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EXTRAORDINARY, PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

NEW DELHI, THE,2012

F. NO. 305-8/2012-QOS.----- In exercise of the powers conferred upon it under 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 to amend the Standards of Quality of Service of Basic Telephone Service (wireline) and Cellular Mobile Telephone Service Regulations, 2009 (7 of 2009), namely:-

**THE STANDARDS OF QUALITY OF SERVICE OF BASIC
TELEPHONE SERVICE (WIRELINER) AND CELLULAR MOBILE
TELEPHONE SERVICE (SECONDA MENDMENT)
REGULATIONS, 2012
(-- OF 2012)**

<p>1. (1) These regulations may be called the Standards of Quality of Service of Basic Telephone Service (wireline) and Cellular Mobile Telephone Service (Second Amendment) Regulations, 2012.</p>

<p>(2) They shall come into force from the date of their publication in the Official Gazette.</p>

2. After regulation 3 of the Standards of Quality of Service of Basic Telephone Service (wireline) and Cellular Mobile Telephone Service Regulations, 2009, (hereinafter referred to as the principal regulations), the following regulation shall be inserted namely:-

“3A : Consequences for failure of basic service providers to meet the Quality of Service benchmarks.—(1) If a basic telephone service provider fails to meet the Quality of Service benchmarks specified under sub-regulation (1) of regulation 3, it shall, without prejudice to the terms and conditions of its licence, or 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 rupees fifty thousand per parameter and in case of second or subsequent such contravention, to pay an amount not exceeding rupees one lakh per parameter for each contravention, 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 basic telephone service provider has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.

(2) If the compliance report furnished by a basic telephone service provider under sub-regulation (2) of regulation 3 is false and which such service provider knows or believes to be false or does not believe to be true, it shall, without prejudice to the terms and condition of its licence, or 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 rupees ten lakh per parameter for which such false report has been furnished.

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

(3) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority."

3. After regulation 5 of the principal regulations, the following regulation shall be inserted, namely:-

"5A. Consequences for failure of cellular mobile telephone service provider to meet Quality of Service benchmarks.- (1) If a cellular mobile telephone service provider fails to meet the

benchmark of parameter specified under serial number A of sub-regulation (1) of regulation (5), it shall, without prejudice to the terms and conditions of its licence, or the Act or rules or regulations or orders made, or direction issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding rupees fifty thousand per parameter and in case of second or subsequent such contravention, to pay an amount not exceeding rupees one lakh per parameter for each contravention, 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 cellular mobile telephone service provider has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.

- (2) If a cellular mobile telephone service provider fails to meet the benchmark of parameter specified under serial number B of sub-regulation (1) of regulation (5), it shall, without prejudice to the terms and conditions of its licence, or the Act or rules or regulations or orders made, or direction issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding rupees fifty

thousand per parameter:

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

- (3) If the compliance report furnished by a cellular mobile telephone service provider under sub-regulations (2) of regulation 5 is false and which such service provider knows or believes to be false or does not believe to be true, it shall, without prejudice to the terms and conditions of its license, or 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 rupees ten lakh per parameter for which such false report has been furnished.

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

- (4) The amount payable by way of financial disincentive under these

regulations shall be remitted to such head of account as may be specified by the Authority.”

4. After regulation 9 of the principal regulations, the following regulation shall be inserted, namely:----

“9A. Consequences for failure of the service providers to submit compliance report.- (1) If a service provider contravenes the provisions of regulation 9, 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 rupees five thousand for every day during which the default continues.

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 regulation observed by the Authority.

(2) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.”

(Rajeev Agrawal)

Secretary

Note.1.--- The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 20th March, 2009 vide notification number No. 305-25/2008-QoS dated the 20th March, 2009.

Note.2.--- The principal regulations were amended by issuing the Standards of quality of service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone service (amendment) regulations, 2012 (10 of 2012) dated the 7th May, 2012.

Note.3.--- The Explanatory Memorandum explains the objects and reasons of the Standards of Quality of Service of Basic Telephone Service (wireline) and Cellular Mobile Telephone Service (Second Amendment) Regulations, 2012.

Explanatory Memorandum

TRAI has laid down the Quality of Service Standards 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 (7 of 2009) dated the 20th March 2009. These regulations were amended by issuing the Standards of quality of service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone service (amendment) regulations, 2012 (10 of 2012) dated the 7th May, 2012. As part of compliance to these regulations the Monthly/Quarterly Performance Monitoring Reports are received from service providers. TRAI also conducts periodic survey through independent agencies across the country, to monitor the compliance of prescribed standards/benchmarks. Analysis of these reports of several past quarters reveals that some of the service providers are repeatedly not meeting the quality of service benchmarks for some of the prescribed parameters and no consistent improvement is noticed in spite of the measures taken by TRAI. Therefore, there is a need to provide for financial disincentives for failure to meet the Quality of Service benchmarks.

2. TRAI had earlier considered the issue of imposing financial disincentives for ensuring Quality of Service, in pursuance of the Consultation Paper issued on 18th December, 2008. It was decided that the Authority may consider issuing regulation, separately, similar to the Telecom Unsolicited Commercial Communication Regulations, 2007 (4 of 2007), for imposing financial

disincentives to ensure the compliance of quality of service regulations, after detailed analysis of the performance of service providers once the Standards of Quality of Service of Basic Telephone Service (Wireline) and Cellular Mobile Telephone Service Regulations, 2009 are implemented.

3. Keeping in view the above provisions in para 9.4 of the Explanatory Memorandum to the above Quality of Service Regulations, the need to ensure the quality of service provided by the service providers and to protect the interests of the consumers by making these regulations more effective, it is felt that there is a need to amend the Standards of Quality of Service of Basic Telephone Service (wireline) and Cellular Mobile Telephone Service Regulations, 2009 (7 of 2009) dated the 20th March, 2009 to introduce financial disincentive in relation to the performance of service providers with regard to the Quality of Service benchmarks so as to strengthen the effectiveness and compliance of the said regulations.

4. The Authority will monitor the Quality of Service reported by service providers subsequent to the coming into force of these regulations from the point of view of non-compliance with the benchmarks and accordingly impose financial disincentive. In case the benchmark for any of the quality of service parameter for Basic Telephone Service (Wireline) and network service quality parameter for Cellular Mobile Telephone Service e.g. call drop rate benchmark $\leq 2\%$, is not met by an operator in the first quarter after coming into force of these regulations financial disincentive not exceeding Rs.50000/- shall be

imposed. In case in any of the subsequent quarters the benchmark for the same parameter i.e. call drop rate benchmark $\leq 2\%$ is not met, financial disincentive not exceeding Rs.1 lakh will be imposed by the Authority.

5. Similarly, in case the benchmark for any of the customer service quality parameter for Cellular Mobile Telephone Service e.g. termination/closure of service benchmark ≤ 7 days, is not met by an operator in any quarter after coming into force of these regulations financial disincentive not exceeding Rs.50000/- shall be imposed on each instance of non-compliance with the benchmark.