

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4

**THE REPORTING SYSTEM ON ACCOUNTING SEPARATION (AMENDMENT)
REGULATIONS, 2012**

(_____ of 2012)

**TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION**

New Delhi, the _____ 2012

No. _____-F&EA ----- In exercise of powers conferred by section 36, read with sub-clause (i) 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 to amend the Reporting System on Accounting Separation Regulations, 2012 (7of 2012), namely:-

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| <p>1 (1) These regulations may be called the Reporting System on Accounting Separation (Amendment) Regulations, 2012.</p> <p>(2) They shall come into force from the date of their publication in the Official Gazette.</p> |
| <p>2. After regulation 5 of the Reporting System on Accounting Separation Regulations, 2012 (7of 2012), the following regulation shall be inserted, namely:-</p> <p>“5A. Consequences for failure of the service provider to submit reports, statements or making or furnishing of false statements and information:</p> <p>(1) If any service provider contravenes the provisions of regulation 5, it shall without prejudice to the terms and conditions of its licence or the provisions of the Act or rules or regulations or orders made, or, directions issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding five lakh rupees and, in case the default continues for more than fifteen days, additional amount not exceeding fifty thousand rupees for every day after fifteen days</p> |

during which the default continues, as the Authority may, by order, direct.

Provided that for every subsequent contravention, the service provider shall be liable to pay an amount, by way of financial disincentive, not exceeding ten lakh rupees and, in case the default continues for more than fifteen days, additional amount not exceeding one lakh rupees for every day after fifteen days during which the default continues, as the Authority may, by order, direct:

Provided further that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the service provider has been given reasonable opportunity of representing against the contravention of the regulations observed by the Authority.

- (2) If the report furnished by the service provider under regulation 5 is false and which such service provider knows or believes to be false or does not believe to be true, or omits any material fact knowing it to be material, it shall, without prejudice to the terms and conditions of its licence, or the provisions of the Act or rules or regulations or order made, or, direction issued thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding ten lakh rupees, as the Authority may, by order, direct.

Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the service provider has been given a reasonable opportunity of representing against the contravention of the regulations observed by the Authority.

(Rajeev Agrawal)
SECRETARY

Note1: The Reporting System on Accounting Separation Regulations, 2012 (7of 2012) were published in the Gazette of India, Extraordinary, Part III, Section 4 vide Notification No. 16-07/2010-FA dated 11th April 2012.

Note 2: The Explanatory Memorandum explains the objects and reasons of amendment in the principal Regulations.

Stakeholders are requested to send their written views/ suggestions preferably in electronic form by 18th September 2012 to Mrs. Anuradha Mitra, Pr. Advisor (F&EA) at email id: fa@traigov.in, trai.fadiv@gmail.com.

Explanatory Memorandum

The Telecom Regulatory Authority of India published The Reporting System on Accounting Separation Regulations, 2012 (7of 2012) on 11th April 2012 replacing 'The Reporting System on Accounting Separation Regulation, 2004' which lays down the reporting requirements on Accounting Separation for telecom service providers.

2 In regulation 5, the Authority prescribes submission of audited Accounting Separation Reports by specified service providers within six months of the end of accounting year to the Authority based on Historical Cost Accounting on yearly basis and Replacement Cost Accounting on every second accounting year.

3 The instances of delay in submission of audited Accounting Separation Reports by the service providers were noticed. Also, there have been cases for submission of incomplete/incorrect information in the Accounting Separation Reports by the service providers. Such actions of the service providers defeat the very purpose of calling the financial & non-financial information by Authority for regulatory purpose.

4 The Accounting Separation Regulations do not contain any provision to disincentivize delay in submission of prescribed reports or submission of incomplete/incomplete information in the reports by the service providers. In order to ensure timely submission of complete reports under regulation 5 of The Reporting System on Accounting Separation Regulations, 2012 (7of 2012) notified on 11th April 2012, the Authority has felt that some financial disincentives should be imposed on the defaulting service providers. The Authority, therefore, has proposed to insert a new regulation "5A -Consequences for failure to submit reports, statements and making or furnishing false statements and information" after regulation 5 and before regulation 6 of the principal Regulations imposing financial incentives for those service providers who make default in compliance with regulation 5 of The Reporting System on Accounting Separation Regulations, 2012 (7of 2012) published on 11th April 2012.

5 The amendments made through the Regulations are without prejudice to the action that may be taken against the service providers in accordance with the provisions of TRAI Act for violations of regulatory mandates. The Authority wants to make it clear that the prescribed financial disincentives are only to enhance the compliance level and it shall be open to the Authority to take action separately for violation of any Regulations, Order and Direction as provided in the Act.