The Airtel-Aadhaar Fix*

C. P. Chandrasekhar

Despite its clear violation of the law, telecom major Airtel appears to have been let off lightly by the government. And that story, though reported, has neither led to adequate punishment nor has it received the extent of media attention it deserves. The story is that Airtel used its position as a dominant mobile services provider to strengthen its new role as a "payments bank" by exploiting a loophole in a system created through the decisions of multiple agencies. The company not only opened a large number of payments bank accounts in the names of its mobile subscribers without their knowledge, it also transferred direct benefit payments due to them under the LPG subsidy scheme to these new accounts as against those previously specified by them. The scale of the scam is large given the relatively short period for which it could have been operative. The cooking gas subsidy due to 4.7 million customers totalling around Rs.167 crore was reportedly diverted to Airtel Payments Bank accounts over a period of two months.

Once the Unique Identification Authority of India (UIDAI) detected the malpractice, it sought to conceal its own culpability by (i) declaring it a violation of the Aadhaar Act, 2016; (ii) requiring Airtel to deposit an interim penalty of Rs.2.5 crore with the UIDAI; (iii) obtaining an assurance that the bank will immediately return Rs.190 crore that had been transferred to unsolicited accounts out of the LPG subsidy due to its mobile clients; and by (iv) announcing that Airtel and its payments bank will not be able to use the UIDAI's Aadhaar-linking system to either verify mobile subscriptions or open new bank accounts.

However, the last of these penalties has proved temporary and extremely short-term. Under the current dispensation, the abrogation of the right to verify mobile subscriptions was perhaps the only penalty of significance imposed on Airtel because all unverified subscribers would have to be disconnected from the Airtel network by February 6. That would have been a significant setback for Airtel in the current competitive mobile telephony market. But it would also have put the government's push to make Aadhaar-linking mandatory for all mobile subscriptions in jeopardy. So, within a few days the UIDAI decided to allow Bharti Airtel Ltd to resume Aadhaar-based electronic know-your-client (e-KYC) verification of telecom subscribers until January 10.

There was wrongdoing implicit in Airtel's act of creating unsolicited bank accounts and transferring to them subsidies due to the clients. While opening an Airtel account is free, there is an implicit charge as the account cannot be closed without paying a "set off balance" of Rs.50. Moreover, once funds are deposited with Airtel Payments Bank, withdrawals are subject to a charge. Airtel's clients did not know that they would have to pay to access their own money, just as many had no knowledge of the accounts opened in their name.

After it was discovered to be in violation of the law, Airtel returned the money it had "virtually stolen", paid a small penalty and expressed its contrition by finding a fall guy. Airtel Payments Bank's chief executive, Shashi Arora, resigned, although the company attributed that to a personal decision, unrelated to the scam. What is surprising is that the mainstream media, which would have sensationalised any scam of this magnitude, chose to give it limited coverage, as if it were news that was marginal. No strident opinion here, expressing the voice of the nation.

There are at least four possible reasons for the government being so lenient and for the mainstream media almost ignoring the issue (despite some exceptional coverage by online news portals). First, the scam reveals weaknesses and dangers in the government's Aadhaar or unique identity number programme, which the government has pursued with missionary zeal, although the scheme has been challenged in court.

Second, the incident makes it clear that the scam was facilitated by an initiative of the government to force-link mobile phone connections and Aadhaar card numbers.

Third, the scam involved the manner of implementation of two other of the government's pet programmes—the direct benefit transfers scheme for reaching subsidies to beneficiaries and the push towards greater digital financial transactions through a number of routes, in this case, the use of payments banks.

Finally, news of the discovery was perhaps partly suppressed since it involved a major corporate such as Airtel.

Disturbing details

The details of the "scam" are disturbing. Airtel is licensed to launch a payments bank, which it did on January 13, 2017. "Payments banks" are allowed to accept deposits of up to Rs.100,000 but cannot provide loans. Further, 75 per cent of the deposits accruing to these banks have to be invested in low-yielding but safe government securities. This means that while these banks compete with commercial banks to mobilise deposits and have to pay high interest rates to attract deposits, a large share of their funds would be locked in low-yielding government securities. Airtel chose to go aggressive and offered depositors an interest rate of 7.25 per cent, much higher than the 4 per cent offered by Paytm Payments Bank and the 3.5 to 6 per cent offered by commercial banks.

Since payments banks cannot lend, their revenues to cover costs and generate profits have to be based substantially on incomes from fees derived from deposit holders. This makes payments banks uncompetitive, so much so that only a few of the original 11 licensees have chosen to pursue the business. Airtel set high fees to partly cover its high interest rate offer to depositors. Withdrawals from an Airtel account exceeding Rs.100 are charged a fee that rises with the size of the withdrawal, and touches 0.65 per cent for transactions above Rs.4,000. Transfers of more than Rs.1,000 from Airtel Payments Bank to any other bank are charged 0.5 per cent of the amount involved. The strategy possibly was to attract depositors, impose high fees and then move interest rates downwards, to extract a profit.

The interest would have been initially paid out from new deposits in a Ponzi-like scheme. But once depositors became aware that they would be charged for all payments excepting those that were extremely small or were transacted within Airtel Payments Bank, they were unlikely to bank with the mobile operator. Clearly, Airtel's high interest offer to depositors was not sustainable in the long run. To address this problem, Airtel worked out a scheme to generate deposits without the knowledge of the depositors themselves. This it did by exploiting the government's decision based on a Supreme Court order in Lokniti Foundation vs Union of India, that for "security" reasons the government must put in place a scheme to verify holders of all mobile subscriptions within a year of February 6, 2017. Since the government's plea was that this was being done by using biometric information attached to Aadhaar numbers for new and renewing prepaid subscribers, it interpreted the Supreme Court's order as amounting to making e-KYC verification based on the Aadhaar database mandatory for holding a mobile phone subscription after February 6, 2018. Since subscribers were being constantly warned of the prospect of disconnection, despite a case in the Supreme Court questioning the government's claim that Aadhaar linking of mobile numbers was mandatory, a rush to do this followed. Linking requires subscribers to validate their biometric information at the mobile service provider's premises by connecting to the UIDAI database.

One possibility is that Airtel chose to collect biometric information more than once from its subscribers (by claiming failure to validate). Only one of those instances of collection was used to link mobile and Aadhaar numbers. The other was used to create the Airtel Payments Bank account, link it to the Aadhaar number of the client and in the process override earlier preferences of the bank account to which direct benefit transfers were mandated. The result was a large inflow of deposits to those accounts without the consent of the deposit-holders, who, in most cases, did not even know that the accounts existed.

This occurred not only because Airtel chose to misuse the system but also because the ecosystem surrounding Aadhaar and its use as a surveillance device in multiple circumstances is deeply flawed. An analysis by Anand Venkatanarayanan and Srikanth Lakshmanan in the news portal, The Wire, argues that Airtel was aided by the acts of commission or omission of three other players: the Central government, "which pushed ahead with its direct benefit transfer scheme and mandated the Aadhaar-based re-verification of mobile phone subscribers"; the National Payments Corporation of India, which handles digital payments and settlement systems; and the UIDAI, which created the e-KYC framework.

It is because of this joint responsibility, which shows up Aadhaar to be a deeply flawed project, that Airtel has been able to get off lightly. But that is in keeping with the special rules that the behemoths created by neoliberal, market-friendly policies enjoy the world over. In fact, the Airtel scam is similar to what Wells Fargo was charged with in the United States a little more than a year ago.

The Financial Sector Protection Bureau (FSPB) of the U.S. discovered that more than 5,000 employees of the bank had, over five years, opened more than a million new banking accounts and half a million or so credit card accounts in the names of its customers without their knowledge, in order to meet sales targets. The customers were charged a fee before the accounts were closed. Thus, through fraudulent "cross-selling"—the selling of new products to existing customers—and fake outcomes, employees met their targets and enhanced their incomes.

The fraud was either missed or ignored by senior management for a very long time. But even there the settlement for ending the investigation into these violations required Wells Fargo to pay a fine of only $185 million, and set aside $5 million to compensate clients who were charged fees on accounts they had no knowledge of. Relative to the net profits of more than $20 billion that Wells Fargo was expected to record in 2016, the fine was not really much damage. On the other hand, more than 5,000 employees lost their jobs on charges of fraud, while senior management went scot-free.

*** This article was originally published in the Frontline Print edition: January 19, 2018.**