



भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA

महानगर दूरसंचार भवन, जवाहर लाल नेहरू मार्ग,
Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru Marg,
(पुराना मिनटो रोड), नई दिल्ली-110002
(Old Minto Road), New Delhi - 110 002
फैक्स/Fax : +91-11-23213294



सत्यमेव जयते

No. 402-12/2012-I&FN

Dated: the 5th November, 2012

DIRECTION

Subject: Direction under section 13, read with sub clause (ii), (iii), (iv), (vi) and (vii) of clause (b) of sub-section (1) of section 11 of Telecom Regulatory Authority of India Act, 1997 to M/s Mahanagar Telephone Nigam Ltd. (MTNL) to ensure compliance of the provisions of the Intelligent Network Services in Multi Operator and Multi Network Scenario Regulations, 2006 dated the 27th November, 2006 (13 of 2006).

F.No.402-12/2012-I&FN- 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 discharge of certain functions, *inter alia*, to protect interest of the consumers of telecommunications service; regulate telecommunications services; fix the terms and conditions of interconnection; ensure effective interconnection etc.;

2. And whereas in exercise of the powers conferred upon it under section 36, read with sub-clauses (ii), (iii), (iv), (vi) and (vii) of clause (b) of sub-section (1) of section 11 of TRAI Act, 1997, the Authority made the Intelligent Network Services in Multi Operator and Multi Network Scenario

Regulations, 2006 (13 of 2006) [hereinafter referred to as the regulations];

3. And whereas M/s Bharti Airtel, vide their letter dated the 17.05.2012 (copy annexed as **Annexure-I** to this Direction), inter alia, informed the Authority that M/s MTNL has blocked their SCP codes for Intelligent Network traffic w.e.f. 25th April, 2012 and requested the Authority to direct MTNL to :-

- (i) reopen the code and allow the traffic;
- (ii) discharge its contractual obligation by making suitable arrangement for carriage of its traffic; and
- (iii) make the charges under the IN agreement reciprocal in due compliance with existing regulation;

4. And whereas the regulation 3 of the regulations provides that all Basic Operators, Cellular Mobile Service Providers and Unified Access Service Providers shall provide interconnection to all the Eligible Service Providers for the purpose of giving an option to subscribers of all Access Providers to exercise option for using the Intelligent Network Services of other Eligible Service Providers and reads as under:-

“ 3. Provision for interconnection to all Eligible Service Providers. --- All Basic Operators, Cellular Mobile Service Providers and Unified Access Service Providers shall provide interconnection to all the Eligible Service Providers for the purpose of giving an option to subscribers of all Access Providers to exercise option for using the Intelligent Network Services of other Eligible Service Providers.”;

5. And whereas the regulation 4 of the said regulations provides that no Basic Operator, Cellular Mobile Service Provider and Unified Access Service Provider shall directly or indirectly deny its consumers accessing Intelligent Network Services of his choice which are available in multi-operator and multi network scenario and reads as under:-

"4. Prohibition to deny to subscribers access to Intelligent Network. - No Basic Operator, Cellular Mobile Service Provider and Unified Access Service Provider shall directly or indirectly deny its consumers accessing Intelligent Network Services of his choice which are available in multi-operator multi network scenario."

6. And whereas the Authority, vide its letter dated 21.05.2012, sought the comments of M/s MTNL on the representation of M/s Bharti Airtel Ltd. and M/s. MTNL vide their letter dated 31.05.2012, (copy annexed as **Annexure II** to this Direction) inter alia, informed the Authority as under :-

- (i) all service providers except M/s Bharti and M/s Reliance have opened the IN SCP codes of MTNL No. 180011/22;
- (ii) M/s Bharti and M/s Reliance are not routing MTNL free phone codes 1800-22 and 1800-11 on pan India basis, which has resulted in MTNL customers not getting Free phone calls from Airtel as well as Reliance networks; and
- (iii) MTNL requested TRAI to direct Bharti Airtel and M/s Reliance communications to open MTNL's SCP codes outside Delhi and Mumbai;

7. And whereas the Authority called a meeting in TRAI between M/s Bharti and M/s MTNL on 27.06.2012 wherein both the service providers agreed to sit together to resolve the matter at the earliest and the Minutes of the said meeting are annexed as **Annexure-III** to this Direction;

8. And whereas M/s Bharti vide its letter dated 11.07.2012 (copy annexed as **Annexure IV** to this Direction), inter alia, informed the Authority that the deliberations with MTNL have not yielded any outcome and urged the Authority to immediately direct MTNL to restore and open SCP codes and allow the traffic which have been blocked from their Mumbai circle;

9. And whereas M/s Bharti Airtel has, vide their letter dtd. 04.09.2012, (copy annexed as **Annexure-V** to this Direction), informed that MTNL is still blocking their SCP Codes, despite meetings with their senior officials and requested the Authority to direct MTNL to open the blocked codes on immediate basis;

10. And whereas M/s. MTNL has, vide their letter dated 17.09.2012 (copy annexed as **Annexure VI** to this Direction), informed that they are in receipt of M/s. Bharti Airtel's letter dated 04.09.2012 wherein it is mentioned that "As an interim solution, we shall carry the IN Traffic of MTNL as stated above without prejudice to our lawful right to claim carriage charge from MTNL failing which reserving our right to withdraw the carriage. In view of this, please open the blocked codes on immediate basis and extend confirmation" and, while referring to the provisions of IN addenda signed with M/s. Bharti Airtel Ltd. in November, 2007, stated that demand of Bharti Airtel for charging of carriage of MTNL

toll free originating from Airtel network outside Delhi and Mumbai for handing over to MTNL is not justified and MTNL will not pay any carriage charge for MTNL toll free calls originating from Airtel network outside Delhi and Mumbai for handing over to MTNL network and has also requested Authority to issue suitable instructions to M/s Bharti Airtel to abide by the agreement;

11. And whereas M/s. MTNL has, earlier, vide their letter dated 31.05.2012, informed that they have signed IN Addenda with M/s Bharti Airtel Ltd. on 21.11.2007 which, inter alia, provides that UASP and MTNL have agreed to extend the access of their IN based free-phone to the customers;

12. And whereas despite entering into an agreement with M/s. Bharti Airtel Ltd., as referred to in the preceding para, M/s. MTNL has blocked SCP codes of M/s. Bharti Airtel Ltd.;

13. And whereas M/s Reliance has, vide their letter dated 11.09.2012 (copy annexed as **Annexure VII** to this Direction) addressed to MTNL and copy endorsed to the Authority, informed that MTNL wants to change the commercial terms and are asking them to carry the calls from their circles from Delhi to Mumbai which is not in line with the interconnection agreement and MTNL has blocked the access of calls from its subscribers to the toll free numbers of M/s Reliance and under duress, they are willing to carry the calls from their circles and handing over to MTNL at their Delhi and Mumbai circles which will be causing additional burden on them and has, therefore, requested M/s MTNL for reciprocal revenue sharing arrangement;

14. And whereas M/s MTNL has, vide their letter dated 19.09.2012 (copy annexed as **Annexure VIII** to this Direction) addressed to M/s Reliance and a copy endorsed to the Authority, while referring to clause 2.1.15.13 of the interconnection agreement, informed that for routing of pan India calls to toll free numbers of MTNL, it shall be the responsibility of Basic Service Provider to arrange handing over of the calls to MTNL POI through their preferred NLDO and MTNL shall pay a revenue share of fifty two paise per minute to the said NLDO to be shared between NLDO and Basic Service Provider and MTNL will not pay any additional charge;

15. And whereas under the provisions of the regulations, the commercial and technical arrangements for providing Intelligent Network services have been left to the mutual negotiations between the service providers but the sub-regulation (8) of regulation 10 provides that in case the service providers fail to enter into agreement or arrangement within stipulated time, the Authority shall specify the interconnection arrangement and reads as under :-

“(8). In case any Basic Operator, Cellular Mobile Service provider of Unified Access Service provider fails to enter into agreements of arrangements within the stipulated time, they shall intimate within fifteen days of such failure to the Authority with complete details thereof and after examining such failure and details furnished by the service providers, the Authority shall specify the interconnection arrangements.”;

16. And whereas the Authority has, in exercise of powers under sub-regulation (8) of regulation 10 of the regulations, vide letter dated the 5th

December, 2007 (copy annexed as **Annexure-IX** to this Direction) specified the access charges to be paid to the originating access provider by the telecom service provider who is providing Free Phone services and have failed to enter into agreement and has also directed all service providers including M/s Mahanagar Telephone Nigam Limited to enter into agreement in accordance with the framework suggested therein or enter into mutual agreement within fifteen days of the said direction;

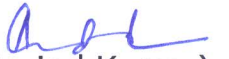
17. And whereas M/s Mahanagar Telephone Nigam Limited, being a service provider, has failed to comply with the provisions of regulation 3 and regulation 4 of the said regulations;

18. And whereas due to non compliance of the said regulations by M/s Mahanagar Telephone Nigam Limited, subscribers of M/s Mahanagar Telephone Nigam Limited are not able to access the Intelligent Network platform of M/s Bharti Airtel Ltd. and M/s. Reliance;

19. And whereas non-compliance of the provisions of the regulations by M/s Mahanagar Telephone Nigam Limited has adversely affected the interest of the consumers and also the overall policy framework being developed by the Authority for improving the availability of modern telecommunication services across the country;

20. Now therefore, in exercise of the powers conferred upon the Authority under section 13, read with sub-clauses (ii), (iii), (iv), (vi) and (vii) of clause (b) of sub-section (1) of section 11 of the TRAI Act, 1997 and in order to protect interest of the consumers of telecommunications service and to ensure compliance of the provisions of the Intelligent

Network Services in Multi Operator and Multi Network Scenario Regulations, 2006 dated the 27th November 2006 (13 of 2006), and for the reasons mentioned in the foregoing paras, the Authority hereby directs M/s Mahanagar Telephone Nigam Limited to ensure, within fifteen days of the issue of this Direction, that their subscribers are able to access Free Phone Services of their choice, which are available in multi operator and multi network scenario, in accordance with the provisions of the Intelligent Network Services in Multi Operator Multi Network Scenario Regulations, 2006 dated the 27th November 2006 (13 of 2006) and furnish compliance report by the 26th November, 2012.


(Arvind Kumar)
Advisor (NSL-I)

To

Shri A.K. Garg,
Chairman and Managing Director,
M/s Mahanagar Telephone Nigam Limited,
MTNL Bldg, 9, CGO Complex,
Lodi Road,
New Delhi.