

# Counter Comments

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as individual

TRAI Draft Regulation<sup>1</sup> Guidelines<sup>2</sup>, PR<sup>3,4,5</sup>

## Introduction:

1. The following may kindly be noted please regarding some clauses of proposed repealing Regulation<sup>6</sup>:

### (a)

“1. Short title, extent and commencement–

(1) These regulations may be called the Quality of Service (Code of Practice for Metering and Billing Accuracy) Regulations, 2023.

(2) These Regulations shall be applicable to all the service providers having

(a) Unified Access Service License

(b) Unified License with authorization for Access Service

(c) Unified License for VNO with authorization for Access Service.”<sup>7</sup>

“15. Repeal and saving–

(1) The Quality of Service (Code of Practice for Metering and Billing Accuracy) Regulation 2006 (5 of 2006) is hereby repealed.

(2) Notwithstanding such repeal, provisions of the said regulations shall continue to be applicable for the audit of the metering and billing systems for the year 2022-23.

(3) Notwithstanding such repeal, anything done or any action taken, or purported to have been done or taken, under the said regulations shall be deemed to have been done or taken under the corresponding provisions of these regulations.”<sup>8</sup>

### (b)

“Short title, extent and commencement

1.

i) This regulation shall be called “Quality of Service (Code of Practice for Metering and Billing Accuracy) Regulation 2006” (\_\_\_ of 2006)(hereinafter called the ‘Regulation’).

ii) This regulation shall be applicable to all the Basic Service Providers, Unified Access Service Providers and Cellular Mobile Telephone Service Providers, including Mahanagar Telephone Nigam Limited and Bharat Sanchar Nigam Limited.

(iii) This regulation shall come into effect from the date of its publication in the Official Gazette.

i) ‘Act’ means the Telecom Regulatory Authority of India Act, 1997.

ii) ‘Basic Telecommunication Services’ means services derived from a Public Switched Telephone Network (PSTN) and as specified in the licence.

(iii) ‘Cellular Mobile Telephone Services’ means services derived from a Public Land Mobile Network (PLMN) & as specified in the License. This includes both Cellular Mobile Telephone Service provided through GSM and CDMA Technology.

iv) ‘Quality of Service’ is the main indicator of the performance of a telephone network and of the degree to which the network conforms to the stipulated norms.

v) Words and expressions used in this Regulation and not defined here shall bear the same meaning as assigned to them in the Act.” page 1 of 12 of<sup>9</sup>

## Observation I:

The absence of express explicit correspondence between services covered in proposed 'Repealing Regulation' 2023 and "Regulation' 2006 proposed to be repealed makes the clause '15(3)' of **1(a)** above to decide, "anything done or any action taken, or purported to have been done or taken, under the said regulations shall be deemed to have been done or taken under the corresponding provisions of these regulations.", quite subjective and ambiguous.

## 2. Amendment:

**(a)** "TRAI has issued the Quality of Service (Code of Practice for Metering and Billing Accuracy) (Amendment) Regulations, 2013 (4 of 2013) on 25th March, 2013, **amending** the Quality of Service (Code of Practice for Metering and Billing Accuracy) Regulation 2006 (5 of 2006) dated the 21st March, 2006."<sup>10</sup>

**(i)** TRAI issued a 'consolidated-regulation' regarding The 'Amendment' referred in **2(a)** above<sup>11</sup>.

**Observation I:** A study of<sup>9,10,11</sup> gives the details of the following documents:

**(a)** Principal Regulation 2006<sup>12</sup>

**(b)** (AMENDMENT) REGULATIONS, 2013 (4 OF 2013)<sup>13</sup>.

**(c)** Order regarding implementation of<sup>14</sup>.

**(d)** GUIDELINES FOR AUDIT OF THE METERING AND BILLING SYSTEM<sup>15</sup>

**(e)** Clarifications regarding implementation of (Amendment) Regulations, 2013 (4 of 2013) dated 25th March, 2013<sup>16</sup>.

**Observation II:** The proposed repealing 'Regulation' is in the form of a 'TELECOM REGULATORY AUTHORITY OF INDIA NOTIFICATION' TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART III, SECTION 4<sup>17</sup>. However as per clause 1(3) of the said regulation<sup>18</sup> 'They shall come into force from the 1st day of April, 20XX.'<sup>19</sup>. This is at variance with normal practice that the date of 'Gazette Notification' is the date for 'come into force'.

**(a) In view of 'Observation II'** above & as 01-04-2023 is already past, the clause '(2) Notwithstanding such repeal, provisions of the said regulations shall continue to be applicable for the audit of the metering and billing systems for the year 2022-23'<sup>20</sup> of proposed repealing regulation becomes inapplicable.

## Counter Comments:

Keeping in view **Observation I & Observation II & II(a)** above, the following is submitted for kind consideration:

In place of The extant 'Repealing Regulation' an **(AMENDMENT) REGULATIONS, 2023 (----- OF 2023)** of Regulation 2006 (5 of 2006) dated the 21st March, 2006 duly amended by (Amendment) Regulations, 2013 (4 of 2013) dated the 25th March, 2013, may kindly be issued along with any explanatory memorandum/note, clarifications, guidelines as deemed fit for consultation of stake holders as per normal practice.

