

# Telecom Regulatory Authority of India Notification

New Delhi, the 16th day of January, 2004.

No. 301 –4/2004 (Econ.)

In exercise of the powers conferred upon it under sub-section (2) of the section 11 of the Telecom Regulatory Authority of India Act, 1997 as amended by TRAI (Amendment) Act, 2000, the Telecom Regulatory Authority of India (TRAI) hereby makes the following order by an amendment to the Telecommunication Tariff Order, 1999 by notification in the Official Gazette, in respect of tariffs at which Telecommunication services within India and outside India shall be provided.

## **THE TELECOMMUNICATION TARIFF (THIRTIETH AMENDMENT) ORDER, 2004**

**(2 of 2004)**

### **Section I**

1. Short title, extent and commencement:
  - (i) This Order shall be called “ The Telecommunication Tariff (Thirtieth Amendment) Order, 2004”.
  - (ii) This Order shall come into force from the date of its publication in the Official Gazette.

### **Section II**

**2.1** Under Section II (Definitions) of the Telecommunication Tariff Order, 1999 hereinafter referred to as TTO (as amended by 17<sup>th</sup> Amendment Order dated 22.01.2002), sub-clause (I) of clause 2 shall stand substituted by the following:

" (I) "Reporting Requirement" means the obligation of a service provider to report to the Authority any new tariff for telecommunication services under this Order and/or any changes therein within SEVEN days from the date of implementation of the said tariff for information and record of the Authority after conducting a self-check to ensure that the tariff plan(s) is/are consistent with the regulatory principles in all respects which inter-alia include IUC Compliance, Non-discrimination & Non-predation."

**2.2** Under Section III, Clause 4 (Forbearance) of the TTO (as amended by 21<sup>st</sup> Amendment to TTO dated 13.06.2002) shall be substituted to read as under:

Where the Authority has, for the time being, forbore from fixing tariff for any telecommunication service or part thereof, a service provider shall be at liberty to fix any tariff for such telecommunication services;

Provided that service provider shall comply with the reporting requirements in respect of such tariff.

**2.3** Under Section III, in Clause 7 (Reporting Requirement) of the TTO sub-clauses (iii) & (iv) (inserted vide 17<sup>th</sup> Amendment to TTO dated 22.01.2002) shall stand deleted

### **Section III**

3. In Schedule-II (Cellular Mobile Telecom Service) of TTO under the existing clause 6 (vide 24<sup>th</sup> Amendment to TTO dated 24.01.2003) in respect of "Tariff for pre-paid service", after proviso (d) a new proviso (e) shall be inserted namely:

- e) All services which do not affect "talk time value" including incoming voice calls / SMS shall continue to be available to the Pre-paid subscribers during the entire validity period even after the talk time value is exhausted.

### **Section IV**

This Order contains at Annexure A an Explanatory Memorandum, which explains the reasons for this amendment to the Telecommunication Tariff Order, 1999.

By Order,

[Dr. Harsha Vardhana Singh]  
Principal Advisor cum Secretary  
Telecom Regulatory Authority of India

**EXPLANATORY MEMORANDUM****A. Amendment in provisions relating to reporting requirement of tariff plans to the Authority.**

1. The Telecommunication Tariff (27<sup>th</sup> Amendment) Order, dated 25.04.2003 stipulates that all telecom service providers shall adhere to the provisions of the reporting requirements as per TTO, 1999 as amended by 17<sup>th</sup> Amendment stipulating that all service providers shall file their tariff plans at least FIVE working days prior to its launch in the market.
2. In view of the review of the IUC Regulation by the Authority a Self-Check regime was specified under which service providers were asked to implement the tariff plans after conducting a Self-check of their tariffs with the regulatory principles including tariff being IUC Compliant.
3. The Authority has now notified revised IUC Regulation, 2003 dated 29.10.2003 stipulating cost-based Interconnect usage charges. Furthermore, the price developments of Voice-telephony show that there is intense competition. With a high degree of competition, prior approval of tariffs may not be required as competition replaces regulation by the regulator. The Authority is of the view that current declining tariff environment is an ideal time to switch over from an Ex-ante tariff regulation to Ex-post tariff regulation meaning thereby, complete freedom would be given to operators in the matter of offering tariff plans in the market within the framework of the existing TTO. The Authority has already laid down broad regulatory principles to determine as to whether a particular manner of pricing service is anti-competitive / discriminatory etc. Further the Authority has forborne with the main tariff items in Cellular and Basic services (except rural subscribers tariff & roaming tariffs). The IUC regime specified by the Authority reflects the underlying costs providing the service. Also the IUC charges as specified will implicitly function as a floor to the retail tariffs and thereby scope for predatory pricing or cross-subsidization is limited.
4. The Authority is also of the view that the practice of seeking approvals to a large number of plans some of which are not even implemented creates needless pressure on the limited resources of the Authority. Thus the purpose of this amendment to TTO is to avoid undue pressure on regulatory resources as well.
5. The Authority has, therefore, decided to allow the flexibility to all telecom service providers to report their tariff plans to the Authority within 7 days from the date of implementation after conducting a Self-check to ensure consistency of the tariffs with the relevant regulatory principles which inter-alia includes Tariffs being IUC Compliant, Non-discriminatory and Non-predatory and hence this amendment.

6. However, the Authority would intervene in matters where the stated tariff regulatory principles are violated by the service providers.
7. This Amendment shall be applicable to all telecommunication services which fall under the purview of reporting requirements of TTO, 1999.

B. Note in respect of provisions of facilities of Incoming calls / SMS etc. to Pre-paid subscribers.

1. The Authority has received number of complaints from subscribers regarding bar of Incoming calls / SMS facility even within the validity period once the talk time becomes “nil.
2. Authority viewed it seriously and after examining the issue found that while paying the “Processing Fee” the pre-paid subscribers purchase a certain value of “talk time” and has the right to remain connected for a specified period i.e. validity period and therefore, subscriber should remain connected to avail all services which do not have a bearing on the talk value during the entire validity period contracted even after the entire talk value exhausted.
3. The Authority has, therefore, decided all services which do not affect “talk time value” including incoming voice calls / SMS shall continue to be available to the Pre-paid subscribers for the entire validity period even after the talk time value is exhausted.

[Dr. Harsha Vardhana Singh]  
Principal Advisor cum Secretary  
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