call to the calling consumers as notional compensation. Similarly, the Authority has decided that such credit in the account of the calling consumer shall be limited to three dropped calls in a day (00:00:00 hours to 23:59:59 hours).The Authority is of the view that such a mandate would compensate the consumers for the inconvenience caused due to interruption in service by way of call drops, to a certain extent.
20. The Authority is also aware that communication to the consumers is important and therefore, the Authority has decided to mandate that, each originating CMTSP, within four hours of the

occurrence of call drop within its network, inform the calling consumer, through SMS/USSD message the details of amount credited in his account for the dropped call, if applicable.

21. The Authority is conscious of the fact that for carrying out the afore-mentioned mandate, the CMTSPs would have to make suitable provisions in their technical systems, which would require time and effort. Accordingly, the Authority has decided that the afore-mentioned mandate would become applicable on the CMTSPs with effect from the 1st January, 2016.
22. The Authority shall keep a close watch on the implementation of the mandate as well as the measures being initiated by the CMTSPs to minimize the problem of dropped calls as given in their submissions during the consultation process and may review after six months, if necessary.