ISPAI Response to DRAFT 71st Amendment to Telecom Tariff Order 1999

Executive Summary:

ISPAI thanks the Authority for giving the opportunity to comment on this important *Draft 71st Amendment to the Telecom Tariff Order (TTO) 1999*.

At the outset, it is ISPAI submission that there is neither need nor justification for introducing such an amendment to the TTO and, therefore, it would be best if the amendment were dropped altogether.

To explain further, this amendment, if it were to be enforced, would have unfortunate, even if unintended, consequences in a competitive market where there is no market failure. In other words, when it comes to the failing/diminishing interests of consumers with regard to public Wi-Fi hotspots, an amendment such as this is clearly not the answer. In fact, it will also be antithetical to a policy that advocates forbearance when it comes to the matter of tariffs, and will potentially upend the very basics of the regulatory structure.

(A) Fiber-to-the-home (FTTH) connectivity for Public Data Offices (PDOs) is a misnomer.

To recap, in the draft 70th Amendment to the TTO,[1] the Authority had proposed that "*Tariff for Public Data Office under PM-Wani scheme shall be same as is applicable for retail broadband (FTTH) connection*". However, the industry opposed this on the grounds that services for commercial resellers like PDOs are not interchangeable with retail FTTH services for end-use subscribers.

Subsequently, under the instant 71st Amendment, the Authority proposed that "*Broadband tariff (FTTH) for Public Data Office (PDO) under the PM-WANI scheme shall not exceed twice the tariff applicable for retail broadband FTTH services for the corresponding capacity offered by the respective service provider*". It also expressly clarified that "*the scope of this regulation is expressly limited to the tariffs for FTTH broadband connectivity provided by service providers to PDOs under the PM-WANI scheme and does not extend to the tariffs of any other type of internet connectivity sought by the PDOs*."

Therefore, on the face of it, it appeared that the Authority had taken note of the issues raised by the industry. However, upon closer examination, it is evident that the issues have not really been addressed.

FTTH, as a product/service offered by TSPs, is only meant for the personal use of customers and not for reselling – even when it is offered to enterprise customers. No reselling is a key component of the essential terms and conditions on which FTTH is offered to customers. **If a customer wishes to resell internet connectivity, the product/service offered to them is Internet**

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[1] https://trai.gov.in/sites/default/files/2024-09/Draft_TTO_23082024_0_0.pdf

Leased Line (ILL) and not FTTH. Commercialization of FTTH, if it were to be offered to resellers like PDOs as per the suggestions of the Authority, would disturb the entire offering structure of TSPs.

The difference between FTTH and connectivity for resellers like PDOs is further discussed in the section below.

(B) Services for commercial resellers like PDOs and retail FTTH services for end-use subscribers are not interchangeable and interventions should not impinge upon tariff forbearance.

FTTH services provide fiber optic connections directly to individual homes or businesses as end-user (access) services. It is a shared connection that offers high speed internet at a price that is affordable for the marginal subscriber and the FTTH network is designed using contention ratios that incorporate the usage patterns of retail/access subscribers.

The leased line backhaul services, meanwhile, typically involve dedicated data lines that connect reselling business entities like PDOs to the core network or internet to manage aggregated data traffic from multiple endpoints. These dedicated data lines ensure that PDOs can efficiently route and manage the data traffic within their networks. Importantly, they are dedicated to ensuring public connectivity for business entities which, backed by service level agreements (SLAs), help businesses connect to the external world.

Reselling business entities like PDOs that serve multiple end-users/subscribers are relatively heavier users of bandwidth than individual subscribers and, therefore, their usage patterns are different and have a different impact on network resources than end users using FTTH connectivity.

It is, therefore, pivotal to distinguish between these two services as they cater to different needs and are optimised for distinct types of usage. **Using them interchangeably and applying regulatory price interventions in an interchanged scenario could create inefficiencies and potentially impact the quality of service for both PDOs and end users, while also causing regulatory distortion**.

Conclusion & Recommendations:

ISPAI firmly believes that the current TRAI approach on forbearance is the correct path to follow. It allows TSPs the flexibility to offer varied products to their customers whether commercial or retail. Even in the cases of VNOs (as resellers) and NSO matters, the TRAI/ DoT have left commercial arrangements at mutual negotiations. This scenario of a PDO-TSP relationship is no different.

ISPAI urges that the Regulator recognise the enormity of investments (being) made by TSPs to create the massive telecom infrastructure that helps them operate efficiently at huge economic risk to themselves and allow them the necessary freedom to decide how they will sell their

services, i.e., the same internet services which a public Wi-Fi operator (PDO) is also reselling as competition. Bringing in a tariff intervention to promote one business model over the other must be avoided at all costs.

Conversely, the need of the hour is to take urgent steps to encourage further proliferation of broadband. As recommended by the Authority, and also agreed upon by the DoT, fixed-line broadband services should be exempt from paying license fees for a minimum period of ten years. They should also be exempt from any RoW charges.

In view of the above, the draft 71st amendment to the TTO should be dropped.