

Information note to the press (Press Release No. 28/2016)

TELECOM REGULATORY AUTHORITY OF INDIA

Decision of the Authority relating to inflation linked hikes for TV tariffs

New Delhi, 09th May 2016: Telecom Regulatory Authority of India (TRAI) had issued tariff orders namely “The Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Eleventh Amendment) Order, 2014 (no. 3 of 2014)” (hereinafter referred to as ‘**Eleventh T.A.O.**’) dated 31st March, 2014 and “The Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Thirteenth Amendment) Order, 2014 (no. 9 of 2014)” (hereinafter referred to as ‘**Thirteenth T.A.O.**’) dated 31st December, 2014 respectively providing for inflation linked hike applicable to rates of TV services at wholesale level in the non-addressable (non-CAS) and addressable (DAS) systems.

2. To calculate the quantum of the inflation linked hike, TRAI worked out the change in the Wholesale Price Index (WPI) from December 2008 to February 2014, based on the monthly WPI data maintained by the Ministry of Commerce and Industry. This was done as per industry demand as no inflationary hike had been permitted since 2009. WPI as a relevant inflation index had been used in line with the earlier inflation linked hikes permitted by the Authority based on the same index. The effective inflation linked hike permitted was 27.5%. It was decided to implement the hike in two separate installments so as to give a reasonable time to all stakeholders to adjust to these hikes. The first installment of 15%, for the period from December 2008 to March 2014, was made effective from 01.04.2014 vide the Eleventh T.A.O. The second installment of 11%, accounting for the remaining part of the inflation linked for the same duration, was made effective from 01.01.2015 vide the Thirteenth T.A.O.

3. These tariff amendment orders were set-aside by the Hon’ble TDSAT vide its judgement in Appeal Nos. 1(C) to 6(C) of 2014 dated 28th April 2015 and TRAI was directed to re-consider the issue in light of the observations made in the orders of the Hon’ble TDSAT. Submissions of one of the appellants in this regard was as follows:-

“25..... These negotiations take into account all aspects including growth in subscribers, inflation, etc. Each year the subscription charge goes up and the subscription revenues have increased by 130% as

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against the growth in subscriber of 34%. Yet these aspects have not been taken into account by the TRAI.”

4. Further, Hon’ble TDSAT observed that TRAI should consider other inflation indices such as GDP Deflator in the calculation of inflation linked hikes. The relevant observations of Hon’ble TDSAT are as under:-

“43..... there are a few questions to which we do not find any satisfactory answers. The first is with regard to WPI and how the same has been applied to give the inflationary hikes...”

48..... it may identify the major cost components so that increase or decrease in such costs may be suitably factored while working out the inflationary hikes. Increase in costs of such components as may be available in indexes such as WPI, GDP deflator etc. can then be applied.”

5. Thereafter, Civil Appeal No(s). 5159-5164/2015 were filed by Indian Broadcasting Foundation (IBF) & another in the Hon’ble Supreme Court against the said order of the Hon’ble TDSAT. The Hon’ble Supreme Court on 04th August 2015 upheld the order of the Hon’ble TDSAT and also directed TRAI to re-consider the hike in the light of observations made in the order of the Hon’ble TDSAT and pass an order afresh.

6. The Hon’ble Supreme court in its order also brought out that:-

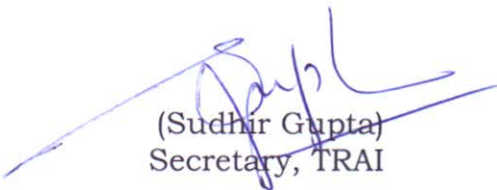
“..... Needless to say that TRAI shall reconsider the matter in the light of the observations made in the order impugned and pass a fresh order.”

7. Pursuant to the observation of the Hon’ble Supreme Court in its final orders while upholding the order of the Hon’ble TDSAT, the matter was examined afresh by TRAI taking into account the GDP Deflator as a measure of the inflation. Other associated factors like increase in the number of subscribers and also the increase in total revenues accrued to the broadcasters were studied to carry out a detailed and holistic analysis of the issues at hand.

8. During analysis of relevant data and the impact of various factors on the issue of inflation linked hikes in tariff ceilings at the wholesale levels, the Authority has observed that the annual revenues that actually accrued to the

broadcasters have surpassed the estimated revenues that should have accrued to them after taking into account the year-on-year hike in inflation as calculated using the GDP deflator. The compound annual growth rate (CAGR) of the year-on-year revenues accruing to the broadcasters has also witnessed a positive growth. More importantly, this growth has kept well ahead of the estimated revenues compensated for the year-on-year change in the inflation as computed using the GDP deflator.

9. Consequent to aforesaid analysis of the facts, the Authority has observed that there is a healthy growth in the industry with rise in revenues outstripping the increasing inflation over the years and therefore concluded that inflation linked hike provided earlier vide Eleventh T.A.O. and Thirteenth T.A.O. dated 31st March 2014 and 31st December 2014 respectively, which have been set aside by Hon'ble TDSAT vide its order dated 28th April 2015 and the said order of Hon'ble TDSAT has also been upheld by the Hon'ble Supreme Court of India, are not required at present.



(Sudhir Gupta)
Secretary, TRAI