

TELECOM REGULATORY AUTHORITY OF INDIA
Mahanagar Doorsanchar Bhawan, Jawaharlal Nehru Marg,
(Old Minto Road), Delhi 110 002.

New Delhi, the 26th March, 2012

DIRECTION

Subject: Direction under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997, on tariff advertisements.

F. No. 301-14/2010-ER.— Whereas the Telecom Regulatory Authority of India (hereinafter referred to as the Authority), established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act 1997 (24 of 1997) (hereinafter referred to as TRAI Act, 1997), has been entrusted with the discharge of, *inter alia*, the functions of regulating the telecommunication services and laying down the standards of quality of service to be provided by the service providers so as to protect the interests of consumers of telecommunication service;

2. And whereas with increased competition and innovative tariff offers, advertisements have become an important means for the telecom access service providers to inform the subscribers about their tariff offers with the objective to promote the adoption of such tariff by subscribers;

3. And whereas an advertisement means any form of communication either separately or in combination, offered through any medium to draw the attention of the public to a service in a manner calculated to promote, directly or indirectly, that service;

4. And whereas while advertisements help in promoting and disseminating information to consumers about various tariff plans on offer, misleading advertisements harm the interests of consumers;

5. And whereas a tariff advertisement is considered to be misleading, if it,-
 - (i) is likely to induce the consumer to subscribe to a tariff plan, which he would not have subscribed to but for such misleading advertisement, illustrations of which are contained in Annex to this Direction;
 - (ii) contains an untrue statement;
 - (iii) omits a material fact having bearing on the subscriber's decision to subscribe to a particular tariff plan or special tariff voucher (STVs); and
 - (iv) fails to disclose all limitations and restrictions of the tariff plan or STV;
6. And whereas the Authority received representations from consumers and their representatives that tariff advertisements issued by the telecom access service providers are confusing, complex and difficult to understand and the titles and various charging components of a number of tariff plans are non-transparent;
7. And whereas the Authority issued a Consultation Paper captioned "*Certain issues relating to Telecom Tariffs*" dated 13th October 2010, seeking views of the stake holders, *inter alia*, on the need to issue fresh regulatory guidelines on tariff advertisements;
8. And whereas the Authority has, after giving due consideration to the comments received from the stakeholders, decided that there is a need for fresh regulatory measures to curb misleading tariff advertisements so as to protect the interests of the consumers;
9. And whereas clause 9 of the Telecommunication Tariff Order 1999 dated 9th March 1999, *inter alia*, provides that tariffs to be charged by service providers from subscribers for telecommunication services along with conditions thereof shall be published in such manner as the Authority may from time to time direct;
10. Now therefore, the Authority in exercise of powers conferred upon it under section 13 read with sub-clauses (i) and (v) of clause (b) of sub-section

(1) of section 11, of TRAI Act, 1997 and clause 9 of the Telecommunication Tariff Order, 1999 directs that every telecom access service provider shall,-

- (i) while disseminating tariff related information, ensure that:-
 - (a) every advertisement published by it is transparent and non-misleading and the design, including paper size, color, font type and font size, tone and volume of the advertisement is legible, audible and unambiguous ;
 - (b) the tariff advertisements disclose all material information which is likely to influence the decision of a subscriber in an unambiguous manner;
 - (c) advertisements issued in vernacular languages contain all the mandatory disclosures in the same vernacular language; and
 - (d) all tariff advertisements contain the website address and customer care number of the telecom access service provider to enable the customer to obtain any information pertaining to the tariff plan;
- (ii) maintain a register at its corporate office which shall contain a specimen copy of all tariff advertisements published by the service provider and the records of all audio visual advertisements including a notation attached to each tariff related advertisement indicating the manner and extent of its dissemination;
- (iii) carry out internal audit to ensure that it is in compliance with the provisions of this Direction;
- (iv) file a certificate of compliance with the Authority on half yearly basis, on the 15th of January and July each year confirming that all tariff advertisements issued by the access service provider during the preceding six months were in compliance with the provisions of this Direction; and

(v) maintain a specimen of all tariff related advertisements for a minimum period of one year.

11. The Authority or any agency authorized by it may inspect and audit the register and the specimen copy of the advertisement(s) maintained by the access service provider under this Direction;

12. This Direction shall apply to all tariff advertisements, issued through any medium including printed media, pamphlets, radio, television, internet, e-mails and any other audio-visual electronic media;

13. This Direction shall come into force with immediate effect and all tariff advertisements inconsistent with the provisions of this Direction shall be withdrawn within thirty days of the issue of this Direction.

**RAJ PAL
ADVISOR (ER)**

To:

**All Telecom Access Service Providers
(As per list attached)**

Illustrations of misleading advertisements

The following instances, which are neither exhaustive nor limited to, are instances of misleading publication / advertising:

- (i) Advertising a particular call rate as 'Per Second' or 'Per Minute' would be misleading in cases where the pulse rate is higher than 'One Second' or 'One Minute'. Thus, declaration of call rate as '½ paisa or ¼ paisa per second' would mislead if the actual rate is 1 paisa per two seconds or 1 paisa per four seconds. Similarly, to present a call rate as '40 paise per minute', would be misleading if the actual call rate is Rs.1.20 per 3 minutes.
- (ii) Advertising a reduced call rate as invitational call rate would be misleading, if it involves a 'start-up charge' or call set-up charge' in addition to the declared rate or if the first minute usage attracts a higher charge than the stated rate. For example, presenting the call rate '@ 29 paise per minute' in situations where there is a call set-up charge of 39 paise would be misleading because the first minute usage would attract 68 paise and not the declared 29 paise per minute.
- (iii) Advertisement of a specific reduced call rate/SMS charge would be misleading if it does not indicate that such reduced rate is applicable only after some usage. For example, '1 paisa per SMS', would be misleading if 1 paisa per SMS becomes applicable only after the first SMS which is charged at the base rate/higher rate.
- (iv) Advertising or presenting a tariff plan under a title which suggests absence of rental would be misleading if the tariff plan has recurring mandatory fixed charge in one form or other. Tariff plans with titles 'Zero Rental', 'Rental Free' etc. come under this category.

- (v) Advertising a specific call rate or SMS charge would be misleading if such rates are applicable to only on-network usage and such vital restrictions are not conveyed explicitly in the advertisement. For example, 'Call @ 50 Paise Per Minute' without mentioning that the rate is applicable only for calls within the network of the service provider, would be misleading.
- (vi) Advertising the titles of the tariff plans or other packages/schemes, which suggest unlimited usage, will be treated as misleading in situations where the features of such plan/scheme/package put restrictions on the quantum of usage in any manner including by way of Fair Usage Policy etc. on the usage. Thus, a plan advertised, as 'unlimited free calls' would mislead if there is daily limit or ceiling on the total minute of usage either by way of fair usage policy or otherwise. For a common man the term 'unlimited' would only mean without any limit whatsoever.
- (vii) Advertising a discounted call rate/SMS charge would be misleading if such discounted rate is applicable only during specific duration of time/ period. For example, 'Call @ 10 Paise' in situations where this rate is valid for off-peak /night, would be misleading.
- (viii) Advertising a tariff plan as 'Per Second Plan', if the per second based tariff is valid for some particular duration only. For example, plans with per second billing for initial one year after which the subscribers would be moved to the base per minute bill plan.
- (ix) Advertising a discounted rate without mentioning the fixed fee component to be paid by the subscriber for availing such discounted rate would be misleading in situations where such conditions are not explicitly stated in the advertisement. For example, 'call @ 30 paise per minute for six months', would be a misleading advertisement if a recurring fixed charge is compulsory to avail the benefit.

- (x) Advertising a scheme/pack as 'Free' would be misleading if there is a cap on the daily usage and such cap is not conveyed in the advertisement.
- (xi) Advertising a specific discounted STD/ISD as general rate would be misleading if such STD/ISD rates are applicable only in respect of calls to specific regions/countries. For example, 'STD calls @ 40 paisa per minute', if the rates are applicable only for southern states. Similarly, a 'gulf-pack offering ISD calls @ Rs.2/-', but the rates are only valid for UAE would be misleading if the factual position is not clearly conveyed in the Advertisement.
- (xii) Advertisement that omits certain vital terms and conditions attached to a set of tariff such as the 'validity period' would be misleading in situations where such declared tariff benefit is available only for a specific period. For example, 'for Rs.20/- make all local calls @ 10 paise per minute and STD @ 20 paise per minute', in situations where the validity of the said concessional offer is limited to a period of 5 days only and this fact is not clearly reflected in the advertisement.
