

No. 7-1/2016-AS-IV  
Government of India  
Ministry of Communications  
Department of Telecommunications  
(Access Services Wing)

\*\*\*

Sanchar Bhawan  
20 Ashoka Road, New Delhi

05<sup>th</sup> April 2017

**Subject:** TRAI recommendations dated 21.10.2016 on violation of the provisions of License Agreements and Standards of Quality of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009 by M/s Idea Cellular Limited.

This has reference to TRAI recommendations vide letter no. 10-6/2016-BB&PA dated 21.10.2016 regarding above subject.

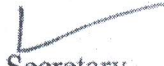
2. The said recommendations have been examined in the Department. In terms of fifth proviso of section 11(1)(d) of the Telecom Regulatory Authority of India Act, 1997 (as amended), the said recommendations is being referred back to TRAI to provide its reconsidered opinion in the light of comments/ observations of the Department annexed herewith (Annexure). While forwarding reconsidered opinion, TRAI is requested to also provide the following information:

- (a) number of subscribers on the date of launch of service by M/s RJIL, i.e. the number of subscribers acquired by it during beta testing phase;
- (b) basis on which amount of penalty is recommended; and
- (c) provisions of law under which penalty has been recommended.

3. This has the approval of Competent Authority.

Encl. – As above.

*Urvashi*  
05/04/17  
(Urvashi Sangwan)  
ADG(AS-IV)  
Tele.: 23320168

To,   
Secretary  
Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan (next to Zakir Hussain College)  
Jawaharlal Nehru Marg (Old Minto Road)  
New Delhi: 110 002

**ANNEXURE**

Para-wise comments on TRAI recommendations vide letter No. 10-6/2016-BB&PA dated 21.10.2016 in respect of violation of the provisions of license agreements and the Standards of Quality of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009 by M/s IDEA Cellular Ltd.

Para No.	TRAI's recommendations	Comments/ observations of the Department
Para 1	The Authority received a letter No. RJIL/TRAI/2016-17/230, dated the 14 <sup>th</sup> July, 2016 from M/s Reliance Jio Infocomm Limited (hereinafter referred to as RJIL) providing details of inadequacy of E1s with M/s IDEA Cellular Limited (hereinafter, referred to as IDEA) (a copy of the letter dated the 14 <sup>th</sup> July, 2016 is annexed as <b>Annexure-I</b> ).	In the paragraphs 1 to 4 TRAI has mentioned about receipt of letter dated 14 <sup>th</sup> July, 2016 from RJIL, TRAI asking IDEA to do needful and furnish response on the issues raised by RJIL vide its letter dated 19 <sup>th</sup> July, 2016, and TRAI receiving a letter dated 26 <sup>th</sup> July, 2016 from IDEA in response to TRAI's letter dated 19 <sup>th</sup> July, 2016 as well as receipt of letter dated 4 <sup>th</sup> August, 2016 from RJIL, hence no comments.
Para 2	The Authority, vide letter No. 10-6/ 2016-BB&PA, dated the 19 <sup>th</sup> July, 2016 asked IDEA to do the needful and furnish their response on the issues raised by RJIL (a copy of the letter dated 19 <sup>th</sup> July, 2016 is annexed as <b>Annexure-II</b> ).	However, on perusal of <b>Annexure-I, II and III</b> as mentioned in these paragraphs, it has been observed that:
Para 3	The Authority received a letter No. Idea/RCA/RV/2016-17/July/87 dated 26 <sup>th</sup> July, 2016 from IDEA in response to the Authority's letter mentioned in Para 8 above (a copy of the letter dated the 26 <sup>th</sup> July, 2016 is annexed as <b>Annexure-III</b> ).	(a) RJIL sought immediate intervention of TRAI on the issue of denial of augmentation of POIs by the operators on the basis of its forecast and firm demand during the test phase of its services i.e. before commercial launch of services.
Para 4	The Authority received a letter No. RJIL/TRAI/2016-17/341, dated the 4 <sup>th</sup> August, 2016 from RJIL requesting the Authority to direct IDEA to provide requisite number of additional E1s to remove congestion at inter-operator Points of Interconnection (hereinafter, referred to as POIs), which is severely hampering the ongoing test trial of RJIL's services (a copy of the letter dated the 4 <sup>th</sup> August, 2016 is annexed as <b>Annexure-IV</b> ).	<p>(b) There was a dispute/ disagreement between the operators, which related to the following points:</p> <ul style="list-style-type: none"> <li>(i) Augmentation of existing POIs to be undertaken as per the process;</li> <li>(ii) Capacity can be enhanced when the traffic picks up;</li> <li>(iii) Refusal to issue demand notes for augmenting POIs as per RJIL projections;</li> <li>(iv) Test traffic being disproportionate to any test use i.e. the test traffic is not only high but is abysmally imbalanced;</li> <li>(v) Abnormal traffic utilization on account of free voice offerings by RJIL during test phase;</li> <li>(vi) Traffic trends highly skewed with almost 90% of the total traffic terminating into IDEA network while merely 10% is being directed towards RJIL network;</li> <li>(vii) Calculations and provisioning of E1 links required at POIs on the basis of subscriber base vis-à-vis other operators to bring the utilization to around 40% to 50%;</li> <li>(viii) Further augmentations of POIs to be undertaken as per terms of Interconnect Agreement; etc.</li> </ul> <p>Further, on perusal of <b>Annexure-IV</b> as mentioned in the para 4 of TRAI recommendations, it has been observed that RJIL raised a concern on the terms of Interconnect Agreement as being coercive and unilateral and said that it is based</p>



<p>Para 5</p>	<p>The Authority received a letter No. RJIL/TRAI/2016-17/411 dated the 12<sup>th</sup> August, 2016 from RJIL requesting the Authority to immediately direct the telecom service providers to provide Pops to RJIL without any dimmer or delay, per capacities indented by RJIL in its letter dated the 21<sup>st</sup> June, 2016 addressed to respective telecom service providers. (A copy of letter dated the 12<sup>th</sup> August, 2016 is enclosed as Annexure-V).</p>	<p>upon the provisions of Telecommunication Interconnection (Reference Interconnect offer) Regulation 2002. They also alleged interconnect agreements being virtually forced upon them. RJIL also expressed that TRAI direction as well as clause in Interconnect Agreement providing 90 days' time frame for augmentation as being not able to serve the purpose. RJIL did not mention any launch date of its services but requested for augmentation to be completed within 7 days of receipt of requisite charges.</p> <p>It is not clear as to whether TRAI has responded to any of RJIL concerns on the clauses and coercive execution of interconnect agreement or denied or qualified its direction dated 7<sup>th</sup> June 2005 specifying 90 days as not being applicable for maintaining QoS.</p> <p>TRAI may please clarify and reconsider.</p>
<p>Para 6</p>	<p>The Authority received a letter No. RSM/COAI/2016/183 dated the 2<sup>nd</sup> September, 2016 from COAI wherein it was mentioned that they are in no position, by way of network resources, or financial resources, to terminate volumes of traffic of RJIL which are markedly asymmetric. It was also mentioned that their members are not obliged to entertain interconnect requests which are derived from abnormal induced traffic patterns that game the IUC regime and are anti-competitive (a copy of the letter dated 2<sup>nd</sup> September, 2016 is annexed as Annexure-VI).</p>	<p>In the paragraphs 5 and 6, TRAI has mentioned about receipt of letter dated 12<sup>th</sup> August, 2016 from RJIL and letter dated 2<sup>nd</sup> September, 2016 from COAI, hence no comments. However, on perusal of Annexure-V and VI as mentioned in these paragraphs, it has been observed that:</p> <p>(a) RJIL in its letter cited COAI communication dated 8<sup>th</sup> August 2016 which stated that its member operators are not expected to provide POI's to RJIL during the test trials. RJIL demanded TRAI intervention to direct operators to provide POIs to RJIL without any demur or delay and take action against the errant TSPs for continued denial/delay in provisioning of POI's and subsequent breach of respective Licenses.</p> <p>(b) Though RJIL has attached copies of its letter dated 21<sup>st</sup> June 2016; however, the COAI's captioned letter dated 8<sup>th</sup> August 2016 is not available in the Annexes attached with the Recommendations, as such, it is not clear as to whether TRAI took cognizance of the said letter of COAI.</p> <p>(c) Vide letter dated 2<sup>nd</sup> September, 2016, COAI had also sought TRAI intervention to restore fair competition. From perusal of para 6 of TRAI Recommendations, it appears that TRAI has relied upon only some of the contents of COAI letter ignoring the points made in respect of RJIL test launch being conducted for some months; pseudo and abnormal asymmetric traffic patterns caused through unlimited free usage of voice and data; unfair competition; unlimited free voice services by RJIL and its negative impact on the other operators; abuse of IUC regime, etc.</p> <p>On scrutiny of RJIL's letter dated 21<sup>st</sup> June 2016, it has been observed that at the one hand M/s RJIL mentions that it expects over 100 million subscriber in the</p>



		<p>first year post launch of services; whereas on the other hand it says that RJIL customer base of 22 million and future projections should be taken from the date of this letter. It is not clear from the contents of the letter as to whether RJIL had launched its services on the said date i.e. 21<sup>st</sup> June 2016. If not, how RJIL can claim a customer base of 22 million on the said date.</p> <p>Further, as brought out in sub-para (c) above, reliance/ response on some of the contents of same letter of COAI while ignoring the rest of the contents, may be termed as a selective approach on the part of TRAI. It is noted that during test phase, generally, operators provide minimum POIs for testing of call flow to other networks.</p> <p>TRAI may please clarify and reconsider.</p>
<p>Para 7</p>	<p>In view of the COAI's letter referred above, a meeting was held with telecom service providers including IDEA on the 9<sup>th</sup> September, 2016 wherein IDEA along with Bharti Airtel Limited and Vodafone India Limited confirmed that they agree with all the letters of COAI including letter under reference. It was categorically conveyed to these telecom service providers that they should ensure that the consumers do not suffer because of the inadequacy of POIs (a copy of the minutes of the meeting is annexed as Annexure-VII).</p>	<p>In this para TRAI has mentioned about a meeting with TSPs on 9<sup>th</sup> September, 2016 wherein, TRAI categorically conveyed to the three TSPs namely Airtel, Vodafone India Limited and M/s Idea Cellular Limited that the consumers do not suffer because of the inadequacy of the POIs.</p> <p>From the perusal of minutes of the meeting annexed as Annexure-VII, it is evident that the above mentioned TSPs have also raised several issues against RJIL, however, TRAI does not seem to have responded or looked into all of them for amicable resolution.</p> <p>It has been observed that M/s RJIL had been approaching TRAI from July 2016 for its urgent intervention to remove congestion at inter-operator POIs. Though, TRAI has sought explanation from IDEA and its reply was available with TRAI in last week of July 2016, however, TRAI conducted the first meeting on the issue on 9<sup>th</sup> September 2016.</p> <p>TRAI may be in a better position to clarify and reconsider as to whether (i) TSPs took any action for mutual resolution of disputes/ differences on the issues raised by them; (ii) TRAI's intervention was timely and the same was legally tenable only post the launch of RJIL commercial operations, which was made on 5<sup>th</sup> September 2016 as per DOT records.</p>
<p>Para 8</p>	<p>The Authority received a letter No. RJIL/TRAI/2016-17/630, dated the 15<sup>th</sup> September, 2016 from RJIL providing details of call failure with IDEA and seeking the Authority's intervention to resolve the matter in order to protect the interests of the Indian customers (a copy of the letter dated the 15<sup>th</sup> September, 2016 is annexed as Annexure-VIII).</p>	<p>In this para TRAI has mentioned about receipt of letter dated 15<sup>th</sup> September, 2016 from RJIL providing details of call failures with IDEA and seeking TRAI's intervention, hence no comments. However, on perusal of Annexure-VIII as mentioned in the para, it has been observed that RJIL letter dated 15<sup>th</sup> September 2016 was issued within a week of TRAI's meeting held on 9<sup>th</sup> September 2016.</p> <p>Since, RJIL had announced its commercial launch on 5<sup>th</sup> September 2016, the</p>



		<p>operators might have provisioned augmentation of POIs as per demand of RJIL after the said meeting with TRAI. In terms of interconnect agreement as well as TRAI direction, 90 days period is the permissible and agreed period for augmentation. However, it is not clear as to whether TRAI took into consideration the TSP's action and the outcome of ongoing augmentation activities at that point in time while issuing its recommendation dated 21.10.2016.</p> <p>TRAI may please clarify and reconsider.</p>
Para 9	<p>The Authority, vide letter No. 10-6/2016-BB&amp;PA dated the 19<sup>th</sup> September, 2016 asked IDEA to furnish information on the steps taken by them after the aforementioned meeting of the 9<sup>th</sup> September, 2016 and to furnish information on traffic on POIs with RJIL during busy hour in a prescribed format (a copy of the letter dated the 19<sup>th</sup> September, 2016 is annexed as <b>Annexure-IX</b>).</p>	<p>In the paragraphs 9 to 11, TRAI has mentioned about its letter dated 19<sup>th</sup> September, 2016 asking IDEA to furnish information on the steps taken by them after the meeting of 9<sup>th</sup> September, 2016 and on traffic on POIs with RJIL as well as about the response of IDEA vide letter No. IDEA/RCA/RV/2016-17/September/138 dated the 22<sup>nd</sup> September, 2016, hence no comments.</p>
Para 10	<p>The Authority received a letter No. IDEA/RCA/RV/2016-17/September/138 dated the 22<sup>nd</sup> September, 2016 from IDEA in response to the aforementioned letter dated the 19<sup>th</sup> September, 2016, providing the information on traffic on POIs with RJIL during busy hour (a copy of the letter dated the 22<sup>nd</sup> September, 2016 is annexed as <b>Annexure-X</b>).</p>	<p>However, scrutiny of <b>Annexure-IX</b> as mentioned in the para 9 of TRAI recommendations reveals that TRAI had sought traffic data from 15<sup>th</sup> September 2016 to 19<sup>th</sup> September 2016. To the extent of TRAI seeking information from operators on the steps taken after the meeting held on 9<sup>th</sup> September 2016 is concerned, the same may seem justified as a means to monitor the situation.</p>
Para 11	<p>On perusal of the information furnished by IDEA, <del>the Authority</del>, <i>prima-facie</i>, noted that in most of the Licensed Service Areas (LSAs), the percentage of failed call attempts during busy hour with RJIL is exorbitantly high, thus IDEA has failed to meet the benchmarks for POI congestion prescribed in the Standards of Quality of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009 at the POIs with RJIL and relevant provisions of the license. The Authority also noted that RJIL has been sending requests for enhancement of capacity on regular basis to IDEA under intimation to TRAI.</p>	<p>Though in the letter No. IDEA/RCA/RV/2016-17/September/138 dated the 22<sup>nd</sup> September, 2016 (<b>Annexure-X</b>), IDEA has also intimated about augmentation of E1s and their operationalization, however, the same has not been captured in para 10 &amp; 11 of the TRAI's recommendations; as such it is not clear as to whether TRAI has taken cognizance of the said steps taken by IDEA, while finalizing its recommendations.</p> <p>It is also observed that though the TRAI's QoS Regulations regarding POI congestion prescribe a benchmark of less than or equal to 0.5% averaged over a period of one month; however, TRAI has taken traffic data of only few days to arrive at its conclusion while finalizing its recommendations, which is a deviation from the provision of the Regulation that POI congestion to be averaged over a period of one month for the purpose of examining QoS benchmarks.</p> <p>TRAI may please clarify and reconsider.</p>
Para 12	<p>In view of the above, a Show Cause Notice dated the 27<sup>th</sup> September, 2016 was issued to IDEA asking as to why action under the provisions of the TRAI Act should not be initiated against them for violation of the Standards of Quality Of Service Of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009 dated the 20<sup>th</sup> March, 2009 and the provisions of Unified License and Unified Access Service License (a</p>	<p>In the paragraphs 12 to 14, TRAI has mentioned about issue of Show Cause Notice (SCN) dated 27<sup>th</sup> September, 2016 to IDEA for violation of QoS regulations and provision of license agreement; meeting with CEO of IDEA and TRAI dated 30<sup>th</sup> September, 2016 and seeking of information on traffic and congestion on POIs with RJIL vide letter dated 3<sup>rd</sup> October, 2016 as well as Response of IDEA vide letter dated 7<sup>th</sup> October, 2016 to the Show Cause Notice</p>



<p>copy of the Show Cause Notice dated the 27<sup>th</sup> September, 2016 is annexed as Annexure-XI).</p>	<p>of TRAI dated 27<sup>th</sup> September, 2016, hence no comments.</p>
<p>Para 13 A meeting was held by the Authority on the 30<sup>th</sup> September, 2016 with the CEO of IDEA. In the meeting, IDEA was requested to furnish information regarding congestion on the POIs with RJIL on daily basis to the Authority. Subsequently, through a letter dated the 3<sup>rd</sup> October, 2016, IDEA was requested to furnish the information on traffic and congestion on POIs with RJIL in a prescribed format on daily basis (a copy of the Authority's letter dated the 3<sup>rd</sup> October, 2016 is annexed as Annexure-XII).</p>	<p>However, on perusal of Annexure-XI as mentioned in para 12 of TRAI's recommendations, it has been observed that TRAI's SCN only alleged QoS and non-compliance of License conditions and did not mention penalty outcome of 50 crores for Licensing non-compliance while seeking IDEA's explanation.</p> <p>Further, it is observed that though in para 14 of the recommendations TRAI has captured the points made by IDEA in response to the SCN, however, it has responded to some of the grounds and has remained silent on other grounds viz. claim of IDEA such as efforts made by IDEA in augmenting the POIs; delay by RJIL in the operationalization of capacities.</p>
<p>Para 14 In response to the Show Cause Notice as mentioned in para 12 above, the Authority received a letter no. Idea/RAC/RV/2016-17/Oct/150, dated the 6<sup>th</sup> October, 2016 from IDEA wherein IDEA provided the following grounds broadly as to why no action should be taken against them:</p> <ul style="list-style-type: none"> <li>(i) The Show Cause Notice is defective, invalid and premeditated.</li> <li>(ii) The Show Cause Notice is contrary to, and a gross misapplication of regulation, where victim is made the accused.</li> <li>(iii) IDEA has fulfilled QoS standards from its side.</li> <li>(iv) Reasons of QoS failure such as they are solely attributable to RJIL.</li> </ul> <p>(A copy of the letter no. Idea/RAC/RV/2016-17/Oct/150, dated the 6<sup>th</sup> October, 2016 is annexed as Annexure-XIII.)</p>	<p>Also from perusal of recommendations it appears that TRAI did not provide any hearing to IDEA post submission of response to show cause notice.</p> <p>Therefore, TRAI may like to <sup>reconsider</sup> examine as to whether the recommendations will stand a legal scrutiny and may not be quashed on the ground of non-adherence to principles of natural justice.</p> <p>TRAI may please clarify and reconsider.</p>
<p>Para 15 The Authority examined the grounds taken by IDEA, in the light of the fact that in the meeting held on the 9<sup>th</sup> September, 2016, it was conveyed to the telecom service providers that they should ensure that the consumers do not suffer because of the inadequacy of POIs. Accordingly, the Authority is of the view that the arguments made by IDEA are not tenable as the Show Cause Notice was issued after providing sufficient time to IDEA to comply with the Standards of Quality Of Service Of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009 dated the 20<sup>th</sup> March, 2009 and the provisions of Unified License and Unified Access Service License. The Authority has been continuously monitoring the situation of congestion at POIs with RJIL and situation has not improved significantly yet. The contention of IDEA that POI congestion should be considered over a period of one month (average one month period) cannot be accepted as it would be unreasonable to assume that POI congestion averaged over one month would be within the benchmark of <math>\leq 0.5\%</math> when the POI congestion for each day separately is exceeding the benchmark. The argument of provisioning of interconnection capacities is required only post the commercial launch of services is also not tenable as RJIL had informed their</p>	<p>In the paragraphs 15 to 19, TRAI has mentioned about examination of the grounds taken by IDEA and TRAI's decision there upon. TRAI has indicated that arguments made by IDEA are not tenable. However, it has been noticed that though analysis of the reply against some argument and view of TRAI thereon is available in the recommendations, many of the points have remained unaddressed.</p> <p>Further, it is noted that as per interconnect agreement between M/s RJIL &amp; M/s IDEA Cellular Limited (ICL), the time period prescribed for augmentation of POIs is 4 weeks' notice period plus 90 days on receipt of requisite charges (Clause 9.1 &amp; 9.2 of the interconnect agreement refers). However, the analysis of delay in providing POIs beyond 90 days on receipt of requisite charges by either party is not available in the recommendations.</p> <p>It needs clarity whether QoS norms are examined based on average traffic of one month or any part thereof for imposition of financial disincentives for violation of QoS Benchmarks. In the situation, wherein IDEA has claimed that it has been taking action for provisioning of POIs and that there has been some delays on part</p>

