

Telecom Regulatory Authority of India Notification

New Delhi, the 6th September 2002.

No.303/8/2002-TRAI (Econ.)

In exercise of the powers conferred upon it under sub-section (2) of the section 11 of the Telecom Regulatory Authority of India Act, 1997 as amended by TRAI (Amendment) Act, 2000, the Telecom Regulatory Authority of India (TRAI) hereby makes the following order by an amendment to the Telecommunication Tariff Order, 1999 by notification in the Official Gazette, in respect of tariffs at which Telecommunication services within India and outside India shall be provided:

THE TELECOMMUNICATION TARIFF (TWENTY THIRD AMENDMENT) ORDER, 2002 (7 of 2002)

Section I

1. Short title, extent and commencement:
 - (i) This Order shall be called “ The Telecommunication Tariff (Twenty Third Amendment) Order, 2002”.
 - (ii) This Order shall come into force with effect from the date of notification in the Official Gazette.

Section II

2.1 Under Section II (Definitions) of the Telecommunication Tariff Order 1999, after Sub-clause (n), of clause 2, Sub-clause (nn) shall be inserted namely;-

"(nn) "Reference Tariff Package of the Service Provider" means a package of tariffs as determined by each cellular service provider which shall specify the Monthly Rental and Airtime Charge per minute in the same format as provided earlier in the standard tariff specified under the Telecommunication Tariff Order."

2.2 Under Section III in Clause 4 (Forbearance) of the Telecommunication Tariff Order 1999, after the existing proviso, the following proviso shall be added;-

Provided further that a cellular mobile service provider who provides any other facility based service such as Basic service, National Long Distance service or International Long Distance service in the same service area in which it is providing cellular mobile services, shall report to the Authority for its approval in respect of any new tariff and/or any changes therein at least 5 working days before its implementation. Unless the Authority intervenes within the mandatory notice period of five working days, the service provider may implement the proposed tariff.

2.3 Under Schedule II - Cellular Mobile Telecom Service (CMTS), the items and corresponding tariff shall be deleted and substituted as under:

ITEM	TARIFF
1. Rental and airtime charge	Forbearance provided that: Every service provider shall specify a monthly rental and airtime charge per minute with a pulse duration of 30 seconds, as a "Reference Tariff Package of the Service Provider".
2. Refund of deposits.	All deposits (including, inter-alia, STD/ ISD

	deposits) must be refunded in full to the subscriber at the time of disconnection subject to the condition that outstanding subscriber bills, if any, may be adjusted in the final transaction.
3. Installation charge	One time installation charge may be levied by a service provider only when a customer initially gets connected to the network of the service provider. No installation charge shall be levied when a subscriber moves from one package to another offered by a service provider.
4. Roaming a) Regional & National roaming. i) Refundable Security deposit ii) Entry Fee (one time charge) iii) Monthly Access Charge for Regional and/or National Roaming. iv) Airtime charge. v) PSTN charge vi) Surcharge b) International Roaming. c) Other matters related to roaming.	Forbearance Nil Rs.100.00 as ceiling. Rs.3.00 per minute as ceiling. As applicable from time to time to the fixed network. i) 8% as ceiling on both airtime and PSTN charges till 31.12.2002. ii) 15% as ceiling on airtime component only w.e.f. 1.1.2003 Forbearance. Forbearance.
5. Tariff for prepaid service	Forbearance; Provided that – a) At least one denomination of pre-paid cards offered by every Service Provider must be for an amount of Rs.300.00 or less with a corresponding validity period of at least one month. b) The charges for replacement of lost/damaged SIM card shall be based on cost with a reasonable mark-up. c) If there is any amount that is unused at the end of the validity period, this amount should be carried over to the renewed card, if such renewal is done within a reasonable, specified period.

	d) In the case of each pre-paid card package, the customer should be prominently and clearly informed of the total amount that is available in the pre-paid card package for making calls, i.e. to pay towards usage.
6. Other matters relevant to tariff including billing cycle.	Forbearance.

Notes:

- 1) All initial Reference Tariff Package of the Service Providers shall be referred to the Authority by 19/9/2002. The approved Reference Tariff Package of the service provider shall be implemented from 1st October 2002.
- 2) The Reference Tariff Package shall always be available to the customer together with any other tariff offers.
- 3) The Service Provider shall give wide publicity to its Reference Tariff Package.
- 4) The Authority shall continue to monitor the tariffs in the market, and if required, shall reintroduce standard tariff package(s) for one or more licensed service areas as may be deemed necessary.
- 5) From time to time the TRAI will make public a comprehensive list of the Reference Tariff Packages of all CMSOs in the country through its web site and through consumer organisations registered with it to keep the public informed of all Reference Tariff Packages on offer.

Section III

This Order contains at Annex A an Explanatory Memorandum to provide clarity and transparency to the contents of this Order.

By Order,

(Dr. Harsha Vardhana Singh)
Secretary-cum-Principal Advisor

Explanatory Memorandum

1. The market for cellular mobile telecom service (CMTS) has developed considerably since the last tariff review conducted by the Authority in 1998-99. Taking note of the developments in the last 3/4 years, the Authority felt the need to conduct another review of cellular mobile tariffs. This was also necessitated by the induction of third and in some service areas the fourth cellular operator, which has no doubt increased the level of competition.
2. The Authority began its process of consultation on cellular tariffs through a Consultation Paper in July 2002 which gave cost based estimates of tariff packages as well as average monthly rentals and airtime charge prevailing in the market. Additional cost data and rental and airtime charges based on the cost data was also provided by the Cellular Operators Association of India (COAI). The Authority has also conducted further analysis of this and other data, as well as inputs and comments received in writing in finalising this Notification.
3. During the public consultation process stake holders expressed diverse opinions on the type of tariff regulation for cellular industry at the present juncture. One view was that the cellular service market has become sufficiently competitive and market forces can regulate the tariff. In some cases, the suggestion was to specify a tariff ceiling or to have certain benchmark tariff which would be only indicative. While some of the stake holders wanted a uniform tariff package specified for the whole country, others justified

different tariff packages for different service areas, due to cost differentials in installing the network, in different areas. Some of the stake holders, particularly the cellular operators were of the view that since the prevailing tariffs in the market were very low and even below cost, the specification of a standard cost based tariff package may result in the tariff actually being increased. The Authority has considered all these view points while arriving at its decision as embodied in this order.

4. The main issue which was brought up for public consultation was whether there is need to regulate the cellular market in respect of tariff or market forces should be allowed to operate. To address the issue it would be necessary to assess the degree of competition in the market, the likely trend in the near future in this regard, the downward pressure increased competition is likely to put on the price and whether a cost based tariff will be lesser than the prevailing price level. For this purpose, an exercise was carried out to compute the cost based tariff.

5. The Authority compared the computed cost based tariffs consisting of monthly rental and airtime charge, with those prevailing in the market. The cost based tariffs based on geographical averaging of all service areas were found to be close to the market average tariffs. The Authority also considered the cost based tariff estimates submitted by COAI, and providing therein for changes in terms of certain cost items (e.g., depreciation) and subscriber base growth which in the view of the Authority are required, arrived at revised estimates from the data. These estimates are substantially lower than those projected by COAI, and provide a better reflection of the likely growth and tariff situation in the market in the near future.

6. The Authority also took account of the estimates of monthly Average Revenue Per User (ARPU) prevailing in the market, and noted the likely developments in this regard. In this context, the Authority considered two important characteristics of the growth of cellular market, namely the relatively higher growth of pre-paid subscribers in comparison to post-paid subscribers, and the fact that there has been considerable increase in the level of competition in a number of service areas. This trend is likely to be more pronounced in all service areas in the near future, with the entry of the incumbent (BSNL) as the third operator and a private operator as the fourth. The Authority also noted that CMTS will face some degree of competition also from the Wireless in Local Loop with Limited Mobility. These factors will imply further downward market pressure on tariffs/ARPU for CMTS. This will be due not only to the emerging competition but also because the new entrants in the market would base their tariffs on their relatively lower costs, and these tariffs are likely to focus on quickly acquiring a substantial subscriber base. The relatively low prevailing tariff levels, and the impact of these developments on these tariffs, imply that the market will be exerting considerable downward pressure on CMTS tariffs in the next year or so. Taking note of this emerging market scenario, the Authority is of the view that a stage has been reached, when market forces can effectively regulate cellular tariff and the Regulator has to step aside except for a broad supervision in the interest of the consumer. This Order reflects this conclusion of the Authority.

7. The Authority is aware that in certain License areas, the number of service providers may be only two. However, the fact that one of them would be Bharat Sanchar Nigam Limited a multiservice operator with presence and tariff packages relevant in

most of the license areas, suggests that there will be a basis to monitor tariffs in all service areas. For this purpose, as well as to ensure that the customers have some basis to compare the tariff packages from various service providers, the Authority has decided that each service provider should specify one tariff package in the format of the standard tariff package specified earlier by the Authority. This package will be for the post-paid service and will be termed the “Reference Tariff Package of the Service Provider”. It should give the monthly rental and airtime charge per minute, with a pulse duration for airtime charge of 30 seconds.

8. The requirement that the Reference Tariff Package of the Service Provider will be in the format of the standard tariff package will help customers who are used to the present format of monthly rental and airtime charge. This tariff package must be widely publicised by the service provider, and should always be offered to the customer who would be free to decide whether to subscribe to this package or to any alternative tariff package. The TRAI will also make public these tariff packages, in a comprehensive list which will give all such packages for different service providers. This list will be placed by the TRAI on its web site, and will be provided to the Consumer Organizations registered with it. The objective is not only to inform the customers but also to build greater awareness of the tariff differences that may exist in different markets. Such awareness on the part of the customers and the market will also exert pressure on the available tariffs.

9. In addition, the Authority will continue to monitor the tariffs both with respect to predatory tariffs as well as unduly high tariffs because operators with dominant market presence and operations in more than one service sector will always have the capacity to

do so. If the Authority considers that there is a need to specify a standard tariff package for all service areas or in specific service areas, it will do so. In addition to monitoring of the tariffs, the Authority will review its present policy after six months.

10. The Authority has not fully forbore with respect to CMTS tariffs. It continues with its decisions to limit the tariffs for national roaming, and the provision of a pre-paid card for Rs. 300/- or less with a validity period of at least one month. In this Tariff Order, therefore, the Authority has re-iterated its decisions with respect to:

- Tariff for Roaming service specified in the TTO (19th Amendment);
- Guidelines for prepaid card specified in TTO (13th Amendment);
- Provision for refund of deposits envisaged in TTO (3rd Amendment);
- Prohibition in TTO (4th Amendment) on the service providers from levying separate Installation Charge when a subscriber moves from one tariff package to another.

11. In addition, the Authority's directive dated 11th July, 2002 which specifies the various information that must be provided to the customers of pre-paid cards continues to be in effect, and the requisite information must be provided by the service providers to their subscribers.

12. Since the tariffs for CMTS are subject to forbearance in general, the reporting requirements for these tariffs are those relating to forbore tariffs. For those service providers, however, who provide certain other services in the same service area (e.g. Basic Service, National Long Distance, or International Long Distance), the Authority has decided that they should report their tariffs for CMTS at least five days prior to their implementation. These tariffs may be intervened by the Authority for regulatory reasons,

e.g. to ensure that there is no cross-subsidization between two or more services of the same service provider. However, if the Authority does not intervene within five working days of the tariff being reported to it, the tariff package may be implemented by the service provider. Also, any such tariff package should not be publicised prior to approval by the Authority, either in terms of an explicit approval or before lapse of five working days subsequent to the report being provided to the Authority. The charge of Rs. 2,000/- per tariff plan reported to the Authority for approval will continue to apply to these tariffs. The overall limit of 25 on the number of tariff packages on offer which will include both which are approved under the above category as well as those which are introduced by the operator and reported, continues to apply.

(Dr. Harsha Vardhana Singh)
Secretary-cum-Principal Advisor