



Cellular Operators Association of India

RSM/COAI/037
9th March 2012

The Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Old Minto Road,
New Delhi 110002

Sub: TRAI Consultation Paper on Review of Policy of Forbearance in Telecom Tariffs

Dear Sir,

This is with reference to the Authority's Consultation Paper on Review of Policy of Forbearance in Telecom Tariffs.

In this regard, please find attached COAI's submission to the said Consultation Paper, as **Annexure - 1**.

We believe that our submission will merit your kind consideration.


Rajan S. Mathews
Director General

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COAI's Response to TRAI Consultation Paper on Review of Policy of Forbearance in Telecom Tariffs

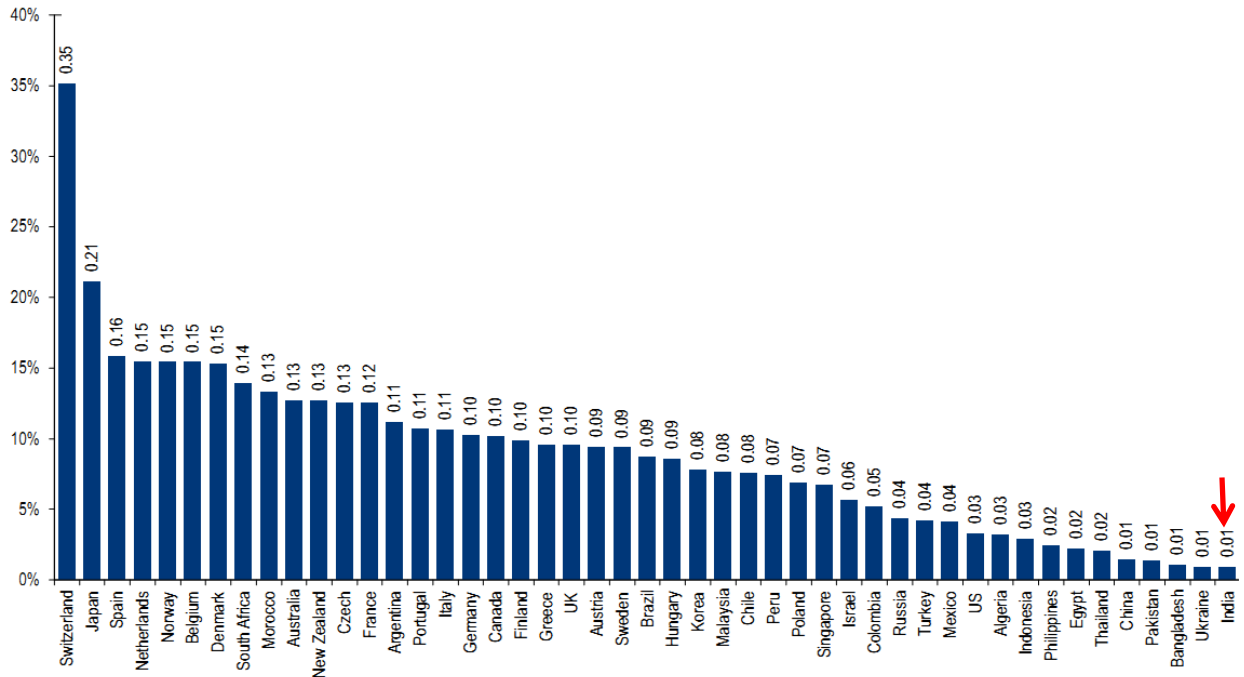
Preamble:

At the outset we would like to express our surprise over the consultation process for review of policy of forbearance in telecom tariffs. We find it extremely confusing that on one hand there is talk of market based spectrum pricing and on the other hand we are trying to fix tariffs.

1. Today, the tariff forbearance has allowed the operators to cater to the demand of various consumer segments by creating special package as per the need of the customers. Any regulation of tariff would take away that flexibility and result in limited choices to the consumer.
2. Telecom sector in India has witnessed exponential growth during last 12 years where number of subscriber has increased from 1.2 million in 1999 to over 903 million by end of Jan 2012. One of the key factors responsible for this growth is the policy of forbearance of retail tariffs adopted by TRAI since 1999, where an operator is free to fix its retail tariff. This policy has resulted into sharp decline in tariffs (Rs 16/min in 1999 to Rs 0.50/min in 2011) which in turn has contributed in achieving the high growth rate of telecommunication subscriber base. Any proposal to regulate the retail tariff is ironical when there is ample proof that tariff forbearance has created unprecedented growth and also when the price of spectrum is decided through an open market mechanism.
3. India's policy of forbearance in telecom tariffs has not only helped in achieving a robust growth, it has also garnered international recognition for the telecom sector and the Regulator. According to a Telecom Regulatory Environment (TRE) survey carried out by LIRNE Asia in 2011, India is ranked the 'best performer' in tariff regulations, among seven South Asian countries. It is the policy of forbearance that has helped in achieving this position.
4. TRAI in its consultation paper has said that, *"Forbearance, however, does not imply "No Regulation" or "Nil Regulation". Tariff forbearance for a service does not mean end of regulation for that particular service"; it is simply the application of the economic rationale that price regulation is not necessary when the markets are functioning in a competitive manner. However, even under forbearance, tariff for the service continues to be monitored and appropriate regulatory measures are put in place so that the interests of consumers are protected."* This clearly means that even under the present regime of forbearance the tariffs have been continuously monitored and customer interest has been protected. Thus change in the policy does not serve any additional purpose, as the tariffs are already being continuously monitored and customer interest being duly protected.
5. Regulation of tariffs is required only when there is not enough competition in the market. On the contrary, the competition in the Indian telecom industry is the highest compared to other global markets and this is reflected by the fact that when globally benchmarked, India has the lowest revenue per minute.



GLOBAL REVENUE PER MINUTE



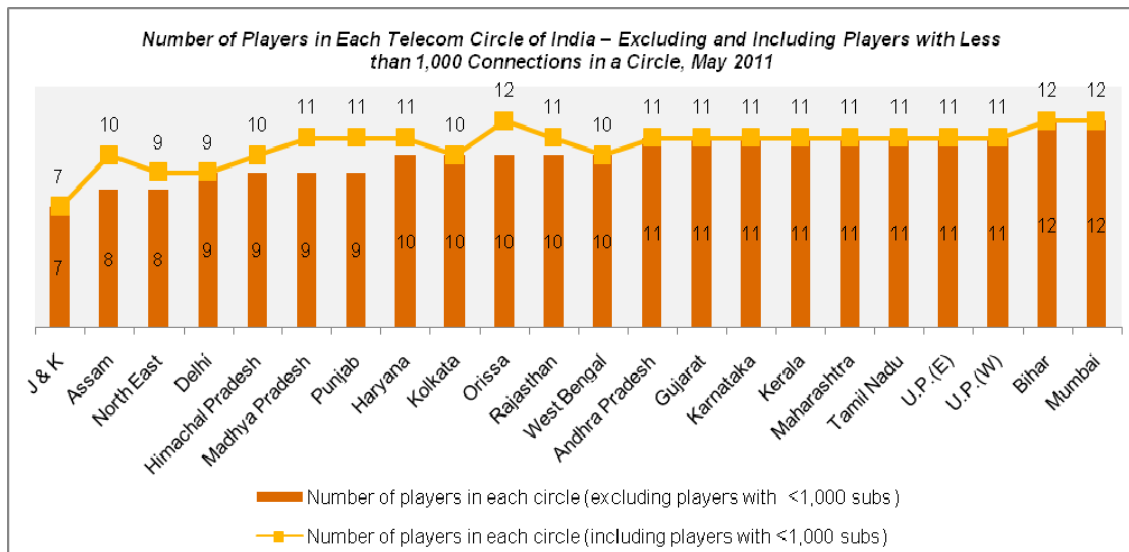
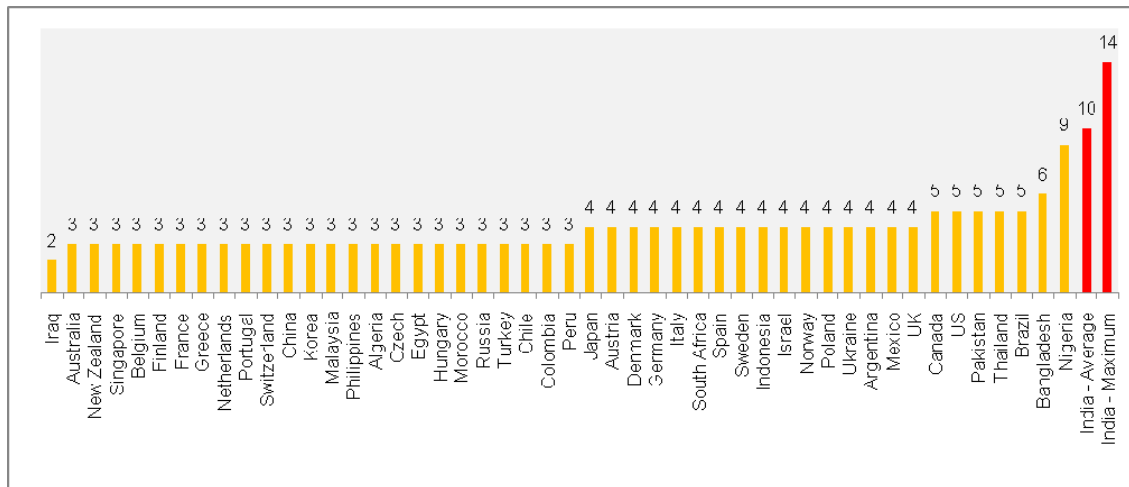
Source: Global Wireless Matrix 4Q11; BofA Merrill Lynch

6. When benchmarked against other countries, even the annual rate of decline in ARPU as on 3Q11, is one of the highest in the case of India, which clearly suggests that the concerns of the Authority are misplaced and there exists effective competition in the mobile telecom segment.
7. Presently the profitability and sustainability of the telecom industry is at stake due to high regulatory costs such as very high spectrum prices, cost of implementing security measures, MNP, huge penalties arising under modification of contract terms and unreasonable expectations of the Government from the Operators. Not to forget the high prices that the operators had to pay for 3G spectrum in the country; intense and grueling price wars and the fact that the return on the investments has not been adequate till date. Further, the operators are finding it difficult to attract funds from the FIIs and Banks that are shying away from the industry due to policy instability and uncertainty.
8. It should be noted that even in the face of declining profit margins, the industry has been responsible and provided affordable communication services to the subscribers, consistently, under the tariff forbearance policy, through self-regulation.
9. The global economic uncertainty has already resulted in a fall in FDI, this when clubbed with dampened investor confidence can be catastrophic for the industry. Thus the regulator should be focusing on restoring investor faith instead of revisiting the policy of tariff forbearance.
10. Instead of ensuring future growth of the sector, discontinuation of the policy of forbearance in tariffs might turn out to be an act of regulatory over-reach.

ISSUE WISE RESPONSE

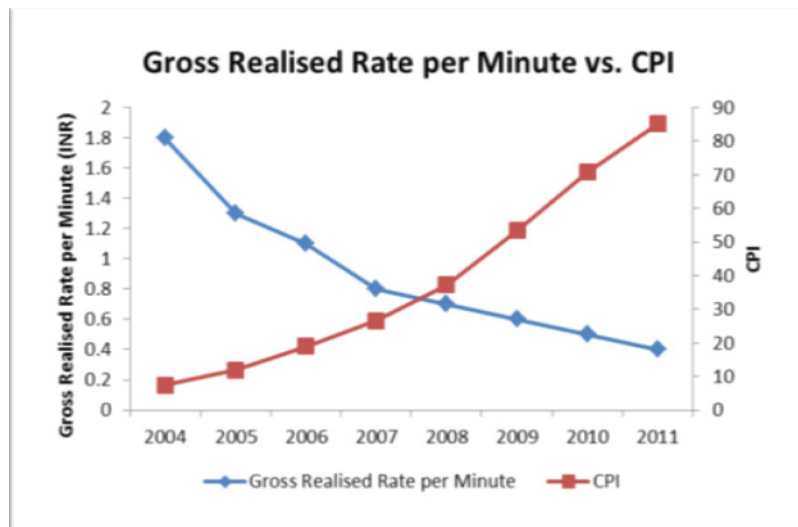
Question 1. Do you perceive any need for a change in present regulatory framework for telecom tariff fixation?

- The telecom industry in India is extremely competitive. The predominant “cellular mobile segment” has around 12-14 operators per circle, as against 3-4 operators globally. Thus competition in the mobile telecom space in India is three to four times higher when compared with global benchmarks.



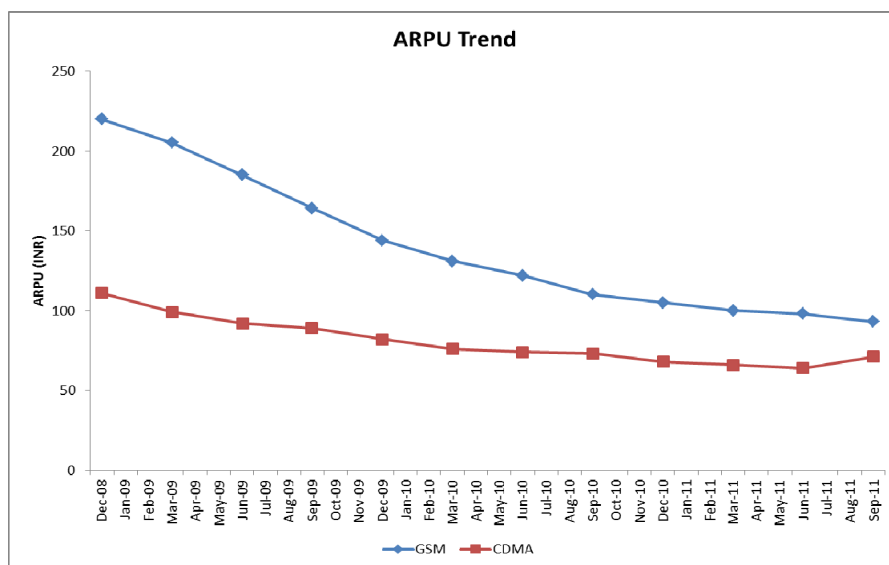
Note: The maximum number of licensed operators in a circle in India is 14
 Source: TRAI. Global Wireless Matrix 1Q11, Bank of America Merrill Lynch, April 2011.

2. The tariffs for telecommunication services have been under regulatory forbearance, this policy has led to market driven pricing of telecom services. Under the current regulatory policy the tariffs have seen a sharp drop and the ultimate beneficiary has been the customer, both retail and enterprise.
3. The inflationary pressures have also been continuously mounting on the telecom operators. As can be seen from the graph below, while the CPI (consumer price index) has been on a constant rise, the tariffs or the gross realized rate per minute for operators has been on a constant downward trend.



Source: COAI analysis

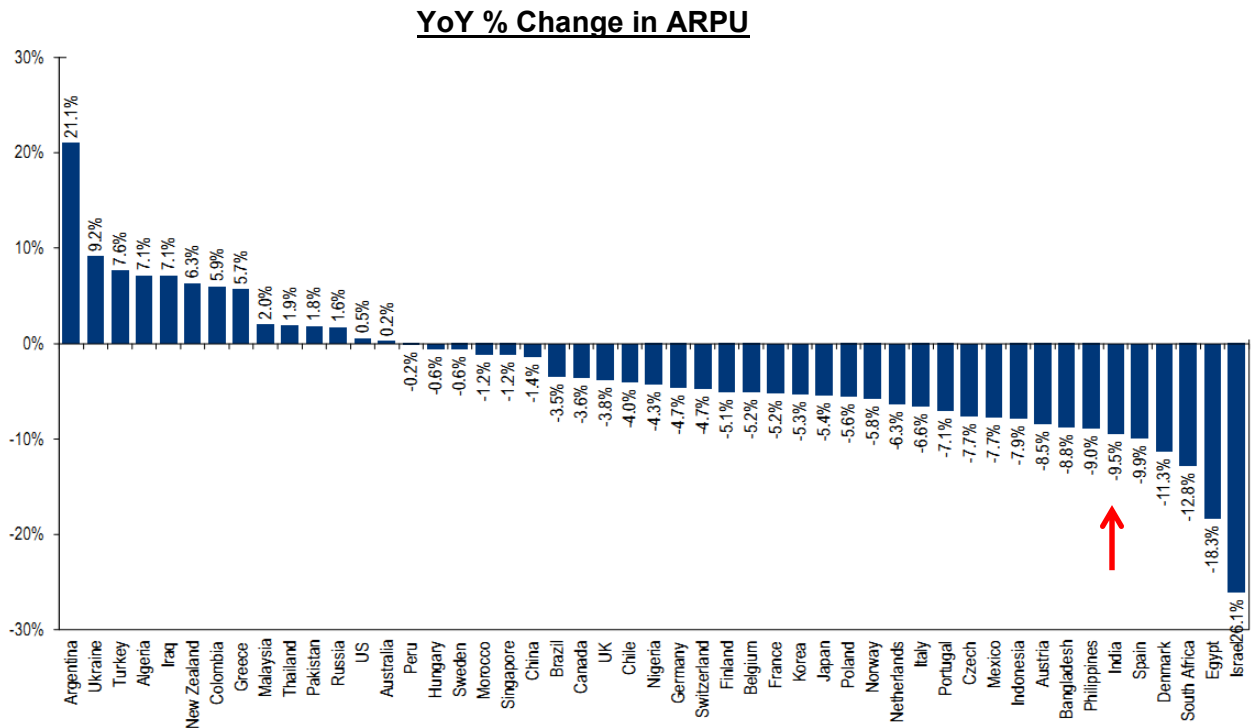
4. Despite the constant inflationary pressures and increasing cost of providing service, the average revenue per user for both GSM and CDMA operators has declined significantly over the years.



Source: TRAI

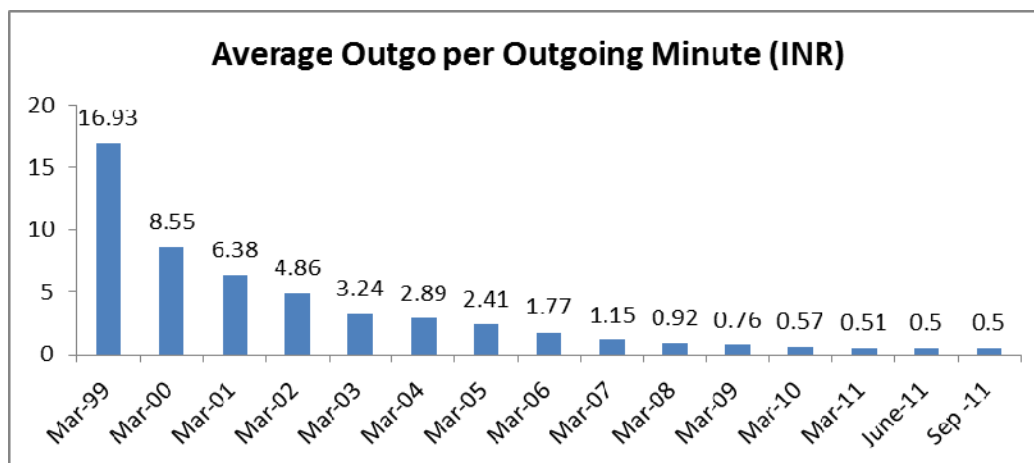


5. In fact it is worth noting that, when benchmarked with other global markets, the rate of decline in ARPU has been the highest in India. As per Merrill Lynch Global wireless matrix, the year on year (YoY) % change in ARPU by country as of 3Q11 was one of the highest in the case of India at 9.5%. Policy of forbearance has given further impetus to pure play of market forces which has resulted in mobile subscribers benefiting from significant drop in tariffs.



Source: Global Wireless Matrix 4Q11; BofA Merrill Lynch

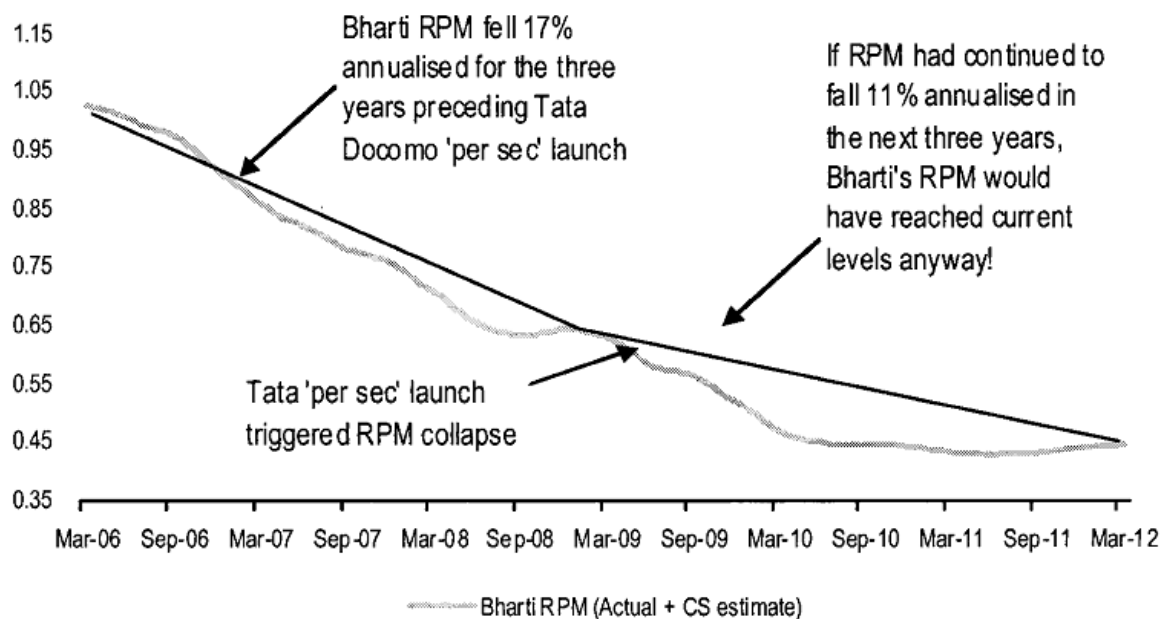
6. As noted by the authority, the average outgo per minute has also been constantly been falling and presently stands at INR 0.50.



Source: TRAI

7. While rate of yearly decline in ARPU as of 3Q11 at 9.5% has been among the highest across all other countries of the world, the rate of decline in tariffs was much higher even when there were just 4-5 operators per circle. Thus the concern of the Authority regarding absence of effective competition in the market is misplaced.
8. It can be noted from the graph below that the rate of decline in RPM was much higher even prior to the introduction of competition. RPM of a typical operator declined at a much higher rate of 17% before new competition entry as compared to 11% YoY after new competition entry. Thus there has always been effective competition in the mobile telecom space.

Change in RPM



Source: Credit Suisse Report on Indian Telecoms Sector- December 2011.

9. It is also pertinent to note that as per the economic rationale, it is not possible to offer products or service at a below cost level or without factoring in a reasonable return on investment on an ongoing basis, as the same would discourage investments which are essential for the expansion of the service.
10. It should also be noted that the operators are continuously making significant investments and are incurring significant cost:
- To upgrade existing infrastructure** operators have made significant investments for acquiring 3G spectrum and roll-out of 3G service. Considerable amount has been spent on deployment of new equipment and up gradation of existing infrastructure for providing 3G services.



- b. **Replacement costs** Operators have to incur significant expense for replacement of existing equipment on an ongoing basis, as all deployed equipment has a limited life span and needs to be replaced for providing of continuous, uninterrupted services while maintaining the quality of service.
- c. **Regulatory, security and policy levies** In addition to the above mentioned costs, operators are burdened with a high tax structure and high regulatory costs such as high spectrum usage charge, microwave charges, cost of implementing security measures, MNP, huge penalties arising under modification of contract/ licence terms etc.
- i. **Spectrum Usage Charge:** The spectrum usage charge was increased by 1-2% in 2010.
 - ii. **Microwave Charges:** The microwave charges have undergone an upward revision, though the matter is presently sub-judice.
 - iii. **Consumer Protection Measures and UCC Regulations:** In the recent past there have been regulations like 200 SMS/SIM/day cap and consent for VAS services, compliance to these requires operators to upgrade their systems; this entails additional costs.
 - iv. **Subscriber verification and re-verification:** There have been stringent subscriber verification norms and exceedingly high penalties even for minor oversights. These have added to the costs of the operators.
 - v. **Green Telecom:** Compliance to initiatives on the green telecom front, though appreciated by the industry, requires the operators to bear additional costs.
11. In spite of the above mentioned constraints and rising cost of providing services, the tariffs have fallen continuously, and the subscribers have benefitted from the 'lowest tariffs in the world'. Hence we see no reason for change in the present policy of forbearance in telecom tariffs.
12. We note that the Authority has raised concern regarding "coordinated price activity". It should be noted that in a highly competitive environment like the mobile telecom sector in India, prices are driven by market forces and hence always tend to move together/ in a similar manner. An example of this is that when one operator introduced one paisa/ second billing, sometime around August- November 2009, this was followed by many other service providers introducing a similar scheme. TRAI at that juncture did not think it appropriate to intervene; instead it let the market forces to drive tariffs. In light of the same there is no need to revisit the policy at this point in time and the policy of tariff forbearance should be allowed to continue.

Question 2. Should TRAI withdraw from the policy of forbearance?

1. India’s policy of forbearance in telecom tariffs has not only helped in achieving a robust growth, it has also garnered international recognition. Lirneasia carried out an independent survey for “Telecom Regulatory & Policy Environment” (TRE) in 2011, and the survey recognized the telecom tariff regulation in India as one of the best policy initiatives which has spurred growth of the sector.

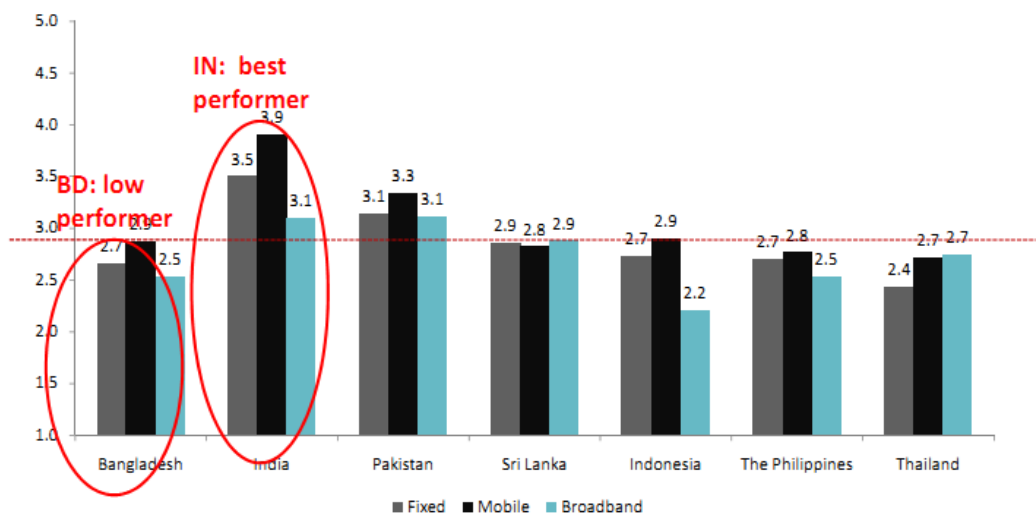
2. The TRE survey evaluated seven different dimensions of regulation namely:

- i. market entry
- ii. allocation of scarce resources
- iii. tariff regulation
- iv. interconnection
- v. universal service
- vi. anti-competitive-practices
- vii. quality of service

The survey covered seven countries namely, Bangladesh, India, Pakistan Sri Lanka, Indonesia, Philippines and Thailand.

3. As per this survey India is ranked the ‘best performer’ in tariff regulations, among seven south Asian countries.

LIRNEASIA SURVEY ON TARIFF REGULATION



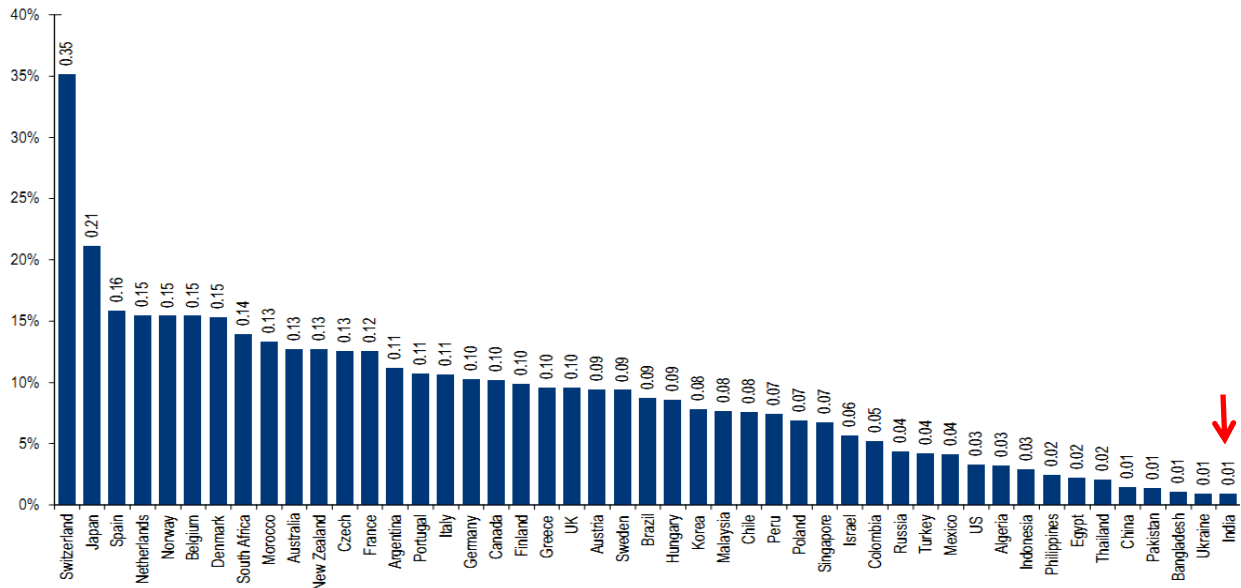
Source: Assessing the Telecom Regulatory & Policy Environment in Sri Lanka & six other Emerging Asian Economies

4. As can be seen from the graph, India scored the highest of 3.9 in mobile tariff regulation on a scale of 5. The report also states that reason for this is that India has some of the lowest tariffs in the world and despite the regulator not regulating tariffs.



5. As per Bank of America Merrill Lynch's Global Wireless Matrix India has the lowest tariffs in the world which implies that the mobile services in India are the most affordable.

GLOBAL VOICE TARIFFS



Source: Global Wireless Matrix 4Q11; BofA Merrill Lynch

6. In light of our submissions above, there is no justification for discontinuation of the policy of forbearance on mobile tariffs

Question 3. If yes, what should be the basis of tariff regulation? Should it be by way of specifying a standard tariff package or by way of fixing tariff as a ceiling for individual charging components such as calls, SMS, etc.? Please also suggest the methodology.

N.A.

Question 4. Would tariff regulation affect the ability of the telecom service providers to introduce innovative tariff plans?

1. The Indian telecom sector serves many market segments and the tariff plans in market are customized to address these individual market segments. Different customers have different affordability, needs and calling preferences and they all need to have these at different price points.
2. So as to attract subscribers and cater to the needs of these various niche segments having preference for different price points, the service providers are following a strategy of very



finely segmenting the market so as to meet the different needs of various segments such as:

- Economically weak segments
 - Students
 - Youth
 - Working women
 - Housewife
 - Professionals
 - Heavy users, low users, medium users of Voice
 - Heavy users of SMS, VAS etc.
 - frequent travelers
3. Since different subscriber segments opt for different type of tariff packages, having choice is always better than having no choice at all - consumers always benefit from greater choice.
4. Moreover, recently concepts like Dynamic Pricing have also been introduced by the operators which have led to better network utilization and have benefitted the subscribers as well. Subscribers can avail lower/ discounted tariffs based on their location.
5. Any step towards regulation of tariff would take away flexibility and result in limited the choices to the consumer.

Question 5. What would be the best method of managing the telecom tariffs so as to protect consumer interest even while affording the telecom service providers the necessary flexibility?

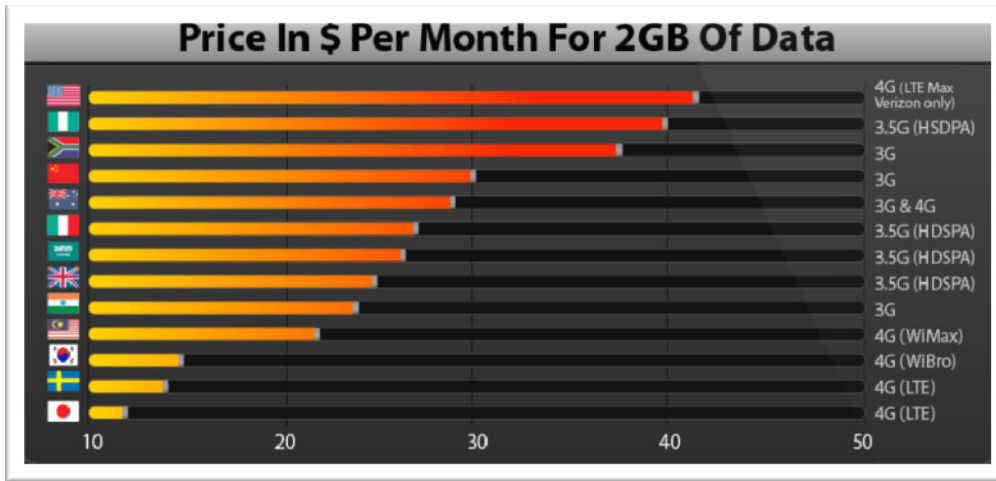
1. We would like to submit that the present policy of forbearance, wherein the tariffs are monitored by the Regulator, has worked very well in the Indian scenario and has proved to be the best approach for managing telecom tariffs.
2. It is thus advisable to continue with the policy of forbearance and let the market forces decide the 'optimum' tariffs.

Question 6. Is tariff for data services offered by the service providers competitive and reasonable?

AND

Question 7. What are the factors that impact competition in data service in the market?

1. As can be seen in the chart below, the data prices in India are lower than many developed countries like USA, UK, Australia etc.



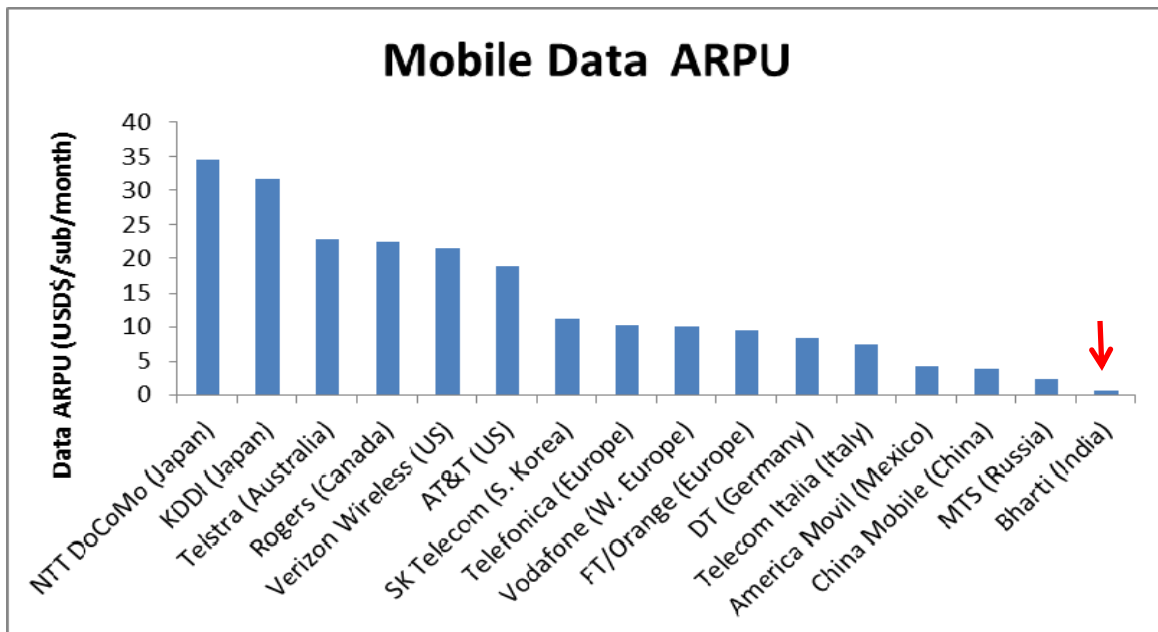
Source: Android Tablet Fanatic

- The telecom operators paid Rs1.06 lakh crore for 3G and Broadband Wireless Access spectrum, despite this the services are affordable and the tariffs are lower than many developed nations.

	3G	BWA	Total
Government Revenue (INR Crore)	67,719	39,000	1,06,719

http://articles.economicstimes.indiatimes.com/2011-09-30/news/30228759_1_bwa-spectrum-spectrum-auction-crore-from-3g-spectrum

- As can be seen from the chart below the mobile data ARPU for India is the lowest in the world. Thus not only do the Indian operators provide data at an affordable price the mobile data ARPU is also far lower than for many developed nations.





Source: Global Wireless Matrix 4Q11; BofA Merrill Lynch

4. It should also be noted that India till recently has been a very “voice” centric market and data based services are just picking up momentum.
5. As the data services market picks up and more networks are deployed these services should also follow the trend of other services i.e. further optimization of prices.
6. Thus it is prudent to follow the policy of forbearance in case of data services.

Question 8. What can be the possible measures by the regulator for facilitating enhanced competition for availability of data services at affordable tariff?

AND

Question 9. Should TRAI regulate tariff for data services by way of fixing ceiling tariff to protect the interest of the consumers? If yes, what should be the basis and justification for tariff fixation?

1. The policy of forbearance should be adopted and market driven prices should be allowed to prevail.
2. There is no need for TRAI to regulate tariff for data services by way of fixing ceiling tariffs for data services.

ADDITIONAL COMMENTS:

We would like to take this opportunity to submit our additional comment on one of the key issue of **Realignment of the ISD tariff in respect of existing lifetime subscribers**

1. The Authority will also recall that in Oct,2010 vide its consultation paper on “Certain issues relating to tariffs”, it had sought comments from stakeholders on the question - **“Do you think there is sufficient justification to allow the service providers to realign the ISD tariff in respect of existing lifetime subscribers in view of the grounds mentioned in their representations?”**
2. The Authority will also note that the COAI had through its response to the Consultation and other representations has made following submissions on the same:
 - a. There are enough reasons to allow the service providers to realign the ISD tariff in respect of existing lifetime subscribers. The same is necessitated due to following genuine commercial and financial reasons.
 - i. Increase in termination charge to several countries in the recent past.



- ii. Increase in termination charge levied by some countries because of monopoly situations
- iii. Increase in termination charge in case of traffic to special numbers (chat site, gaming) in other countries
- iv. there has been a 25% increase in foreign exchange rate resulting in higher payout in rupee terms

All the above listed factors are beyond the control of the Indian operators and put them at an undue disadvantage.

- 3. Since this consultation is related to the issue of tariff forbearance, in light of the above, we would like to respectfully re-submit that the Telecom Industry be allowed the flexibility **to manage ILD tariffs and thus arrest the trend of suffering ongoing losses on various ILD routes.**
