

Draft regulations for consultation



भारतीय दूरसंचार विनियामक प्राधिकरण
Telecom Regulatory Authority of India

**Draft Telecommunication Mobile Number Portability
(Ninth Amendment) Regulations, 2023**

New Delhi, India

27.09.2023

Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru Marg, New Delhi- 110002

Written Comments on the Draft Telecommunication Mobile Number Portability (Ninth Amendment) Regulations, 2023 are invited from stakeholders by 25.10.2023. Comments will be posted on TRAI's website www.trai.gov.in. The comments may be sent, preferably in electronic form, to Shri Akhilesh Kumar Trivedi, Advisor (Networks, Spectrum and Licensing), TRAI on the email ID advmn@traigov.in.

For any clarification/ information, Shri Akhilesh Kumar Trivedi, Advisor (Networks, Spectrum and Licensing), TRAI, may be contacted at Telephone No. +91-11-23210481.

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the __ 2023

**TELECOMMUNICATION MOBILE NUMBER PORTABILITY
(NINTH AMENDMENT) REGULATIONS, 2023 (__ of 2023)**

No. RG-18/(6)/2023-NSL-II ---- In exercise of the powers conferred by sub-section (1) of section 36, read with sub-clauses (i), (iii) 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 further amend the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009), namely:-

1. (1) These regulations may be called the Telecommunication Mobile Number Portability (Ninth Amendment) Regulations, 2023 (__ of 2023).

(2) These regulations shall come into force from the _____, 2023.

2. In regulation 6 of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009) (hereinafter referred to as "principal regulations"), after clause (h), the following clause shall be inserted, namely:-

"(i) a period of ten days has expired from the date of replacement of SIM, for any reason, of the mobile number."

3. In regulation 6A of the principal regulations:-

(a) in sub-regulation (3), after clause (g) the following clause shall be inserted, namely:-

"(h) the request for unique porting code has been made before the expiry of ten days from the date of replacement of SIM, for any reason, of the mobile number.";

(b) in sub-regulation (6), for the words, "clauses (b) to (g) of sub-regulation (3)" the words, "clauses (b) to (h) of sub-regulation (3)" shall be substituted;

(c) in sub-regulation (8), for the words, "*clauses (b) to (g), provided under sub-regulation (3) of regulation 6A*" the words, "*clauses (b) to (h), provided under sub-regulation (3)*" shall be substituted.

4. In regulation 9 of the principal regulations:-

(a) in sub-regulation (3), for the words, "*conditions (a) to (g) contained in sub-regulation (3) of regulation 6A*" the words, "*conditions contained under clauses (a) to (h), of sub-regulation (3) of regulation 6A*" shall be substituted;

(b) in sub-regulation (4), for the words, "*in clauses (b) to (g) of sub-regulation (3) of regulation 6A*" the words, "*under clauses (b) to (h), of sub-regulation (3) of regulation 6A*" shall be substituted;

(c) in sub-regulation (6), for the words, "*in clause (b) to (g) of sub-regulation (3) of regulation 6A*" the words, "*under clauses (b) to (h), of sub-regulation (3) of regulation 6A*" shall be substituted.

5. In regulation 10 of the principal regulations, in sub-regulation (1), for the words, "*clauses (a) to (g) under sub-regulation (3) of regulation 6A*" the words, "*clauses (a) to (h) of sub-regulation (3) of regulation 6A*" shall be substituted.

(V. Raghunandan)
Secretary

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, part III, section 4 vide notification No. 116-4/2009-MN (Vol. II) dated 23rd September 2009 and amended vide:

- (i) Notification No. 116-1/2010 dated 28th January, 2010 (1 of 2010)
- (ii) Notification No. 116-1/2010 dated 24th November, 2010 (5 of 2010)
- (iii) Notification No. 116-5/2012 dated 8th June, 2012 (16 of 2012)
- (iv) Notification No. 116-5/2012 dated 19th September, 2012 (19 of 2012)
- (v) Notification No. 116-4/2013 dated 22nd July, 2013 (9 of 2013)
- (vi) Notification No. 116-19/2014 dated 25th February, 2015 (03 of 2015)
- (vii) Notification No. 116-6/2017-NSL-II dated 13th December, 2018 (9 of 2018)
- (viii) Notification No. 116-4/2019-NSL-II dated 30th September, 2019 (5 of 2019)

Note 2: The Explanatory Note explains the objects and reasons of these regulations.

EXPLANATORY NOTE AND ISSUES FOR CONSULTATION

A. Introduction

1. 'Mobile Number Portability' is the facility which allows a subscriber to retain his mobile number when he moves from one Access Provider to another irrespective of the mobile technology or from one cellular mobile technology to another of the same Access Provider.
2. The Telecom Regulatory Authority of India issued the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009) dated 23rd September, 2009, laying down the basic business process framework for implementation of intra-circle Mobile Number Portability (MNP) in the country. Facility of MNP was launched in Haryana service area on 25th November 2010 on pilot basis and the same was extended to the entire country on 20th January 2011. Initially, the MNP facility was available within the licensed service area only. However, in accordance with the provisions contained in the National Telecom Policy-2012 regarding "One Nation-Full Mobile Number Portability", full MNP was implemented w.e.f. 3rd July 2015.

B. DoT's letter dated 27th September, 2022 regarding inclusion of a criterion for rejection of the request for MNP

3. DoT, through its letter dated 27th September, 2022 to TRAI, mentioned, *inter-alia*, as below:

"It has come to the notice that mobile connections are being fraudulently ported out by the criminals/ fraudsters by way of fraudulent SIM Swaps/ replacement (instructions dated 01.08.2018 as enclosed may kindly be referred).

2. In view of above, it is requested that following may also be incorporated as one of the reason for rejection of a porting request by a customer:-

"If a mobile connection has undergone the process of SIM replacement, then Mobile Number Portability (MNP) shall not be applicable for 10 days."

4. In this regard, it is worth noting that the regulation 6A of Telecommunication Mobile Number Portability Regulations, 2009 ("principal regulations") provides, *inter-alia*, as below:

"6A. Process to be performed by Mobile Number Portability Service provider before allocating unique porting code.—

(1) Upon receipt of the request for unique porting code, the concerned Mobile Number Portability Service provider shall check the following conditions from its database whether:-

(a) the mobile number has been ported earlier and, if so, a period of ninety days has not elapsed from the date of its last porting;

(b) porting request is already in process for the same mobile number; and

(c) unique porting code has already been issued and not expired yet.

(2) Where Mobile Number Portability Service provider finds that the clause (a) or (b) or (c) mentioned in sub-regulation (1) are applicable, the Mobile Number Portability Service provider shall not generate unique porting code and shall communicate the reason of non-generation of unique porting code to the subscriber through SMS.

(3) Where Mobile Number Portability Service provider finds that the clause (a) and (b) and (c) mentioned in sub-regulation (1) are not applicable, it shall check immediately on real time basis from the database of Donor Operator whether:- (a) the number is a Corporate mobile number;

(b) there are outstanding payments due from the post paid subscriber by way of pending bill, issued as per the normal billing cycle but before the date of request for unique porting code;

(c) the porting request has been made before the expiry of a period of ninety days from the date of activation of a new connection;

(d) a request for change of ownership of mobile number is under process;

(e) the mobile number sought to be ported is sub-judice;

(f) porting of the mobile number has been prohibited by a court of law;

(g) there are subsisting contractual obligations in respect of which an exit clause has been provided in the subscriber agreement but the subscriber has not complied with such exit clause;

(4) The Donor Operator shall ensure that its query response mechanism provides the response, as sought by the Mobile Number Portability Service provider under sub-regulation (3) on real time basis.

(5) The Mobile Number Portability Service provider shall retain the information obtained by it under sub regulation (3) for taking necessary action, on receipt of the porting request of the subscriber, from Recipient Operator.

(6) If the Mobile Number Portability Service provider finds that the request of the subscriber is not covered under the grounds contained in the clauses (b) to (g) of sub-regulation (3), it shall allocate unique porting code to the subscriber and communicate the same to the subscriber through SMS:

Provided that the unique porting code shall be prefixed by 'C' for corporate mobile number.

...”

5. As may be seen from the above, the clauses (a) to (c) of sub-regulation (1), and clauses (b) to (g) of sub-regulation (3) of regulation 6A of the principal regulations provide a list of criteria for rejection of the request for allocation of Unique Porting Code (UPC). Through the afore-mentioned letter dated 27.09.2022, DoT has requested TRAI to make a provision in the MNP framework such that *"[i]f a mobile connection has undergone the process of SIM replacement, then Mobile Number Portability (MNP) shall not be applicable for 10 days."* Prima facie, such a provision may be created by including a criterion for rejection of the request for allocation of UPC in respect of a mobile connection, if it has undergone the process of SIM replacement in the past ten days.
6. The afore mentioned proposal of DoT was deliberated in a meeting with the wireless access providers and Mobile Number Portability Service Providers (MNPPSPs) at TRAI, New Delhi on 22nd May, 2023. On the proposal, most of the wireless access providers and MNPPSPs opined, *inter-alia*, that barring of porting of any mobile connection for a few days after SIM swap/ replacement/ upgradation by way of an additional criterion for rejection of the request for allocation of UPC may help mitigate the problem of fraudulent porting to a certain extent.

7. Meanwhile, through a letter dated 800-09/2023-AS. II dated 31st August, 2023 to all licensees holding Unified Access Service License/ Unified License with Access Service Authorization, DoT has conveyed, *inter-alia*, for amendment/ addendum to the existing instructions in respect of SIM swap/ replacement as below:

"6. SIM Swap/ Replacement:

- a. SIM Swap/ replacement is referred to as a process of acquisition of a new SIM card in place of a lost/ non-working SIM card by the existing Subscriber.*
- b. It has been decided to discontinue the earlier process of SIM swap/ replacement issued vide instructions dated 01.08.2016 and 27.09.2022.*
- c. The licensee shall follow either E-KYC process or Digital KYC process in case of SIM swap/ replacement. In addition to this, it must also be ensured by the licensee that the new SIM shall be activated only when the demographic details (excluding address) and photograph of the subscriber captured for SIM swap/ replacement shall match with those details available in the licensee's database for the same MSISDN.*
- d. The licensee shall preserve and store all the details (CAF, photograph, etc.) of the subscribers captured during each SIM swap/ replacement along with the original CAF/ database (captured during the first-time enrolment) of the subscriber.*
- e. The SMS facility (both incoming and outgoing) shall be barred for 24 hours on the new activated SIM card."*

8. In this background, the Authority solicits inputs of stakeholders on the following questions:

Issues for consultation:

- Q1. Whether it would be appropriate to introduce an additional criterion for rejection of the request for allocation of Unique Porting Code (UPC) in respect of any mobile connection, which has undergone the process of SIM swap/ replacement/ upgradation? Kindly provide a detailed response with justification.**

Q2. If your response to the Q1 is in the affirmative, kindly provide detailed inputs on the draft amendment regulations given above.

9. In case after the stakeholder's consultation, the Authority decides to introduce a new criterion for rejection of the request for allocation of UPC, the Telecommunication Mobile Number Portability Regulations, 2009 will be amended through amendment regulations. Thereafter, modifications would have to be carried out in the telecommunication systems and processes of access providers and MNPSs, which will be followed by testing of the scenarios before its implementation.

C. DoT's letter dated 24th July, 2023 regarding matching demographic details of the subscriber before porting

10. With a view to strengthen the process of verification of the ownership of the mobile number under porting, TRAI, through a Direction dated 16th April, 2015, directed all access providers *"to incorporate in their porting request form an undertaking, to be obtained from the subscriber seeking porting of his mobile number declaring that he is the owner of the said mobile number and in case the undertaking is found to be false, the said mobile number shall be disconnected"*.

11. In this regard, DoT, through a letter dated 24th July, 2023, has requested TRAI that *"following suggestions may be considered for incorporating in the extant MNP process for prevention of fraudulent porting:-*

"i. After the generation of the UPC code, at the appropriate stage, the demographic details of the subscriber (such as Name, Gender, Date of Birth and Photograph, etc.) or scanned copy of Customer Application Form (CAF)/ digital CAF may be transferred from Donor Operator to Recipient Operator. In order to avoid time delays, such transfers may preferably be done through electronic means.

ii. The Recipient Operator should match the demographic details of the subscriber with those details received from Donor Operator. If the subscribers demographic details matches, then only further steps in MNP process may be allowed otherwise the porting process may be terminated."

12. Through the afore mentioned letter dated 24th July, 2023, DoT has mentioned, *inter-alia*, that "it is the sole responsibility of the licensee to ensure adequate and proper verification of the subscribers before activation of their mobile connections both in case of new acquisitions as well as MNP. Therefore, any vulnerabilities or gaps in existing MNP process may be addressed through proper provisions in MNP regulations".
13. In this background, the Authority solicits inputs of stakeholders on the following questions:

Issues for consultation:

Q3. Stakeholders are requested to provide detailed inputs with justification on the DoT's proposal that –

(a) after the generation of UPC code, at an appropriate stage, the demographic details of the subscriber such as Name, Gender, Date of Birth and Photograph, etc., or scanned copy of Customer Application Form (CAF)/ Digital CAF may be transferred from Donor Operator to Recipient Operator. To avoid time delays, such transfers may preferably be done through electronic means; and

(b) the recipient operator should match the demographic details of the subscriber with those details received from Donor Operator. If the subscriber's demographic details match, then only further steps in MNP process may be allowed otherwise, the porting process may be terminated.

Q4. Are there any suggestions /comments on any other issues for improving the process of porting of mobile numbers? Please provide a detailed explanation and justification for any such concerns or suggestions.

14. Stakeholders are requested to provide detailed inputs with justification on the four issues for consultation mentioned above.