

Subject	REPLY TO QUERIES RAISED IN CP 10 of 2010
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Attachments	CONSULTATION NO 10 OF 2010 TARIFF REPLY OF BTUA 15-11-2010.doc

Shri Raj Pal,
Advisor (ER), TRAI.

Dear Sir,

Kindly find attached the BTUA reply to queries raised in your Consultation Paper on Tariff No.10 of 2010. I regret my inability to have despatched the copy to you yesterday as the text which was framed on another computer was not copying from the pen drive to the office computer for onward despatch by e mail.on account of a technical error. The engineer was able to correct the problem only as of now and hence the delay.

Yours sincerely,
For Bombay Telephone Users' Association
Achintya Mukherjee

ISSUES FOR CONSULTATION PAPER NO. 10 OF 2010

AND REPLY OF BTUA TO

CERTAIN ISSUES RELATING TO TELECOM TARIFFS

According to BTUA, it is necessary for us to comment on the text of the CP, para by para, to place our replies to the CP queries in perspective. The method adopted by TRAI thus far, has been to lead the discussion in Consultation Papers into the preferred questions of its choice so that only some selected issues come to the fore and others are kept out of the picture. According to BTUA, this approach is primarily adopted to mask the infirmities of TRAI performance in the implementation of its professed positions in policy and the serious questions for consumer protection raised as a consequence of this non-performance.

BTUA is of the view that the Consultation Paper could have approached the issues differently; broadly discussing issues relating to pre-paid consumers and post-paid consumers. Such an approach would have highlighted the issues related to 96 percent of the subscriber base who are suffering the maximum from the lack of transparency in these operations.

BTUA is of the view that it is the trust deficit between consumers and Service Providers that accounts for this high proportion of pre-paid subscribers. It is also true that in spite of this trust deficit, the pre-paid subscriber continues to be loyal to the same operator unless disturbed by serious grievances caused by the SP. The costs of maintaining the pre-paid consumer is very much lesser than the post paid customer.

There is therefore no logic why the charges collected from them per unit call and for equivalent services continue to be substantially more than post-paid subscribers. There has to be a fair and equitable treatment given to all consumers, unless there are services provided which are extra. In this case, the reverse is true. TRAI as an institution established by law and under the constitution of this country should enlighten citizens of the logic that allows this anomaly.

PREFACE:

QUOTE: “Transparency in the provision of telecommunication services and tariff offers has always been and continues to be of prime concern to the Authority.”

COMMENT: TRAI has been indulgent with regard to tariff questions directing the Nelson’s blind eye to all the issues raised by CAGs for several years now – all of which demanded action by TRAI mandated under Section 11(b) of the TRAI Act.

INTRODUCTION:

A. I

QUOTE: “It also provided clear signals to the investors on the direction of telecom pricing reform which included rebalancing of tariffs.”

COMMENT: It laid down the structure for sharing of the loot of customers, which before the inception of TRAI was the sole privilege of the Government of India. And how clear the signals were can be measured by the number of cases on telecom policy that continued to land in the TDSAT, Delhi High Court and Supreme Court, year after year, with almost every policy announcement of TRAI and the DOT and media dog-fights over them till this day because the volume of loot, even when shared, was too attractive to ignore.

A. II

QUOTE: “For basic and cellular services, the order specified a Standard Tariff Package (STP) consisting, inter alia, of monthly rental and call charges. The service providers were mandated to offer STP prescribed by the TRAI.”

COMMENT: This STP was based on fictitious CAPEX and OPEX costs worked out on the basis of DOT calculations of 1999, never audited by TRAI and accepted at face value. TRAI was a Tariff body that did not have any Department of COST AUDIT and the SEPARATION OF ACCOUNTS continued to be a well maintained fiction. It allowed the uniform loot of consumers until it became untenable.

When BSNL could no longer face the competition from private players, the DOT along with TRAI chose to promote two fictitious concepts called Interconnect Usage Charges (IUC) and Access Deficit Charges (ADC).

BSNL would have to make heavy payouts if interconnect usage charges was to be paid to private players. It may be noted that interconnect charges logically would have formed a part of the Capex and Opex costs when the original tariff order of 1999 was framed. Only that earlier, both the originating exchange and terminating exchange for calls formed part of the BSNL / MTNL systems. In the new scenario, the private players were most of the times at the terminating end and increasingly so. To prevent heavy payouts to them and protect the monopolies, TRAI preferred to work against the consumer interests and load an unjustified additional IUC cost on to consumers.

Access Deficit Charges was the second fiction that was promoted by BSNL / DOT with TRAI as a part of the conspiracy and unjustifiably imposed on consumers. This was a charge ostensibly collected to pay for the heavy investments (?) made by BSNL in the remote and inaccessible areas of the country where there was an alleged severe revenue deficit. BSNL demanded ADC worth Rs.13500 crores or thereabouts to finance these unsubstantiated losses when its P/L account for that year showed a profit of Rs.7500 crores or thereabouts. It was the strong resistance of CAGs that forced TRAI to compromise at a collection of Rs.5000 crores and

then discard the fiction totally around 2005 because the arguments had become totally untenable.

Despite the facts against all that was being promoted, the CAGs agreed to the additional collection of money to fund the Universal Service Obligation Fund to cater to the costs of the same function of remote and inaccessible area telecom development. The vast amounts of unutilized funds in this account, thereafter year after year, were additional proof of the hollow claims of BSNL that TRAI was happy to compromise for in the interests of “consumer protection”!!!

A. III

QUOTE: “Taking note of emerging market scenario, the Authority came to the conclusion that a stage had been reached when market forces could effectively take care of cellular tariff and the regulator will keep a close watch on the developments in the market.”

COMMENT: Allowing market forces to operate is a reasonable proposition provided that there are pro-active steps taken to “keep a close watch on the developments in the market.” TRAI has never liked hard work. The philosophy and operation of regulation has seen changes every time a new dispensation has come into power every 3 years in TRAI.

In spite of the bloody duels in the corridors of justice, cartels amongst SPs operated comfortably, at least for tariff. The COAI was a strong alliance of essentially 2 older SPs who never worked against each other in tariff. In Mumbai, TRAI continued to turn a blind eye to the tango played by Hutch / Orange / Vodafone in partnership with BPL / Loop Mobile. The DOT which is asking uncomfortable questions on roll outs of new operators today did not utter a word about IDEA which company had a license but did nothing about it till only 2008. The continuous political interference that throttled their competitive abilities and imposed poor quality of technical services in cellular operations made the PSU MTNL, a complete non-starter in competition.

Already in 2007, wanting to stifle the new players brought in by DOT, there were ideas being floated singing the advantages of Mergers and Acquisitions and the supposed non-viability of so many players in telecom. Restricted spectrum availability was an idea assiduously cultivated by the combined nexus of politicians, bureaucrats and industry, forming the OLIGARCHY that the Prime Minister once very innocently referred to in one of his candid addresses to an industry body.

Having deliberately cultivated a scarcity through lack of inventory management and re-farming of spectrum, also simultaneously and generously handing over telecom licenses to all and sundry thus increasing demand, the situation was being

built for the construction of a new price regime to be based on the high auction bid levels of 3G spectrum, now become the measure for 2G spectrum as well.

But who were the ones who really brought in competition in tariff benefiting consumers? It was certainly not the leaders of COAI or AUSPI whose record in tariff pricing does not even need an analysis. It was the new operators who forced the pace and continue to do so. The question in the future remains whether they are likely to be edged out of the scene for various doubtful reasons.

AND ALL THE WHILE, FOR THE BENEFIT OF THE CONSUMER, THE REGULATOR HAS CONTINUED TO “CLOSELY WATCH ON THE DEVELOPMENTS” AND “CLOSELY WATCH ON THE DEVELOPMENTS”AND AGAIN WATCH, WATCH AND WATCH.

A. IV

QUOTE: “In view of the overall competition and the implementation of ADC Regime, the Authority decided to forbear with respect to Basic Services except for Rural Subscribers where a standard tariff package was prescribed.”

COMMENT: The ADC regime was nothing but a repackaging of the earlier imposed tariff of the DOT. TRAI would like to take the credit for creating overall competition and for the implementation of the ADC regime. Rather, the ADC regime was untenable from Day 1 and had to be abandoned in spite of TRAI’s complicity in bringing in the regime. It is only when these unjustified charges were removed that expansion of the subscriber base started happening exponentially.

A. V NO COMMENTS.

A. VI NO COMMENTS.

A. VII

QUOTE: “The telecom service providers have been mandated to report tariffs to the Authority within 7 days from the date of implementation of the said tariff for information and record of the Authority after conducting a self-check to ensure consistency of the tariff plan(s) is/are consistent with the relevant regulatory principles in all respects which inter-alia include IUC Compliance, Nondiscrimination & Non-predation”.

COMMENTS: The confidence that TRAI reposes in the Service Providers is oooo.....so touching! What TRAI does not reveal and probably has never bothered to examine is whether, at any given point in time, SPs honestly have a maximum of 25 Plans in operation or whether less than 25 Plans are revealed and there is no disclosure about the status of many older plans.

Nobody asks and nobody voluntarily tells whether older plans are still in operation or have been withdrawn and whether old customers are brought within the umbrella of newer currently submitted and more cost effective plans for them. Not only can BTUA vouch for the fact that most older customers are taken for a ride

and continue to be billed under 5 to 10 year old plans with higher payouts but state that all their complaints about multiplicity of plans to TRAI did not even initiate a suo moto investigation of what truly was the ground reality.

A. VIII

QUOTE: “Therefore, the 23rd amendment to TTO provided operators the flexibility to fix tariffs for cellular mobile services except for national roaming which continues to be under regulation.”

COMMENTS: Section 11 (1) (a) (iv) of the TRAI Act speaks of recommending “measures to facilitate competition” as a function of TRAI. When a statement is made as above that national roaming continues to be under regulation, it would appear that TRAI could, *suo moto*, initiate steps to facilitate competition in the event any acts of SPs suggested that they were acting against the tenets of competition. Specific complaints were made to TRAI where a Service Provider did not allow customers to manually select their roaming service provider and forced them to use the services of a partner with whom they had an exclusive arrangement and who charged the maximum of the ceiling.

TRAI preferred to take shelter under Section 11 (b) (i) which to ensure compliance of terms and conditions of license - and declined to intervene as the license condition allowed exclusive arrangements. That was enough commentary on TRAI’s function of “measures to facilitate competition” in the interests of “consumer protection”.

A. IX

QUOTE: “All tariffs filed with TRAI under this requirement are examined and if necessary, due intervention is effected.”

COMMENTS: It is our impression that there is no record maintained to show what were the plans submitted at various times by service providers and therefore whether any “due intervention” was ever effected. We shall be submitting a RTI application to discover the merits of this claim.

Impact of Regulation on Indian Telecommunication Services:

B. X

QUOTE: “TRAI through appropriate regulatory policies and measures facilitating competition has succeeded in achieving affordable tariffs and also putting in place a transparent mechanism for implementation of policies to meet social objectives.”

COMMENT: Affordable tariffs have been achieved in spite of TRAI and not because of it. The Tariff Order 1999 was based entirely on fictitious costs advanced by the DOT to then avatar of TRAI. They were not based on any cost audit conducted by TRAI as an independent regulatory body. It was when the competition started affecting the margins of DOT and its new avatar from 2002 – the BSNL, Access Deficit Charges (ADC) was brought in. What really happened was that the nomenclature of “loot” was changed, the essentials remaining the same.

TRAI continued to play second fiddle to DOT in spite of tariff being its sole domain through the simple control of the duration of tenure of the Chairman and Members limited to 3 years. The loot through additional imposts on consumers by way of IUC and ADC continued for several years de-escalated in a calibrated fashion.

B. XI

QUOTE: “The tariff level for voice telephony in India is among the lowest in the world which enabled to achieve teledensity targets exceeding expectations.”

COMMENT: As mentioned earlier, the tariff levels for voice telephony is among the lowest in the world not because of TRAI but in spite of it. TRAI likes to pat itself in the back for this supposed achievement but the reality is that the cost of a call in March 2003 was Rs.0.07p per minute for a corporate with state of the art equipment and operations management and excellent margins to boot. If talk time was purchased in bulk in the international market, during the same period, the cost was Rs.0.10p per minute.

And yet we were paying Rs.95.00 per minute for international calls and Rs.38.00 for STD !! Was it possible for prices to come down so drastically to Rs.6.50 and Rs.1.00 per minute for International and Std calls respectively, all in the matter of 2 to 4 years just like that. All these were the result of international pressures to balance international tariffs because across the globe the payouts to India were not tenable any more and every international operator was clear that the government monopolies had used this telecom cash cow to fund the Consolidated Fund of India through the revenue route and it was hurting them immensely.

The real fact is that the teledensity targets could have been achieved much earlier were it not for this sham play acting by the Regulator. For the volumes that the industry can generate and the constant reduction in capital costs with technological efficiencies, the costs per call are indeed much lower given the additional revenue streams that are available. Other countries cannot be compared in the same scale. The only comparable volumes are in China but the government controls over the industry continue and their pricing therefore cannot be compared one-to-one with Indian operators.

B. XII

QUOTE: “There are a large numbers of tariff plans available in the market which has varying combinations of monthly fixed charges, call charges, free call allowance etc.”

COMMENT: Multiplicity of plans have created confusions and allowed milking of consumers because of the lack of transparency or comparative evaluations. Every now and then, SPs launch new plans, do not withdraw old plans, or give the

benefit of new plans to old customers – as a result of which the stated objectives of limited number of plans or transparency are totally negated.

TRAI is fully aware of these negations but allows these situations to continue to simmer for years and by default, happily permits fleecing of subscribers. When the complaints reach a crescendo, there starts a laborious process of ploughing through a pre-consultation paper, followed by an extended preparation of a Consultation Paper, putting it up for reactions, wading through this process and finally pretend to bring in regulations – when all that is required is taking cues from complaints, real time monitoring of service provider operations, issuing directions and coming down with a heavy hand on deviations. But since the TRAI knows that it is a toothless tiger and a tool of the DOT, it has comforted itself with building a philosophy of market forces doing their job. Any other method would be hard, responsible and accountable work – not meant for retired or semi-retired officials.

Need for transparency of Tariff Offers:

C. XIV

QUOTE: “Adequate price transparency is crucial for the correct operation of an efficient and competitive market.”

COMMENT: TRAI has always been satisfied with self-evident truisms as though the very fact that they have been said is cause for satisfaction.

QUOTE: “There is a feeling among some of the consumer groups that in provision of telecom services, consumers are provided with very limited pricing information.”

COMMENT: Thank God for the fact that at least some consumer groups have observed that! And thank heavens that it has come to the attention of TRAI only now in this consultation paper. Always “better late than never” is such a reassuring phrase.

C. XV

QUOTE: “Regulatory intervention may therefore be appropriate to address the issue of deficient consumer information in its various forms including lack of information, unclear or hard to find information, misleading information or the “bounded rationality” of consumer decision-making.”

COMMENT: Regulatory intervention is a fact of the mandate that already rests with TRAI. It does not need a Consultation Paper to do the intervening. Is this question designed to delay action? Yes indeed!

C. XVI

QUOTE: “According to a recent OECD report² informed consumers who are prepared to exert an ability to choose

between competing suppliers are necessary to stimulate firms to innovate, improve quality and compete in terms of price.”

COMMENT: An illuminating deviation of this principle states that when the volumes of business and extent of margins are such that there is comfort of the most relaxing kind, there is no incentive to innovate, improve quality and compete in terms of price. Market mechanisms that would force such activity on the part of consumers e.g. Mobile Number Portability, continue to be delayed deliberately.

TRAI may have recommended MNP and done its duty. But the acceptance of its subsidiary role vis-à-vis DOT, by law and by fact, turning a blind eye to acts of commission or omission, merely because “this is how the system works” does not inspire any confidence whatsoever in the integrity of its regulatory role.

C. XVII & VIII: NO COMMENTS

C. XIX

QUOTE: “This (i.e.increasing number and diversity of offers) increases the complexity of the marketplace for consumers and makes it difficult for them to compare and decide.”

COMMENT: This requires action suo moto – not a Consultation Paper.

C. XX

QUOTE: “A recent workshop on “How can we help consumers to choose the right service provider?” was held at European Commission Consumer Summit on 18th March 2010.”

COMMENT: And who from TRAI attended this workshop? BTUA will not to be too churlish and needlessly deny foreign visits to TRAI officials, but the least that TRAI could have done was to engage in a workshop with CAGs in India to add the Indian perspective to the same question. Unless it is TRAI’s perception that Indian CAGs do not have the ability to contribute to such immensely complicated issues.

C. XXI, XXII, XXIII, XXIV, XXV, XXVI AND XXVII.

COMMENT: All these verbiage repeat self evident truths that could have been acted upon much earlier, particularly the pre-paid customer, whose problems require action – not discussions.

CHAPTER I

MULTIPLICITY OF TARIFF PLANS AND TRANSPARENCY

A. I.2. “It is observed that a large proportion of subscribers are being acquired in a few plans only”.

COMMENT: The Consultation Paper is deficient in data it provides, in spite of the fact that its own statement shows that what is important for the person required to give comments must understand NOT how many plans are on offer but what are the broad types of plans on offer or even preferred by consumers with an analysis of their significant and distinguishing features.

A. I.3. “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.”

COMMENT: TRAI gives another example where its fondness for laying down regulations is apparent, no matter whether the regulation is tweaked or manipulated and with what consequences.

A. I.4 & A. I.5.

COMMENT: Both Tables are irrelevant for any meaningful analysis except that Table 2 shows that TRAI has failed to notice the obvious all these years – a sad commentary.

A. I.6. & A.I.7

COMMENT: Observations do not lead to any beneficial analysis.

A. I.8 & A. I.9

COMMENT: The absence of illustrations do not allow a clearer insight.

A. I.10.

COMMENT: All promotional offers must only be against regular offers and specified as such in clear explanation till when the promotional part is valid.

A. I.11. & A. I.12.

COMMENT: It is not clear what is meant by “One Plan for All”. This does deny that there can be beneficial rationalizations in categorizing the principal types.

EXISTING REGULATORY MEASURES RELATING TO TARIFF OFFERS AND TRANSPARENCY

a) Tariff related measures

A. I.14. & A. I.15.

NO COMMENTS:

A. I 16. Tariff Related Issues:

COMMENT: Itemised billing for International calls must be given to post-paid customers as a matter of course.

A. I.17. Hard Copy of Bill.

COMMENT: In the interests of transparency, it should have been so prima facie. That it was brought in only in 24-01-2008 is a shocking comment of the lack of concern in TRAI for consumer interests.

A. I.18. Protection Against Hike in Tariff:

NO COMMENT:

A. I.19. Simplification of Tariff Structure for National Roaming.

COMMENT: The choice of the carrier must be the prerogative of the consumer.

b) Transparency Related Measurers.

A. I 20. Publication/advertisement of tariff for consumer information:

NO COMMENT:

A. I.21. Provision of chargeable Value Added Services without explicit consent:

COMMENT: The manner of obtaining consent is flawed. As there are contentious issues that arise proof of consent available with consumer is important and therefore, must be in writing only.

A. I.22. Information to customers about complete details of the tariff plan:

COMMENT: Not being adhered to and needs audit for proof of intimation to customer.

A. I.23. Tariff plans with misleading titles:

NO COMMENT:

A. I.24. Disclosure of tariff information:

COMMENT: It is not being provided uniformly and needs audit. All promotional offers including period of validity must precede actual booking and not follow payment.

A. I.25. Provision of usage details to prepaid mobile customers:

COMMENT: Across the board, every pre-paid customer must receive information of the duration of call, rate of charge per minute, the total deduction made after every call / sms and balance left local or roaming.

All requests for usage details by pre-paid subscribers must be complied with, within 7 days and be based on a standard format. This should start with opening balance, be chronological with calls and sms made or received, the start time, duration of call, the calling number, called number, the deduction made and balance after call / sms including additions in value through top ups. Any calls / sms covered by promotional offers must be specifically indicated in the same chronological sequence. The data for such requests must be made available for one year from date of request.

A. I.26. Charging for SMS on Festival/customary days:

COMMENT: Blackout days must be pre-intimated to customer before booking of such SMS plans. Evidence of such prior intimation must be available on record for complaint analysis.

A. I.27. TTO of 1 September 2008.

COMMENT: It is not understood exactly what is meant by "Straight tariff reductions are to be posted on to consumers without any precondition." Further,

proof of having complied with the orders as mentioned in the TTO must be available on record for any complaint analysis.

A. I.28.

COMMENT: It is a repeat of a point made earlier.

B. Facilitating the Consumers to Choose among Tariff Plans.

B. I.29 European Regulatory Group (ERG) Report on Transparency on Tariff Information:

NO COMMENT:

B. I.30. Ofcom in the UK runs the Accreditation Scheme for Price Comparison Services (PASS) scheme:

NO COMMENT:

B. I.31. Other Groups are also engaged in providing transparency in tariff information:

COMMENT: CAGs in India should be engaged in this activity.

B. I.32. Issues and Problems associated with PASS schemes.

COMMENT: Noted.

B. I.33. The Indian scene is more complex.

COMMENT: A rationalized system of tariff offers that broadly segment the various categories need to be set as a model by TRAI and made compulsorily on offer.

B. I.34, B. I.35 & B. I.36

COMMENT: All these are required to be taken into account. It is important for TRAI to take on board those who could provide inputs into the framing of a rationalized system referred above so that a model integrated basic plan offer, or at least the basic features of such an offer, could be drawn up.

In our view, a Consultation Paper of this limited nature cannot provide all the detailed analysis or framework structure needed to be presented to the SPs for common acceptance. BTUA is also clear that TRAI should stop outsourcing this task. Acceptance of the common model, monitoring for implementation and strict action on deviation from the model is a function that TRAI is best suited to perform. Other agencies can work around the model, refining the features and bettering it but the basic model must come out of TRAI.

B. I.37.

COMMENT: This entire exercise has become necessary because TRAI has failed to protect the consumers till now on these issues, both by failing to be pro-active and taking corrective action for a mandate that is already with them.

Issues for consultation

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

- Multiplicity of plans which do not allow for the time needed to consider them even when they come out the stable of a single service provider.
- Failure of the SPs to allow a comparative study of them for their basic features including their finer details which can prompt rejection even though, prima facie, the basics appear to suit the consumer.
- Failure of a comparative chart that gives the +s and –s between the plans of all service providers for all basic features like local calls, STD calls, International calls; roaming features; connectivity performance; quality of voice issues; compliance of quality of service standards; redressal record etc. etc.
- Absence of similar information that gives similar information on accessory products and services like broadband plan prices, speed performance etc.

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?

- Besides the above as given in (1), availability of all information at point of purchase, websites and through ads in print media at regular levels so that updates are readily available.
- An assurance that each of the plans on offer has TRAI approval after due scrutiny.

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?

- It is our view that there are different requirements of every customer which must be met. These requirements cannot all be lumped together in one plan. However, when we speak of basic features in a model plan offer, we mean that for local calls, there has to be one primary comparable plan, across the board for all SPs where that tariff (in this instance local calls) is the lowest in that category for that SP.
- The variations that may be added to that one plan would be combination packs of local calls with STD roaming advantage, or international roaming advantage or SMS local packs advantage or broadband pack advantage. The accessory products or services do not stand on their own but are only add ons. Similarly, there could be a basic pack for STD where the STD call rate is the lowest for that SP, with add ons as above.
- In our view, all pre-paid should be converted as lifetime connections just as the landline connections have been. Variations of limited validity services would fall into what may be termed as temporary connections, whether for local or taken up at the roaming location but based on the original address.
- In working out such a basic model, what is important is to first agree on what could be termed as the basic features of tariff plans.

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

- Broadly speaking, a large number of plans confuse subscriber, but with rationalizations in their presentation, they can be brought down to a manageable level where the individual needs can be met but the basic are simple to understand. This requires detailed inputs and analysis and therefore our suggestions in B. I.34, B. I.35 and B. I.36 given above.

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?

- We would not venture to opt for numbers and feel that the question suffers from naivety. Our answers as above have already clarified our position.

CHAPTER 2

MISCELLANEOUS TARIFF RELATED ISSUES

A. 2.1, A. 2.2 and A. 2.3.

NO COMMENT:

A. 2.4. “The cost for such premium rate services is generally known to the customer only after the service has been utilized.”

COMMENT: TRAI needs to come down with a heavy hand on violators in this category or else this statement is meaningless. The record of compliance must be available for audit and complaint filing analysis.

A. 2.5.

NO COMMENT:

A. 2.6. The basic issues identified by the ECC 07 / 02 report on how complaints (what BTUA calls cheating) arise in premium services.

COMMENT: The entire descriptions of deviations cannot be controlled unless ‘on-line monitoring’ facility and record of non-removable software programmes are made the procedure for audit, based on complaints like security surveillance. BTUA is clear from complaints on record that anything less than that is mere lip service to the cause of consumer protection.

A. 2.7. Recommendations by ECC for control of these abuses are made herein.

COMMENT: The suggestions are appropriate but should be in addition to the on-line monitoring discussed above. The high tariff services should be from exclusive number ranges identified by the full nomenclature – namely marked as “WARNING! HIGH PREMIUM SERVICES”.

A. 2.8, A. 2.9, A. 2.10 and A. 2.11. They present the various provisions for controls adopted for such abuse in some countries.

COMMENT: The steps undertaken by OFCOM and ComReg in Ireland, including licensing with terms and conditions appear noteworthy. But nothing substitutes heavy action on defaulters.

A. 2.12. Pull SMSs and Pull Calls with their abuses are discussed.

COMMENT: Whichever route of advertisement is adopted, the rate of call charges must be mentioned therein. Over and above, when a call or sms is generated by a consumer, the WARNING message must be an additional safeguard compulsorily incorporated into the system. In addition, record of all warning to each generated Pull SMS or Pull SMS must be maintained for complaint and audit analysis.

Flexibility in implementing ISD tariff for lifetime subscribers –
in the light of the provisions of 43rd amendment to TTO.

B. 2.13 to B. 2.22. The paragraphs are basically directed to the problems faced by Service Provider offering Lifetime Plans and the Regulations currently in place which generate adverse payouts on International calls and do not provide for negotiated arrangements.

COMMENT: If the information provided is true, there appears to be a case for exempting limitations subject to approval of each plan only for International calls and review of situation if the broader picture changes.

Cross restrictions on recharge packs

C. 2.23 & C. 2.24. Cross restrictions are imposed by service providers on recharges which are not properly communicated to the subscribers.

COMMENT: If our suggestion for a Model Plan Offer Chart is taken where the basic features of telecom service are pre-defined and all accessory products / services are only add ons, it would restrict the operator from creating these subterfuges in the service and debar their collecting money against what they cannot offer.

Issues for consultation

1. 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?

No Helpline of any service or complaint call centre should be allowed to charge premium rates. They should be totally free. Where that step has been adopted in the past, by fiat, the charges should be refunded immediately e.g. Railway Helpline 139.

When a SMS for premium service is generated by the SP, the very first screen must compulsorily provide for exit option and failure to adopt such a software provision should result in cancellation of the license of the SP.

An examination of the instrument software provisions of all manufacturers of mobile phones must be conducted to study what compulsory norms are needed in the instrument logic that allow for immediate rejection of such calls on the first screen itself. If necessary, additional amendments, regulations etc. should be put in

place to bring mobile instrument manufacturers under provisions for compliance on this issue.

As far as norms for placing limits is concerned, BTUA can only suggest that the rate of these premium calls must be limited to 2 or 3 times the normal rate chargeable. If SPs and their partners in these services had good business sense, they would adopt rates that help them to broaden their user base and thus increase their volumes. It is apparent that their only motivating factor is greed.

2. 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?

Except to say that we have a poor estimate of all categories of humans powered by greed, and would not suffer the waste of our precious time in protecting fools of subscribers and those with money to waste, we have no additional comments to make on these services.

We shall certainly take a call for those subscribers who are cheated into opting into these services without their explicit consent which at all times, we insist, should be taken in writing with additional warnings provided before any such service is commenced.

3. 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?

If the information provided in this CP is a genuine issue of losing out on International calls, then our comments made in B. 2.13 to B. 2.22 stand.

4. 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?

Please refer to our comments given in C. 2.3 and C. 2.24.

CHAPTER 3 MISLEADING TARIFF ADVERTISEMENTS

A. 3.1 to A. 3.8. Information is provided in the matter of control on misleading Ads in various countries.

NO COMMENTS:

B. 3.9 (a) to B. 3.13 (d). Information is provided for the Regulatory bodies and their control over misleading Ads in India.

NO COMMENTS:

C. 3.14. It is important that the information on tariff given to the subscribers through publications and advertisements shall be such as to facilitate informed choice and not misleading in any manner.

COMMENT: The principal question remains – if there are violations, would TRAI continue to remain the toothless Tiger it has always been?

D. 3.18 to D. 3.24. The section gives examples of the nature of misleading Ads which explains the intent graphically. Other sections in this CP could have done with similar illustrations to make more clear the content of those paras.

Issues for consultation

1. 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?

NO. The essential question in these issues is when cases of such misleading Ads come to light, whether they are followed through and corrective steps taken.

BTUA would suggest that an internal committee of TRAI be formed with representatives of CAGs and SPs for reviewing such cases every 4 months to ensure that case studies are recorded and guidelines established for faster executive action and redress. The formation of such committees could be carried for consideration of other issues as well.

2. 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.

BTUA is happy to complement whoever in TRAI has compiled these cases. Our suggestion as above would help to compile additional case studies for future reference.

ACHINTYA MUKHERJEE