ANNEXURE-A

1. The Telecom Regulatory Authority of India (**TRAI**) has issued a Consultation Paper (**CP**) on "*Tariff Issues of Telecom Services*" on 17.12.2019 seeking comments and counter comments from all the stakeholders. *Vide* letter dated 09.01.2020, TRAI has sought comments from the Competition Commission of India (**CCI**). The CP lists 19 questions wherein it wishes to know what could be the methodology to fix floor price for data and voice services as well as bundled offers. The regulator also wants to know if the regulator should impose floor on prices, safeguarding the interest of consumers.

   In view of the above, comments of Competition Commission of India are as follows:

2. The relevant issue that Competition Commission of India would touch upon is issue no 1, i.e. ***'Do you foresee any requirement of regulatory intervention at this stage in tariff fixation to protect the interest of telecom service providers as well as the consumers? Please support your comments with justification'***

3. It is imperative to note that the objective of competition law is to promote economic efficiency using competition as one of the means to make market responsive to consumer preferences. The advantages of perfect competition are three-fold: allocative efficiency, which ensures the effective allocation of resources; productive efficiency, which ensures that costs of production is kept at a minimum; and dynamic efficiency, which promotes innovative practices over a period of time. In this context, any kind of external intervention, including floor price, may vitiate these efficiencies.

4. At the outset, it may be appreciated that market prices are determined through dynamic interaction of forces of demand and supply and that floor price is a tool used by the sectoral regulator (or the Government) to address any market anomaly. By definition, price controls are designed to suspend the operation of the market mechanism and introduce artificial intervention in the working of the free markets.

5. A free market works on the interplay of demand and supply. Price determination by market forces of demand and supply encourages players to innovate and provide better services to their customers in order to retain their existing customers and add new ones. Fixing a minimum floor price would ensure a minimum amount of profit/return to the telecom service providers. It may as well dis-incentivise the competitors from making improvements in their services. Further, setting up of floor price would benefit the inefficient players in the market, as it would get them fixed returns on their services that would not have been

otherwise possible. Furthermore, prescription of floor price by the regulator could act as a benchmark between the telecom service providers for coordinating their price strategy.

6. Any floor price fixed by TRAI for telecom services would create entry barriers for entrants who may want to enter the market by offering their services at a lower price in order to gain and retain customer base in their initial period. The aforementioned fixation of floor price would compel the potential entrants to maintain minimum floor price, thus softening incentives of such players.

7. Growth of data communication systems and services facilitates enhances economic conditions in rural and remote areas, and spur new businesses by enabling access to markets by SMEs. Also, growth of digital communication networks helps enterprises in increasing their competitiveness, enabling innovation and improving productivity. Any fixation of minimum floor price would lead to higher cost of operations. Considering the dependence of other industries especially the e-commerce industry on the telecom sector, this may lead to inflationary tendency in the entire economy, which is not desirable.

8. Setting of the floor prices, in some of the customer segments, may be highly detrimental to their usage of services e.g. in case of 2G services a large segment of consumers are highly dependent on the lower pre-paid plans and are highly sensitive to the prices. Therefore, in case of introduction of floor price in this segment, there is a possibility that a large chunk of customers may exit the telecom ecosystem and that new accretion may not happen at a desired rate. This will not only lead to market distortions but will also slow down the pace of 'Digital India' initiative. Also, such a move may impact the level of tele-density of India.

9. In multi-sided markets it is not the price of individual service(s) that has to be determined in a market, it is the entire pricing structure of various sides of the market that operators compete on. So it is quite possible that some markets with very high elasticity may be zero priced but monetisation from inelastic market can compensate for below cost pricing. Therefore, certain value added services can be priced above the marginal cost and certain baseline services can be priced at or below marginal cost. Moreover, telecom operators may generate other sources of revenue other than user charges. Accordingly, in the new paradigm of technological convergence, bundling of services and pre-eminence of data, a pure cost-based regime in form of fixing telecom retail price would be inadequate and, indeed, undesirable.

10. Imposition of price floors in form of tariff fixation will prevent telecom market from adjusting to its equilibrium price and quantity, and thus will create an inefficient outcome in a longer run. Along with creating inefficiency, price floors would also transfer some consumer surplus to producers. Such a situation will lead to further market distortions. Therefore, the Commission believes that setting floor price for mobile services is regressive step that may have detrimental effect on market competition. No mature jurisdictions have imposed price floors on crucial sectors like telecom. Such retrograde regulatory measures bring in inefficiencies in longer run.

11. The present forbearance regime of TRAI gives sufficient freedom to the service providers to offer multiple tariff to its consumers. It has facilitated new entrants to achieve critical mass in a short period of time.

12. The present situation of ailing telecom companies warrants policy intervention other than tariff fixation of telecom retail prices. Lastly, if price controls are resorted to, it should be imposed only when the free market system no longer functions effectively or when there is a situation of market failure. Price controls should be considered as a *remedy of last resort* and that too for a limited short-run duration with inbuilt provision of periodical review.

13. In view of the above, Commission believes that TRAI must continue with the forbearance policy in tariff fixation to keep competition alive in the sector.

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