

**TELECOM CONSUMERS PROTECTION REGULATIONS, 2008**

In exercise of the powers conferred under clause (o) of sub-section (2) of section 5 of the Pakistan Telecommunication (Re-organization) Act, 1996 (Act XVII of 1996), the Authority is pleased to make the following regulations:

**PART-I**  
**Preliminary**

**1. Short title, scope, extent and commencement:** (1) These regulations shall be called the “Telecom Consumers Protection Regulations, 2008”.

(2) These regulations set out the responsibilities of Operators for ensuring the protection of the interest and rights of Consumers.

(3) These regulations shall apply to all Operators and shall come into force at once.

**2. Definitions:** (1) In these regulations unless the context or subject otherwise requires: —

- (i) **“Act”** means Pakistan Telecommunication (Re-organization) Act, 1996;
- (ii) **“Authority”** means Pakistan Telecommunication Authority established under section 3 of the Act;
- (iii) **“Advertisement”** means and includes the following modes of marketing adopted by Operators to attract the Consumers:
  - a. by displaying of notices, banners, billboards, play cards etc;
  - b. by means of catalogue, brochures, pamphlets etc;
  - c. by exhibition on films or photographs; or
  - d. by electronic or print media or through any other means.
- (iv) **“Code of Commercial Practice”** means an agreement or set of rules, which defines the behaviour of operators who undertake to be bound by it in relation to one or more Commercial Practices;
- (v) **“Commercial Practice”** means any act, omission, course of conduct, representation or commercial communication (including advertising and marketing) by an Operator, which is directly connected with the promotion, sale or supply of a service to Consumers, whether occurring before, during or after a commercial transaction in relation to a service;
- (vi) **“Consumer”** means any natural or juristic person who is a user of publicly available telecommunication services from an Operator for the consumption of such services;
- (vii) **“Operator”** means a license holder authorized by the Authority to establish, maintain and provide telecom system and service(s);
- (viii) **“Professional diligence”** means the standard of special skill and care which an Operator may reasonably be expected to exercise towards Consumers commensurate with honest market practice or the general principle of good faith;

- (ix) **"Regulations"** means all or any regulations issued by Authority under provisions of the Act;
- (x) **"Rules"** means all or any rules issued by the Federal Government under Section 57 of the Act;
- (xi) **"Transactional decision"** means any decision taken by a Consumer, whether it is to act or to refrain from acting, concerning:
  - (a) whether, how and on what terms to purchase, make payment in whole or in part for, retain or dispose of the service;
  - (b) whether, how and on what terms to exercise a contractual right in relation to a service;
- (xii) **"Undue influence"** means exploiting a position in relation to the Consumer so as to apply pressure in a way, which significantly limits the Consumer's ability to make an informed decision.

(2) The words and expressions used herein but not defined shall have the same meanings as are respectively assigned to them in the Act and the Rules.

## **PART-II**

**3. Service Provisioning:** (1) Operators shall provide telecom services to Consumers as per the rollout obligations prescribed by the Authority under their respective licenses.

(2) Consumers should be able to select the Operator and the telecommunication services as per their own choice.

(3) The telecom services shall be provided to Consumers in a fair, transparent and non-discriminatory manner.

**4. Service Interruption:** (1) Operators shall ensure that Consumers are provided telecom services without any interruption.

Provided that if a Consumer fails to comply with his contractual obligations or there is a genuine technical necessity on the part of Operator, the service may be interrupted with prior notice.

(2) In case of planned network system enhancements, updates or upgrades, the Consumer shall be given thirty (30) days prior service interruption notice by the Operator.

(3) Operators shall take all reasonable and necessary measures in providing Consumers adequate arrangements/concession in case of lengthy outages or service interruptions for which due notice is not served to Consumers.

**5. Withdrawal of Service:** (1) Operators may withdraw the provision of any service to Consumers, provided such withdrawal is approved by the Authority and thirty (30) days prior notice is given to Consumers.

**6. Disconnection of Service:** (1) Operators shall clearly communicate their disconnection policies to their Consumers and disconnection of services shall be made in accordance with such policies.

(2) Operators shall give thirty (30) days prior notice to Consumers in case of disconnection of services, at least once by any of the following means:

- (i) personal service;
- (ii) registered mail;
- (iii) courier;
- (iv) telephone;
- (v) fax transmission;
- (vi) electronic mail;
- (vii) Short Messaging Service.

(3) The reasons for disconnection shall be clearly communicated to Consumers along with the actions required on the part of Consumers to avoid such disconnection.

(4) In case of non-payment of dues, the Operator shall not disconnect the provision of service to a Consumer who has disputed such dues with the Operator along with supporting reasons, unless it is proved that the Consumer is unjustified in its reasoning for such dispute.

(5) The Operator shall not disconnect a service to a Consumer, for which the Consumer has paid all the dues, if the Consumer has some outstanding dues to the Operator in relation to some other service(s).

(6) The Operator shall restore services to a Consumer without any charge, where the service is disconnected by the Operator in error.

(7) The Operator may opt to disconnect the services to a Consumer in case the change of Consumer's address is not intimated by that Consumer to the Operator and/or where the bill is not received on the address provided by the Consumer.

**7. Quality of Service:** (1) Operators shall provide telecom services to Consumers which shall meet or exceed the quality of service standards as prescribed under their licenses, Code of Commercial Practice or as required by the Authority from time to time.

**8. Commercial Practices:** (1) Operators shall not use unfair Commercial Practices while selling their services to Consumers.

(2) A Commercial Practice shall be regarded as unfair if:

- (i) it is contrary to the requirements of professional diligence;
- (ii) it materially distorts or is likely to materially distort the economic behaviour of Consumer with regard to the service;
- (iii) it is a misleading action under provisions of sub-regulation (3);
- (iv) it is a misleading omission under provisions of sub-regulation (4); and
- (v) it is aggressive under provisions of sub-regulation (5);
- (vi) it is listed in sub-regulation (7).

(3) A Commercial Practice is a misleading action if:

- (i) it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average Consumer in relation to one or more of the matters listed below, and it causes or is likely to cause him to take a transactional decision the he would not have taken otherwise:

**Revised Draft**

- a. the existence or nature of the product;
  - b. the main characteristics of the product, such as its availability, benefits, risks, accessories, after-sale customer assistance, complaint handling, date and method of provision, delivery, fitness for purpose, usage, quantity, specification, results to be expected from its use, or the results and material feature of tests carried out on the product;
  - c. the extent of Operator's commitments and motives of commercial practices;
  - d. the nature of sales process;
  - e. the tariff or the manner in which tariff is calculated and the existence of a specified tariff advantage;
  - f. the need for a service, part, replacement or repair;
  - g. the nature, attributes and rights of the Operator or his agent, such as his identity and assets, his qualification, status, approval, affiliation or connection and ownership of industrial, commercial or intellectual property rights or his awards and distinctions; and
  - h. the Consumer's rights, including the right to replacement or reimbursement on associated guarantees, or the risks he may face.
- (ii) it concerns any marketing of a product (including comparative advertising) which creates confusion with any service, trade marks, trade names or other distinguishing marks of a competitor; or
  - (iii) it concerns any failure by an Operator to comply with a commitment contained in the code of commercial practice, provided the commitment is firm and is capable of being verified.

(4) A Commercial Practice is a misleading omission if, in its factual context, taking account of all its features and circumstances and the limitation of the communication medium, it omits, hides or provides in an unclear, unintelligible, ambiguous or untimely manner such material information that the average Consumer needs, according to the context, to take an informed transactional decision and thereby causes or is likely to cause the average Consumer to take a transactional decision that he would not have taken otherwise.

(5) A Commercial Practice is aggressive if, in its factual context, taking account of all its features and circumstances, it significantly impairs or is likely to significantly impair the average Consumer's freedom of choice or conduct with regard to the service through the use of harassment, coercion, including the use of physical force, or undue influence, and thereby causes him or is likely to cause him to take a transactional decision that he would not have taken otherwise.

(6) In determining whether a Commercial Practice uses harassment, coercion or Undue Influence, account shall be taken of:

- (i) its timing, location, nature or persistence;
- (ii) the use of threatening or abusive language or behaviour;

**Revised Draft**

- (iii) the intentional exploitation by the Operator of any specific misfortune or circumstance of such gravity as to impair the Consumer's judgment to influence the Consumer's decision with regard to the service;
  - (iv) any onerous or disproportionate non-contractual barriers imposed by the Operator where a Consumer wishes to exercise rights under the contract, including right to terminate a contract or to switch to another service or another Operator;
  - (v) any threat to take any action that cannot legally be taken.
- (7) The following Commercial Practices shall be regarded as unfair in all circumstances:
- (i) Displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation;
  - (ii) Falsely claiming that an Operator (including his Commercial Practices) or a service has been approved, endorsed or authorised by a public or private body;
  - (iii) Making an invitation to purchase services at a specified tariff without disclosing the existence of any reasonable grounds the Operator may have for believing that he will not be able to supply those services at that tariff for reasonable period in relation to that service;
  - (iv) Making an invitation to purchase services at a specified tariff and then refusing to take orders for it or deliver it within a reasonable time, with the intention of promoting a different service;
  - (v) Falsely stating that a service will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive Consumers of sufficient opportunity or time to make an informed choice;
  - (vi) Stating or otherwise creating the impression that a service can legally be sold when it cannot;
  - (vii) Using editorial content in the media to promote a product where an Operator has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the Consumer;
  - (viii) Making a materially inaccurate claim concerning the nature and extent of the risk to the personal security of the Consumer or his family if the Consumer does not purchase the service;
  - (ix) Establishing, operating or promoting a pyramid promotional scheme where a Consumer gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other Consumers into the scheme rather than from the sale of services;
  - (x) Claiming that the Operator is about to cease operating when he is not;
  - (xi) Claiming that a service is able to facilitate winning in games of chance;

**Revised Draft**

- (xii) Passing on materially inaccurate information on market conditions or on the possibility of finding the service with the intention of inducing the Consumer to acquire the service at conditions less favourable than normal market conditions;
- (xiii) Claiming in a Commercial Practice to offer a competition or prize promotion without awarding the prizes described or a reasonable equivalent;
- (xiv) Describing a service as 'gratis', 'free', 'without charge' or similar if the Consumer has to pay anything to acquire that service;
- (xv) Making persistent and unwanted solicitations by telephone, fax, e-mail or other remote media except in circumstances and to the extent justified to enforce a contractual obligation;
- (xvi) Requiring a Consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or failing systematically to respond to pertinent correspondence, in order to dissuade a Consumer from exercising his contractual rights;
- (xvii) Creating the false impression that the Consumer has already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either there is no prize or other equivalent benefit, or taking any action in relation to claiming the prize or other equivalent benefit is subject to the Consumer paying money or incurring a cost.

**9. Tariffs:** (1) Operator shall:

- (i) not advertise or apply tariffs for any service to Consumers without approval of the Authority, if such approval is required under the law;
- (ii) ensure that Consumers know the exact costs for all services prior to purchase, clearly expressed in local currency, without any vagueness;
- (iii) ensure that the effective tariffs for all services are in accordance with the tariffs as published in Advertisements;
- (iv) explicitly disclose the tariff rates, unit of charging, applicable taxes etc. in their Advertisements;
- (v) ensure that the detailed terms and conditions of all services are readily available on their website for the information of Consumers;
- (vi) not pre-activate any tariff or service, optional in nature, without the consent of Consumers.

**10. Billing information:** (1) All Operators shall provide detailed billing information to their Consumers, as and when required, in accordance with license terms and conditions, regulations issued by the Authority, Code of Commercial Practice and service contract as approved by the Authority.

(2) The Authority may, on its own or at the request of Consumer(s) or Operator(s), review the standard billing information that Operators shall provide to Consumers after considering the interest of Consumers, additional cost to Operators for provision of such information, technical possibility etc.

(3) Operators shall maintain call records including calling numbers, called number, date, time and duration of calls etc. of their Consumers for a period of one year and shall provide such information to the concerned person when required.

**11. Consumers complaints:** (1) Operators shall handle and resolve all Consumers' complaints in accordance with Code of Commercial Practice, service contract and as per best practices.

(2) Operators shall establish appropriate mechanism, which shall be operational 24 hours a day, 7 days a week for registration and handling of Consumers' complaints.

(3) Operators shall adequately advertise the change in address of call centers or walk in centers or change of its "toll free number" or "Consumer care number" or "help line number" for the information of Consumers.

(4) Operators shall, after immediately intimating the "Complaint Number" to the Consumer on registration of complaint, use their best endeavors to redress the Consumer's complaints:

(i) in case of fault/disruption of service - as soon as possible but not later than 12 hours from the time of registration of such complaint; and

(ii) in case of suspension of service - as soon as possible but not later than 5 working days from the date of registration of such complaints, unless such suspension is directed by any legal agency or the Authority.

(5) In case a Consumer's complaint is not heard or not redressed in accordance with Code of Commercial Practice and service contract, even after escalating the same to appropriate level with the Operator, the Consumer can file a complaint before the Authority in accordance with applicable law.

(6) The Authority may ask any information about any complaint and its resolution, settlement and progress made so far from Operators and may direct Operators to follow its direction in resolving complaints.

**12. Code of Commercial Practice and Service Contracts:** (1) All Operators shall, after getting approval of the Authority, publish their Code of Commercial Practice for the information of Consumers.

(2) No Operator shall, in any event, claim to Consumers that:

(i) it is a signatory to a Code of Commercial Practice when in fact it is not;

(ii) a Code of Commercial Practice has an endorsement/approval of the Authority when in fact it has not.

(3) Operators shall also submit their standard contract of service to the Authority for approval before provisioning of service to Consumers.

(4) Operators shall ensure that there is no unfair term in the service contracts, before the same is submitted to the Authority for approval.

**Revised Draft**

(5) The unfair terms used in the contract concluded with a Consumer by any Operator shall not be binding on the Consumer.

(6) Following is the indicative and non-exhaustive list of items, which may be regarded as unfair:

For the purpose of these regulations, the term shall be treated as unfair if it has the object or effect of:

- (i) inappropriately excluding or limiting the legal rights of the Consumer against the Operator in the event of total or partial non-performance or inadequate performance by the Operator of any provision of the service contract;
- (ii) making an agreement binding on the Consumer whereas provision of services by the Operator is subject to a condition whose realization depend on his own will alone;
- (iii) requiring any Consumer who fails to fulfill his obligation to pay a disproportionately high sum in compensation;
- (iv) authorizing the Operator to dissolve the contract on a discretionary basis where the same right is not granted to the Consumer;
- (v) permitting the Operator to retain the sums paid for services that are not yet supplied by him and where it is the Operator himself who dissolves the contract;
- (vi) enabling the Operator to terminate a contract of indeterminate duration without a reasonable notice except where are serious grounds for doing so;
- (vii) automatically extending a contract of fixed duration without the consent of the Consumer;
- (viii) irrevocably binding the Consumer to terms with which he had no real opportunity of becoming acquainted before the conclusion of the contract;
- (ix) enabling the Operator to alter the terms of the contract unilaterally without a valid reason unless the Operator is required to inform the Consumer with reasonable notice and the Consumer is free to dissolve the contract;
- (x) providing the price of services to be determined at the time of delivery without giving the Consumer the corresponding right to cancel the contract if the price is deemed too high by the Consumer;
- (xi) allowing the Operator to increase the price without giving the Consumer the corresponding right to cancel the contract if the final price is considered too high by the Consumer;
- (xii) giving the Operator the right to determine whether the services are in conformity with the contract or giving Operator the exclusive right to interpret any term of the contract;
- (xiii) limiting the Operator's obligations with respect to commitments undertaken by his agents or making the commitments made by the Operator or his agent subject to compliance with a particular formality;



- (xiv) obliging the Consumer to fulfill all his obligations where the Operators does not perform his;
- (xv) giving the Operator the possibility of transferring his rights and obligations under the contract where this may serve to reduce the guarantees for the Consumer without his agreement; and
- (xvi) excluding or hindering the Consumer's right to take legal action or exercise any other legal remedy, particularly by requiring the Consumer to take disputes exclusively to arbitration which are not covered by legal provisions, unduly restricting the evidence available to him or imposing a burden of proof which according to the applicable law is not valid or should lie with another part to the contract.

(7) The Authority may, on its own or on the request of Consumer(s) or Operator(s), review the terms and conditions of service contract after consulting the relevant stakeholders, and direct the Operator(s) to accordingly amend the service contract made with Consumers.

(8) Subject to (4) above, Operators may also amend terms and conditions of the service contract, with approval of the Authority.

**13. Confidentiality of Information:** (1) All Operators or employees of Operators shall maintain confidentiality of information about Consumers and shall ensure that no information about Consumers is made available to any third person other than what is printed and published in services directories or required by any applicable law or agreed by the Consumer itself.

(2) Operators shall take necessary measure to ensure that information about Consumer's use of the network or service, or the content thereof will not be available to any third person except duly authorized by Consumer or required by an applicable law.

**14. Dispute Resolution:** (1) The Operator and the Consumer shall mutually cooperate and shall act in good faith to amicably resolve any dispute arising between them.

(2) During any period of dispute, before or until resolution, the Operator shall not disrupt services provided to the Consumer, or take any other actions, that might materially and adversely affect the services provided.

(3) The Operator or the Consumer may invoke the dispute procedure specified in this clause, by sending written notice of the dispute to the other party. The notice shall contain all relevant details including the nature and extent of the dispute. Following the notice, the parties shall consult in good faith to try to resolve the dispute within ten (10) days.

(4) If the parties are unable to resolve the dispute within twenty (20) days after the receipt of notice under sub-regulation (3) above, then either party may refer the dispute to the Authority.

(5) The Authority, after hearing the point of views of both the parties, in person or through correspondence, shall issue its directions which shall be binding on both the parties.

**15. Amendment:** (1) The Authority may add to or amend these regulations as and when it deems appropriate.