

Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhavan
Jawaharlal Nehru Marg, Next to Zakir Hussain College
New Delhi – 110 002

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Dated the 4th September, 2009

DIRECTION

Subject: Amendment to Direction F.No.303-1/2006-QOS dated the 27th April, 2009 on provision of value added services to customers.

F.No.305-5/2008-QOS----- 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 the TRAI Act, 1997), has been entrusted with discharge of certain functions, *inter alia*, to regulate the telecommunication services, ensure technical compatibility and effective inter-connection between different service providers, lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect the interest of the consumers of telecommunications service;

2. And whereas the Authority had, vide its Direction F.NO. 303-1/2006-QOS dated the 27th April, 2009, issued in exercise of the 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 the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and clause 11 of the Telecom Tariff Order, 1999, for the reasons mentioned in paragraphs 2 to 22 of the said Direction, directed all Access Service Providers (including M/s Bharat Sanchar Nigam Ltd. and M/s Mahanagar Telephone Nigam Ltd.) to ensure within forty-five days of the issue of the said Direction that -----

- (i) in case a chargeable value added service is offered through pressing/dialing of certain keys in the mobile handset / telephone set, such as “Press Star to Copy Hello Tunes”, service provider initiated call or Out Bound Dialer (OBD) call, the service provider shall, subsequent to the pressing/ dialing of particular key(s) in the mobile handset/ telephone set by the customer, expressing his interest to subscribe to such service, convey to the customer in writing or through SMS or FAX or e-mail, all the details of the offer of value added service including the terms and conditions and charges for provision of the

service and also about the fact of his having pressed/dialed the particular keys in his mobile handset for subscribing to such value added service, and seek and obtain the explicit consent of the customer, through telephone or SMS or FAX or e-mail or by other electronic means, for availing by such customer of such value added service, before activation of such value added service;

(ii) in all cases of activation of value added services, including those covered under item (i) above, the explicit consent of the customer shall be obtained by means of -----

(a) a customer originated call to a specified number;

(b) a customer originated SMS to a specified number;

(c) a customer originated interactive session to a specified number; or

(d) a request made by the customer in writing or by fax or e-mail, -----

before activating any value added service; and

(iii) no chargeable value added service is activated -----

(a) as in the case of “Press “*” key to Copy Hello Tunes”, referred to in paragraph 7 above; or

(b) through the pressing of “*” key or “#” key or any other key or any combination of keys/buttons in the mobile handset/telephone instrument by the subscriber,-----

either through outbound dialer or service provider initiated call or during pre-call ring-back announcements (both voice as well as automated) during a customer initiated call to a third party unless the explicit consent of the customer is obtained in accordance with item (i) and (ii) above;

(iv) music or video related value added services, such as caller ring back tune, background music, wall paper, etc., shall not be provided, even if it is provided free of charge, without taking the explicit consent of the consumer in the manner as indicated in item (ii) above;

3. And whereas, subsequent to the issue of the said Direction, the Authority received representations from the associations of service providers such as Cellular Operators Association of India (COAI), Association of Unified Telecom Service Providers of India (AUSPI) and also from M/s Bharat Sanchar Nigam Limited that the provisions of the said Direction which mandate –

- (a) a customer originated call or SMS or interactive session; or
- (b) a written request by customer by fax or e-mail,

before activating any value added service, would significantly harm and slow down the growth of value added services as they would involve multi-stage activation process and cause delay in obtaining the explicit consent of the customer;

4. And whereas upon careful consideration of the matter, the Authority is of the view that while there is need to ensure that the procedure for subscription to value added services is made simple so that the provision of such services to customers is not unnecessarily delayed and that the growth of value added services in the telecom sector is not hampered, there is also need for protecting consumers against accidental or unintended subscription to value added services and, accordingly, in order to address the apprehensions expressed by the said associations of service providers and M/s Bharat Sanchar Nigam Ltd. as referred to in the preceding paragraph, the Authority has decided to specify, in addition to the procedural requirements as specified in its said Direction F.NO. 303-1/2006-QOS dated the 27th April, 2009, an alternative procedure which would not only obviate such multi-stage activation process and resultant delay in the provision of value added services to the customers but also protect the customers against unintended or accidental activation of such value added services;

5. Now, therefore, the Authority, in exercise of the 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 the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and clause 11 of the Telecom Tariff Order, 1999, for the reasons mentioned in the paragraphs 2, 3 and 4 above, and to ensure compliance of terms and conditions of licence and to protect the interest of consumers, hereby makes the following amendment in its Direction F.No. 303-1/2006-QOS dated the 27th April, 2009, namely:-

(a) in clause (ii) of paragraph 23 of the said Direction, at the end, --

(i) the word “and” may be omitted; and

(ii) the following proviso shall be inserted, namely:-

“Provided that nothing contained in this clause or in clause (i) above shall be applicable to the provisioning of a value added service if such value added service is provided by following the double confirmation process as specified hereunder in clause (A) or (B), as the case may be, namely:-

(A) in case of service provider initiated call or Out Bound Dialer (OBD) Call, the following steps or process of confirmation and reconfirmation, including procedure for un-subscription, shall be followed for obtaining the explicit consent of the customer, for activation of the value added service, such as Caller Ring Back Tunes, namely:-

(Step – 1.) pre-recorded call is made by service provider informing the customer about the value added service and the charges therefor;

(Step – 2.) the caller tunes are played and the customer is told through automated announcements to press relevant key(s) in the mobile handset/ telephone set, other than keys ‘*’(star) and ‘9’, to select his choice of the song and thereby expressing his interest to subscribe the service;

(Step – 3.) the charges for the selected value added service is again announced and the customer is told to reconfirm subscription to the value added service by pressing ‘*’ (Star) key followed by ‘9’ key in the mobile handset/ telephone set;

(Step – 4.) the subscription by the customer to the value added service is confirmed through announcement;

(Step – 5.) the subscription to the value added service is again acknowledged through Short Message Service (SMS) immediately after the confirmation by way of announcement as referred to in the preceding step, indicating therein the charges and relevant details of the value added service such as monthly fixed charge, Ring Back Tune (RBT) download charge or its recurring charge, validity period of Ring Back Tune, including toll free telephone number for un-subscribing the service through Interactive Voice Recorder (IVR) or voice or Short Message Service (SMS), as the case may be; and

(Step – 6.) in case the subscriber seeks to un-subscribe the value added service within twenty-four hours from the time of its activation on the ground that the subscription to such service was unintentional or accidental, the service provider shall un-subscribe such value added service and shall reimburse or credit to the customer’s account the charges, if any, deducted or levied for subscription to such value added service;

(B) in case of provision of a value added service through the mechanism of “Press *(star) to Copy Hello Tunes”, the following steps or process of confirmation and reconfirmation, including procedure for un-subscription, shall be followed for obtaining the explicit consent of the customer, for activation of the value added service, such as Caller Ring Back Tunes, namely:-

(Step – 1.) pre-call announcement is made about the Caller Ring Back Tune (CRBT) or other value added service, as the case may be, and about the applicable charges for such service and the customer is prompted to press *(star) key and ‘9’ key.

(Step – 2.) the subscription to the value added service is acknowledged through SMS immediately, indicating therein the charges and relevant details of the value added service such as monthly fixed charge, Ring Back Tune (RBT) download charge or its recurring charge, validity period of Ring Back Tune, including toll free telephone number for un-subscribing through Interactive Voice Recorder (IVR) or voice or Short Message Service (SMS), as the case may be; and

(Step – 3.) in case the subscriber seeks to un-subscribe the value added service within twenty-four hours from the time of its activation on the ground that the subscription to such service was unintentional or accidental, the service provider shall un-subscribe such value added service and shall reimburse or credit to the customer’s account the charges, if any, deducted or levied for subscription to such value added service.”; and

(b) in paragraph 23 of the said Direction, after clause (iv), the following clause shall be inserted, namely:-

“(v) the service provider shall inform the subscriber through Interactive Voice Response (IVR) or voice or Short Message Service (SMS) at least three days before the due date of renewal of a subscribed value added service, the due date for renewal, the charges for renewal and the toll free telephone number for un-subscribing of such value added service.”

**(M.C Chaube)
Advisor (QOS)**

To
All Access Service Providers,
Bharat Sanchar Nigam Ltd.
Mahanagar Telephone Nigam Ltd.