

TELECOM REGULATORY AUTHORITY OF INDIA
Mahanagar Doorsanchar Bhawan, Jawaharlal Nehru Marg,
(Old Minto Road), Delhi 110 002.

New Delhi, the 14th September, 2012

DIRECTION

Subject: Direction under section 13, 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 and the provision of the Telecommunication Tariff Order, 1999, on blackout days.

F. No. 301-1/2012-F&EA(Vol.II)— Whereas the Telecom Regulatory Authority of India (hereinafter referred to as the Authority), established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act 1997 (24 of 1997) (hereinafter referred to as TRAI Act, 1997), has been entrusted with the discharge of certain functions, *inter alia*, to regulate telecommunication services, protect the interest of service providers, ensure compliance of terms and conditions of licence and lay down the standards of quality of service to be provided by the service providers so as to protect the interest of consumers of telecommunication service;

2. And whereas the Authority had, vide Direction No.301-31/2007-Eco dated the 1st September, 2008, *inter alia*, to ensure transparency in the matter of charging for calls/ SMS on blackout days and to protect the interest of the consumers, directed as under:

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.....

PART IV
D.DIRECTIONS RELATING TO BLACK OUT DAYS

(4) No access service provider shall,---

(a) fix the number of 'black out' days, (being the days on which free or concessional Voice Calls/SMS offered by it under any plan/ package including

discounted scheme are not available to their telecom consumers), for a period exceeding a maximum of five days in a calendar year;

(b) where the number of days so specified as referred to in clause (a) above is less than five, make any addition to the number of days specified as 'black out' days, after the same is subscribed by the telecom consumer ;

(c) make any alteration in any date which has been specified as a 'black out' day as referred to in clause (a) above, after the same is subscribed by the telecom consumer.

(5) All access service providers shall, in any package as referred in the preceding sub-paragraph, clearly indicate on the package itself offered by them to telecom consumers -----

(a) the 'black out' days (being the days on which free or concessional Voice Calls/SMS offered by it under any plan/package including discounted scheme are not available to their telecom consumers); and

(b) the SMS/call charges applicable on such specified 'black out' days."

3. And whereas the Authority, in order to verify the compliance of transparency measures mandated by it under the Direction dated the 1st September, 2008, referred to in the preceding para, obtained from the service providers, information pertaining to the manner in which the consumers are being informed about the 'blackout' days and also the contents of SMS being sent to the consumers for the purpose;

4. And whereas report received from the service providers indicated that subscribers are being informed about the blackout days through the following one or more mediums of communications, namely:

(a) Website

(b) SUK

(c) SEF/CAF

(d) SMS

(e) Printed on Recharge

(f) Newspaper

- (g) Banner
- (h) Poster
- (i) User guide
- (j) Call centre

5. And whereas analysis of SMSs sent by various service providers to subscribers informing them about the blackout days showed wide variation both in the manner and content of SMSs sent and the Authority found that in some cases full information is not being conveyed to the subscribers in a transparent manner;

6. And whereas the Authority also noted from the reports, referred to in para 4, that there is no uniformity in the rates being charged from the consumers by different service providers on blackout days, as while some service providers are charging as per standard rate, others are charging as per the tariff plan rate or specified rate;

7. And whereas the Authority has made the Telecommunication Consumers Protection Regulations, 2012 (2 of 2012) dated the 6th January, 2012 and regulation 4 of the said regulations, inter alia, provides that a Plan Voucher offered to the consumers shall be used only to enroll a consumer into a tariff plan and does not provide any monetary value;

8. And whereas sub-clause (vii) of clause 6 of the Telecommunication Tariff Order, 1999, inter alia, provides that no tariff item in a tariff plan shall be increased by the access provider during the validity of the tariff plan;

9. And whereas in view of the provisions contained in the Telecommunication Consumers Protection Regulations, 2012, referred to in the para 7 and the provisions of the Telecommunication Tariff Order, 1999 referred to in the preceding para, the service providers are not entitled to charge the

consumers for calls or SMS at a rate exceeding the rate in the tariff plan in which the consumer is enrolled;

10. And whereas the Direction issued by the Authority vide F.No.301-14/2010-ER dated 16.01.2012, interalia, requires the telecom access service providers to publish on their websites and customer care centres all tariff plans for postpaid subscribers in Format 'A' and all tariff plans for prepaid subscribers in Format 'B' attached with the said Direction and also publish all the tariff plans in Format 'A' and 'B' in Newspapers every six months;

11. And whereas the Authority has reviewed the transparency in publication of tariff by the service provider and is of the view that the list of blackout days decided by the service provider for each service area should be published in the formats 'A' and 'B' referred in para 9 above, to make the subscribers aware about such blackout days;

12. Now, therefore, the Authority, in exercise of powers conferred upon it under section 13 read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of TRAI Act, 1997 and the provisions of the Telecommunication Tariff Order, 1999 and in order to protect the interests of the consumers and for the reasons mentioned in the preceding paragraphs, hereby directs all the Access Service Providers:-

- (i) to ensure that the consumer is not charged for calls or SMSs on 'blackout' days exceeding the rate in the tariff plan in which he is enrolled;
- (ii) to inform the consumer, through SMS, not earlier than seventy two hours and not later than twenty four hours prior to the commencement of the 'blackout' day, the occasion and date of 'blackout' day and the rate applicable for calls and SMSs on such 'blackout' days;

- (iii) to display the list of blackout days applicable for the calendar year on their respective websites before start of the year and furnish a copy of the same to the Authority by 7th January of each calendar year; and
- (iv) to publish the list of 'blackout' days, in the formats 'A' and 'B' specified vide TRAI Direction No.301-14/2010-ER dated 16.01.2012, by adding serial No.13 in the said format 'A' and serial No.11 in the said format 'B'.

(RAJ PAL)
ADVISOR (F&EA)

To:
All Telecom Access Service Providers
(As per list attached)