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Subject: Compensation to consumers for call drop: It's must under natural justice
To: advisorfeal@traai.gov.in

Dear Sir,

I would like congratulate you for taking bold initiative in interest of consumers with you also being one of them.

Before I begin to answer questions that you have raised in "Consultation Paper on Compensation to the Consumers in the Event of Dropped Calls ", I would like to place before you few facts: TRAI in explanatory note of THE STANDARDS OF QUALITY OF SERVICE OF BASIC TELEPHONE SERVICE (WIRELINE) AND CELLULAR MOBILE TELEPHONE SERVICE REGULATIONS, 2009 (7 OF 2009) issued on March 20, 2009 mentioned that penalty can be imposed on telecom operators under licence condition by the Department of Telecom and the Department "has powers to impose penalty. The Authority could recommend to the Department of Telecommunications for imposition of penalty for such violation of licence conditions."

TRAI in the case of basic telephone service (wireline) has provided specific monetary compensation to subscribers such as rent rebate in the case of delayed repair of faults, interest on delayed payment of security deposit. However, in the case of Cellular Mobile Telephone Service direct compensation to customers is not a workable proposition, the regulator said and felt that a combination of financial disincentive and penalty could act as a

deterrent against poor Quality of Service.

The regulator consulted stakeholders, including telecom operators, and received a suggestion that "System of DIRECT COMPENSATION to the customer will be more effective and SATISFYING. For continuous failure PENALTY is essential. "

After considering views of service providers, the regulator expressed that imposition of financial disincentives for ensuring Quality of Service is also an option.

Later the regulator came up with penalty provision on telecom operators failing to meet QoS benchmark, however, it remained silent on provision for direct compensation to mobile subscribers.

On November 8, 2012, TRAI issued 24th amendment in the regulation and called it "Standards of Quality of Service of Basic Telephone Service (wireline) and Cellular Mobile Telephone Service (Second Amendment) Regulations, 2012." after going through Supreme Court judgement and citation in case of State of Karnataka Vs.

Vishwabharthi House Building Co-operative Societies and Ors.

[(2004) 5 SCC 430] which quoted with approval the judgment of

Hon=E2=80=99ble Guwahati High Court in the case of Arbind Das Vs. State of

Assam & Ors. [AIR 1981 Gau 18 (FB)]. It said:

" Where the rule-making authority gives power to certain authority to do anything of public character, such authority should get the power to take intermediate steps in order to give effect to the exercise of the power in its final step, otherwise the ultimate power would become illusory, ridiculous and inoperative which

could not be the intention of the rule-making authority."

From this the regulator interpreted that has power to impose financial disincentives on the service providers for non-compliance of the provisions of the Regulations.

In addition to this, the Department of Telecom in February 4, 2014 said consumer courts have jurisdiction over disputes with operators. However, consumer still face difficulty in getting relief.

CASE FOR compensation for call drops: It's natural justice

TRAI says the main causes of call drops are (i) insufficient radio (BTSs/ Node B) and (ii) inadequately optimized radio network.

95 per cent of Indian consumers are pre-paid customers which means 95 per cent of telecom network expenses are paid in advance ie even before full service is utilised.

While amount charged from consumers includes the cost of equipments and services to maintain a network, call drops indicates defficiency in efforts to deliver service even after taking full service amount in advance.

Hence compensation for loss incurred to consumers becomes mandatory and very much a part of natural justice.

Q1 Do you agree that calling consumers should not be charged for a call that got dropped within five seconds? In addition, if the call gets dropped any time after five seconds, the last pulse of the call (minute/second), which got dropped, should not be charged. Please support your viewpoint with reasons along with the methodologies for implementation.

I disagree with this view that consumers should not be charged for a call that got dropped within five seconds.

In five seconds, practically, people cannot even greet each other and

confirm if the call has been picked by the person whom caller desires to talk.

Second, a call missed or dropped can lead to miss of a lifetime opportunity. Hence the compensation should not be limited to five seconds.

Third, there is challenge to identify dropped calls.

Beginning with the third point. Call drops can be indentified by looking at

CDR. A person often tries to reconnect his call on same number if there is call drop.

i) If pattern to frequently connect with call is seen within a gap of 0-5 minutes, the entire series of incomplete call, made in gap of 0-5 minutes among the same numbers (both for caller and receiver) should not be charged=

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ii) To avoid fake call drop claims, telecom operators can introduce a command for in between seeking confirmation from consumers if they want to

disconnect the call like in case of e-mails people get commant "Are you sure to send e-mail without subject". The consumer in this case would give his confirmation as in absence of the command the call would stretch for long.

Call disconnection can also be voice command based.

iii) As mentioned above, TRAI in the case of basic telephone service (wireline) has provided specific monetary compensation to subscribers such as rent rebate in the case of delayed repair of faults. Similarly if a consumer has complaint about call drop and registered it with telecom operator then he should be not be charged for all calls till the time his complaint is not addressed.

Point (ii) already mentions method to verify genuine complaints.

iV) Telecom operators often find out way to reject even genuine complaints. If a consumer is able to prove that his genuine complaint has been rejected by the service provider or wrongly closed, then the faulty service provider should be penalised by providing 1 year free unlimited calls and data services to the consumer and the telecom operator should be bound to comply with QoS norms even during this period.

In case the telecom operator continues to fail in providing service, the compensation for consumer should be extended by another 2 years and further for lifetime ie period of validity of telecom licence. Even if telecom operator exits business through spectrum trading or any other means, the liability of subscriber should get transferred to company purchasing business or spectrum of erring telecom operator.

Do you agree that calling consumers should be compensated for call drops by the access service providers? If yes, which of the following methods would be appropriate for compensating the consumers upon call drop:

(i) Credit of talk-time in minutes/ seconds

(ii) Credit of talk-time in monetary terms

Yes, telecom subscriber should be compensated by his service provider and talk-time should be credited in monetary terms so that the consumer can use it for data services.

(iii) Any other method you may like to suggest

Please support your viewpoint with reasons along with the methodologies for implementation.

Identifying genuine call drop is important and their sincere resolution should be mandated with provision of harsh penalties.

With best regards

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