

Consultation Paper No.5/ 2004



Telecom Regulatory Authority of India

Consultation Paper

on

**Limiting the number of tariff plans offered by the
Access Providers**

Economic Division

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PREFACE

Intense competition in the access service segment constituting basic and cellular services has resulted in substantial decline in tariffs and considering this fact the Authority has forborne the tariffs for these services except for rural fixed line subscribers. Thus competition has replaced tariff regulation and presently the tariff is left to the market forces. Under the provisions of 30th Amendment of TTO notified on 16.1.04, the service providers have been given the flexibility to report their tariff plans to the Authority within 7 days from the date of implementation after conducting a self-check with the relevant regulatory principles which inter-alia includes tariffs being IUC compliant, non-predatory and non-discriminatory.

2. The competitive activity coupled with the flexibility in offering tariffs have led to a situation wherein a large number of plans are offered in the market. While variety of choice for the customers would be a welcome development, too many plans confuse the customers and render informed choice very difficult. Frequent revision and withdrawal of tariff plans, short term plans/schemes offered as promotional offers etc further add to the confusion of the consumers. This paper contains facts and figures related to the large number of tariff plans in the market and the issues related to it. A possible way of addressing the problems without curtailing the flexibility granted to the operators or hampering the competition, as the paper suggests, could be to place a suitable cap on number of tariff plans that service providers can offer.

This paper is also available on TRAI's Web site (www.traigov.in).

4. All stakeholders are requested to submit their comments and views on any or all issues raised in this paper **on or before 27.03.2004**. Submissions in the electronic form would be appreciated. For further clarifications, Shri M.Kannan, Economic Adviser, TRAI may be contacted on telephone number: 6160752, fax number [6103294](tel:6103294) or e-mail mkannan@traigov.in.

(Pradip Baijal)
Chairman, TRAI

Introduction

1.1 Access service provision in India has developed into a highly competitive market in a short span of time. Tariff regulation has also moved alongside towards deregulation. Presently basic and mobile service tariffs are forborne with the exception of fixed line tariffs for rural subscribers. The Authority has specified a standard tariff package for fixed line subscribers in rural areas for social reasons.

1.2 Deregulation of tariffs encourages competitive activities and provides the operators with the necessary flexibility to react to the market situations. The price developments of Voice Telephony show that there is intense competition. The competitive structure may differ from one circle to another, but due to the innovative marketing strategies adopted by operators, the tariff plans that are on offer in the market are very large in number. While this is a welcome development as it offers choice to the consumer, such large number of plans have also confused the consumer who is at loss to understand and compare the plans for their financial implications. It is also not known whether the plans that are available in the market were in fact reported to the Authority or not. Instances have come to our notice that in the past there were tariff plans in the market, which were not reported to the Authority. It is also a fact that all the plans that were filed with the Authority had not been offered in the market.

1.3. In this context it would be useful to cite the conclusions of a study by J.P.Morgan(July 2003).

“Tariffs in India have become a very confusing subject. There are too many tariff plans in our view. Following implementation of IUC, TRAI received close to 3000 tariff plans from various operators in over two weeks. In fact, one company filed 170 tariff plans in a day, according to the regulator.

The companies also create a significant amount of confusion when advertising their tariffs.there are far too many plans to allow the user to make an informed judgment on the right choice. ”

1.4 The above discussed developments call for a review of the tariff regulation and monitoring mechanism under the existing provisions of the TTO to suit the conditions of a highly competitive and deregulated market. The Authority has initiated this consultation process inviting the views of the stakeholders on ways and means to protect the interests of the consumers and also avoid wastage of scarce regulatory resources. Chapter-2 gives a brief history of how provisions of TTO relating to tariff structure and reporting requirements for basic and cellular service have undergone changes. Chapter-3 explains the magnitude of the problem created by the large number of tariff plans presently being offered by the service providers. Chapter-4 discusses the possible solutions with issues for consideration.

Developments in Tariff Regulation /Reporting Requirements

2.1 The Telecommunications Tariff Order 1999 (TTO 1999) issued on 9.3.1999 and came into effect from 1.4.99 mandated standard tariff packages for both basic and cellular services. The service providers had the freedom to offer alternative combinations of tariff to different classes of subscribers in a non-discriminatory manner. It also provided the flexibility to the operators to file any number of tariff plans and changes in existing plans keeping in view the need to encourage competition in the market.

2.2 Reporting requirement was defined as under:

“ Reporting requirement means the obligation of a service provider to report to the Authority at least five working days before implementing any new tariff for telecommunication services under this order and changes thereafter.”

It was also specified in the TTO that unless the Authority intervenes within the mandatory notice period of five working days, the service provider may implement the proposed tariff.

These provisions have since undergone changes subsequent to following amendments to TTO 1999.

2.3 **TTO (17th Amendment) dated 22.01.2002**

The definition of “reporting requirement” was modified as follows:

"Reporting Requirement" means the obligation of a service provider to report to the Authority at least FIVE working days before the proposed date of implementation of any new tariff for telecommunication services under this Order and/or any changes therein, for the approval of the Authority."

"Date of Reporting" means the date on which the report from a service provider regarding the proposed tariff plan or any change in the existing tariff plan, is received at the Authority's office."

Following additional provisions were added:

- (i) If the service provider does not hear from the Authority within FIVE working days from the date of reporting, the service provider shall, before implementation or making public announcement through any media, wait for another FIVE working days, unless in the meantime, the Authority intervenes."
- (ii) No new tariff plan or any change in the existing tariff for any telecommunication service or part thereof which requires approval of the Authority prior to its implementation, shall be announced through any media prior to approval of that tariff plan or any change in the existing tariff by the Authority."

2.4 **TTO (21st Amendment) dated 13.06.2002**

The service providers were asked to file tariff plans with the Authority only for information and record within 7 days from the date of launch of the a tariff plan which is forborne. All approvals for tariff plans if not implemented shall remain valid for a maximum period of six months from the date of the approval by the Authority. If a plan is not implemented within the timeframe of six months as above it would lapse and would need to be reported afresh for approval.

All service providers shall give an advance notice of not less than 30 days to the Authority and subscribers before terminating an existing tariff plan.

At any given point of time not more than 25 plans shall be on offer by a service provider. This includes both post paid and pre paid tariff plans.

All service providers shall comply with the condition of having not more than 25 tariff plans on offer including post-paid and pre-paid.

2.5 TTO (23rd Amendment) dated 6.9.2003

The tariffs for cellular mobile services were forborne provided that every service provider shall specify a monthly rental and airtime charge per minute with pulse duration of 30 seconds, as Reference Tariff Package of the service provider.

2.6 TTO 24th Amendment) dated 24.1.03

National and International Long Distance tariffs were forborne subject to a ceiling of Rs.8.40 in NLD.

2.7 TTO 27th Amendment) dated 25.04.2003

The provisions for reporting for the tariffs forborne in TTO were reiterated as specified in the Telecommunication Tariff Order, 1999 and the Telecommunication Tariff (Seventeenth Amendment) Order, 2002 (1 of 2002) dated 22.1.2002.” (which means prior-reporting made mandatory).

2.8 TTO (28th Amendment) dated 5.11.03

Basic service tariffs were totally forborne except fixed line tariffs for rural subscribers.

The Authority also made some changes in the reporting requirement for an interim period when it undertook the review of the IUC regime notified on 24.1.03. In its decision announced on 10.5.03 the Authority provided a flexible reporting regime for the service providers under which they could implement tariffs after a self check for compliance with the following regulatory principles:

- a) Non- discrimination
- b) IUC compliance; and
- c) Non-predation.

2.10 **Existing reporting requirement**

On conclusion of the IUC review, the Authority has notified reporting requirements for the service providers vide 30th Amendment of TTO dated 16.1.04. Under the new provisions, the telecom service providers have been given the flexibility to report their tariff plans to the Authority within 7 days from the date of implementation after conducting a Self-check to ensure consistency of the tariffs with the relevant regulatory principles which inter-alia includes Tariffs being IUC Compliant, Non-discriminatory.

2.11 The following chapter gives an account of how the flexibility granted to the service providers resulted in staggering numbers of tariff plans both in terms of reporting to TRAI and on offer in the market, and the attendant problems.

Details of Telecom Tariff Plans on offer and its implications

3.1 As many as 3925 tariffs were reported to TRAI in 2003. It is evident that the service providers file numerous tariff plans, a good number of which are ultimately not implemented. It is noteworthy that in the year 2003, just 25% of the totals tariffs reported to TRAI for approval have only been actually offered in the market. The majority of the tariff filings were intended to get anticipatory approval for plans with a view to implement any one of them depending upon the competition behaviour. Tariff filings of this category are expected to cease with the switch over from an Ex-ante tariff regulation to Ex-post tariff regulation notified on 16.1.03 as 30th amendment of TTO.

3.2 However the number of plans on offer in the market is not a small figure by any yardstick. The number of tariff plans on offer for the customers in different Circles for the different services are as below:

S.No	Circle	Number of Plans on offer (as on 30.09.03)			
		Wireline +W(F)	WLL(M)	Cellular	Total plans
1	A&N	11	10	-	21
2	AP	22	15	47	84
3	Assam	11	10	7	28
4	Bihar	11	10	18	39
5	Gujarat	22	15	43	80
6	Haryana	19	10	41	70
7	HP	11	10	22	43
8	J&K	11	5	8	24
9	Karnataka	33	15	37	85

S.No	Circle	Number of Plans on offer (as on 30.09.03)			
		Wireline +W(F)	WLL(M)	Cellular	Total plans
10	Kerala	11	10	33	54
11	MH	17	15	43	75
12	MP	24	10	44	78
13	NE	11	10	7	28
14	Orissa	11	10	19	40
15	Punjab	23	25	38	86
16	Rajasthan	25	17	18	60
17	TN	31	15	37	83
18	UP(E)	11	10	14	35
19	UP(W)	11	10	27	48
20	WB	11	10	20	41
21	Delhi	25	14	44	83
22	Mumbai	16	14	58	88
23	Chennai	31	15	31	77
24	Calcutta	11	10	50	71
	Total	420	295	706	1421

[The figures for the wireline and WLL(M) will also go up very soon with the slated entry of additional operators in several circles in this segment]

3.3 All India average of the above figures suggest that number of plans on offer in wireline is 18 and for mobile services (GSM and CDMA put together) it is 42 per Circle. These large numbers give rise to problems involving regulatory concerns and consumer interests.

Too Many Plans confuse the Customers

3.4 There is a widespread concern that too many tariff plans confuse the subscribers and render informed choice very difficult. This affects the ability of the customers to identify the ideal tariff package to suit his requirements

and affordability. As if this is not enough, the operators also create significant amount of confusion in the mind of the consumers when publishing the tariffs. This is irrespective of the general guidelines issued by TRAI specifying a tariff format for consumer information to help them in comparing various tariff plans that are on offer.

3.5 The information also reveals that the service providers effect frequent changes to the tariff plans. Total number of revisions in tariff alone reported to TRAI in 2003 is 2278. There is no guarantee that a consumer will continue to get the service at a certain level of tariffs for a minimum period. Changes in tariffs that are disadvantageous to customer could even upset the basic considerations on which he exercised the choice for that particular tariff plan. The service providers also resort to frequent withdrawal of tariff plans forcing the customers to migrate to any other plans on offer. In order to provide flexibility to subscribers to move from one plan to other offered by the same service provider, TRAI has strictly prohibited levy of migration charges vide TTO (4th Amendment) and subsequent directive issued on 15.3.01. Despite these, instances have come to the notice of the Authority where the service providers charge migration fee or a hidden charge in lieu of migration fee.

3.6. Another problem that is associated with the profligacy of tariff plans comes in the nature of promotional plans/offers. In 2003, the operators offered approximately 500 promotional plans/offers. The incentives offered under promotional offers emanated from within the licensed service to products outside telecom service. Some examples of promotional packages offered by the operators include Rebate in rental, reduced STD/ISD charges, free SMS, free pulses/talk time, free Internet access, free gifts, eligibility to win prizes either in the form of additional benefits in terms of talk time etc. or prizes from other industry (eg: Car).

3.7 Though promotional offers are intended to be applicable for a limited time, service providers have been offering such scheme for unlimited period diluting its promotional character and in fact making it a regular tariff plan. The Authority has therefore restricted the validity of promotional offers to 90

days. Despite this the operators are virtually continuing with the promotional offers for indefinite period with a notional gap after ever 90 days period. The flexibility in filing tariffs has therefore resulted in large number of promotional plans also, with potential to make conscious decision difficult for the consumers.

3.8. The Authority has received representations from consumers on the multiplicity of plans in the market leading to confusion. Further, the limited resources of the Regulator are to be utilized optimally for a variety of tasks. In order that the consumer can make an informed choice and thus acts in his best interest, it is imperative that unduly large numbers and wide variety of plans on offer be curtailed. This will also result in better utilisation of the limited regulatory resources.

Issues for Consideration

4.1 The facts and figures in the preceding chapter stress beyond doubt the need for limiting the number of plans in the market, and placing a cap on the number of plans that can be offered by the service providers would be the only way of achieving it. This leads us to several points to be considered.

4.2 What should be the permitted number of plans?

The prime consideration while arriving at a suitable number as the cap is that the operators should continue to get the necessary flexibility that a competitive market warrants and the consumer gets the best options. Five plans per segment appear to be a reasonable number. The telecom industry in India has witnessed intense competition in the last two years especially with the entry of BSNL into the cellular service and Reliance into the basic service in the year 2002. These two late entrants gave tough competition to the existing operators all over the country with limited number of plans. Number of plans offered by BSNL for cellular services is 4 each in postpaid and prepaid segments while Reliance competed with just 5 plans in 18 Circles. These operators have made fast inroads into the market and hence a cap of 5 numbers is unlikely to create hurdles in the way of competition.

4.3 What should be the service segments for application of the proposed cap?

The services permitted under the licences are being delivered in different modes. Mobile services are available in postpaid and prepaid modes. For the purpose of tariff plan capping, these services can be treated as different segments. Similarly under basic services, apart from the POTS, services like ISDN, Centrex etc. are also offered. These services could also be considered as a separate service segment or could even be left out of the capping as only limited number of plans are offered for these services. However the emerging service like DSL should be treated as a separate segment and made subject to the capping.

4.4 Should a minimum validity period be specified for tariff plans on offer in the market?

As explained in para 3 of Chapter 3 of this Paper, frequent withdrawal of tariff plans could pose problems for the consumers like change in estimated spending etc. Specifying a minimum validity period for tariff plans would do away with the uncertainty caused by such frequent changes/withdrawal of tariff plans. However this can also work to the disadvantage of the consumers keeping in view the fact that telecom tariffs are falling continuously and sharply on account of competition. There could also be another view that specification of minimum validity period could curtail flexibility to the operators and in passing the benefits of competitive decline in tariffs to the customers.

4.5 Are business/corporate plans to be treated as separate segment?

India has become a hub of intense commercial and business activities in the recent times. The requirements of business customers would be different from residential/general customers. The issue is whether both the general and business tariff plans are to be treated as a single segment for application of the capping or the service providers are to be allowed maximum of another 5 plans (for Example) as business plans.

If additional plans are allowed as business tariffs, safeguards are also to be prescribed so that this flexibility is not misused and clubbed with the individual/general tariffs. Stringent conditions can be attached with provision of business plans, like:

- i) it should be offered to companies, registered commercial & business establishments and corporate etc;
- ii) the billing should be in the name of the above entities'

4.6 **How to treat value added services/tariff toppings?**

Presently service providers are using different permutations and combinations of value added services for generating new tariff plans. For example by prescribing different monthly or usage charges for a VAS, a tariff plan is offered in the market as a new plan. If this is allowed, the purpose of putting a cap on the number of plans would be defeated. Each tariff plan would be clearly identify tariffs for each elements including VAS.

4.7 **Should promotional plans offers be made as a standard discount offer?**

The number and nature of promotional plans also contribute to the confusion in the market. Service providers that are part of business houses with interest in multiple sectors and vertically integrated operators can even use the provision of promotional scheme in an unfair and anti-competitive manner. On the other hand, it could be argued that promotional offers are beneficial to the consumers and be allowed without any restrictions.

As explained elsewhere in this Paper, promotional offers tend to confuse the customers in the sense that they are multiple promotional offers cutting across various tariff plans. The time limit for promotional offers as 90 days has not really helped in addressing the issue. In view of above, it would appear to be reasonable to mandate that there would be no promotional tariff plans as such, instead, the service providers could offer standard discount rate on their tariff on occasions that suit the service providers, without affecting the basic structure of their tariff plans on offer.
