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TELECOMMUNICATION MOBILE NUMBER PORTABILITY REGULATIONS, 2009

(8 of 2009)

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 23rd September, 2009

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No. 116-4/2009-MN(Vol.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, namely:-

CHAPTER I

Preliminary

1. Short title and commencement.----(1) These regulations may be called the Telecommunication Mobile Number Portability Regulations, 2009.

(2) (a) Except as otherwise provided in clause (b), these regulations shall come into force from the date of their publication in the Official Gazette.

(b) Regulations 6, 7, 8, 9,10,11,12 and 13 of these regulations shall come into force on-

(i) the 31st December, 2009 in respect of Metro and Category 'A' licensed service areas; and

(ii) the 20th March, 2010 in respect of other licensed service areas.

2. Definitions. —In these regulations, unless the context otherwise requires,-

(a) "Access Provider" means the holder of a Cellular Mobile Telephone Service licence or Unified Access Service licence and includes a service provider providing fixed wireline or fixed wireless service in addition to Cellular Mobile Telephone Service;

(b) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(c) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Act;

(d) "dipping" means use of query response system of the Mobile Number Portability service provider for obtaining Location Routing Number for routing a message to the called number;

(e) "Donor Operator" "means a Cellular Mobile Telecom Service provider or Unified Access Service provider, to whose network the mobile number belongs at the time the subscriber makes a request for porting;

(f) "Local Number Portability Database" means the database of all ported mobile numbers maintained by an Access Provider and an International Long Distance Operator;

(g) "Location Routing Number" means the code assigned to every Access Provider for the purpose of implementing Mobile Number Portability;

(h) "message" shall have the meaning assigned to it in clause (3) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);

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(i) "Mobile Number Portability" means the facility which allows a subscriber to retain his mobile telephone 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;

(j) "Mobile Number Portability Service provider" means an entity who has been granted a licence under Section 4 of the Indian Telegraph Act, 1885 (13 of 1885) for providing Mobile Number Portability Service;

(k) "No Service Period" means the period of time between the disconnection of the mobile telephone service to the porting subscriber by the Donor Operator and the activation of mobile telephone service, on porting, by the Recipient Operator;

(l) "Number Portability Database" means the database maintained by each Mobile Number Portability Service provider in electronic form, holding the details of all ported mobile numbers in its zone, along with the complete history of all transactions relating to the porting of such numbers;

(m) "Number Range Holder" means an Access Provider who was originally allotted, by the licensor, that number range to which the ported number belongs;

(n) "Per Port Transaction charge" means the charge payable by the Recipient Operator to the Mobile Number Portability Service provider for processing the porting request in respect of a mobile number;

(o) "porting" means the process of moving, by a subscriber, of his mobile number or numbers, as the case may be, from one Access Provider to another Access Provider or from one mobile technology to another of the same or any other Access Provider;

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(p) "porting charge" means such charge as may be levied by a Recipient Operator from a subscriber for porting his mobile number;

(q) "Recipient Operator" means an Access Provider who will be providing mobile telecommunication service to the subscriber after porting and includes his authorised agent;

(r) "regulations" means the Telecommunication Mobile Number Portability Regulations, 2009;

(s) **"**subscriber**"** means any person or legal entity that avails the mobile telecommunication service from a licensed telecom Access Provider;

(t) "unique porting code" means an alphanumeric code allocated, upon request, by an Access Provider to its subscriber for the purpose of facilitation of porting of his mobile number;

(u) all other words and expressions used in these regulations but not defined, and defined in the Indian Telegraph Act, 1885 (13 of 1885) and the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and the rules and other regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules or such other regulations, as the case may be.

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3. Limits on Portability.—(1) The Mobile Number Portability shall be limited to within a given licensed service area;

(2) Mobile Number Portability will be applicable only to cellular mobile telephone numbers which incorporate a Public Land Mobile Network (PLMN) Access Code.

CHAPTER- II
Mobile Number Portability

4. **Obligation to provide Mobile Number Portability.** — Every Access Provider shall facilitate in its entire network, Mobile Number Portability to all subscribers, both pre-paid and post-paid and shall, upon request, provide the same on a non-discriminatory basis.

5. Obligation to set up mechanism for allocation of unique porting code.-- Every Access Provider shall, within sixty days from the date of these regulations coming into force, set up, in its mobile network, a mechanism for the purpose of --

(a) receiving Short Message Service (SMS) messages from its subscribers requesting for a unique porting code;

(b) allocating a unique porting code for each such request and communicating it to the subscriber forthwith through Short Message Service (SMS) message through an automated process; and

(c) retaining such unique porting number on its records for the purpose of verification of the porting request of such subscriber to be received eventually by it from the Mobile Number Portability Service provider.

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6. Eligibility Criteria for making a porting request.-- Every subscriber shall be eligible to make a request for porting his mobile number:

Provided that---

(a) a period of ninety days has expired from the date of activation of his mobile connection in the case of a mobile number not ported earlier; or from the date of activation of his mobile number after its last porting, in the case of a mobile number which has been ported earlier, as the case may be;

(b) there are no outstanding payments due to the Donor Operator by way of pending bills or bills, as the case may be, issued as per the normal billing cycle but before the date of application for porting;

(c) there is no pending request for change of ownership of the mobile number ;

(d) the mobile number sought to be ported is not sub-judice;

(e) porting of the concerned mobile number has not been prohibited by a Court of Law.

7. Request for porting of mobile number. --- (1) Every subscriber desirous of porting his mobile number shall make a request in writing to the concerned Recipient Operator in such format as may be specified by such Recipient Operator.

(2) The porting request form as specified by the Recipient Operator shall, inter alia, incorporate -----

(a) the eligibility criteria as specified in regulation 6;

(b) the grounds for rejection as specified in regulation 12;

(c) in the case of a post paid subscriber, an undertaking by the subscriber that he has already paid all dues as per the last bill to the Donor Operator and that he shall be bound to pay all dues to the Donor Operator pertaining to the mobile number sought to be ported till its eventual porting and that he understands and agrees that in the event of non-payment of any such dues to the Donor Operator, the ported mobile number shall, without prejudice to any other remedies available to the Donor Operator under law for recovery of such dues, be liable to be disconnected by the Recipient Operator;

(d) in the case of a pre-paid subscriber, an undertaking by the subscriber to the effect that he understands and agrees that, upon porting of the mobile number, the balance amount of talk time, if any, at the time of porting shall lapse;

(e) such details of the subscriber as mandated by the licensor or by the Authority from time to time.

(3) Each porting request shall be accompanied by ---

(a) a customer acquisition form as specified by the Recipient Operator accompanied by all documents as applicable to a new subscriber; and

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(b) a copy of the last bill, in the case of a postpaid subscriber.

(4) The subscriber shall, with his request for porting, pay the porting charge, if any.

8. Action by Recipient Operator.------ (1) The Recipient Operator, upon receipt of the porting request from a subscriber, shall verify if the customer acquisition form is accompanied by all documents specified in regulation 7.

(2) The Recipient operator shall record in the customer acquisition form that he has seen the subscriber and verified his documents with their respective originals and found them to be in order

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(3) The Recipient Operator shall thereupon ask the subscriber to send a message through SMS to a specified short code of the Donor Operator from the subscriber's mobile number which is sought to be ported.

(4) Upon receipt of the message from the subscriber, the Donor operator shall forthwith send back a reply message through an automated system generated SMS containing a unique porting code.

(5) Upon receipt of the unique porting code from the Donor Operator, the subscriber shall incorporate the same in the porting request form.

(6) The Recipient Operator shall, within a period of twenty four hours, forward the mobile number, the corresponding unique porting code and the date on which porting request is made by the subscriber, to the concerned Mobile Number Portability Service provider:

Provided that while calculating twenty four hours as specified in this sub-regulation, intervening Sundays and public holidays declared under the Negotiable Instrument Act, 1881 (No.26 of 1881) shall be excluded.

(7) The Recipient Operator shall be liable to pay Per Port Transaction charge in respect of each porting request forwarded by it to the Mobile Number Portability Service provider.

9. Action by Mobile Number Portability Service provider.----- (1) On receipt of the details of the porting request under sub-regulation (6) of regulation 8, the Mobile Number Portability Service provider shall verify from its Number Portability Database whether the mobile number has been ported earlier and, if so, whether a period of ninety days has elapsed from the date of its last porting.

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(2) Where a period of ninety days from the date of last porting has not elapsed, the Mobile Number Portability Service provider shall not take any action on the request and shall inform the Recipient Operator accordingly and the Recipient Operator shall communicate the same to the concerned subscriber.

(3) In all other cases, the Mobile Number Portability Service provider shall verify whether any porting request in respect of the same mobile number is already pending and, if so, it shall reject the current request for porting and communicate such rejection to the Recipient Operator who forwarded such request, who shall, thereupon, communicate the same to the concerned subscriber.

(4) In case there is no pending porting request in respect of the same mobile number, the Mobile Number Portability Service provider shall forthwith forward the details of such request to the Donor Operator for seeking his clearance for such porting.

10. Action by Donor Operator.------ Upon receipt of the details of porting request under sub-regulation (4) of regulation 9 , the Donor Operator shall, within twenty-four hours, verify such details and communicate to the Mobile Number Portability Service provider ----

(a) where it finds that the porting request is covered under any of the grounds of rejection of porting requests as specified in regulation 12, the details of the specific ground or grounds, as the case may be, on which it has any objection to the porting of the number from its network; or

(b) where it finds that the porting request is not covered under any of the grounds of rejection of porting requests as specified in regulation 12, its clearance for the porting of the mobile number:

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Provided that while calculating twenty four hours as specified in this sub-regulation, intervening Sundays and public holidays declared under the Negotiable Instrument Act, 1881 (No.26 of 1881) shall be excluded.

11. **Porting of mobile number.-----** (1) Upon receipt of the communication from the Donor Operator under regulation 10, the Mobile Number Portability Service provider shall ---

(a) where the Donor Operator has indicated the grounds for rejection of the porting request under clause (a) of regulation 10, forthwith communicate the same to the Recipient Operator; or

(b) where the Donor Operator has indicated his clearance to the porting request under clause (b) of regulation 10, or has failed to communicate either its clearance or its objection for the porting of the mobile number, as the case may be within the time specified under regulation 10, forthwith fix the date and time of porting of such

mobile number and communicate it, along with details of anticipated No Service Period, simultaneously to the Donor Operator and the Recipient Operator.

(c) The Mobile Number Portability Service provider shall fix the date and time of porting under clause (b) in such manner that the porting shall be within thirty six hours from the time of receipt of the clearance from the Donor Operator under clause (b) of regulation 10 or the expiry of the time limit specified in regulation 10, as the case may be.

Provided that in Jammu and Kashmir, Assam and North East licensed service areas, the date and time for porting to be fixed under clause (c) by the Mobile Number Portability Service provider shall be within ten days from the date of receipt of the clearance from the Donor Operator under clause (b) of regulation 10 or the expiry of the time limit specified in regulation 10, as the case may be.

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(2) Where the Mobile Number Portability Service provider has communicated the grounds for rejection as indicated by the Donor Operator to the Recipient Operator under clause (a) of sub-regulation (1), the Recipient Operator shall communicate the same, in writing or through SMS, to the concerned subscriber.

(3) Where the Mobile Number Portability Service provider has communicated the date and time of porting of such mobile number and the anticipated No Service Period under clause (b) of sub-regulation (1) to the Donor Operator and to the Recipient Operator, the Recipient Operator shall communicate the same to the subscriber telephonically or through SMS or through an automated voice message.

(4) At the date and time of porting fixed by the Mobile Number Portability Service provider, the Mobile Number Portability Service provider shall communicate to the Donor Operator its instructions for disconnection of the mobile number and the Donor

Operator shall, immediately and in any case within one hour of receipt of such instructions, ---

(a) comply with such instructions; and

(b) report compliance of such instructions to the Mobile Number Portability Service provider.

(5) Upon receipt of the report of compliance under sub-regulation (4) from the Donor Operator or the expiry of one hour as specified in sub regulation (4), which ever is earlier the Mobile Number Portability Service provider shall communicate to the Recipient Operator its instructions for activation of the mobile number;

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(6) Upon receipt of the instructions for activation of the mobile number the Recipient Operator shall, immediately and in any case within one hour of receipt of such instructions, ---

(a) comply with such instructions; and

(b) report compliance of such instructions to the Mobile Number Portability Service provider;

(7) Upon receipt of the report of compliance under sub-regulation (6) from the Recipient Operator, the Mobile Number Portability Service provider shall allocate the corresponding Location Routing Number to the ported number in the Number Portability Database and broadcast the updated Location Routing Number along with the ported mobile number to all Access Providers and International Long Distance Operators who shall update their respective Local Number Portability Database.

12. Grounds for rejection of porting request by Donor Operator.--- A request for porting of a mobile number shall not be rejected by a Donor Operator on any ground other than the following grounds, namely:-

(a) there are outstanding payments due from the subscriber by way of pending bill or bills, as the case may be, issued as per the normal billing cycle but before the date of application for porting;

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

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

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

(e) porting of the mobile number has been prohibited by a Court of Law;

(f) subscriber has applied for inter-service area porting;

(g) the unique porting code mentioned in the porting request does not match with the unique porting code allocated by the Donor Operator for the mobile number sought to be ported;

(h) 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:

Provided that where the Donor operator rejects a porting request on the ground of subsisting contractual obligations, he shall indicate the full details of such contractual obligations.

13. Withdrawal of porting request.---(1) A subscriber may, within twenty four hours of making a request for porting, withdraw such request by informing the Recipient Operator in writing:

Provided that a subscriber withdrawing his porting request shall not be entitled to any refund of the porting charge paid by him to the Recipient Operator.

(2) Where the Recipient Operator has not forwarded the porting request to the Mobile Number Portability Service provider till receipt of the information regarding withdrawal of the request, it shall not take any further action on such porting request.

(3) In case the Recipient Operator has already forwarded the porting request to the Mobile Number Portability Service provider, before receipt of the information regarding withdrawal of the request, it shall forthwith inform the Mobile Number Portability Service provider about the withdrawal of the porting request and the Mobile Number Portability Service provider shall forthwith inform the Donor Operator about the withdrawal of the porting request.

(4) In cases covered under sub regulation (3), the Recipient Operator shall be liable to pay the applicable Per Port Transaction charge to the Mobile Number Portability Service provider.

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CHAPTER- III
Rights and Obligations of Service Providers

14. Rights and obligations of Donor Operator.— (1) The Donor Operator shall continue to provide all subscribed telecommunication services to the subscriber who has sought porting of his mobile number till the disconnection of the mobile number in accordance with the provisions of sub-regulation (4) of regulation 11.

(2) Upon disconnection of a mobile number, the Donor Operator shall refund to the subscriber, within such time frame and in such manner as specified in the Standards of Quality of Service of Basic Telephone Service (wireline) and Cellular Mobile Telephone Service Regulations, 2009 (7 of 2009) as may be amended from time to time, all amounts due to such subscriber on account of refundable payments or deposits made by such subscriber to the Donor Operator.

(3) The Donor Operator shall maintain records of all mobile numbers ported out by it and all mobile numbers for which porting requests have been rejected by it for a

minimum period of twelve months from the date of porting or the date of rejection of request, as the case may be.

(4) In case of non-payment of any outstanding bill issued to the subscriber after the porting request, for the services availed till the disconnection of the mobile number from the network of the Donor Operator, within such time as specified in such bill, the Donor Operator shall give a notice of not less than seven days to the subscriber, notifying him that in case of non-payment within the said notice period, the Donor Operator shall request the Recipient Operator to disconnect the ported number.

(5) In case after expiry of such period such subscriber fails to make payments as specified in the notice, the Donor Operator shall communicate the details of such outstanding bills to the Recipient Operator through the Mobile Number Portability Service provider with an advice to take action for disconnecting the ported number.

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15. Rights and obligations of Recipient Operator.— (1) The Recipient Operator shall pay to the Mobile Number Portability Service provider, the Per Port Transaction charge at the rate as specified by the Authority from time to time, within fifteen days of receipt of the bill from the Mobile Number Portability Service provider or within such other time limit as may be mutually agreed upon.

(2) The Recipient Operator shall maintain records in respect of all mobile numbers for which porting requests have been rejected, for a minimum period of twelve months from the date of rejection of such requests.

(3) Where a request is made by the Donor Operator under sub-regulation (5) of regulation 14 for disconnecting the ported number, the Recipient Operator shall issue a notice to the concerned subscriber, the period of which shall be not less than seven days and not more than fifteen days, about the request received from the Donor Operator and

calling upon such subscriber to produce evidence of having settled such outstanding dues with the Donor Operator within such notice period and in case the subscriber produces such evidence of having settled such dues, the Recipient Operator shall not take any further action in pursuance of the notice and shall inform the Donor Operator accordingly through Mobile Number Portability Service provider.

(4) In case, before expiry of the period specified in the notice under sub-regulation (3), the subscriber fails to provide evidence of having settled such outstanding dues with the Donor Operator, the Recipient Operator shall disconnect the mobile number of such subscriber and inform the Mobile Number Portability Service provider forthwith about the disconnection of such mobile number and request for reversal of such mobile number to the Number Range Holder after expiry of ninety days.

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(5) In case, after porting of a mobile number to the Recipient Operator's network, there is disconnection of the mobile number for any reason other than the reason specified in sub-regulation (4), the Recipient Operator shall, after ninety days of such disconnection, inform the Mobile Number Portability Service provider about such disconnection with a request for reversal of such mobile number to the Number Range Holder.

16. Rights and obligations of Mobile Number Portability Service provider. — (1) The Mobile Number Portability Service provider shall make all efforts to facilitate expeditious porting of mobile numbers through effective coordination with the Donor Operator and the Recipient Operator.

(2) The Mobile Number Portability Service provider shall use the Number Portability Database only for the purpose of porting and dipping and not for any other purpose.

(3) The Mobile Number Portability Service provider shall generate specific sets of statistics regarding the number of porting requests received, the number of portings

carried out successfully and the number of failed porting requests with reasons for failures.

(4) Upon receipt of a communication under sub-regulation (4) of regulation 15 or under sub-regulation (5) of regulation 15, from the Recipient Operator about disconnection of a ported mobile number, the Mobile Number Portability Service provider shall forthwith -

(a) remove the number from its Number Portability Database;

(b) update the Local Number Portability Databases of all the Access providers and International Long Distance Operators; and

(c) restore the mobile number to the Number Range Holder.

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(5) The Mobile Number Portability Service provider shall raise bills along with the relevant details in respect of Per Port Transaction charges to the concerned Recipient Operators on a monthly basis and shall deliver such bills to the concerned Recipient Operators for each month before the tenth day of the following month or at such periodic intervals and within such time limits as may be mutually agreed upon.

(6) In case a Recipient Operator fails to pay the bill for Per Port Transaction charges within the time limit specified in sub-regulation (1) of regulation 15, the Mobile Number Portability Service provider, before taking any action, shall issue a notice to such Recipient Operator, the period of which shall be not less than fifteen days, calling upon such Recipient Operator to make payment of the outstanding dues within such period.

(7) Notwithstanding the issue of notice to the Recipient Operator under sub-regulation (6), the Mobile Number Portability Service provider shall in no case discontinue the provision of Mobile Number Portability Service to such defaulting Recipient Operator.

17. Obligations of Access Providers, National Long Distance Operators and International Long Distance Operators.-- (1) All existing interconnect agreements or arrangements between Access Providers, National Long Distance Operators and International Long Distance Operators shall, upon the coming into force of these regulations, stand amended so as to conform to the provisions of these regulations as regards routing of calls to and from ported mobile numbers.

(2) Every Access Provider and every International Long Distance Operator providing carriage service to any Access Provider shall, within thirty days of coming into force of these regulations or before commencement of Access Service or carriage service as the case may be, shall establish fail-proof connectivity from its Mobile Number Portability gateway to the main and Disaster recovery sites of the Mobile Number Portability Service providers at its own cost;

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Provided that –

(a) an Access Provider having licenses in more than one licensed service area may establish such fail-proof connectivity to the main and Disaster recovery sites of the Mobile Number Portability Service providers common for all its licensed service areas; and

(b) an Access Provider, who is also an International Long Distance Operator providing carriage service to any Access Provider, may establish such fail-proof connectivity to the main and Disaster recovery sites of the Mobile Number Portability Service providers common for all its licensed services and share its Local Number Portability Database across its various licensed activities for the purpose of implementing Mobile Number Portability Service:

Provided further that no Access Provider or International Long Distance Operator providing carriage service to any Access Provider shall share its Local Number

Portability Database with another Access Provider or International Long Distance Operator:

Provided further that a service provider who is sharing its Local Number Portability Database across its licensed activities shall ensure that such sharing of Local Number Portability Database enables it to directly route messages to ported mobile numbers.

(3) Every Access Provider on whose network a message originates shall be responsible for the correct routing of such message.

(4) In case of international incoming messages, the International Long Distance Operator carrying such messages shall be responsible for correct routing of messages.

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(5) Every Access Provider and International Long Distance Operator shall put in place suitable mechanism for safeguarding the data provided by porting subscribers from unauthorized interception or unauthorized access and shall ensure that such data is used solely for the purpose of porting of mobile numbers and shall not use such data for any other purpose:

Provided that the provisions of this sub-regulation shall not prevent such Access Providers from providing such data or access to such data for monitoring purposes to the designated security agencies.

CHAPTER- IV
Miscellaneous

18. Power of Authority to issue directions for specifying time limits for various activities for implementing number portability.-- (1) Without prejudice to any of the provisions of the Act, or any other regulations made under the Act or directions issued

there under, the Authority may, from time to time, issue such directions as it may deem fit to the service providers on any aspect of Mobile Number Portability for which provisions have been made in these regulations.

19. Inspection and Auditing.----- (1) The Authority may, if it considers it expedient so to do, and to ensure compliance of the provisions of these regulations, by order, in writing, direct any of its officers or employees or an independent agency appointed by the Authority, to inspect any records maintained by a service provider under these regulations or get such records audited.

(2) The Authority, if it considers it expedient so to do, may require the service provider referred to in sub-regulation (1) to get the records maintained by such service provider audited through an independent agency as may be specified by the Authority and submit the report in respect of such audit to the Authority and the cost of such audit shall be borne by the concerned service provider.

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Note: The Explanatory Memorandum explains the objects and reasons of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009)

Explanatory Memorandum to the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009)

Background

1. Promotion of competition and efficiency in the telecom sector, particularly in the area of mobile telecommunication, requires, inter alia, the facilitation of easy movement of subscribers from one service provider to another or across mobile technologies. Mobile Number Portability (MNP) allows the subscribers to retain their existing mobile telephone number when they move from one Access Provider to another irrespective of the mobile technology or from one cellular mobile technology to another of the same Access Provider, in a licensed service area. The facility of retention of existing mobile telephone number despite moving to a new telecom service provider helps the subscriber maintain contact with his friends/clientele. Introduction of MNP also helps in increasing competition between the service providers and acts as a catalyst for the service providers to improve their quality of service.

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2. Based on the recommendations of the Authority, Government issued guidelines for MNP service license on 1st August 2008. It also identified two MNP operators for two zones in the country and issued licenses to them. It has also since been decided that MNP shall be implemented w.e.f. 31st December 2009 in Metros & category 'A' service areas and by 20th March 2010 in rest of the country.

3. Through these regulations, the Authority is laying down the basic business process framework for implementation of MNP in the country. TRAI placed the draft regulations on the subject on its website on 30th June 2009 for consultation with the stakeholders. Comments of stakeholders on the draft regulations were solicited by 14th July 2009. Written comments of stakeholders were posted on TRAI's website,

following which Open House Discussions were held with stakeholders in Delhi on 27th July 2009 and the stakeholders were requested to send further comments, if any, by 31st July, 2009. After careful analysis of the views of the stakeholders expressed both through their written comments and in the Open House, the Authority has framed the present regulations.

4. The regulations seek to provide a framework governing all relevant aspects of MNP by –

a. laying down clear eligibility conditions for porting of mobile telephone numbers;
b. defining rights and obligations of various stake holders, i.e., the Donor Operator, the Recipient Operator, the MNP Service provider;
c. laying down the procedure to be followed by each player in the chain in processing number porting request;
d. specifying clear time limits for completion of various steps by each player in the chain i.e. the Donor Operator, Recipient Operator and the MNP service provider; and
e. envisaging least disruption of service to the consumer.

Salient features of the MNP under these regulations are as follows:

i MNP facility shall be available only within a given licensed service area.

ii A subscriber holding a mobile number is eligible to make a porting request only after 90 days of the date of activation of his mobile connection. If a number is already ported once, the number can again be ported only after 90 days from the date of the previous porting.

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iii The Subscriber who wishes to port his mobile number should approach the Recipient operator (the operator to whom the subscriber wants to port his number). The Subscriber may be required to pay porting charges, if any, to the Recipient Operator.

iv The subscriber making the porting request is required to have cleared all the bills issued prior to the date of porting request. He shall give an undertaking that he has already paid all billed dues to the Donor Operator as on the date of the request for porting and that he shall pay dues to the Donor Operator pertaining to the mobile number till its eventual porting and that he understands and agrees that in event of non-payment of any such dues to the Donor Operator, the ported mobile number shall be liable to be disconnected by the Recipient Operator.

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v A subscriber may withdraw his porting request within 24 hours of its submission to the Recipient Operator. However, the porting charges shall not be refundable.

vi The regulation envisage a maximum time period of four days for the completion of porting process.

vii Access Providers are required to implement All Call Query method.

viii The Originating operator shall be responsible to route the call to correct terminating network.

Stakeholders' comments on key issues and its analysis

1. **Definition of Donor operator and Recipient operator in the context of dual technology provider:-**

Some stakeholders suggested that the definition must clearly indicate the Donor & the Recipient Operator would be the same in case of porting of a number from one technology to other technology within the same service provider.

The definition clearly states that the Donor Operator is the one to whom the subscriber belongs before porting his number. Mobile Number Portability includes porting from one technology to another technology of the same service provider. It is immaterial whether the Donor and the Recipient Operator are same or different as the functions of Donor Operator and Recipient Operator are to be carried out independently. In view of the above, it is felt not necessary to state that the Donor & Recipient Operator will be same in case of same service provider providing Mobile Number Portability across the technologies.

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2. **Levying porting charge where requests cannot be considered**

Suggestions were made by some stakeholders that the porting charges should be levied only in case of a successful porting except in a case where the subscriber himself withdraws his porting request. There were others who felt that irrespective of whether the porting is carried out or not, porting charge should be payable, since for every processing of porting request, the service provider incurs certain cost.

Having considered the comments, the Authority is of the view that there is a merit in the argument that the customer is being informed in advance about the eligibility criteria. Examination of the request involves work on the part of the Recipient

Operator/MNP service provider. Besides, refund of porting charge also involves additional expenditure for the service providers. It is therefore felt that there should be no provision for refund of porting charges paid to the Recipient Operator.

3. Sharing of Porting charge between Donor, Recipient and MNP Service provider

Some service providers commented that as the MNPSP, the Donor/ Recipient operators have to carry out additional work for porting the subscribers; the porting charge should be shared among all these operators. This issue will be dealt at the time of determining the Per-Port transaction charge, Dipping charge and Porting charge.

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4. Defining Business Days and Hours

Some service providers felt that the Business Day and hours / End of Business Day should be defined. They suggested that Business Days should be (Monday to Saturday) and working hours should be 9 am – 6 pm while some were of the opinion that as these terms are already defined under the Negotiable Instrument Act, there is no necessity of defining the same in these regulations.

Defining the business hours is not feasible as the operators presently have their own timings. Therefore, regulations have specified the timelines, wherever required, in terms of number of hours permitted for completion of specified process. Sundays and public holidays declared under the Negotiable Instrument Act, 1881 (No.26 of 1881) have been excluded wherever required.

5. Eligibility condition for applying for porting

There were conflicting views on the regulation of 90 days as minimum eligibility for porting. Some stakeholders suggested a clarification that the 90 days period should

be applicable for cross technology porting also. Some consumer representatives suggested that no timeframe be defined for porting. However, most of the Service providers were agreeable to the timeframe of 90 days.

This has been examined and Authority is of the view that a minimum period is required to be specified so as to enable the service provider to recover the customer acquisition cost. The Mobile Number Porting definition takes care of scenario of the cross technology porting within same operator too.

6. Recovery of dues by the Donor Operator from the ported subscriber

In the draft Regulation on MNP, it was proposed that the subscriber shall be eligible for porting his number only if he has paid his last bill (in case of post-paid subscription) and provided he has given an undertaking that he shall continue to pay all future dues to the Donor Operator till its eventual porting . The stakeholders' comments were that-

- it needs to be clearly prescribed in the Regulation that even after disconnection of his mobile number; the subscriber will be liable to pay all the pending dues of the Donor Operator.
- an extra procedure was suggested wherein the Donor Operator was to raise the bill for the subscriber to pay before his porting requested was accepted.
- TRAI should prescribe the format of the undertaking to be furnished by MNP customer to Recipient Operator.

The Regulations have adequate provision for recovery of these. The porting request can be valid only if the subscriber has paid his dues as per bills issued before the date of porting request. He will also be liable to pay all the bills issued after the porting request, failing which the Recipient Operator is entitled to disconnect his number, after following the due procedure. The Authority is of the opinion that any extra procedure

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for the Donor Operator to recover his dues before porting takes place will complicate the procedure for number portability. Porting from an Operator is similar to disconnection for the purpose of recovery of dues. Besides, suitable provisions have been made in the regulations for other legal remedies for recovering dues.

7. Verification of subscriber by Recipient Operator and Authentication by Donor Operator

The draft regulation proposed that the Recipient Operator, upon receipt of the porting request of a subscriber, within five days of receipt of the porting request, shall carry out subscriber verification in the same manner as required for the acquisition of a new subscriber.

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Some stakeholders suggested that Subscriber verification being a security issue, verification should be done before porting. The time period of 5 days may not be sufficient to carry out physical verification of post-paid subscribers particularly subscribers located in rural and remote areas and also in states like J&K and NE, and as such no time period should be prescribed. On the other hand, those who favoured speedy porting put forward an argument that unlike new subscriber, the porting subscriber has already been verified by the Donor Operator and also has been on the network for a minimum of 90 days. Therefore, it may be possible to do post verification after the completion of porting.

In its submission, that was also placed on the TRAI website and in the discussions, one of the stakeholders suggested that in order to ensure speedy porting and reduce the chances of rejection by the Donor Operator because of mismatch of the subscriber's details, the pre-paid subscriber applying for porting of his number should be asked by the Recipient Operator to send a SMS from his mobile handset to a designated short code. On receipt of SMS the subscriber will get authenticated and the Donor

Operator will also be able to verify that the SMS has originated from a subscriber of his network. This was not opposed by others.

The object of the Regulations is to make the MNP a simple affair. The Authority's concern is that the request of the subscriber should not be rejected merely on account of change of address, difference in use of spelling in the name or address between the data given by the subscriber at the time of porting and that available with the Donor Operator, or non-availability of the original CAF details. In such cases, the probability of either rejection of subscriber's request or delay in grant of clearance by the Donor Operator is very high. Moreover, the subscriber is only getting disconnected from the Donor Operator. Therefore, the Donor Operator needs only to confirm that the mobile number applying for porting belongs to its network. Additionally In order to implement the MNP successfully, the key aspect is to make the process simple, easy and speedy for the subscriber. The Authority in its analysis found that the suggestion given above by one of the stakeholders with minor customization can make the porting process simple and speedy and will also take care of unnecessary rejections by the Donor Operator. Accordingly, the regulations have introduced a procedure wherein a unique porting code to be generated by Donor Operator for the authentication of the subscriber requested for porting of his mobile number. The subscriber will have to incorporate this code in the porting form while submitting it with the customer acquisition form to the Recipient Operator.

8. Duration of No service period

During the consultation, stakeholders were of the view that the time period of 2 hours specified for the 'No Service Period' is very short and that more time was required to carry out the disconnection/activation of the subscriber number. They wanted this time period to be increased to 4-5 hours each.

The Authority felt the window period of one hour each for the disconnection and activation by the Donor operator and the Recipient operator respectively is in accordance with the MNP Service license condition. Moreover, further increasing this time period will cause inconvenience to the subscriber. Therefore, the 'No Service Period' is proposed to be maintained as it is.

9. Reasons for rejection due to contractual obligation

Some of the stakeholders have suggested that any Contractual obligation between the Donor Operator and the subscriber should also be included as a reason for rejection by the Donor operator. After consideration, the Authority found merit in the argument that the subscriber, who is under a subsisting contractual obligation having an exit clause with the Donor operator and has not complied with the exit clause can not be allowed to port the number. Accordingly, provisions have been incorporated in the regulations.

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10. Discretion of the Donor Operator to continue ISD and International roaming facilities of the subscriber during the process of porting

Some stakeholders were of the view that continuation of high exposure services like ISD, International Roaming, and other Value Added facilities for subscribers applying for porting should not be mandated. While the contrary view was that all such services, or facilities, that the subscriber was receiving prior to his porting request, must be allowed to be continued on the subscriber number, while under porting period.

The Authority is of the view that the service providers normally maintain a credit limit beyond which the subscribers are not allowed to use such facilities. Secondly, in view of the revised porting procedure, the period for the entire process has been considerably reduced. Thirdly, subscribers having ISD/International roaming facility are

few in number and they may need these facilities on a day to day basis. It is therefore felt that there is no need to make such provision available to the Donor Operator.

11. Notice Period by the Donor Operator and Recipient Operator for the defaulting subscriber who has ported his number to the Recipient Operator

The draft Regulations provided that in case, a post-paid subscriber fails to pay the outstanding bills to the Donor Operator by the due date as per the bill, the Donor Operator shall issue a notice for such payment. If the subscriber still fails to pay the dues, the Recipient Operator, on intimation by the Donor Operator was required to disconnect the number after issuing a notice. A period of "Not less than 15 days" and "Not less than 7 days" was prescribed to the Donor Operator and Recipient Operator respectively.

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Some of the stakeholders suggested that the notice period of 15 days was unduly long as already sufficient time is given to the subscriber to pay his dues, while others felt that the notice period of 7 days should be increased.

The Authority, based on the practical considerations, has decided that the notice period for the defaulter subscriber by the Donor operator be kept as 'Not less than 7 days' and by the Recipient Operator as 'Not less than 7 days, but not more than 15 days'.

12. Establishment of connectivity between the Access Providers/ILDOs and MNP Service providers:-

The Access Providers were of the opinion that every new service provider (Seeker) irrespective of the type of service being provided by them e.g.

CMTS/BSO/UASL/NLDO/ILDO has to seek interconnection from the existing operators (Provider). The interconnect arrangement between the MNP service provider and every Access Provider/ ILDO should be governed by present RIO provisions notified by TRAI. They may not be forced to establish the Interconnection at their own cost contrary to the provisions of license.

The Authority deliberated in detail on the submission of the stakeholders on this issue. The primary purpose to introduce MNP in the country is to provide freedom to the subscribers to change their service providers while retaining their mobile numbers. MNP service providers have been given licenses to facilitate and help the Access Providers in providing such a facility. Therefore, the issue of seeker/provider is not relevant in this case. Moreover, this Regulation is in accordance with the clause 31.13 of the Licence agreement of the MNP Service and the instructions of the Government to all the Basic service, CMTS, UAS, NLD and ILD licensees vide Department of Telecommunication's letter no.20-201/2008-AS-I, dated 6th May, 2009. Therefore, the Authority finds no merit in the stakeholders' submission.

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

TELECOMMUNICATION MOBILE NUMBER PORTABILITY (AMENDMENT) REGULATIONS, 2010

(1 of 2010)

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 28th January, 2010

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No. 116-1/2010-MN ---------- 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 amend the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009), namely:-

1.(1) These regulations may be called the Telecommunication Mobile Number Portability (Amendment) Regulations, 2010,

(2) In sub-regulation (2) of regulation 1 of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009), for clause (b), the following clause shall be substituted, namely:-

"(b) Regulations 6, 7, 8, 9,10,11,12 and 13 of these regulations shall come into force on the 31st March, 2010"

(R. K. ARNOLD)
SECRETARY

Note1: 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 Sep 2009

Note2: The Explanatory Memorandum explains the objects and reasons of the Telecommunication Mobile Number Portability (Amendment) Regulations, 2010 (1 of 2010)

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Explanatory Memorandum

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 mobile number portability in the country. Regulations 6,7,8,9,10,11,12 and 13 of these regulations were required to be implemented on 31st December, 2009.

2. Considering the present preparedness of various service providers and the process involved, the Government has decided to extend the time for implementation of these regulations from 31st December, 2009 to 31st March, 2010, for all circles.

3. Therefore, Clause (b) of sub-regulation (2) of regulation 1 of the Telecommunication Mobile Number Portability Regulations, 2009 has been amended.

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

TELECOMMUNICATION MOBILE NUMBER PORTABILITY (SECOND AMENDMENT) REGULATIONS, 2010

(05 of 2010)

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 24th November, 2010

IndiaCode

No. 116-1/2010-MN ---------- 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 amend the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009), namely:-

1. (1) These regulations may be called the Telecommunication Mobile Number Portability (Second Amendment) Regulations, 2010,

(2) They shall come into force from the date of their publication in the official Gazette

(3) In sub-regulation (2) of regulation 1 of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009), (hereinafter referred to as the principal regulations) for clause (b), the following clause shall be substituted, namely:-

"(b) Regulations 6, 7, 8, 9, 10, 11, 12 and 13 of these regulations shall come into force in Haryana service areas on the 25th November, 2010:

Provided that regulations 6, 7, 8, 9, 10, 11, 12 and 13 of these regulations shall come into force in different service areas, as may be specified by direction issued by the Authority, from time to time.

2. In regulation 10 of the principal regulations, for the words "twenty four hours", wherever appearing, the words "four working days" shall be substituted;

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(Sudhir Gupta)
Principal Advisor (Mobile Network)

Note1: 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 Sept.2009 and amended vide:

(i) Notification no. 116-1/2010 dated 28th January,2010 (1 of 2010)

Note2: The Explanatory Memorandum explains the objects and reasons of these regulations

Explanatory Memorandum

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 mobile number portability in the country. Regulations 6,7,8,9,10,11,12 and 13 of these regulations were required to be implemented on 31st December, 2009.

2. The Government extended the time for implementation of these regulations from 31st December, 2009 to 31st March, 2010, for all circles considering the preparedness of operators at that time. Accordingly, TRAI issued the Telecommunications Mobile Number Portability (Amendment) Regulations, 2010 (1 of 2010) dated 28th January 2010. However, due to the non-preparedness of the Telecom Service Providers, DoT further extended the timeframe for implementation of MNP from time to time.

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3. Recently Government has announced that the MNP services would start in Haryana Licensed Service Area on 25th November 2010. This has necessitated amending the regulations.

4. The modification in the timelines (from 24 hrs to 4 working days) for Donor operator in the regulation 10 of the principal regulations has been necessitated due to the request by DoT citing security reasons. With this amendment to the principal Regulation, the maximum time period for porting would become seven working days except in Jammu & Kashmir, Assam and North East licenced service areas, wherein it would be 15 working days.

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

TELECOMMUNICATION MOBILE NUMBER PORTABILITY (THIRD AMENDMENT) REGULATIONS, 2012

(16 of 2012)

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 8th June, 2012

IndiaCode

No. 116-5/2012-MN ---------- 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 (Third Amendment) Regulations, 2012.

(2) They shall come into force from the date of their publication in the Official Gazette.

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

" Provided further that nothing contained in para (a) of the first proviso shall apply to the subscribers of those service providers whose licences stand quashed pursuant to the judgment and order passed by the Hon'ble Supreme Court in writ petition (civil) No. 423 of 2010 and writ petition (civil) No. 10 of 2011."

3. In regulation 12 of the principal regulations, after clause (b), the following proviso shall be inserted, namely:-

"Provided that nothing contained in clause (b) shall apply to the subscribers of those service providers whose licences stand quashed pursuant to the judgment and order passed by the Hon'ble Supreme Court in writ petition (civil) No. 423 of 2010 and writ petition (civil) No. 10 of 2011."

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(Rajeev Agrawal)
SECRETARY

Note1: 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 Sept.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)

Note2: The Explanatory Memorandum explains the objects and reasons of these regulations

Explanatory Memorandum

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 mobile number portability in the country. The Regulations 6,7,8,9,10,11,12 and 13 of these regulations came into effect in all telecom service areas in the country from 20th January 2011 through the Authority's direction dated 18th January, 2011.

2. Hon'ble Supreme Court in its Judgment dated 2nd February, 2012, in the WRIT PETITION (CIVIL) NO. 423 OF 2010 and WRIT PETITION (CIVIL) NO. 10 OF 2011 inter alia ordered that:

(i) The licences granted to the private respondents on or after 10.1.2008 pursuant to two press releases issued on 10.1.2008 and subsequent allocation of spectrum to the licensees are declared illegal and are quashed.

(ii) The above direction shall become operative after four months.

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3. Subsequently the Hon'ble Supreme Court in its order dated 24th April , 2012 in connection with the application by Union of India for clarification of judgment dated 2.2.2012 and for grant of permission to conduct the auction, the Hon'ble Supreme Court stated

"In our view, it will be just and proper to partially accept the prayer made in the application and extend the time fixed by the Court up to the end of August, 2012. Accordingly, the application is disposed of in the following terms:

1) The time specified in judgment dated 2.2.2012 in Writ Petition No.423 of 2010 and Writ Petition No. 10 of 2011 for conducting the auction for grant of fresh licenses and allocation of spectrum is extended up to 31.08.2012. This would necessarily mean that the applicant shall have to finalise the auction on or before 31.08.2012.

2) The existing licenses shall be entitled to continue to operate till 07.09.2012."

4. In view of the above order, and in order to facilitate the porting of the mobile number of subscribers of the licensees whose licenses have been quashed by the Hon'ble Supreme court w.e.f four months from the date of the order, the regulation 6

and 12 of the Telecommunication Mobile Number Portability Regulations, 2009 have been amended.

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

TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

New Delhi, the 19th September, 2012

TELECOMMUNICATION MOBILE NUMBER PORTABILITY (FOURTH AMENDMENT) REGULATIONS, 2012

(19 of 2012)

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No. 116-15/2012-MN---------- 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 (Fourth Amendment) Regulations, 2012.

(2) They shall come into force sixty days from the date of publication in the Official Gazette.

2. In regulation 11 of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009) (herein after referred to as the principal regulations), in sub-regulation (4) and sub-regulation (6), for the words "one hour" wherever occurring, the words "two hours" shall be substituted.

19/9/12

3. After chapter III of the principal regulations, the following chapter shall be inserted, namely;-

"CHAPTER III A
FINANCIAL DISINCENTIVES FOR CONTRAVENTION OF THE PROVISIONS OF THE REGULATIONS

17A – Consequence for contravention of the provisions of regulation 8 or regulation 10 or regulation 11 or regulation 12 .— (1) If any service provider contravenes the provisions of sub-regulation (6) of regulation 8 or regulation 10 or sub-regulation (4) of regulation 11 or sub-regulation(6) of regulation 11, it shall, without prejudice to the terms and conditions of its licence or the provisions of the Act or rules or regulations or orders made, or, directions issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding five thousand rupees for each contravention, as the Authority may, by order direct.

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(2) If any service provider contravenes the provisions of regulation 12, it shall, without prejudice to the terms and conditions of its licence or the provisions of the Act or rules or regulations or orders made, or, direction issued, thereunder, be liable to pay an amount, by way of financial disincentive not exceeding ten thousand rupees for each wrongful rejection of the request for porting, as the Authority may, by order direct.

(3) No order for payment of an amount by way of financial disincentive under sub-regulation (1) and sub-regulation (2) shall be made by the Authority unless the service provider has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.

17B – Deposit of amount payable by way of financial disincentive under these regulations.— The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by order by the Authority."

19/9/12

(Rajeev Agrawal)
SECRETARY

राजीव अग्रवाल / RAJEEV AGRAWAL
सचिव/Secretary
भारतीय दूरसंचार विनियामक प्राधिकरण
Telecom Regulatory Authority of India
नई दिल्ली-110002 / New Delhi - 110002

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 Sept. 2009 and amended vide:

a) Notification no. 116-1/2010 dated 28th January, 2010 (1 of 2010)
b) Notification no. 116-1/2010 dated 24th November, 2010 (5 of 2010)
c) Notification no. 116-5/2012 dated 8th June, 2012 (16 of 2012)

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

19/9/12

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भारतीय दूरसंचार विनियामक प्राधिकरण
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Explanatory Memorandum

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 mobile number portability in the country. The regulation 6,7,8,9,10,11,12 and 13 of the regulations came into effect in all telecom service areas in the country from 20th January 2011 through the Authority's direction dated 18th January, 2011.

2. In the aforesaid regulations, provisions have been made for a Service Provider, acting as a Donor Operator, to reject a porting request under the grounds mentioned in regulation 12 of the regulations.

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3. After implementation of the MNP Regulations, the Authority had received a number of complaints wherein the subscribers have reported that their porting requests have been rejected by the donor operators on frivolous grounds. In order to ascertain whether the porting requests being rejected are as per the provisions of regulation 12 of the regulations, the Authority sought supporting documents from the concerned Service Providers who have rejected porting requests under categories such as 'UPC mis-match', 'contractual obligation', 'less than 90 days from the date of activation of new connection' and 'outstanding payment due'. In a number of cases, the Authority noted that the Donor Operator, could not furnish satisfactory evidence to establish that the rejection of the porting requests of the subscribers done by them were in accordance with the regulation 12.

4. Further, in the regulations, the Authority specified timelines for various activities for the porting process. While reviewing the progress of MNP, the Authority noted that deviations are also taking place in the timelines specified by the Authority in the regulation.

5. In order to discourage the operators for wrongly rejecting the porting requests and to encourage them to meet the time lines specified in the MNP regulations, the Authority decided to seek comments from the stakeholders on introduction of

provisions for levying of financial disincentives in the MNP regulations for non-compliance of regulations. Accordingly, TRAI placed the draft amendment in the regulations on the subject on its website on 3rd August 2012 for consultation with the stakeholders. The comments of the stake holders on the draft regulations were solicited by 13th August 2012. Further, on request of stakeholders the Authority had extended the last date for submission of comments by stake holders up to 3rd September 2012. In their response, the stakeholders had commented broadly on the Power of Authority for introducing financial disincentives in the regulations, financial disincentives on deviation from timelines & wrongful rejections in the regulations. The Authority has analysed these comments, which are given below:

6. Power of the Authority for introducing financial disincentives in the regulations:

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The service providers and the Associations have in their comments, inter-alia, stated that the Authority lacks statutory mandate to impose financial disincentive on the service providers for non-compliance of the provisions of the regulations. The Authority has considered the points raised by the service providers and their associations and have been advised that it has power to impose financial disincentives on the service providers in order to regulate the telecom sector and to protect the interest of the consumers of the telecom sector. The TRAI Act confers power on the Authority not only to regulate but also the power to ensure the compliance of the provisions of the regulations. The word "ensure" has mandatory connotation, it means "make certain". Furthermore, the Hon'ble Supreme Court, in its judgment dated the 17, Aug, 2007, in *Civil Appeal No. 2104/2006 (Central Power Distribution Co. & Ors Vs. CERC & Anr),* inter-alia, held that "it is well settled that a power to regulate includes within it power to enforce".

The main purposes for enactment of the TRAI Act, 1997, as discernable from the preamble thereof, and as applicable to TRAI are (a) **to regulate** telecommunication services : (b) **to protect** the **interest** of the service providers and **consumers** of telecommunication services; and (c) to ensure orderly growth of

telecom sector. From the reading of the various provisions of TRAI Act, it is clear that protection of the interest of the consumers has been given paramount importance by the legislature.

It will not be out of place to mention that there are a catena of judgments by the Supreme Court wherein the Hon'ble Court has repeatedly re-stated the proposition that legislation should be read and interpreted so as to further the purpose of its enactment and not in a manner that derogates from its main objectives. The Hon'ble Supreme Court in its judgment in the case of *State of Karnataka Vs. Vishwabharthi House Building Co-operative Societies and Ors. [(2004) 5 SCC 430]*, quoted with approval the judgment of Hon'ble Guwahati High Court in the case of *Arbind Das Vs. State of Assam & Ors. [AIR 1981 Gau 18 (FB)]* wherein it was inter-alia, held that where a statute gives a power, such power implies that legitimate steps may be taken to exercise that power even though these steps may not be clearly spelled out in the statute. The Hon'ble Court further held that in determining whether a power claimed by a statutory authority can be held to be incidental or ancillary to the powers specially conferred by the statute, the court must not only see whether the power may be derived by reasonable implication from the provisions of the statute, but also whether such powers are necessary for carrying out the purposes of the provision of the statute which confers power on the Authority in exercise of such powers. The relevant part of said judgment reads as under:-

> *"We are of firm opinion that where a statute gives a power, such power implies that all legitimate steps may be taken to exercise that power even though these steps may not be clearly spelt in the statute. 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.*

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In determining whether a power claimed by the statutory authority can be held to be incidental or ancillary to the powers expressly conferred by the statute, the court must not only see whether the power may be derived by reasonable implication from the provisions of the statute, but also whether such powers are necessary for carrying out the purpose of the provisions of the statute which confers power on the authority in its exercise of such power."

Apart from casting duty on the Authority to protect the interest of the consumer, TRAI Act under section 11 (1)(d) confers power on TRAI to perform such other functions including such administrative and financial functions as may be necessary to carry out the provisions of the Act. It is also worthwhile to mention over here the judgment of the Hon'ble Supreme Court in U.P. Cooperative Cane Unions Federations Vs. West U.P. Sugar Mills Association & Ors. (AIR 2004 SC 3697) wherein the Hon'ble court, inter alia, held that the word to regulate is a phrase of broad impact having a wide meaning comprehending all facets not only specifically enumerated in the Act, but also embraces within its fold the powers incidental to the regulation envisaged in good faith and its meaning has to be ascertained in the context in which it is being used and the purpose of the statute. The Hon'ble court held that even when the power to fix tariff was not expressly given in the Act, the power to regulate the price of Sugar Cane would include in itself the power to fix tariff. In other words, even a power not explicitly vested with the authority would be held so vested, if it was intrinsic to the exercise of larger, general power to regulate. The relevant part of the aforesaid judgment of the Hon'ble Supreme Court is as under :-

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"20……"Regulate" means to control or to adjust by rule or to subject to governing principles. It is a word of broad impact having wide meaning comprehending all facets not only specifically enumerated in the Act, but also embraces within its fold the powers incidental to the regulation envisaged in good faith and its meaning has to be ascertained in the context in which it has been used and the purpose of the statute.

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26……The provisions of the Act referred to above also show that the legislature has made very elaborate provisions regarding supply of sugarcane by cane-growers, its purchase by the sugar factories and payment of price thereof. In fact, very detailed and exhaustive provisions have been made in the Rules and the 1954 Orders to ensure that at the time of delivery of sugarcane by the cane-growers, its weight and price is correctly recorded and the price is paid to them within 14 days, failing which the sugar factory is liable to pay interest. In such circumstances, the irresistible conclusion which can be drawn is that the regulatory power possessed by the State Government shall also include the power to fix the price of the sugarcane. If it is held that the State under its power of regulation cannot fix the price, then the statutory provision contained in the 1953 Act, the Rules and 1954 Order will become completely one sided, operating entirely for the benefit of sugar factories giving them many advantages with no corresponding obligations and leaving the cane grower in a lurch with a host of restrictions upon him. This can never be the intention of the Legislature. It will not be fair to read the Act and the Rules in such a restrictive manner, whereby the provisions made for the benefit of the cane growers become wholly illusory…."

The Authority is, therefore, of the view that in order to effectively discharge its functions under TRAI Act and to protect the interest of the consumer of the telecom sector, it has power to impose financial disincentives on the service provider for non-compliance of the provisions of the regulations.

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7. Financial disincentives for deviating from time lines prescribed in the MNP process:

a) Recipient operator to submit customer details to MNP service provider within 24 hours of receipt of porting request:-

Regarding the timelines for forwarding the porting requests by the recipient operator, few service providers stated that there is no provision for time stamp for the requests of porting made by the subscriber. Some of the stake holders suggested that TRAI should specify threshold for number of cases for not meeting the time lines. Stringent subscriber verification guidelines, was also mentioned as one of the constraints in meeting the timelines. The Authority is of the opinion that the service provider can comply with the regulations with date as a reference. Further, service provider is activating the subscriber in his network only at the end of porting period. Therefore, it has sufficient time to verify the subscriber.

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b) Donor Operator to provide the clearance to the porting request only on the 4th working day:-

Stake holders expressed that there is no effect on the timelines of the MNP processes even if the Donor Operator takes more than four days. One of the stake holder suggested that threshold in such cases should be 98%. It has been observed by the Authority that the service providers have been clearing the porting request before 4th working day, which is against the instructions issued by the licensor. The Authority is of the view that clearance of the porting request should be done only on the 4th working day as it is the security requirement. Therefore, the Authority finds no reason for acceding to the request of the stakeholders and hence no relaxation is allowed.

c) **Time lines for Deactivation and Activation:-**

Some of the stake holders suggested for modification of time lines from 2 hours to 4 hours excluding network down time/latency related issues for deactivation and activation. One of the stakeholders suggested the threshold of 95% of the porting

requests within 2 hours averaged over one month. Having considered the comments of the stakeholders the Authority is of the view that the network downtime cannot be a reason for non compliance with the time lines. The operators should schedule their systems/processes so as the activations and deactivations are not disrupted. Considering the present status of the service providers in meeting these time lines, the Authority felt that they will be able to meet these timelines within 2 hours duration each for deactivation and activation of a mobile number. Therefore timelines for activation/deactivation, in sub-regulation (4) and (6) of Regulation 11 of principal regulations, has been modified from 1 hour to 2 hours. As this activity takes place during the night time, this increase in the timelines will not be inconvenient to the customers.

d) Financial disincentive in case of wrongful rejections and deviation in timelines in the MNP process

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Some of the stakeholders suggested that wrongful rejections should have a QoS norm. Some of the stakeholders suggested benchmarks for invalid rejections also. However, the Authority is of the opinion that it will not be practical to prescribe wrongful rejection as QoS parameter, as wrongful rejections are known only after verification is carried out. Therefore, Authority is of the view that wrongful rejections need to be discouraged by levying financial disincentives on the concerned Donor Operator after verifying the correctness of rejection of porting requests on sample basis.

8. In view of the foregoing, the Authority has decided to amend the principal regulations by incorporating provisions for levying financial disincentives.

9. For the purpose of verification of correctness of rejection of porting requests by the Donor Operator or compliance to the timelines, the Authority may call for data from Access Providers or Mobile Number Portability Service providers or both from time to time. Based on the analysis of the data and supporting information provided by the

MNP service providers and Access Providers, the Authority shall levy financial disincentives on the concerned access provider as following:

(a) In the cases where deviation is noticed by the Authority in the timelines specified in regulation 8 (6), 10, 11(4) or 11(6), a financial disincentive of Rs.5,000/- will be levied for each contravention.

(b) In the cases where contravention is established in rejection of porting request for an Access Provider acting as Donor Operator, a financial disincentive of an amount of Rs. 10,000/- will be levied for each rejection.

10. Before reaching to a conclusion about contravention and imposing the financial disincentives, the Authority shall give a reasonable opportunity to the concerned Service Provider to represent before the Authority.

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

TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

New Delhi , the 22nd July 2013

TELECOMMUNCATION MOBILE NUMBER PORTABILITY

(FIFTH AMENDMENT) REGULATIONS, 2013

(9 of 2013)

No. 116-4/2013-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 (Fifth Amendment) Regulations, 2013.

(2) They shall come into force after ninety days from the date of their publication in the Official Gazette.

2. In regulation 2 of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009), (hereinafter referred as the principal regulations),---------

(a) after clause (b), the following clause shall be inserted, namely:-

"(ba) "authorised signatory" means the person authorised by a body corporate, firm or any organisation or body to make request in writing for the porting of corporate mobile phone number allotted to such body corporate , firm or organisation or body;

(b) after clause (c), the following clause shall be inserted, namely:-

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"(ca) "corporate mobile number" means the mobile phone number allotted in the name of a body corporate, firm or any organisation or body.".

3. In regulation 5 of the principal regulations, after clause (c), the following provisos shall be inserted, namely:-

" Provided that the Access Provider shall ---------

(a) identify and allot a distinct identification code to all the corporate mobile numbers available in its subscriber data base; and

(b) in case of a request for simultaneous porting of more than one corporate mobile numbers, allocate separate unique porting code for each corporate mobile number."

4. In regulation 6 of the principal regulations, after clause (e) of the first proviso and before the second proviso, the following clauses shall be inserted, namely:-

" (f) no corporate mobile number shall be ported unless the porting request in respect of such number is accompanied by an authorisation letter from the authorised signatory of the subscriber in the format annexed to these regulations ;

(g) the porting request, in case of corporate mobile number, does not seek simultaneous porting of more than fifty mobile numbers;

(h) the porting request, if made for more than one corporate mobile number, such numbers belong to the same Donor Operator."

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(RAJEEV AGRAWAL)
Telecom Secretary / Secretary of India
नई दिल्ली-110002 / New Delhi - 110002

5. In regulation 7 of the principal regulations,----------

(a) in sub-regulation (3), ----------

(i) in clause (a), the word " and" appearing at the end shall be deleted;

(ii) in clause (b), at the end, the word "and" shall be inserted;

(iii) after clause (b), the following clause shall be inserted, namely:-

" (c) in case of corporate mobile number, an authorisation letter from the authorised signatory of the subscriber permitting such porting";

(b) for sub –regulation (4) the following sub-regulation shall be substituted, namely:-

" (4) The subscriber shall , with his request for porting , pay the porting charge, if any, for each mobile number sought to be ported".

6. In regulation 8 of the principal regulations,----------

(a) in sub- regulation (6) , for the proviso , the following provisos shall be substituted, namely:-

" Provided that in case of corporate mobile number, the Recipient Operator shall also forward to the Mobile Number Portability Service provider, a scanned copy of the authorisation letter issued by the authorised signatory permitting the porting of the such mobile number:

Provided further that for the corporate mobile number, the time period for forwarding the mobile number etc. to the Mobile Number Portability Service provider shall be forty eight hours from the receipt of porting request:

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Provided also that in calculating the period of twenty four hours specified in sub-regulation (6) and forty eight hours specified in second proviso, the intervening Sundays and Public Holidays declared under the Negotiable Instrument Act, 1881 (26 of 1881) shall be excluded:

Provided also that forwarding of one copy of authorisation letter permitting porting of more than one mobile number, in case of corporate mobile number, shall be sufficient for the purposes of sub- regulation (6).";

(b) for sub-regulation (7) , the following sub- regulation shall be substituted, namely:-

" (7) The Recipient Operator shall be liable to pay Per Port Transaction charge in respect of each mobile number forwarded by it to the mobile number portability service provider".

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7. In regulation 9 of the principal regulations, in sub-regulation (4) for the words " the details of such request to the Donor Operator for seeking his clearance for such porting ", the words " the details of such request , alongwith scanned copy of the authorisation letter in case of corporate mobile number, to the Donor Operator for porting" shall be substituted.

8. In regulation 12 of principal regulations----------,

(a) after clause (h) and before the proviso, the following clauses shall be inserted, namely:-

" (i) in case of a corporate mobile number, the porting request is not accompanied by authorisation letter from the authorised signatory of the subscriber;

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(j) the validity period of the Unique Porting Code has expired before its receipt by the Donor Operator.

(b) for the existing proviso, the following provisos shall be substituted, namely:-

" Provided that while rejecting a request for porting, on any ground specified in clause (a) to (j) , each corporate mobile number shall be treated separately :

Provided further that if the Donor Operator rejects a porting request on the grounds specified in clauses (h) and (i), he shall indicate the full details of the grounds on which the porting request has been rejected and retain a copy of such records for a minimum period of six months."

9. In regulation 16 of the principal regulations, after sub-regulation (7) , the following sub- regulation shall be inserted , namely:-

" (8) In case of rejection of porting request of a corporate mobile number on the grounds specified in clause (i) of regulation 12, the Mobile Number Portability Service provider shall retain the scanned copy of the authorisation letter for a minimum period of six months".

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Format of Authorization Letter for porting of corporate Mobile Numbers
(see regulation 6 (f))

To be submitted on company letter head

To,
(The Recipient Operator)
_____
_____

Subject: **Port out of corporate mobile number.**

I....., the authorized signatory of M/s. .....(name of the body corporate etc.), hereby authorize the porting out of the following mobile phone numbers, allotted to M/s.....(name of body corporate etc.), from M/s.....(name of the Donor Operator) to M/s.....(name of the Recipient Operator) in----------(name of service area):-

S.No	Corporate Mobile Number	Unique Porting code

Undertaking

It is certified that I am the authorized signatory for the above mentioned mobile numbers and this information has been updated with the Donor Operator.

Name of Company:
Authorized Signatory Name:
Authorized Signatory Contact No:
Signature of Authorized Signatory:
Authorized Signatory email ID:
Stamp of the Company/corporate/organization:
Date:

Note: If this letter has more than one page, each page shall be signed by the Authorised signatory

----------End of Format----------

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22/7/13
(Rajeev Agrawal)
SECRETARY

राजीव अग्रवाल/RAJEEV AGRAWAL
सचिव/Secretary
भारतीय दूरसंचार विनियामक प्राधिकरण
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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 the 23rd Sept. 2009 and amended vide:

a) Notification no. 116-1/2010 dated 28th January, 2010 (1 of 2010)
b) Notification no. 116-1/2010 dated 24th November, 2010 (5 of 2010)
c) Notification no. 116-5/2012 dated 8th June, 2012 (16 of 2012)
d) Notification no. 116-15/2012 dated 19th September, 2012 (19 of 2012)

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

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सचिव/Secretary
भारतीय दूरसंचार विनियामक प्राधिकरण
Telecom Regulatory Authority of India
नई दिल्ली-110002/New Delhi - 110002

Explanatory Memorandum

1. 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 mobile number portability in the country. The Regulations 6,7,8,9,10,11,12 and 13 of these regulations came into effect in all telecom service areas in the country from 20th January 2011 through the Authority's direction dated 18th January, 2011.

2. Complaints were received from subscribers of Corporate mobile numbers that their porting requests have been rejected by the donor operators under the category "Contractual Obligation" for want of permission/authorization from the company/ corporate for porting such numbers.

3. In order to address issues relating to processing of porting requests, from the corporate mobile numbers, TRAI had placed draft Telecommunications Mobile Number Portability (Fifth Amendment) Regulations 2013 on 19th March 2013 on TRAI's website www.trai.gov.in seeking comments of stakeholders by 2nd April 2013. In the draft amendment, separate procedure for porting of corporate mobile number has been specified, as it requires authorization from the concerned authorized signatory of the corporate or organization. On the request of some stakeholders, the date for receiving comments was extended upto 09th April 2013.

4. The Authority examined the comments received from the stakeholders; the key issues and its analysis are given below:

Time period for implementation

5. Most of the stakeholders sought time for implementing the new process for porting of corporate mobile numbers, ranging from 30 days to 3 months. Considering the time required for setting up the processes such as identification of corporate mobile numbers, establishing UPC generation mechanism specified in these regulations for corporate mobile numbers, changes required in the existing gateways for corporate MNP

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process and its testing, it has been felt that sufficient time should be given to service providers and MNP service providers to carryout required changes in their system. Accordingly, the amendments are made effective after 90 days from the date of its publication in official gazette.

Need for Authorized signatory's letter

6. Presently, for porting of individual numbers, authentication of subscriber is carried out through Unique Porting Code mechanism. One of the stakeholders has suggested that corporate subscribers should seek No objection Certificate (NOC) from the Donor Operator. In this regard, it may be noted that the existing porting process is Recipient Operator led porting, as such the customer approaches to the Recipient Operator for porting of a mobile number. No Objection Certificate from the Donor Operator will go against the principles of existing framework, therefore, is not acceptable. However to ensure genuineness of porting, a copy of the letter from authorized signatory's will be sent by the Recipient Operator to Donor Operator alongwith other required details.

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Limit on the number of mobile numbers in a corporate porting request

7. On the issue whether there should be a limit on number of corporate mobile numbers which can be included in one porting request, one of the suggestion has been to put a limit on the number of corporate mobile numbers in a porting request by the authorised signatory. The issue has been examined and limit of 50 mobile numbers with a corporate porting request has been prescribed so that probability of errors in feeding of large mobile numbers with UPCs by the Recipient Operator is reduced and at the same time sufficient numbers can be processed simultaneously with authorized signatory's request.

Need for separate UPC for corporate mobile numbers sought to be ported

8. On the issue of whether each corporate mobile number should have separate UPC or whether one UPC will be sufficient for all corporate mobile numbers, some of the stakeholders have suggested that there

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should be a single UPC for all requested corporate mobile numbers generated by the Authorised signatory, while some of them have suggested that each corporate mobile number should generate separate UPC for porting of their mobile number.

9. In the present arrangement the request for generation of UPC for a mobile number, sought to be ported, should be generated from the same mobile number. If mobile number of the Authorised signatory is permitted to generate UPC, the entire framework is required to be changed without serving any useful purpose. Moreover Donor operators need to maintain a separate list of such Authorised Signatories for authentication. In view of the complexities in such arrangement, it is felt necessary that UPCs be generated by the user of each corporate mobile number to avoid conflict / dispute regarding the porting of corporate mobile number to avoid that the number is ported out without the user knowledge. Provision is made wherein Authorised signatory will send such numbers under his signature and in a defined format.

Requirement of enclosing a scanned copy of authorisation letter

10. In the Regulations, provision has been made for sending scanned copy of the letter from the authorized signatory of the company/organization by the Recipient Operator to Donor Operator. Some of the Telecom Service Providers have informed that sending of scanned copies would need additional hardware infrastructure in their customer Relationship Management (CRM) system. They have also indicated that the existing connectivity with the MNPSPs needs to be enhanced to meet the bandwidth required for sending the scanned copy of the Authorization letter. This may also require additional investment. In this regard, it may be noted that corporate mobile numbers may not be large in numbers. Further only one scanned document shall be required for multiple corporate porting numbers up to 50 mobile numbers and corporate porting request can be processed in company owned customer centers where such facilities are normally available. In case such facilities are not available, corporate customers requesting for porting may be asked to provide the scanned copy of required Authorisation letter. The scanned document being in the format of PDF will not require large bandwidth between Telecom Service Providers and MNP Service Providers. As such, significant investment may not be needed to put in place the proposed mechanism.

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11. Stakeholders also pointed out that this being a manual activity which involves scanning of documents and sending as an attachment, Recipient Operator may require more time for processing. Considering this, it has been decided to increase the time for Recipient Operator to forward the corporate porting request to Mobile Number Portability Service providers from existing 24 hours to 48 hours. In this regard, it is pertinent to mention that the Donor Operator is expected to clear the porting request on the fourth working day upon receipt of porting request from MNP service provider.

Rejection of Porting request by Donor Operator

12. Telecom Operators also suggested for providing a separate rejection category for rejection of corporate porting request due to authorization letter being invalid so that the exact reason for rejection is known to the concerned authorized signatory. Accordingly, separate category for rejection of corporate porting request has been incorporated.

13. In addition to above, one more category of reason of rejections has been added i.e "the validity period of the Unique Porting Code has expired before its receipt by the Donor Operator". The reason for the same is that on analyzing the reasons of rejections, it was noticed that many porting requests are being rejected due to "UPC mismatch". On further analysis, it was found that majority of rejections due to UPC mismatch were actually due to expiry of validity period of UPC. In order to have clear distinction between actual "UPC mismatch" and "UPC expiry", a new reason of rejection has been added.

Additional time for Donor Operator to clear or reject a corporate porting request

14. Some of the stakeholders sought more validation time for the donor operator from existing 4 working days to 7 working days to clear or reject a porting request of a corporate mobile number. In this regard it is felt that the time of 4 working days specified in the existing regulation is sufficient to clear or reject corporate porting request by the Donor Operator, as manual checks are mostly relating to authorized signatory which is common to all ported corporate mobile numbers upto 50 mobile numbers. Therefore, existing timelines of four working days have been retained.

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

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 25th February, 2015

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TELECOMMUNICATION MOBILE NUMBER PORTABILITY (SIXTH AMENDMENT) REGULATIONS, 2015

(03 of 2015)

No. 116-19/2014-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 (Sixth Amendment) Regulations, 2015 (03 of 2015)

   (2) They shall come into force on the 3rd day of May, 2015

2. In regulation 2 of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009) (herein after referred to as the principal regulations) ----------

(a) in clause (a), after the words " Unified Access Service licence, the words "or Unified licence (access service) or unified licence having authorization to provide access service" shall be inserted ;

(b) after clause (j), the following clauses shall be inserted, namely:-

"(ja) "Mobile Number Portability zone" or "MNP zone" means the zones contained in the Annexure-VI of the licence agreement for the Mobile Number Portability Service ;"

(jb) "mobile number range" means the number series allocated by the licensor to an Access Provider in an MNP zone;

3. In regulation 3 of the principal regulations, sub-regulation (1) shall be deleted

4. In regulation 8 of the principal regulations, in sub-regulation (6) -----

(a) for the words "concerned Mobile Number Portability service provider", the words "Mobile Number Portability Service Provider of MNP zone to which the mobile number range holder of number under porting belongs" shall be substituted;

(b) in the first proviso, after the words "the Mobile Number Portability Service provider", the words "of MNP zone to which the mobile number range holder of the number under porting belongs" shall be inserted.

5. In regulation 11 of the principal regulations, in sub-regulation (1), in the proviso to clause (c), after the words "provided that in", the words "case the Recipient Operator belongs to" shall be inserted.

6. In regulation 12 of the principal regulations, the clause (f) shall be deleted.

7. In regulation 14 of the principal regulations, ----------

(a) after the sub-regulation (4), the following proviso shall be inserted, namely:-

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"Provided that no notice shall be given after thirty days from the last date of payment mentioned in the outstanding bill";

(b) in sub-regulation (5), after the words "the Donor Operator shall communicate" the words "within thirty days" shall be inserted;

(c) after sub-regulation (5), the following proviso shall be inserted, namely:-

"Provided that no communication for disconnection of ported number shall be given to the Mobile Number Portability Service Provider after sixty days from the last date of payment mentioned in the outstanding bill".

8. In regulation 15 of the principal regulations, ----------

(a) in sub-regulation (3),---

(i) after the words "a notice" and before the words " to the concerned subscriber", the words " of fifteen days" shall be inserted;

(ii) the words "the period of which shall be not less than seven days and not more than fifteen days, " shall be deleted;

(b) for sub-regulation (4) the following sub-regulation shall be substituted, namely:-

"(4) In case, the subscriber fails to provide evidence of having settled the outstanding dues with the Donor Operator within the time so allowed in the notice under sub-regulation (3), the Recipient Operator shall immediately bar all outgoing services on the mobile number of such subscriber except accessibility to emergency services as specified in the licence agreement of the service provider;

Provided that if the subscriber furnishes evidence to the Recipient Operator regarding payment made to the Donor Operator, within fifteen days from the date of barring of outgoing services, the services of the subscriber shall be restored with immediate effect;

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Provided further that, in case the subscriber fails to make payment referred to in the first proviso, the Recipient Operator shall disconnect the mobile number of the subscriber and inform the Mobile Number Portability Service Provider of the action taken by it with request for reversal of such number to the Number Range Holder after expiry of sixty days.";

(c) in sub-regulation (5), for the words "ninety days", the words "sixty days" shall be substituted.

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(Sudhir Gupta)
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 Sept. 2009 and amended vide:

a) Notification no. 116-1/2010 dated 28th January, 2010 (1 of 2010)
b) Notification no. 116-1/2010 dated 24th November, 2010 (5 of 2010)
c) Notification no. 116-5/2012 dated 8th June, 2012 (16 of 2012)
d) Notification no. 116-5/2012 dated 19th September, 2012 (19 of 2012)
e) Notification no. 116-4/2013 dated 22nd July, 2013 (9 of 2013)

Note 2: The explanatory memorandum explains the objects and reasons of these regulations

Explanatory Memorandum

1. 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 in the country. The regulation 6,7,8,9,10,11,12 and 13 of the Regulations came into effect in all telecom service areas in the country from 20th January 2011 through the Authority's direction dated 18th January, 2011.

2. Now the Government has decided to implement inter-service area mobile number portability (Full Mobile Number Portability). Accordingly, necessary amendments to the MNP service license were issued by the Department of Telecommunications (DoT) through letter No. 800-22/2013-AS-II dated 3rd November, 2014 wherein it is stated that Full MNP would be implemented in the country within six months from the said amendment. In this context the Authority issued a draft The Telecommunication Mobile Number Portability (Sixth Amendment), 2015 on 23rd January, 2015 seeking comments of stakeholders for facilitating Full MNP. In addition, the draft amendments also proposed some changes to the existing porting process viz. reduction in timelines for number return process, refining non-payment disconnection issues etc.

3. In response to the draft Amendment, fifteen stakeholders submitted their comments. These comments have been examined by the Authority and, after deliberations, this Sixth Amendment to the MNP Regulations is being issued. The explanation for the amendments made in the Regulations is provided in the following paragraphs.

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Time period for implementation

4. As per the DoT's amendment to the MNP service licence, full MNP (inter and intra Licensed Service Area MNP) is to be implemented within six months from the date of the said amendment to the Licenses. Accordingly, the Authority has made the Sixth Amendment to the MNP Regulations effective from 3rd May 2015.

Forwarding of porting request by the Recipient Operator

5. On a request by a subscriber for porting of his number, the Recipient Operator (RO) will forward the porting requests to the MNP Service provider (MNPSP) to which the number range holder (service provider who originally allocated the mobile number) belongs. Even if a subscriber ports his mobile number from one MNP Zone to another, the same MNPSP will continue to handle his porting requests for all subsequent portings. This is required as the porting history of the subscriber is maintained by the MNPSP of the MNP zone to which his number range holder belongs.

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Time period for Donor Operator to raise non-payment disconnections:

6. The MNP Regulations provide that in case a post paid subscriber defaults in the payment which was due to the Donor Operator (DO), the DO may request the RO for disconnection of the ported mobile number. It is noticed that in many cases, the DO raises disconnection requests (due to non-payment of outstanding bill) long after the subscriber has ported his number. Therefore, there is a need to bring order in this matter so that non-payment disconnection cases are settled in a timely manner by the Donor as well as the RO to avoid any inconvenience to the subscriber at a later date. Accordingly, in the Amendment, time period of 'thirty days' from the due date of the outstanding bill has been specified for a DO to raise the non-payment notice to the subscriber who has defaulted in the payment. It is also stipulated that after completion of 'sixty days' from the due date of payment of the outstanding bill, the DO will not be entitled to raise non-payment disconnection requests to the RO through the MNP service provider.

Increase in Notice period for disconnection by the RO

7. In response to the draft Amendment, most stakeholders have requested for increase in the notice period given by the RO to the subscriber who has defaulted in the payment to the DO from the existing fifteen days period to thirty days. After examination, the Authority has agreed to increase the time period. However, provision has been made for barring outgoing services of such defaulting subscriber for fifteen days, so as to prompt the subscriber to pay the outstanding amount due to the DO. Further, the extended period will also help inter-service area porting subscribers who may have to settle outstanding payments of a different service area from where the subscriber ported his mobile number. In case the subscriber fails to make payment within fifteen days, his mobile number will be disconnected permanently by the RO and number will be returned to the number range holder after sixty days.

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Reduction in timelines for Number return process

8. In the existing MNP Regulations, in case of disconnection of a mobile number in the network of RO, it is mandated that such mobile number will be returned to the number range holder after the expiry of ninety days. This implies that once a mobile number is disconnected, it remains unutilized for as long as ninety days. For effective utilization of such a mobile number, the Authority has reduced this time period to sixty days.
