



Dated the 11th April, 2012

DIRECTION

Subject: Direction under section 13, read with sub-clauses (i) and (iii) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 on ensuring compliance of the terms and conditions of Unified Access Service License and 'Continuity of Service' to subscribers by M/s S Tel Private Limited

No.116-9/2012-MN----- 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 the "TRAI Act"), has been entrusted with discharge of certain functions, *inter alia*, to ensure compliance of terms and conditions of licence; to regulate the telecommunication services, protect the interests of consumers of the telecom sector; ensure technical compatibility and effective inter-connection between different service provider; lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service to be provided by the service providers so as to protect the interest of the consumers of telecommunications service;

2. And whereas M/s S Tel Private Limited has, vide their letter No. S Tel/Imp/2012, dated 12th March, 2012 addressed to Secretary,

(Signature)

Department of Telecommunications and a copy endorsed to the Authority, inter-alia, informed as under:-
“the judgement delivered by the Hon’ble Supreme Court dated 2nd February, 2012 has led to en-masse network disconnections by all our network infrastructure service providers, bringing about a complete clamp down on our network connectivity and operations. As such, our infrastructure vendors have withdrawn the support and links to our MSCs, including managed services of our network” and that “...in absence of network and connectivity to our subscribers, all active network elements including MSCs, BSCs, IN, Packetcore, CRBT, SNSC, LI, Interconnect & VAS are being shut down till such time as necessary mitigation measures are implemented....”.....
..... “periodic reporting, implementation and compliance of regulations / directions pre-suppose existence of necessary conditions to pursue provision of telecommunication connectivity and services. Since these conditions have been prevented under the circumstances brought out hereinabove, the reporting, compliances and implementation required also stand obviated at this stage.”;

3. And whereas M/s MITS, a Mobile Number Portability (MNP) Service Provider, has vide their letter No. MITS/TRAI/017/2012, dated 14th March,2012 informed the Authority that M/s S Tel Private Limited has disconnected its links with MNP clearing house for Zone-2 with effect from 27th Feb,2012 and due to this disconnection all porting broadcasts to M/s S Tel are not being delivered impacting the call completion of current customers of S Tel;



4. And whereas M/s Unitech Wireless (Tamil Nadu) Private Limited has, vide their letter dated 16th March, 2012, informed the Authority that their Point of Interconnection (POI) with M/s S Tel in Orissa is non-functional since February 23, 2012 and on inquiry by them with M/s S Tel, has informed that it has stopped its operation in Orissa;

5. And whereas the Hon'ble Supreme Court, has, vide its judgment dated 2nd Feb, 2012 in Writ Petition (Civil) No. 423 of 2010 and No. 10 of 2011 inter-alia, held as under –

“81.

(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.

.....”

6. And whereas the clause 30.3 of the Unified Access Service (UAS) License provides as under:-

*“The LICENSEE shall ensure continuity of services to its customers unless License is Terminated or Suspended by the Licensor **for any reason whatsoever.**”*

(Emphasis supplied)

7. And whereas, clause 10.3 of UAS License provides as under:-

“LICENSEE may surrender the LICENSE, by giving notice of at least 60 Calendar days in advance. In that case it shall also notify all its customer of consequential withdrawal of



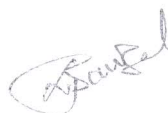
SERVICE by sending a 30 Calendar days notice to each of them.....”

8. And whereas the clause 10.8 of UAS License, inter-alia, provides that it is the responsibility of the Licensee to maintain Quality of Service and reads as under:-

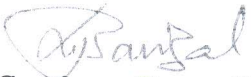
“It shall be the responsibility of the LICENSEE to maintain the Quality of Service, even during the period when the notice for surrender/ termination of LICENSE is pending and if the Quality of Service is not maintained, during the said notice period, it shall be liable to pay damages.....”

9. And whereas as directed by the Hon'ble Supreme Court vide its judgment dated the 2nd February, 2012, its order quashing the licences shall become operative after four months from the date of the judgment, the Authority is of the opinion that the licensee is required to comply with the terms and conditions of the licence till the date from which the judgment of the Hon'ble Court becomes operational;

10. Now therefore, in exercise of power conferred upon it under section 13 read with sub-clause (i) and clause (iii) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1994), the Authority hereby directs M/s. S Tel Private Limited to comply with all the provisions of the Unified Access Service License, restore all network connectivity, ensure continuity of service to its subscribers and maintain the quality of service till its license is operational and furnish the



compliance report to the Authority within a period of three days from the date of issue of this direction.

 11/4/12
(Sanjeev Banzal)
Advisor (MN)

To,

Shri J. Sugumaran
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