

No. 101-15/2005-MN

Dated: 27th February 2006

To

Mobile Service Providers in the State of Maharashtra, Tamil Nadu, West Bengal and UP (List Attached).

Subject: Direction under Section 13 of the TRAI Act 1997 on Calls between Mumbai Metro & Maharashtra Telecom Circle, Chennai Metro & Tamil Nadu Telecom Circle, Kolkata Metro & West Bengal Telecom Circle and UP (East) & UP (West) Telecom Circle Service Areas – Compliance with Licence Conditions notified by DoT vide letter No. 842-503/2004-VAS dated 20th May 2005.

WHEREAS, the Department of Telecommunication (DoT) vide its letter dated 20th May 2005 had amended licences of CMTS/UAS/Basic and NLD Services permitting inter-service area connectivity between access providers within the four States viz; Maharashtra, West Bengal, Tamil Nadu and UP. As per the amended licence conditions, calls within each of the aforesaid four States were treated as intra-service area calls for the purpose of call routing and levy of ADC. DoT in a subsequent communication No. 842-503/2004-VAS/52 dated 16/6/2005 further clarified that the interconnection Usage Charges (IUC) and ADC shall be applicable as per TRAI's prevailing Regulation/Determination/ Direction/Order and the tariff shall be as per applicable TRAI's Tariff Order. As per the amended licence conditions, for the purpose of inter-service area connectivity, access providers have the option to take leased lines to establish such connectivity or to continue with the existing interconnect arrangement for routing all calls in these service areas;

WHEREAS, subsequent to the aforesaid amendment of licence conditions, the access providers in the respective service areas restructured their tariff plans and filed them with TRAI. It was noted that several private GSM licencees operating in the aforementioned four States had specified a higher tariff for calls terminating in the mobile networks of BSNL/MTNL from one service area to other service area, falling within the geographical boundary of the same State. TRAI also received complaints from subscribers regarding the differential higher tariffs being levied by private GSM operators for calls terminating in

BSNL/MTNL network. The Authority has examined this differential tariff in the light of the comments of GSM operators and their representative association COAI.

WHEREAS, the explanation given by operators and also COAI is that private mobile operators have established direct connectivity between each other's network in these four States. However, in case of BSNL/MTNL, the direct connectivity is yet to be established because of delay in getting leased circuits and the calls are carried from their network to BSNL/MTNL network through NLDO. Because of this, additional carriage charge is payable to NLDO and the tariff for calls terminating in BSNL/MTNL are being charged at a higher rate compared to calls terminating in the network of private mobile operators;

WHEREAS, the Authority has carefully considered the rationale given above and found it not acceptable for the following reasons:-

- a) If a private mobile operator has connected his MSC to the MSC of the other private mobile operator in the other service area within the State, then there is no reason why the operator cannot establish similar connectivity with BSNL/MTNL in that particular service area. If there is a problem in getting lease line from BSNL to establish such connectivity, the private GSM licensee could have explored alternative arrangements like obtaining the leased line from other NLDOs.
- b) If the problem is on account of BSNL/MTNL refusing or delaying additional port for effective interconnection, then the operator could have sought legal remedies within the framework of TRAI Act, 1997.

AND WHEREAS, the Authority has come to the conclusion that the differential tariffs levied by private GSM operators operating in the aforesaid four States of Maharashtra, West Bengal, Tamilnadu and UP for calls terminating in the network of BSNL/MTNL from one service area to other service area within the same State, is discriminatory and inconsistent with the amended licence conditions notified by DoT on 20/5/2005. The Authority has also noted that the said action of the operators is preventing the consumers from getting full advantage of the Government decision to allow inter-service area connectivity within the aforesaid four States.

AND THEREFORE, in exercise of powers conferred upon it under Section 13 read with Section 11(1) (b) (i) & 11(2) of the TRAI Act, 1997 and the provisions of Telecommunication Tariff Order, 1999, the Authority hereby directs the Mobile operators in the four States of Maharashtra, West Bengal, Tamilnadu and Uttar Pradesh to immediately discontinue such differential tariff and report compliance to the Authority within 15 days of issue of this direction.

(Sudhir Gupta)
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