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TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 14th March, 2024

**TELECOMMUNICATION MOBILE NUMBER PORTABILITY
(NINTH AMENDMENT) REGULATIONS, 2024 (1 of 2024)**

No. RG-18/(6)/2023-NSL-II ---- In exercise of the powers conferred by sub-section (1) of section 36, read with sub-clauses (i), (iii) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009), namely:-

1. (1) These regulations may be called the Telecommunication Mobile Number Portability (Ninth Amendment) Regulations, 2024 (1 of 2024).

(2) These regulations shall come into force from the 1st July, 2024.

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

"(ra) "SIM swap or replacement" means a process of acquisition of a new SIM card in place of a lost or non-working SIM card by the existing subscriber;"

3. In regulation 6 of the principal regulations, after para (h) of the first proviso, the following para shall be inserted, namely:-

"(i) a period of seven days has expired from the date of SIM swap or replacement of the mobile number."

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

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

"(h) the request for unique porting code has been made before the expiry of seven days from the date of SIM swap or replacement of the mobile number.";

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

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

5. In regulation 9 of the principal regulations:-

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

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

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

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

(V. Raghunandan)

Secretary

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

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

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

EXPLANATORY MEMORANDUM

1. 'Mobile Number Portability' is the facility which allows a subscriber to retain his mobile number when he moves from one access provider to another access provider in the country.
2. The Telecom Regulatory Authority of India (hereinafter, also referred to as, "TRAI, or "the Authority") issued the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009) dated 23.09.2009 laying down the basic business process framework for implementation of intra-circle Mobile Number Portability (MNP) in the country. MNP facility was launched in Haryana licensed service area (LSA) on 25.11.2010 on pilot basis. On 20.01.2011, it was extended to the entire country. Initially, the MNP facility was available within the licensed service area only. However, in accordance with the provisions contained in the National Telecom Policy-2012 regarding "One Nation-Full Mobile Number Portability", full MNP facility was implemented w.e.f. 03.07.2015.
3. With a view to improving the MNP process from time to time, the Telecommunication Mobile Number Portability Regulations, 2009 have been amended eight times in the past.
4. Based on the suggestions received from the Department of Telecommunications (DoT), Ministry of Communications, Government of India, TRAI issued Draft Telecommunication Mobile Number Portability (Ninth Amendment) Regulations, 2023 dated 27.09.2023 (hereinafter, referred to as "the draft amendment regulations dated 27.09.2023 for consultation"), soliciting comments from stakeholders on the issues raised therein. Stakeholders were requested to furnish their comments by 25.10.2023. On request of a few stakeholders, the last date for furnishing comments was extended to 08.11.2023. The Authority received comments from 13 stakeholders. The comments are available on the Authority's website www.trai.gov.in. An open house discussion (OHD) on the draft amendment regulations dated 27.09.2023 for consultation was conducted on 22.02.2024, through virtual mode.

5. Based on the inputs received from stakeholders and its own analysis, the Authority has finalized the ninth amendment to the Telecommunication Mobile Number Portability Regulations, 2009. The following sections provide an explanation of the amendments made in the regulations.

A. Suitability of introducing an additional criterion for rejection of the request for allocation of UPC

6. The regulation 6A of the Telecommunication Mobile Number Portability Regulations, 2009 (“principal regulations”) provides, *inter-alia*, as below:

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

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

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

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

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

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

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

(a) the number is a Corporate mobile number;

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

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

- (d) a request for change of ownership of mobile number is under process;*
- (e) the mobile number sought to be ported is sub-judice;*
- (f) porting of the mobile number has been prohibited by a court of law;*
- (g) there are subsisting contractual obligations in respect of which an exit clause has been provided in the subscriber agreement but the subscriber has not complied with such exit clause;*

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

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

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

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

7. The clauses (a) to (c) of sub-regulation (1), and clauses (b) to (g) of sub-regulation (3) of regulation 6A of the principal regulations provide a list of criteria for rejection of the request for allocation of UPC. In this regard, DoT, through its letter dated 27.09.2022 to TRAI, mentioned, *inter-alia*, as below:

"It has come to the notice that mobile connections are being fraudulently ported out by the criminals/ fraudsters by way of fraudulent SIM Swaps/ replacement (instructions dated 01.08.2016 as enclosed may kindly be referred).

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

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

8. In this background, through the draft amendment regulations dated 27.09.2023 for consultation, the Authority solicited comments from stakeholders on the following questions:

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

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

9. In response to the Q1 and Q2, most of the stakeholders opined that introduction of an additional criterion for rejection of the request for allocation of UPC for the mobile connection, which has undergone the process of SIM swapping/ replacement, would be beneficial to the subscribers; this step would result in preventing porting of mobile connections soon after SIM swapping/ replacement, by fraudsters in the name of new subscribers. However, a few stakeholders expressed divergent views with respect to (a) the number of days for which a mobile number should not be made eligible for porting after SIM swap/ replacement, and (b) the need for porting restrictions in cases of SIM upgradation. These aspects are being examined below.

(1) The number of days for which a mobile number should not be made eligible for porting after SIM swap/ replacement

10. On this aspect, while a few stakeholders opined that a wait period of 10-days after SIM swap/ replacement is appropriate, some other stakeholders contended that a wait period of 10-days may inconvenience subscribers, especially in urgent porting situations, and therefore, a shorter wait period such as two-to-four days would be reasonable. The Authority has taken note of the stakeholders' comments and is of the view that to prevent fraudulent porting after SIM swap/ replacement, the wait period should neither be too small that it falls short of the objective of curbing fraudulent porting, nor it should be too long to inconvenience the subscribers. Accordingly, the Authority has decided to keep a waiting period of seven days after the SIM swap or replacement for a mobile number to become eligible for porting.

(2) Need for porting restrictions in cases of SIM upgradation

11. A few stakeholders contended that in the case of SIM upgradation, where consumer is already in possession of original SIM card in working condition, there is no case for SIM swap fraud, as the consumer's identity can be ensured through know your customer (KYC) documents along with the one-time-password (OTP) based authentication on the original working SIM; therefore, MNP restrictions should not be applicable in case of SIM upgradation.
12. In this regard, the Authority has taken note of the fact that through the instructions issued through notification No. 800-09/2010-VAS (part) dated 07.08.2018, DoT has laid down guidelines on the subject-"Issuance of new SIM card in case of upgradation of SIM cards". Through these guidelines, DoT has mandated that upon receiving the request for SIM upgradation, every licensee will first seek consent of the subscriber for SIM upgradation through SMS; then the licensee *"shall make an IVRS Call to the subscriber on his/her current working SIM and intimate about his/her request of SIM up-gradation. Thereafter, the Licensee shall first seek confirmation from the subscriber whether he/she has raised the request of SIM upgrade and he/she has the new SIM card under his/her possession. If the subscriber confirms the possession of new SIM card, then the Licensee shall proceed further else cancel the entire SIM upgrade process immediately."*
13. The Authority notes that through the instructions dated 07.08.2018, as mentioned above, DoT has laid down sufficient safeguards for ensuring SIM upgradation by only genuine customers. Accordingly, the Authority is of the view that there is no need for porting restrictions in case of SIM upgradation.
14. Keeping in view the foregoing discussion, the Authority has decided to introduce an additional criterion for rejection of the request for allocation of UPC through these amendment regulations. Specifically, the UPC should not be allocated if the request for UPC has been made before the expiry of seven days from the date of SIM swap or replacement of the mobile number.

15. For implementing the additional criterion for rejection of the request for allocation of UPC introduced through these amendment regulations, modifications would have to be carried out in the telecommunication systems and processes of access providers and MNP service providers, which will be followed by testing of the scenarios before the pan-India implementation. Accordingly, the Authority has decided to keep the date of implementation of these amendment regulations as 01.07.2024.

B. Suitability of matching demographic details of the subscriber before permitting porting of a mobile number

16. DoT, through a letter dated 24.07.2023, requested TRAI that *"following suggestions may be considered for incorporating in the extant MNP process for prevention of fraudulent porting:-*

- i. After the generation of the UPC code, at the appropriate stage, the demographic details of the subscriber (such as Name, Gender, Date of Birth and Photograph, etc.) or scanned copy of Customer Application Form (CAF)/ digital CAF may be transferred from Donor Operator to Recipient Operator. In order to avoid time delays, such transfers may preferably be done through electronic means.*
- ii. The Recipient Operator should match the demographic details of the subscriber with those details received from Donor Operator. If the subscribers demographic details matches, then only further steps in MNP process may be allowed otherwise the porting process may be terminated."*

17. In this regard, through the draft amendment regulations dated 27.09.2023 for consultation, the Authority solicited views of stakeholders on the following question:

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

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

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

18. In response to the Q3, most of the stakeholders have suggested that a machine based validation of demographic details of subscribers should be carried out before the porting process. At present, this aspect is being examined in detail in TRAI and it will be dealt with separately.

C. Miscellaneous Issues

19. The Authority through the draft amendment regulations dated 27.09.2023 for consultation, requested stakeholders to provide suggestions/ comments on any other issues for improving the process of porting of mobile numbers. In response, several concerns related to porting have been brought to the attention of the Authority. The Authority has taken note of the stakeholders' concerns, which will be duly examined.