



PB/VIL/107

7th April 2017

Shri. Kaushal Kishore,

Advisor (F&EA-II),

Telecom Regulatory Authority of India

Mahanagar Door Sanchar Bhawan

Jawahar Lal Nehru Marg (Old Minto Road)

New Delhi-110002

Dear Sir,

1. This is with reference to the consultation initiated by TRAI on Regulatory Principles of Tariff Assessment on 17 February 2017.
2. We are a little surprised by both the timing as well as the contents of this consultation related to regulatory principles of tariff assessment, as most of the issues raised are presently a subject matter of tariff related litigation before both the Hon'ble Delhi High Court as well as the Ld. TDSAT, in which litigations TRAI and service providers are the parties.
3. We note that the fact of the said tariff issues being sub judice has not been even referred to by the TRAI as also the fact that TRAI has taken certain positions before the Hon'ble Courts in respect of these issues that are contrary to our understanding and interpretation of the regulatory principles governing tariffs.
4. You may appreciate our apprehensions and concerns regarding the present consultation as any consultation on review of existing regulatory principles governing tariff assessment would require the parties to first be ad idem on the existing position /interpretation of the said principles, which, as is evident from the ongoing litigation, is not the case.
5. We submit that almost all the issues raised in the present consultation fall squarely within the ambit of the pending sub judice matters, including inter alia Writ Petition (Civil) No. 766 of 2017 that is pending before the Hon'ble Delhi High Court.
6. In fact, in one of the related matters that are pending in TDSAT, the Ld. TDSAT has in fact faulted the TRAI in its examination of the promotional offers of an operator.
7. We therefore strongly believe that any consultation on this issue would not be proper at this stage as the TDSAT as well as the Hon'ble Delhi High Court are seized of the matter, in which service providers have a dispute with TRAI.

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8. It is also submitted that the definition of relevant market and assessment of Significant Market Power in context of tariff assessment, whilst not matters of the pending litigation may have bearing on the tariff related regulatory principles which are subject matter of aforesaid litigation and we apprehend that in trying to review one, it may have an unintended but substantive impact on the other.
9. It is also submitted that any discussion on sub-judice issues may also be considered by the Hon'ble Tribunal or Hon'ble High Court as a case of judicial overreach by parties.
10. We therefore request TRAI to refrain from raising /examining any sub-judice and /or inter linked issues till the outcome of the pending sub-judice matters.
11. We also note that the TRAI has referred to the CEOs meeting on 6 January 2017 as one of the factors in initiating this consultation. It is respectfully submitted that what was proposed by us in the meeting was not a review of regulatory principles but rather a strict implementation of the same.
12. Further, what was sought was a review of micro regulations, review of the TRAI regulation of data tariffs, etc which, we note have not been considered by TRAI. We are concerned that the CEOs meeting is being used by TRAI to review the very principles, directions, orders, etc of which we have been seeking a strict implementation.

In view the above, we request the TRAI to put the present consultation in abeyance till the outcome of the pending sub-judice matters.

This is without prejudice to our rights and contentions in the matter and our right to make any other or further submissions in this regard.

We look forward to your kind support in the matter.

Warm regards



P. Balaji
Director – Regulatory, External Affairs & CSR
Vodafone India Ltd