

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, 29th November 2005

No. 1-13/2005 – B & CS – In exercise of the powers conferred upon it under sub-section (2) and Para (ii), (iii) and (iv) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 read with the Notification No.39 (S.O. No. 44(E) and 45 (E) dated 09/01/2004) issued from file No. 13-1/2004-Restg by the Central Government under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of Section 2 of the Telecom Regulatory Authority of India Act, 1997, the Telecom Regulatory Authority of India, hereby makes the following Order:

1. Short title, extent and commencement:
 - i) This Order shall be called "The Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Third amendment) Order 2005, (8 of 2005)"
 - ii) This Order shall apply throughout the territory of India.
 - iii) The Order shall come into force with effect from 1.1.2006

2. The words and figures "prevalent as on 26.12.2003 plus 7% shall be the ceiling with respect to both free-to-air and pay channels" appearing immediately after the existing words " Multi system operators/broadcasters (including their distribution agencies" in clause (c) of Para 3 of The Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order 2004 (6 of 2004) read with The Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Second Amendment) Order 2004 (8 of 2004) may be substituted by the following words and figures:

"prevalent as on 26.12.2003 as enhanced by 7% permitted w.e.f. 1.1.2005 plus 4% on such enhanced charges w.e.f. 1.1.2006 shall be the ceiling with respect to both free-to-air and pay channels"

3. Explanatory Memorandum

This Order contains as Explanatory Memorandum attached as Annexure A.

By Order

RAKESH KACKER)
(ACTING SECRETARY- CUM- ADVISOR (B & CS))

ANNEXURE - A

EXPLANATORY MEMORANDUM

1. TRAI, vide its Tariff Order of 1.10.2004, as amended, had frozen the cable charges excluding taxes, payable by Cable Subscribers to Cable Operator, Cable Operators to Multi System Operators/ broadcasters (including their authorised distribution agencies), Multi System Operators to Broadcasters (including their authorised distribution agencies) at the level prevailing as on 26th December 2003 in respect of both free to air and pay channels. The Tariff Order, as amended, also permitted increase/decrease in ceiling on account of new pay channel(s) launched after 26.12.2003 or on FTA channel (s) existing on that date converting to Pay channel (s) later or on reduction in the number of pay channel(s) as shown on 26.12.2003 under certain conditions.
2. In the detailed Recommendations on Issues relating to Broadcasting and Distribution of TV Channels of 1.10.2004, TRAI had indicated that the price regulation is intended to be temporary till such time as there is no effective competition and that the price regulation will be withdrawn as soon as there is evidence of effective competition. In this connection it may be noted that over the next 6-9 months it is expected that there are likely to be more DTH players in the market which could provide effective competition to the cable industry. The recommendations, while realizing the need to give protection for inflation in costs over a period of time, also provided that the ceiling shall be reviewed periodically to make adjustments for inflation.
3. The first periodical review for inflation adjustment was done during November 2004 and a notification was issued on 1.12.2004 further amending the Tariff Order of 1.10.2004 to provide for an increase of 7% over the ceiling cable charges (excluding taxes) prevailing as on 26.12.2003. This increase was made effective from 1.1.2005.
4. As almost a year has passed, another review has become due for the period beginning from 1st January 2006. An exercise was undertaken to determine the inflation adjustment rate. For this purpose, the Wholesale Price Index (WPI) has been used, as was done during the last review.
5. In deciding the rate of increase the Authority has used the annual rate of inflation calculated on a point to point to basis. The figures for these indices were available for the period up to the week ending 5.11.2005. For the week ending on 8.10.2005 the annual rate of inflation was reported as 4.62%. For the subsequent weeks ending with the week of 5.11.2005, the inflation rate has varied, moving up and down, between 4.75% (for the week ending with 29.10.2005) to 4.14% (for the week ending with 5.11.2005). It is not clear, if the trend of increase would continue as the inflation rate has fallen to 4.14% for the week ended 5.11.2005 from the level of 4.62% after increasing during the intervening weeks. For the purposes of convenience the rate increase to be effective from 1.1.2006 has been pegged to 4%.

6. This third amendment order has been issued to give effect to the inflation adjustment and will come into effect from 1.1.2006. The new rates will be applicable for the payments to be made by consumers, cable operators, multi-system operators for the month of January 2006.
7. This 4% increase, would be applicable on the cable charges (exclusive of taxes) as enhanced by 7% increase permitted w.e.f 1.1.2005 vide earlier notification of 1.12.2004. The total increase on account of inflation (taking into account both the 7% increase permitted w.e.f. 1.1.2005 and the proposed increase of 4% w.e.f 1.1.2006) would work out to 11.28% (7%+4%+4% on 7%) when calculated with reference to ceiling cable charges (exclusive of taxes) prevailing as on 26.12.2003
8. For example, if the cable charges (exclusive of taxes) prevailing as on 26.12.2003 was Rs. 200/- per month the increase on account of inflation adjustment in absolute terms at the permitted rates of 7% w.e.f. 1.1.2005 and 4% w.e.f. 1.1.2006 would work out to Rs. 22.56/- $[(7/100 * 200) + (4/100 * 200) + (4/100 * 14)]$. The total cable bill for January 2006 as per this example would work out to Rs. 222.56 (200+14.00+8.00+0.56). The actual extent of increase on account of inflation in absolute terms with reference to ceiling cable charges as on 26.12.2003 would vary from case to case depending upon the actual cable charges that prevailed as on 26.12.2003 in respect of a consumer/cable operator/multi system operator.
9. The Authority has separately issued a consultation paper on certain issues relating to tariffs such as provision of channels as separate channels and not as a bouquet, pricing of channels launched after 26.12.2003 and pricing of channels which migrate from one distributor to another. Decisions on these issues will be taken separately after the consultation process is over.