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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, The 30th September, 2020

**TELECOM CONSUMERS PROTECTION (ELEVENTH AMENDMENT) REGULATIONS,
2020 (07 OF 2020)**

No. 301-20/2020-F&EA --- In exercise of the powers conferred by 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 further to amend the Telecom Consumers Protection Regulations, 2012 (2 of 2012), namely:-

<p>1. (1) These regulations may be called the Telecom Consumers Protection (Eleventh Amendment) Regulations, 2020;</p> <p>(2) They shall come into force after thirty days from the date of their publication in the Official Gazette.</p>
<p>2. In regulation 9 of the Telecom Consumers Protection Regulations, 2012 (hereinafter referred to as the principal regulations), the proviso thereunder shall be omitted.</p>
<p>3. In regulation 10A of the principal regulations, sub-regulation (4) shall be omitted.</p>
<p>4. After Chapter V of the principal regulations, the following chapter shall be inserted, namely:-</p>
<p style="text-align: center;">“Chapter VI</p> <p style="text-align: center;">Measures to protect consumers from bill shocks while using international mobile roaming service</p>
<p>17. Default status of international mobile roaming service – Every service provider shall ensure that the international mobile roaming service is inactive by default for all consumers and shall be activated only on the request of a consumer and once activated, it may be deactivated at any</p>

time on the request of the consumer.

Provided that in case of existing consumers, specific choice of every consumer to continue with or to discontinue the activated international mobile roaming service, if applicable, may be obtained through SMS, email or mobile application, if available within thirty days from the date of publication of these regulations in the Official Gazette.

18. Information to consumers on activation of international mobile roaming service – Every service provider shall, immediately on activation of international mobile roaming service, provide to the consumer, through SMS, email and mobile application, if available, the following information:-

- (i) the fact of activation of international mobile roaming service; and
- (ii) the applicable tariff (if any) for the activation of international mobile roaming service (one-time charges as well as recurring charges as may be applicable).

19. Information to consumers on selection of tariff - Every service provider shall, immediately on selection of a tariff for availing international mobile roaming service for visiting country(ies), provide to the consumer through SMS, email and mobile application, if available, the following information:-

- (i) the applicable rates for provision of voice, SMS and data services while roaming internationally; and
- (ii) the details of specific carriers (visiting country operators) required to be selected, if applicable, for availing the agreed tariff and consequences of any failure in this regard; and
- (iii) a list of actions to be performed by the consumer to avoid bill shocks while using international mobile roaming service; and
- (iv) the details of consumer protection policies in place for protecting the consumer from bill shocks while using international mobile roaming service: or
- (v) an URL to the relevant details as in (i) to (iv) above from which printable and saveable file (s) can be accessed and downloaded.

20. Information to consumer as soon as the mobile equipment is switched on by the consumer in the visiting country – Every service provider shall, immediately after the consumer switches on his mobile equipment in the visiting country,

- (a) provide to the consumer all the information and in the manner as specified in regulation 19;

(b) alert and advise the consumer, through SMS, in case the consumer has not subscribed to any specific International Mobile Roaming Tariff Pack offered by the service provider, regarding the possibility of incurring significantly high charges due to usage of voice, SMS or data services at standard rates.

21. Information to consumers at different stages of exhaustion of entitled data usage while roaming internationally as per the selected tariff - Every service provider shall, through SMS, email and mobile application, if available, provide an alert, when the data usage exceeds fifty per cent, eighty per cent, ninety per cent and one hundred per cent of the data entitlement.

22. Information to the consumer who may initiate use of international mobile roaming service in a country or area not covered by the tariff subscribed or where the applicable tariff differs from the subscribed tariff - Every service provider shall, in case a consumer initiates use of international mobile roaming service in a country or area not covered by the tariff subscribed or where the applicable tariff differs from the subscribed tariff, through SMS, email and mobile application, if available,

- (a) inform the consumer of the fact of movement in a zone which is not covered under the opted tariff;
- (b) alert and advise the consumer regarding the possibility of incurring significantly high charges due to usage of voice, SMS or data services at standard rates; and
- (c) Provide the consumer, details of tariff applicable in such uncovered zone.

23. Establishment of facility for providing information about the account of the consumer while roaming internationally - Every service provider shall, establish or allot a separate toll free short code to enable the consumers to seek, through SMS, while roaming internationally, the following information:-

- (i) the applicable tariff for international mobile roaming service; and
- (ii) the amount billed or charged to the account of the consumer, for international mobile roaming service.”

(S. K. Gupta)
Secretary

Note.1. - The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 6th January, 2012 vide notification number No. 308-5/2011- QOS dated the 6th January, 2012.

Note.2. – The principal regulations were amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 11th January, 2012.

Note.3. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21st February, 2012.

Note.4. - The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 7th March, 2012.

Note. 5. -The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 22nd October, 2012.

Note.6. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 27th November, 2012.

Note.7. – The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21st February, 2013.

Note.8. – The principal regulations were further amended vide Notification No.308-3/2012-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 3rd December, 2013.

Note.9. – The principal regulations were further amended vide Notification No.308-1/2015-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 7th August, 2015.

Note.10. – The principal regulations were further amended vide Notification No.301-23/2015-F&EA and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 16th October, 2015.

Note.11. – The principal regulations were further amended vide Notification No.301-7(2)/2015-F&EA and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 19th August, 2016.

Note.12 – The Explanatory Memorandum explains the objects and reasons of the Telecom Consumers Protection (Eleventh Amendment) Regulations, 2020 (07 of 2020).

Explanatory Memorandum

Introduction and Background

1. The International Mobile Roaming (IMR) is a service that allows customer of a mobile operator in one country to obtain service (voice, SMS or data) from an operator in another country using the same handset and mobile number, facilitated by a common technology and a wholesale inter-operator contract¹. Though, there are a few other options available to the consumers to use mobile services while travelling abroad viz., usage of public Wi-Fi systems or Wi-Fi facilities provided at the place of stay, or buying a local pay-as-you-go SIM card in the visiting country or opting for international SIM card from providers of such services. The fact that IMR Service allows the consumer to use mobile services using the same handset and mobile number make it unique and naturally preferred option in comparison to other alternatives.
2. The uniqueness of IMR Service implies a *de facto* monopoly of the ‘Home Operator’ and raise concerns of potential abuse of monopoly power in the form of imposition of abusive tariffs including both higher rates and adverse terms and conditions of the usage on the consumer or a general lack of transparency in the communication of tariffs leading to a situation of bill shocks.
3. The concerns relating to abusive tariffs and bill shocks are universal and have received a lot of attention, not only from the various national regulatory agencies but also by organizations such as ITU, OECD, and GSMA. Recognizing the possibility of abusive tariffs and bill shocks, the International Mobile Roaming Strategic Guidelines published by ITU in 2017² (“**ITU IMR Guidelines**”) lists (i) price regulation; and (ii) consumer protection amongst the key IMR regulatory issues.
4. It was observed that the national regulatory agencies have resorted to the price regulation to tackle the issue of abusive tariffs and prescribing measures to enhance availability of information to consumers to prevent the instances of bill shock. The measures to enhance availability of information to consumers include mandating the service providers to provide timely and comprehensive information relating to tariffs, usage etc.

¹ OECD (2013-06-03), “International Mobile Roaming Agreements”, OECD Digital Economy Papers, No. 223, OECD Publishing, Paris. <http://dx.doi.org/10.1787/5k4559fzbn51-en>

² For details, please refer https://www.itu.int/dms_pub/itu-d/opb/pref/D-PREF-EF.MIR03-2018-PDF-E.pdf

5. The extant regulatory framework in India does not provide for price regulation of IMR Service. The Authority has expanded the scope of forbearance regime over the years and given the service providers the freedom to design the tariffs suited to the prevailing market conditions in relation to most of the telecommunication products including IMR Service.
6. As regards protection of consumer interests while availing IMR Service, the Authority has mandated *vide* sub-clause (4) of clause 10A of Telecom Consumers Protection (Eighth Amendment) Regulations, 2015³, that,

“Every service provider shall, through SMS or USSD, provide to all consumers of the Cellular Mobile Telephone Service, having international roaming facility on their mobile connection, an alert, immediately after the consumer roams outside the territory of India, advising the consumer to deactivate the data services in his mobile phone if he does not intend to use data services while roaming outside the country.”

7. It was observed that the existing regulatory framework is not sufficient to address the issues relating to the provision of IMR Service. Accordingly, it was decided to review the entire process of provision of IMR Service to identify issues requiring regulatory intervention and amend the regulatory framework.
8. Accordingly, a consultation paper was issued on 26th May 2020 on *“Regulation of International Mobile Roaming Services”*.⁴ Pursuant to receipt of comments, counter comments and discussions on various issues related to IMR in the online Open House Discussion, the Authority considered it appropriate to amend the Telecom Consumers Protection Regulations, 2012 (2 of 2012)⁵ with an objective of strengthening the consumer protection measures as regards IMR Service. The next section discusses the changes made in regulatory framework and rationale for the same.

Changes in Regulatory Framework

(a) Activation of IMR Service

9. The prerequisite for availing the IMR Service is to ensure that the mobile phone is set up to be used abroad, i.e., international roaming is activated on the subscriber’s account. Currently,

³ https://traai.gov.in/sites/default/files/Eight_Amendment_07_aug_2015.pdf

⁴ <https://traai.gov.in/consultation-paper-regulation-international-mobile-roaming-services>

⁵ <https://traai.gov.in/release-publication/regulations/amendments-page/91373>

there is no standard approach to the “activation” of international roaming. The service providers may follow any of the following approaches:

- a. Requiring the subscribers to request for activation of international roaming;
- b. Pre-activating the international roaming; or
- c. Automatically activating the international roaming when a customer lands abroad.

10. It was observed that in India, some service providers are providing pre-activated international roaming for prepaid subscribers and requiring post-paid subscribers to activate international roaming. Some other service providers require, both post-paid and prepaid subscribers to activate international roaming. Further, it has been observed that these policies also vary across the licensed service areas (LSAs) and destination countries. Considering that (i) activation of international roaming is a prerequisite for availing IMR Service abroad; (ii) different policies being followed by the service providers; and (iii) lack of knowledge in this regard may result in severe adverse consequences to the consumer, it was decided to consult the stakeholders on the need to either standardize the approach or strengthen the communication process etc.

11. Most of the individual stakeholders and Consumer Advocacy Groups (CAGs) submitted that the default option should be to keep IMR Service as inactive for all subscribers and the same to be activated only on the request of consumers. The telecom service providers and COAI submitted that this question is more relevant for post-paid subscribers and they also indicated that the service providers are already keeping the IMR Service as deactivated for post-paid subscribers.

12. It was observed that it may not be correct to state that prepaid subscribers do not have any risk of bill shock and the question is relevant only for post-paid subscribers. The prepaid subscribers also risk losing money to the extent of top up balances in their accounts and therefore are also vulnerable to bill shock. Further, it was felt that the default inactive mode would prompt the consumer to give explicit request for activation which would also enable the consumers to inquire about the tariffs and make an appropriate tariff selection. The same is expected to reduce the possibility of bill shock due to lack of tariff awareness.

13. Service providers in India are following different activation policies for prepaid and post-paid subscribers. Further, it is also observed that activation policies may differ for individual subscribers of the same type, based on some other considerations.

14. Considering the aforesaid, it has been decided that the default option for IMR Service shall be to keep the same as inactive for all subscribers and activate the same only on explicit request from the consumer.

(b) Informational Measures to Protect Consumers from Bill Shocks

15. The empowerment of consumers by enhancing availability of information has been the preferred approach for most of the national regulatory agencies across the world. The Consultation Paper also delineated a number of informational measures for the comments/counter-comments of the stakeholders. There is broad consensus amongst the stakeholders that the informational flow should be strengthened to prevent the situation of bill shock to consumers.
16. During the course of review of the extant practices regarding provision of IMR Service and during the consultation process, it has been observed that telecom service providers have voluntarily introduced some policies to prevent bill shocks. Accordingly, it becomes important to ensure due communication of such policies to the consumer.
17. Further, considering the characteristic features of IMR Service, possibility of a consumer making a mistake of technical nature like getting logged on to network of an operator in a visiting country other than the one which is mandated under the agreed tariff, exceeding entitled usage limits inadvertently or due to lack of complete information cannot be ruled out. Therefore, it becomes important that consumers are provided specific details to make them aware and limit the possibility of inadvertent usage of mobile service while roaming internationally.
18. Considering the aforesaid, it has been decided that consumer is made aware of all relevant aspects and the following measures have been mandated:
 - a. **Information relating to tariffs, do's and don'ts, consumer protection policies etc. is to be provided:** It has been decided that the same information be communicated by the TSP twice, once at the time of selection of tariff and subsequently at the time the consumer switches on the mobile equipment in the visiting country. Considering the comprehensiveness of the information, the service providers have been given flexibility to communicate information link through SMS and send complete details as required by email and through their mobile applications;
 - b. **Information relating to data usage is to be provided:** When the data usage exceeds 50 percent, 80 percent, 90 percent, and 100 percent of the data entitlement;

- c. **Information to a consumer who has initiated usage of mobile set in a country/area not covered under the subscribed tariff or where the applicable tariff differs from the explicitly subscribed tariff is to be provided:** Indicating the fact of the consumer being in an uncovered zone as regards applicable tariff is concerned and advising the consumer to deactivate the data services in the mobile phone if it is not intended to use data services while roaming outside the country, followed by sharing of tariff and associated details;
- d. **Service providers to establish or allot a separate toll free short code to enable consumers to seek, through SMS, the information relating to tariff and charges billed to consumers on account of using IMR Service.**

(c) Other Consumer Protection Measures

19. The consultation paper discussed the aspect of significant differences in the Standard Rates for availing IMR Service and the IMR Pack rates offered by the service providers. It was observed that some service providers are offering protection from bill shocks by automatically activating pack benefits, albeit only for a few destination countries, if the billing on standard rates crosses the daily pack value. Prevalence of such a practice is indicative of the fact that the telecom service providers have the flexibility to apply IMR Pack rates even when the consumer has not specifically asked for the same before undertaking travel abroad. Such a practice also implies that there is no strong commercial logic behind the huge gap between Standard Rates and IMR Packs. Accordingly, the stakeholders were asked to comment on the logic and rationalisation of Standard Rates and rates under IMR Packs.
20. The COAI and telecom service providers have submitted differences in construct of the Standard Rates and IMR Packs from demand perspective but have not provided any significant rationale from supply perspective. However, considering the fact that the tariffs for IMR Service have been evolving in response to market dynamics and increasing prevalence of IMR Packs, as of now there is no need for any direct intervention in the form of price regulation of IMR Service. However, the Authority will keep a watch and review the situation in future, if required.
21. The other related issues for consultation were mandating daily charges to be capped to the one-day IMR Pack rate, if any, offered by the service provider, allowing the consumer to mix and match the applicable IMR Packs etc. As stated above, the introduction of IMR Packs by service providers in itself reflects evolution of tariffs. Therefore, for now, it has been decided

to allow service provider flexibility in this regard. Further, it has been noted that the service providers have come up with protection policies of their own which is in sync with their tariff offerings. The service providers have also submitted that considering that the service providers have already put such measures in place, the aspect of how to implement the same should be left to the service providers. Therefore, the Authority at this stage has decided against any regulation in form of prescribing conditions relating to implementation of IMR Packs and decided that it would be appropriate to keep a watch on the evolution of this aspect of market, periodically review and intervene in future, if required.