



RCL/TRAI/LT/10-11/940
29th Nov, 2010

Dr. J. S. Sarma
Chairman

Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi – 110 002

Subject : **Comments on TRAI Consultation Paper On Certain Issues relating to Telecom Tariffs.**

Dear Sir,

Please find enclosed herewith our Comments on TRAI Consultation Paper on Certain Issues relating to Telecom Tariffs.

We hope the Authority would find our views useful and consider these while formulating final consultation paper on this subject.

Thanks & regards,

FOR Reliance Communications Ltd.

(Authorised Signatory)

Please Reply to: **Sh. D. Singh**
 President
 Fax: 30331781

Response to the
TRAI Consultation Paper
on
Certain Issues relating to Telecom Tariffs
13th October, 2010

Reliance Communications Ltd

RCOM Response to the TRAI Consultation Paper on “Certain Issues relating to Telecom Tariffs”.

1. Reliance Communications Ltd (RCOM) welcomes the opportunity given to respond to issues raised Consultation paper on Certain Issues Relating to Telecom Tariffs.
2. RCOM fully accepts that adequate price transparency is crucial for the correct operation of telecom market. It is agreed that transparency is vital from a customer’s perspective and no customer should be misled by hidden charges or other terms. Transparency is the key to consumers being able to exercise informed choice.
3. It is recognised that service providers must tailor their products/services to the differing needs and expectations of the consumers, establish transparency on the conditions of usage and pricing, and keep competing in price and quality.
4. RCOM is committed to providing consumers with clear explanations of their tariff plans Any limitations, restrictions or conditions are clearly and proactively communicated. We invest significant efforts to ensure that our offers are transparent and easily understood by consumers.
5. RCOM has pioneered in launching tariff plans under “Simply Reliance” brand name to offer simple plans which are easily understood by consumers. However, we also recognize that on the rare occasions there could be misunderstanding on part of consumer or mis-representation on part of service providers and such instances have to be minimized so that consumer satisfaction could increase.
6. RCOM also shares TRAI objective that consumers are able to make informed choices to enable them to get the value that arises as a result of a high degree of competition. However, we do not agree that any additional regulation is needed to achieve this objective. **Existing regulations and directions address the issue of unintentional/accidental activation of value added services, providing key tariff information should also be provided in the vernacular language, to disallow tariff plans with misleading titles etc. These regulations are broad enough to address and check non-transparent offerings.**
7. RCOM opposes the proposal to mandate “one standard plan for all service providers” as it is against the basic principles of promoting competition. The Indian market has grown because of progressive policies of the Authority to permit service providers to segment market and launch tariffs which meet requirements of individual subscribers. The Indian telecom market is still growing and service providers are entering into untapped rural markets, the flexibility in tariff setting is the principal instrument to attract new subscribers. Any restrictions on launch of new plan would be against market growth and also against the interest of consumers.

8. One of the important issues being consulted is with regard to price ceiling for Life time subscribers. The Authority would appreciate that the price escalation and decline is a fact of life in a free market economy. In Telecom sector the price escalation is not happening but even if it is carried out over a period of time, it should be seen as a normal phenomenon. Inflation is an indicator that prices are increasing for all essential commodities. Perhaps telecom is only exception in the present inflationary times which is not registering any price increase. Notwithstanding the present trend, the telecom services should not be singled out requiring specific provision to insulate subscribers against any price hike. Limiting service providers to hike price even when input costs or regulatory costs increased may not be correct. **The Authority is following a policy of forbearance with respect to tariffs but TTO(43rd Amendment) is not consistent with this policy. The TTO (43rd Amendment) restricts service providers from aligning tariffs towards cost for life time subscribers even in case there is increase in costs. The Authority's initiative to review this provision in TTO (43rd Amendment) with respect to ILD tariffs is welcome and it is requested that the consultation should be extended for all tariffs as those are also similarly impacted by changes in cost.**

Our comments on specific issues raised in the consultation paper are given below:

1. What, according to you, are the challenges which Indian telecom subscribers face while understanding and choosing the tariff offers?

2. What according to you are the required measures to further improve transparency in tariff offers and facilitate subscribers to choose a suitable tariff plan?

Comments

- (i) As long as the subscriber is aware of his/ her likely usage pattern and the details of the tariff plan are made available in a transparent manner, the challenges before the subscriber in choosing the tariff offer should not arise.
- (ii) Generally tariff on offers are available to the public at large at the company showrooms /retail outlets. Apart from this tariff details are immediately updated on website which displays all tariff components along with applicable terms and conditions if any.

Suggestion

The TRAI Regulations, Directions and Orders have enough safeguards and are more than adequate to address the concern of the subscribers and therefore further measures are not required to improve the transparency in tariff offers.

3. Do you think mandating “One Standard Plan for All Service Providers” particularly for the prepaid subscribers as suggested by some consumer organizations would be relevant in the present scenario of Indian telecom market?

4. Do you think the existence of large number of tariff plans and offers in the market are beneficial for the subscribers?

5. In your opinion is it necessary to revise or reduce the existing cap of 25 on the number of tariff plans on offer? If so, what would be the appropriate number?

Comments

- (i) The proposal to mandate “one standard plan for all service providers” is against the basic principles of promoting competition. In the competitive telephony market, practically most battles are being fought on the tariff plank. The Indian market has grown because of progressive policies of the Authority to permit service providers to segment market and launch tariffs which meet requirements of individual subscribers. The Indian telecom market is still growing and service providers are entering into untapped rural markets, the flexibility in tariff setting is the principal instrument to attract new subscribers.
- (ii) Innovation and differentiation in tariff packages in terms of bundling of value added services, data services and customer premises equipment etc is bringing more competition in the market. These tariff plans are also helping to expand mature and near saturated markets like metros. More bundled or stand alone value added services plans are likely to be launched after 3G services are introduced by service providers.
- (iii) Launch of tariff plans like ‘life time’, per second billing or simple plans like 50 paise call local, long distance or roaming on any network have been possible because of flexibility available with service providers to continuously innovate and improve their offerings.
- (iv) The launch of new tariff plan is generally based on analysis carried out by service providers on needs of their subscribers. Subscriber requirements and preferences differ and same offering is unlikely to be viewed as optimal by all subscribers. If service providers ignore the varied customer requirements, it is likely that prospective customer will remain untapped and the market can shrink or that service provider may lose that subscriber to a competitor offering a product meeting his requirements.

- (v) Varied customer requirements are categorized and segmented on the basis of usage pattern, occupation, age, communities (CUGs) etc. Within a segment further segregations are needed to cater to the specific needs of the subscribers. For example business group can be classified into frequent travelers and non-frequent travelers. Unless flexibility is available with the service providers to launch plans, it will not be possible to meet the varied requirements of the subscribers.
- (vi) There is no confusion amongst subscribers while selecting a tariff plan in case he or she is aware of the usage pattern. The financial implication of any tariff plan is also provided for different usage scenarios. The growing subscribers awareness about features and benefits of plans can also be judged from number of blogs or discussion forums available on the internet. A subscriber not only has choice of tariff plans but also choice of hundreds of handsets. Subscribers choose handset models on the basis of their budget and available features. No subscriber has ever complained about the choice of handsets with them.
- (vii) Subscribers can choose a plan which is most suitable to his or her requirement. Limiting number of plan will only limit the choice available with the subscribers. Even if a subscriber does not make the best choice, there are enough regulatory safeguards available to enable him or her to migrate to any other tariff plan without incurring any additional expenditure.
- (viii) All the time, the subscribers do not have same usage pattern. There is a general trend of higher usage during festival seasons or other special occasions. To meet such requirements, special tariff plan are available to enable a subscriber to change the basic tariff plan for a limited period and control the usage charges.
- (ix) Convergence of networks has resulted in offerings of bundle of services like data, voice and content. The service providers need flexibility to bundle services and offer as a single product and meet the requirements of large number of segments of the market.
- (x) **Even service providers retain optimal number of plans as any plan which is not popular is withdrawn as it unnecessarily puts pressure on logistics and billing systems.**
- (xi) **Internationally, regulators do not regulate number of tariff plan especially when markets are competitive and they focus more to bring in transparency on offering by service providers.**

Suggestion

We therefore believe that current availability of tariff plans are beneficial for the subscribers and suggest that there should be:

- not be any cap on number of tariffs.
- “One Standard Plan for All Service Providers” should not be mandated

6. Should there any limit be prescribed on the rates for premium rate SMS and calls? If so, what should be the norms for prescribing such limit?

Comments

- (i) There is no need to prescribe any limit on the rates for premium rate SMS and calls. The premium rate SMSs depend on acceptability, demand, cost of content and the regulatory intervention is going to distort the market dynamics.
- (ii) There are innumerable content services like online and offline gaming, video and audio streaming, stock quotes, news and cricket quotes, tele-voting, chatting, astrology etc. Each service differs in content, cost, demand and is aimed at different segment of consumers. Therefore, there cannot be a standard limit for all content based premium services. Prescribing any limit on premium rate SMS and calls would stop innovations and may impede growth of content industry. Many segments in value added services would remain untapped. There pricing should be left to the market forces and not regulated through government intervention.
- (iii) Generally, the government intervention is needed when the markets are failing and there is not enough competition. However, the Indian telecom sector is one of most competitive sector in the world with the presence of 11-13 facility based operators in each service area. The competition will further enhance with the implementation of 3G services. In these circumstances, there seems to be no case for regulatory intervention to prescribe any rates for premium rate SMSs and Calls.
- (iv) **The Authority is using the the term “Premium Rate Service” in this consultation. These services by name are premium and are not basic or utility services. The subscriber has a choice for not opting for these services . Wherever technically possible, service providers have been following the basic regulations framed up by TRAI , for providing information about the rates of such services to subscribers before commitment to use. Across the world Regulators typically intervene and regulate prices, if industry is providing utility service. Rarely intervention is seen in commercial issues relating to the premium rate services and generally regulators focus only on consumer related issues. The content based value added services, being premium services, the Authority’s intervention would not help in the growth of these services.**

Suggestion

Considering the complexities in deciding the limit on content based services being premium services, the market being competitive and there being innumerable value added services, we strongly suggest that:

- There should not be any limit on the rates for premium rate SMS and calls and the pricing should be left to market forces.

7. If not, what further measures do you suggest to improve transparency in provision of the premium rate services to prevent the instances of subscribers availing such services without understanding financial implications thereof?

Comments

- (i) Transparency simply means that tariffs should be simple and there should not be any fine prints and that there should be explicit consent from subscriber before activation of any value added services TRAI has specified number of regulation and directions to ensure transparency in offerings by service providers. Some of the directions are given below:
 - (a) Direction F.No.303-1/2006-QOS dated the 27th April, 2009 on provision of value added services to customers and its amendment dated 4th September, 2009- To address the issue of unintentional/ accidental activation of value added services through pressing of certain key(s) in the telephone set/mobile handset
 - (b) Direction No No.301-31/2007-Eco. Dated 1st September, 2008 – The Authority mandated that key tariff information should also be provided in the vernacular language in addition to English and any other language being in use.
 - (c) Direction no 303-1/2006-QOS dated 30.10.2007 regarding provision of value added services to customers- Service providers to provide the facility of unsubscribing of any value added service through telephone calls and SMS, free of charge, and through e-mail or FAX or any other means and also give adequate publicity to such facilities through their websites and by communication through SMS and other means.

- (d) Direction dated 12/9/2005 to Internet Service Providers making it mandatory for Internet Service Providers to obtain explicit consent of the subscribers before making Value Added Services chargeable
- (e) Direction dated 16/9/2005 to disallow tariff plans with misleading titles. The Direction also mandates the service providers to show all monthly fixed recurring charges under one sub-head for the purpose of transparency to the subscribers.
- (ii) We believe that besides TRAI directions, responsiveness towards customer is another important factor to take care of customer which is controlled through market dynamics. Service Providers in this competition fulfilling the customer needs gain significantly.

Suggestion

In view of the above it is suggested that:

- a. **The existing regulatory regime is comprehensive to address all transparency issues in the tariff offers. The Hon'ble Authority has built adequate checks and balances to see that the existing regulations are not compromised in any manner and as such no further Regulation is required in this context.**
- b. The Authority is also going to launch Telecom Consumer Grievance Monitoring System which would provide additional option to consumers for redressing of their complaints. Department of Telecom and Department of Administrative Reforms and Grievance Redressal have also launched portals for consumers to get their grievances addressed. **These portals would also provide an insight about consumer complaints to the regulatory and the government and bring more transparency in the system.**
- c. The Authority has constituted a Consumers Education and Protection Fund for the telecom consumers' awareness, education and for protection of their interests, which we believe should be used to increase consumer awareness about their rights. **TRAI registered consumer groups should have a larger role in educating and spreading awareness amongst consumers.**

8. 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?

- (i) The Telecom Tariff order (43rd Amendment) gives tariff protection to a customer against any increase during the entire duration of the validity of their plan. Under this regulation life time consumers are insulated from any tariff hike for the entire duration of the license.
- (ii) Recently Middle East monopoly operators has unilaterally pushed up settlement rates paid by Indian ILDOs from 10 cents per minute to 13 cents per minute. India and Middle East international voice traffic is mainly led by the Persons of Indian Origin settled in the Middle East. Total voice traffic between India and Middle East traffic is around 10 billion minutes per annum. India-in traffic from Middle East is 8.5 billion and India-out traffic to the Middle East is around 2.2 billion minutes. The India out traffic settlement cost is set by aggressive competition amongst Indian telcos whereas settlement cost in the Middle East cost is set by the monopoly telco in each country. This unilateral increase in termination rate is a clear abuse of monopoly.
- (iii) In addition some unscrupulous elements also exploit exploit the arbitrage in the ILD market, as the retail ILD tariff to few countries are even lower than the termination rates. The unscrupulous elements start pumping heavy traffic to such destinations/countries in connivance with the foreign operators. It is suspected that the operator at foreign end compensates the Indian counterpart for retail tariff levied by the access provider and in addition provides additional incentives to him out of the high termination costs earned from the Indian ILD operator. This racket has become quite rampant and is spreading to number of countries having higher termination charges.
- (iv) The modus operandi of these operators is to generate calls from India which terminate to countries or number levels with termination charges higher than the retail tariff. A recent example is of Maldives wherein the termination charges have increased substantially from 22 cents to 50 cents. The retail tariff to Maldives is only Rs 9.19 (20 cents) per minute against 50 cent per minute termination charges providing huge arbitrage opportunity and as a result traffic to Maldives increased substantially by 300 times the average traffic.
- (v) The Authority is aware that for the simplicity of tariffs to the customer, only three slabs of ISD rates are generally maintained, keeping a group of countries in a standard table for a uniform rate. The retail ILD tariffs are based on average traffic and do not take into account the prevailing extraordinary situation of substantial increase in traffic to few high cost terminating countries.

- (vi) The massive increase in traffic to high termination cost countries causes massive losses to ILD operators and as a result ILD operators demand country wise rate from the access provider. In order to cater to the country specific rates being demanded by ILDO or to align the tariffs to the cost access telecom operator require flexibility to adjust the ILD retail tariff.
- (vii) The Authority would also appreciate that there is a major impact of Foreign Exchange fluctuation on ILD tariffs. It has been observed that There is large variability of foreign exchange which has direct bearing in terms of cost on ILDOs. Therefore ban on any price escalation especially for ILD tariffs is not conducive for healthy growth of telecom Indicative fluctuations in FE y-o-y can be seen as below:

Month/Year	Apr 10	Apr 09	Apr 08	Apr 07	Apr 06	Apr 05
Rs = 1 USD	44.75	50.50	40.00	43.00	44.50	43.50

Source : Rate (Rounded figures) on 1st April as per website www.X-rates.com

- (viii) **The Telecom Tariff Order (43rd Amendment) does not permit to revise tariffs even if input costs increase. A large percentage of the customer base approximately 65%- 70% is in the lifetime prepaid category which gets excluded from even ISD tariff increases. This policy is not consistent with the Authority policy of forbearance in tariffs. Therefore, review of TTO(43rd Amendment) is imminent to respond to the current situation and also take into account the inflationary economy which also requires changes in the tariff plans.**
- (ix) The price escalation is a fact of life and a normal incident arising out of gap of time in this inflationary age. The price freeze on all tariff items for lifetime customers without providing a corresponding guarantee that there shall be no increase in the inputs costs is unfair.
- (x) The Authority may refer to the TDSAT Order dated 13..52009 in the matter of Tata Teleservices Vs TRAI in Appeal No. 1 of 2008 wherein Hon'ble TDSAT held that in extraordinary situations, the tariff protection available under the TTOs is not valid. Even in case of cable operators, the Authority, after freezing the retail subscription rates for some time, had allowed them to increase the rates to cover the cost of inflation and Entertainment tax; while such options were not provided to the telecom operators in the 43rd Telecom Tariff Order.

- (xi) Price escalation is to be recognized as a fact of life. Even judicial proclamations in number of cases held that “escalation is normal incident arising out of gap of time in this inflationary age in performing a contract”. Supreme court in many cases have also allowed price escalation even when there was no provision in the contract for price escalation. In view of these judgments, we believe limitation by way of prescribing a protection from any cost escalation may not be legally and economically be appropriate.
- (xii) Though the price escalation is not happening but even if it is carried out over a period of time, it should be seen as a normal phenomenon. Inflation is an indicator that prices are increasing for all essential commodities. Perhaps telecom is only exception in the present inflationary times which is not registering any price increase. Notwithstanding the present trend, the telecom services should not be singled out requiring specific provision to insulate subscribers against any price hike under provisions of TTO (31st Amendment) and TTO (43rd Amendment). Limiting service providers to hike price even when input costs or regulatory costs increases, may not be correct.
- (xiii) Tariffs are offered to the customers on the basis of existing costs and costs projected over a shorter period of time. A time period of six months to one year is a very long time to insulate a subscriber against the price escalation. Such statutory protection are unprecedented nationally and internationally and not available in any other sector.
- (xiv) Whenever prices of utilities like gas, water, and electricity are increased, it is effective for all consumers irrespectively when the subscriber has started using that facility. Similarly in case of increase in tariff for railways, the rates are effective from one fixed date. Even the Authority regularly revises prices for free to air channels for CAS areas to compensate operators for inflation. The statutory protection against price hike for telecom users is an only exception to this practice. We have noted that price revisions in other sectors are as common or more common than the telecom sector. We believe that statutory protection against price escalation on telecom offers which are for longer duration should not be there.

Suggestions

In view of above, it is requested that the Authority may kindly review the TTO(43rd Amendment) and allow service providers to adjust tariffs including ILD rates depending on the market dynamics for all subscribers including subscribers with life time validity.

9. What measures do you think are necessary to improve transparency and to prevent instances of un-intended recharges by subscribers in situations of cross-restrictions of recharges?

We agree with the TRAI that any restriction imposed by service providers on recharges should be transparently communicated to subscribers. Generally tariff on offers and restrictions imposed are available to the public at large at the company showrooms /retail outlets. Apart from this tariff details are immediately updated on website which display all tariff components along with applicable terms and conditions if any.

We agree with the Authority that to prevent instances of un-intended recharges an appropriate system should be put in place so as to reject recharge when an ineligible subscriber recharges with particular recharge voucher.

10. Considering the nature and structure of the prevailing tariff offerings in the market and advertisements thereof, do you think there is a need for TRAI to issue fresh regulatory guidelines to prevent misleading tariff advertisements?

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11. Do you agree that the instances of 'misleading' tariff advertisements listed in this paper adequately capture the actual scenario in the market? If not, provide specific details.

- (i) Any tariff offering or advertisement which is misleading should be considered as lacking in transparency and the service providers should not be permitted to offer such plans.
- (ii) The Authority had directed on 16.9.2005 that no tariff plan should be offered, presented, marketed or advertised in a manner that is likely to mislead the subscribers. For example, title of a tariff plan which suggests absence of Rental would be misleading if the plan has Monthly Mandatory Fixed Charge in one form or other. This direction is broad enough to encompass any tariff offering or advertisement which is misleading.
- (iii) The Authority has presented number of examples which can be mis-represented by few subscribers but such cases are very well covered under the existing directions and the Authority has been pro-actively monitoring and taking prompt action on these kind of misleading advertisement.

Suggestions

The TRAI Regulations, Directions and Orders have enough safeguards and are more than adequate to address the concern of the subscribers and therefore further measures are not required to improve the transparency in tariff offers.