

Telecom Regulatory Authority of India
A-2/14, Safdurjang Enclave,
New Delhi-110029

Notification

No. 14-1/2005-FA

March 4, 2005

In exercise of the powers conferred by sub-section (1) of section 36 read with sections 11 and 12 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) the Telecom Regulatory Authority of India hereby makes the following Regulation, namely :-

1. Short title, extent and commencement

- (i) This Regulation may be called the "Telecom Regulatory Authority of India (Access to Information) Regulation, 2005"(3 of 2005) .
- (ii) It extends to the whole of India.
- (iii) It shall come into force on the date of its publication in the Official Gazette.

2. Definitions :-

In this Regulation, unless the context otherwise requires,-

- (a) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);
- (b) "Information" means information obtained or received by the Authority from a service provider under the Act . Such information may include records, documents, etc., whether in printed, electronic or any other form.
- (c) All other words and expressions used herein but not defined shall have the same meanings respectively as assigned to them in the Act.

3. Request for confidentiality and decision thereon

(1) A service provider furnishing any information to the Authority under the Act, may make a request in writing to keep that information or a part thereof confidential, in which case he shall also furnish a non-confidential summary of the portion sought to be kept confidential. Such a request shall be accompanied by the reasons for keeping the information confidential, and the information or the part thereof shall also be marked as confidential.

(2) Where the Authority is of the opinion that it is necessary or expedient to disclose the information in public interest , it shall do so in the light of the provisions of Regulation 6; provided that where the Authority proposes to reject the request of the service provider, it shall inform him in writing the reasons for doing so, and give him an opportunity to make a representation against the same within a period stipulated by it. On consideration of his representation, if any, the Authority shall take a final decision. Where the Authority rejects the request of the service provider, it

shall communicate to him in writing the reasons for doing so, at least 7 days before making the disclosure.

4. Seeking Access to information

A service provider seeking access to information of another service provider shall make a request in writing to the Authority, with a copy to the service provider whose information is being sought. Such a request shall clearly state the purpose and the reasons for which the information is required.

5. Rejection of Request for Disclosure

On receipt of a request under regulation 4, the Authority shall examine whether the information sought is exempt from disclosure under regulation 6, or is covered by one of the grounds for refusal contained in regulation 7. If the Authority is of the view that the information is so exempt, or is covered by one of the grounds for refusal, or the request is not reasonable or genuine, or has not been made for legitimate purpose, or is not in public interest, the Authority shall reject the request. . The Authority shall communicate in writing the reasons for rejection of the request to the service provider who had sought access to information.

6. Exemption from disclosure of Information

Information covered by any of the following categories shall be exempt from disclosure under the provisions of the Regulation:

- (i) trade and commercial secrets and information protected by law;
- (ii) Commercially and financially sensitive information, the disclosure of which is likely to cause unfair gain or unfair loss to the service provider; or to compromise his competitive position.

7. Grounds for refusal of access to information

Without prejudice to the provisions of regulation 6, the Authority may refuse access to information where:

- (i) the request is too general in nature; or
- (ii) the information required is so voluminous that its retrieval would involve disproportionate diversion of the resources of the Authority; or
- (iii) the information has already been published, or is likely to be published soon, or is regularly published from time to time.

8. Form of Information

The Authority shall provide the information in the form it considers proper.

9. Severability

It the Authority refuses access to information on the ground that it is exempt from disclosure, then the Authority may give access to that part of information which is not exempt, and which can reasonably be severed from the other part which is exempt.

10. Information required for law enforcement

Nothing contained in this Regulation shall apply to information lawfully required by a Government agency or required in connection with enforcement or administration of law.

11. Fee

A fee of Rs. 500 per page shall be charged for providing information under this Regulation.

12 Explanatory Memorandum

This Regulation contains at Annexure an explanatory memorandum that explains the background and reasons for issuance of this Regulation.

13 General

In case of any doubt with regard to the interpretation of any provision of this Regulation, the decision of the Authority shall be final.

By order

(Harsha Vardhana Singh)
Secretary cum Principal Advisor

Explanatory Memorandum

As per sub section (4) of the Section 11 of the TRAI Act, 1997, the Authority has to ensure transparency while exercising its powers and discharging its functions. It is therefore important that the information used for decision-making is shared with the people. The information, which can be disclosed to the public, has to have its limitations. There are areas of information that should remain protected like information on commercial interests, trade secrets, or intellectual property, the disclosure of which would harm the competitive position of a party. Therefore a balance is to be maintained between the interest of public in accessing information and commercial interests of service providers by keeping sensitive information as confidential.

The Authority has issued “The Register of Interconnection Regulation, 1999” and “The Register of Interconnection Agreement (Broadcasting and Cable Services) Regulation 2004”. These Regulations provide how members of the public can access information relating to interconnection agreements in the telecom and broadcasting sector. The Reporting System on Accounting Regulation, 2004 provides for confidentiality of the financial information submitted under various provisions of the Regulation. TRAI can also call for information under Section 12 of the TRAI Act from any service provider in relation with its affairs. The Regulations already issued by TRAI do not provide guidance on disclosure of information available with the Authority for which confidentiality has been claimed. The present Regulation is being issued to fill up this gap.

As TRAI is making a comprehensive Regulation on confidentiality of information provided to it ,there is no necessity of having similar provisions in other specific Regulations/Orders, and therefore the relevant provisions of these Regulations/Orders would need suitable amendment.