

District Consumer Disputes Redressal Commission-I (North District)

[Govt. of NCT of Delhi]

Ground Floor, Court Annexe -2 Building, Tis Hazari Court Complex, Delhi- 110054

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Consumer Complaint No. 275/2022

In the matter of

Ms.Sarika Singh

D/o Sh.Janardhan Singh

R/o 16A, Boulevard Road

Delhi-110054

...Complainant

Office at

BBC India

18, HT Media Ltd. Building, 5th floor

New Delhi-110001

v/s

Vodafone Idea Limited

Birla Centurion

10th floor, Plot No.794,

B Wing, Pandurang Budhkar Marg

Worli, Mumbai-400030

...Opposite party

ORDER

18/03/2024

Ms.Harpreet Kaur Charya, Member

1. The present complaint has been filed by Ms.Sarika Singh, the complainant against Vodafone Idea Ltd., the OP with the allegation of deficiency in services with the prayer for directions to OP to pay Rs.10,00,000/- as damages; revoke the demand notice dated 02/07/2021 of Rs.19,432/-; to activate complainant's mobile No.9953006768 and reactivate the incoming and outgoing services.

2. Briefly stated the facts of the present complaint are that the complainant is a journalist, working with BBC News, Delhi and was availing the services of OP for past several years for mobile No.9953006768 vide relationship No.144027862. On 11/12/2019, the complainant contacted the executives of OP for purchasing an international roaming plan for her trip to Bhutan. It has been alleged by the complainant that the executive of OP suggested the complainant to opt for international roaming plan (IROAM) for Rs.1,500/.The

- complainant was further informed that the said plan included incoming, outgoing, SMS and internet for which the complainant will not be charged anything extra just in the same way as she uses in Delhi
3. The complainant had availed the same international roaming plan for her trip to United Kingdom and Europe in 2018. The complainant was intimated by an SMS on 11/12/2019 that the plan has been activated. While the complainant was still in India, on the same day i.e. 11/12/2019, she received a message that she had exhausted her limit for Rs.15,000/- and OP has already started charging for international roaming. It has been alleged by the complainant that the incoming and outgoing services were immediately suspended without informing her, thereby leaving her helpless in foreign land.
4. As the complainant had visited Bhutan for business, this act of OP resulted in severe loss of business and compromising her safety. Sudden de-activation without prior notice not only caused the stress to the complainant but also to her family who was unaware of her whereabouts. OP raised a bill of Rs.19,432/- for availing services which the complainant did not use. The complainant has also alleged that she was coerced to pay the said amount in order to keep her mobile number active.
5. A complaint was registered with OP vide email dated 19/12/2019, as well as the customer care. Despite assurance, that the matter would be resolve expeditiously, a demand notice dated 02/07/2021, was served by OP claiming an amount of Rs.19,432/- with 18% interest p.a. The complainant has stated that she has been receiving undue calls from executives of OP for settlement.
6. A legal notice 07/07/2021 was served by the complainant seeking damages for mental stress, harassment, willfully putting complainant's life in danger and causing professional loss, which was replied by OP vide reply dated 20/09/2021. The complainant has stated that she is unable to use her above-mentioned mobile no. which she has been using for several years has not only caused her severe mental trauma but also led to grave professional losses.
7. The complainant has annexed the screen shot of the messages received from OP as Annexure C-1; email exchanged between complainant and customer care of OP from 19/12/2019, 21/12/2019 and 16/07/2021 as Annexure C-2 (colly); demand notice dated 12/07/2021 as Annexure-C-3; legal notice dated 07/07/2021 issued by the complainant as Annexure C-4; reply dated 20/09/2021 to the legal notice as Annexure C-5, copy of the passport with entry details and Rent agreement as Annexure C-6 and Annexure C-7 respectively.
8. Notice of the present complaint was served upon OP. Thereafter, written statement was filed on their behalf. OP has taken several preliminary objections such as: the present complaint was devoid of merits; there was no cause of action against them etc.
9. It has been submitted that the complainant had activated international roaming service but had not activated any IR pack. The OP had no international roaming pack for Bhutan at that relevant time therefore, they have charged the international roaming rates for telecom services availed by the customer in Bhutan.
10. OP has submitted that even in the screenshot of the message placed on record by the complainant, it is clearly seen that the international roaming service was activated and the complainant was advised to explore roaming pack and also advised how to de-activate the international roaming services. Rs.150/- as rental for roaming services was also charged in the bill raised against the complainant. As, the complainant ignored the advice given in the SMS, hence, OP cannot be held responsible.
11. The credit limit which is prescribed to a subscriber purchasing a post paid connection, which in the case of the complainant was exhausted in a short span of time due to extremely high standard international roaming charges; hence the cellular services on the complainant number were suspended. Thus, resulting in a bill of amounting to Rs.19,432/- ,bills were also generated for the month of Dec. ,2019 and Jan ,2020 in lieu of actual telecom services availed by the complainant. The said number was deactivated on 13/04/2020 due to non-payment of the outstanding bill.
12. OP has further stated that whenever a cellular connection is taken and used outside India, then such mobile connection automatically connects to the network of the foreign telecommunication service providers. The said foreign telecommunication providers record and save necessary information or Call Detail Report (CDR) of the users, which is thereafter shared with the home telecommunication service provider to ascertain the bill that is to be generated and issued to a customer for availing of services. The said sharing is not done on real time basis , therefore on account of lag in the retrieving CDR, the OP received intimation regarding exceeding usage at a belated stage wherein the complainant had utilize the services to the extent of total outstanding amount.
13. OP has also relied on Rule 443 of the Telegraph Rules which deals with default of payment:
443. Default of payment:-if, on or before the due date, the rent or other charges in respect of the telephone service provided are not paid by the subscriber in accordance with these rules, or bills for charging in respect of calls (local and trunk) or phonograms or other dues from the subscriber are not duly paid by him, any telephone or telephones or any telex service rented by him may be disconnected without notice. The telephone or telephones or the telex so disconnected may, if the Telegraph Authority thinks fit, be restored, if

the defaulting subscriber pays the outstanding dues and the reconnection fee together with the rental for such portion of the intervening period (during which the telephone or telex remains disconnected) as may be prescribed by the Telegraph Authority from time to time. The Subscriber shall pay all the above charges within such period as may be prescribed by the Telegraph Authority from time to time.”

14. OP was constrained to suspend the said number on account of non-payment as they are entitled to disconnect any or all connections of the subscriber without notice for non-payment. The said number after de-activation on 13/04/2020 was issued to another customer in accordance with policy and guidelines of Telecom Authority which states that numbers that have been deactivated for 90 days can be made available in market for reuse/allocation to new/another subscriber. Hence, the said number was allotted to another customer after deactivation and it cannot be restored/reallocated.

15. It has been submitted on 11/12/2019 the complainant had requested for activation of international roaming services and same was activated. It has been denied that OP had started charging the complainant for international roaming services while the complainant was on her way to Bhutan, the bills were illegally generated for the services which were not availed by the complainant. Rest of the contents of the complaint has been denied with the prayer for dismissal of the complaint with exemplary cost.

16. The OP has filed the Power of Attorney authorizing Sh.Amit Kumar Jain, General Manager Legal as Annexure-A, screenshot of the package rates for Bhutan as Annexure-B, bill dated 15/12/2019 and 15/01/2020 alongwith usage detail as Annexure –C.

17. Rejoinder to the written statement was filed by the complainant where the contents of the complaint have been reiterated and those of the written statement have been denied. The complainant has submitted that she was travelling for Bhutan for work and only requested for the activation of the concerned international roaming service and only after the representation and assurance of the customer service executive that the plan was applicable for Bhutan region including incoming and outgoing calls, SMS and usage of internet, that the complainant in good faith requested for the activation of the plan with the understanding that the complainant was activating “IROAM” based on the explicit advice and representation of the customer service executive. It has been further submitted that the OP has suppressed the transcript of call record of the conversation between the complainant and the customer service executive.

18. The complainant has further relied upon Regulation 22 of Chapter VI, the Telecom Consumer Protection Regulation, amended in 2020.

“22. Information to the consumer who may initiate use of international mobile roaming service in a country or area not covered by the tariff subscribed or where the applicable tariff differs from the subscribed tariff-

Every service provider shall, in case a consumer initiates use of international mobile roaming service in a country or area not covered by the tariff subscribed or where the applicable tariff differs from the subscribed tariff, through SMS, email and mobile application, if available,

- (a) Inform the customer of the fact of movement in a zone which is not covered under the opted tariff;
- (b) Alert and advised the consumer regarding the possibility of incurring significantly high charges due to usage of voice, SMS or data services at standard rate; and
- (c) Provide the consumer, details of tariff applicable in such uncovered zone.”

19. Rest of the contents of the written statement have been denied and those of the complaint have been reaffirmed. The complainant has filed the Regulations issued by TRAI as Annexure-CR-1.

20. Evidence by way of affidavit was filed by the complainant. She has repeated the contents of the complaint and has relied upon the documents annexed with it. She has got exhibited the text message as Ex.CW1/1, copy of Passport and Visa as Ex.CW1/2; copies of email dated 19/1/2019 alongwith reply dated 21/12/2019 as Ex.CW1/3 (Colly); copy of demand notice dated 02/07/2021 as Ex.CW1/4; copy of legal notice dated 07/07/2021 and its reply dated 20/09/2021 are Ex.CW1/5 and Ex.CW1/6 respectively.

21. The complainant has stated that the said mobile number was registered with Adhar card and various banks and she was unable to even access her finances without OTP.

22. Sh.Amit Kumar Jai, Authorised Representative has been examined on behalf of OP. He has got exhibited the copy of Power of Attorney dated 27/05/2022 as Ex.OPW-1/A; copy of screen shot of the website stating the applicable standard international roaming rates in Bhutan as Ex.OPW-1/B; copy of bills generated for the month of December 2019 and January 2020 as Ex.OP1/C.

23. We have gone through the written argument filed by the parties and have perused the material placed on record. Activation of international roaming services is not disputed. Disconnection of outgoing and incoming services of the complainant has not been denied.

24. The complainant has alleged that despite activation of the international roaming plan of Rs.1,500/-, OP not only suspended the incoming and outgoing services but also raised a bill of Rs.19,432/-. In support of her allegation, the screenshot of the message dated 11/12/2019 received by complainant (Ex.CW-1) has been

filed which reads: the IR services on the mobile of the complainant had been activated and again by another message the complainant was informed: Dear customer, your international roaming service is now ACTIVE. No charges will apply for the service if you are active on an international roaming pack, else a monthly rental of Rs.149/- will apply in your bill. Visit <http://bit.ly/2jzFB6r> to explore roaming pack. To deactivate international roaming service once you are back in India, sms CAN IR to 199.

25. On the other hand OP has admitted that the IR services were activated but the complainant did not activate any IR pack.

26. There is an evasive denial by OP on the allegations of the complainant that OP started charging roaming rates, while she was still in India. The best piece of evidence to show the usage of the complainant would have been the CDR. Even the OP has mentioned in para 17 of the preliminary objections that Foreign Telecommunication Service Provider records and save necessary information or CDR of the users, which is thereafter shared with the home telecommunication service provider i.e. OP herein. OP has filed Usage details along with the bill. We have gone through the bills; it shows the mobile data usage for which the bill of Rs.14,811/- has been raised apart from incoming and outgoing international call. No date wise details /break up of the mobile internet charges have been given.

27. In para 18 of the preliminary objections of the written statement it has been submitted by the OP that while the consumer is availing services outside India, the home telecommunications service provider shall not be able to ascertain the charges for availing such services on a real time basis. Therefore, on account of such a lag in retrieving CDR, the OP received intimation regarding exceeding usage only at a belated stage wherein the complainant had utilized/availed the services to the extent of the total outstanding amount.

28. OP has not placed anything on record as to any SMS alert was sent to the complainant regarding the usage and exhaustion of the limit. Disconnection of services without prior warning or legitimate cause amounts to unfair treatment of the complainant.

29. The deactivation of the incoming and outgoing services on the mobile number of the complainant without any alert/warning and that too when the complainant was out of her home country definitely amounts to deficiency in services. The complainant was stranded in a foreign land without any means to connect with her family for which she as well as her family has gone through mental harassment.

30. When the OP received the usage data at a later stage then we are unable to understand how it was decided that complainant had exceeded usage. This act of OP is arbitrary and unwarranted. Thus, from the above-discussion it can be culled that OP has indulged in deficiency in services and unfair trade practice.

31. The complainant has prayed for directions to OP to activate her mobile number. The same cannot be granted in the favour of the complainant as the OP has allotted/assigned it to another subscriber as per the Telecom authorities' policies and guidelines.

32. In prayer clause (ii) of the complaint, the complainant has sought directions for OP to revoke demand notice dated 02/07/2021. The OP has not placed on record the data supplied by the Foreign Telecommunication Service provider to substantiate that the complainant was charged for International roaming when she entered Bhutan on 12/12/2019 and not while she was still in India. Thus, the usage is also doubtful. The demand for Rs, 19,432/- is found to be arbitrary. Accordingly, demand of Rs.19,432/- also stands quashed.

33. Therefore, we feel that the OP is liable to pay compensation on account of mental harassment and agony. We direct OP to pay Rs.35,000/- to the complainant within 30 days from the date of order.

All pending applications stand disposed of accordingly.

Office is directed to supply the copy of this order to the parties as per rules. Order be also uploaded on the website. Thereafter, file be consigned to the record room.

(Harpreet Kaur Charya)
Member

(Divya Jyoti Jaipuria)
President