

800- 32/ 2011-VAS
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
(Access Services Cell)
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110 001

Dated: 26th April'2013

To

All DDsG TERM Cells

Subject: Scheme of Financial Penalty for violation of terms and conditions of License Agreement and instructions in respect of Subscriber Verification Failure Cases.

Ref:

- (i) Letter No. 800-52/2008-VAS-III(Part) Dated 24.12.2008
- (ii) Letter No. 800-20/2010-VAS dated 03.02.2011.
- (iii) Letter No. 800-20/2010-VAS dated 07.02.2011.
- (iv) Letter No. 800-32/2011-VAS dated 07.11.2012

The Hon'ble TDSAT in its judgment dated 12.04.2012 in petition No. 252 of 2011 (COAI & Ors. Vs. DoT & Anr.) has inter-alia concluded in para 332 as under:

“(xi) The financial penalty should be calculated on the principles as it is followed in the Income Tax system, i.e. rate of financial penalty to be calculated separately for each slab and the total amount of penalty arrived at.”

2. Accordingly, it has been decided as under in respect of the demands raised w.e.f. 01.04.2009 as per DOT instructions dated 24.12.2008 for Customer Acquisition Form (CAF) non-compliance cases:

- (i) Closed demands i.e. the demands raised by DoT which have been paid in entirety by the operators need not be opened.
- (ii) The demands which have either not been paid at all or have been partially paid by the operators may be recovered as per directions contained in above-said para 332(xi) of TDSAT judgment dated 12.04.2012 i.e.

calculating financial penalty on the principles as it is followed in the Income Tax System.

(iii) Future demands from the date of pronouncement of TDSAT judgment may be raised as per above-said directions of TDSAT.

3. Rest of the instructions in this regard shall remain unchanged.

Received 26.4.2013
(A.K. Tirkey)
AD (AS-II)

Copy to:

1. Secretary TRAI.
2. Sr. DDG(Security -TERM), DOT
3. All Access Service Providers (CMTS/ UAS Licensees) for information please.
4. COAI/ AUSPI for information please.
5. DDG(AS-II), DOT
6. DDG(Accounts), DoT