

## TRAI RECOMMENDATIONS ON PROVISION OF MOBILE COMMUNITY PHONE SERVICES

Dated: October 20, 2000

### 1.CONTEXT

1.1The telecom revolution in this country which has been taking place in recent years has been marked by certain distinct landmarks.The first one of these was the liberal franchising for running a shared telephone service named Public Call Offices (PCOs) in the licensed areas of basic service providers.These PCOs have gone a long way in providing access to telephone services to those sections of population who do not own a telephone connection.Another landmark was the introduction of cellular mobile services in the country in November,1994.This service which was initially regarded as a premium service in the earlier years is now playing a significant role in increasing the reach of telephone across the country and is thus acting as an important supplement to the basic telephone services.

1.2The cellular mobile service operators in some of the licensed areas have been providing mobile public telephones to people who do not own a cellular hand set of their own.This service has enabled users to make intra-circle calls at rates which are often lower than the rates at which the same call could have been made through the fixed service PCO.The DOT, vide its order of July 25, 2000, has stopped the cellular operators from using mobile telephones as public telephones at fixed locations, although they have held that the existing cellular operators would be permitted to provide mobile public telephones in situations of “inherent mobility” like trains, buses, running taxis etc.This order further states that the question of permitting the cellular operators to use cellular phones as a public facility, would be decided after receiving the recommendations from TRAI.The TRAI have been separately requested to give their recommendations on the subject including on the question of tariff to be charged for provision of this service.

### 2.COMMENTS OF AFFECTED PARTIES/ASSOCIATIONS

2.1In order to examine the subject from all relevant angles, and in the proper context, TRAI has obtained comments on this issue from various agencies which are concerned with the subject.The main points made in these comments are summarised below:-

2.2The Department of Telecom Services has pointed out that 30% of its long distance revenue is derived from STD-PCO operations and if the cellular operators are allowed to provide a parallel service of this nature, it will lead to an annual loss of revenue for them of more than 1,000 crores.They have also mentioned that financial viability of basic service operators and NLD operators would be adversely affected.It has also been submitted that the decision will have repercussions on entry fee, annual license fee and the tariff order. It is also urged by them that as per the existing license of cellular service operators, they cannot offer this service by setting up PCOs, which connotes a fixed location, that is, a call office.

2.3 The STD-PCO Operators' Association have also opposed the grant of permission to cellular operators to provide public call facility. Their objection is two-fold. Firstly, that the franchise of operating STD PCOs was granted by the DOT to weaker section of the society, namely, unemployed, physically handicapped, war widows etc. and, therefore, introduction of any competition in this sector would adversely affect the interest of this class, which is socially under-privileged. Their second objection is that the fixed service PCOs are equipped with TEC approved monitors operating on 16 KHz metering pulse in order to provide to the customer a bill giving all relevant details like time, date, duration of the call, charges, service tax etc. They have submitted that in the absence of any such monitoring device, cellular mobile operators are likely to overcharge the customers and, therefore, this service is not in the interest of public.

2.4 The COAI has submitted that cellular mobile operators have been given license to operate mobile service in respect of a circle and under their license no restriction can be placed on the type of services which they can offer to the public within the licensed area. They have also submitted that to prevent the cellular mobile operators from providing this service is against public interest in as much as it restricts the availability of alternative means of communications. It is further submitted that the availability of mobile public service is of special benefit to people who are sick, old or are confined to their homes for any reason and thus cannot physically go to a fixed-location PCO. It is further submitted that in the last four years, this facility has been extended to a very large number of people living in semi-urban and rural areas including interior villages where fixed service PCOs have not reached. According to the COAI, the provision of this service is in accordance with the objectives in the NTP'99 in as much as it provides increased access to telephone services at affordable prices.

### **3. EXAMINATION OF THE ISSUE:**

3.1 TRAI is of the view that a decision on this issue will have to be taken in the context of the NTP'99 and the wider public interest rather than in the light of the viewpoint of any one section which might be affected. It would, however, be useful to examine the merits in the submissions made by the parties/agencies mentioned in the earlier paragraphs.

3.2 The submission of the DTS that 30% of their long distance revenue comes from STD PCOs and, therefore, introduction of any competition would lead to a significant erosion of their revenue cannot be determinant of this issue. There would be a decline in the revenue inflow of the STD-PCOs only if the cellular operators offer services to customers at all those places where fixed STD PCOs are operating and at rates which are significantly lower than those applicable at fixed service PCOs. Now, indeed if similar alternative service is available to the people at lower rates, there is no reason why this should be stopped only to safeguard the monetary interest of a particular service provider or a class of service providers. In a dynamic economy, the level of revenue or profitability of any enterprise cannot be guaranteed to remain at a certain fixed level in perpetuity. Moreover, it must be remembered that any service provider, including the DTS, offers to the public a range of services and if the profitability of any particular service declines it can be made up by increase in the profitability of the other services which it currently offers or the new services that it will offer in future. The same applies to the comments regarding the financial viability of basic services and NLD operators. To expect guaranteed returns by keeping certain alternate services out of the reach of the public is not consistent with the norms of a liberal, open and competitive economy. The interests of public at large deserve to be given a higher priority than the interest of a limited section.

3.3 The argument of the STD-PCO Operators' Association that these booths were allotted to the socially under-privileged sections also cannot be used to prevent the public at large from availing of a service if it finds the alternative service otherwise more economical and preferable. It is not that all STD-PCO booths are run by these handicapped sections and to the extent they are being so run, and there is an erosion in their earning levels, alternate means will have to be devised by them to make up for the decline. The other point made by the STD-PCO Operators' Association, namely, the need for a mechanism to ensure that the customers are not overcharged by mobile public phone providers has some merit and some suitable arrangement will have to be prescribed for this purpose if it has not been devised already.

3.4 The comments of the COAI are not being discussed here at length at this stage, as the present reference from the DOT has arisen from the COAI's representation to the DOT urging the latter to allow the cellular operators to provide this service.

3.5 As we have said earlier, a decision on this question is primarily to be taken in the context of the provisions of the NTP'99 and in the context of the wider public interest. The corner-stone of the NTP'99 is to provide "increased access" of telecommunications which is of utmost importance for achievement of the country's social and economic objectives. Availability of affordable and effective communications for all citizens is the ultimate goal of the telecom policy and, therefore, it would appear that any attempt to prevent the provision of any particular type of service by an executive order would be in violation of the NTP'99, unless the provision of such a service was against the terms and conditions of the license under which the service provider was operating. In this particular case, it cannot be said that the license agreement prohibits the provision of any type of mobile public service. The license under which the cellular operator operates within a Circle permits him to provide telecommunication service by means of a telecommunication system, "which is designed or adopted to be capable of being used while in motion". It is, therefore, clear that within its licensed area and through the use of a mobile hand set all types of telecommunication services can be provided. There is nothing in the license agreement from which it can be inferred that mobile telephone services can be provided only when the hand set is in motion. What the license agreement does prohibit is the act of sub-licensing of its right by the operator (clause 9 of the metro license and clause 10 of the circle license). It is, therefore, clear that as long as a mobile public telephone service is provided by the operator's employees/agents and not through a sub-license agreement it does not contravene the license agreement and remains a means of promoting the objectives of the NTP'99. Incidentally, the phrase "situations of inherent mobility" does not occur either in the NTP'99, or in the licence agreement under which the Cellular Operators function, and therefore we see no reason to impose a new condition when nothing of this nature exist in the original licence agreement.

3.6 Seen mainly in the context of the public interest, it is evident that to prohibit this facility would be violative of public interest in as much as it would deny the availability of an alternative method of making available mobile service to the public at large. Where technology provides to people not owning telephones a method of making calls through a means other than by visiting a basic service STD PCO booth, there is no reason why this choice to the user should be denied. In actual practice, whether consumers would opt for one alternative or the other would depend upon the competitive tariffs and the quality of service and it would appear that the interest of the consumers would be best served by introduction of competition in this area rather than by shutting out competition. It is also clear that there are certain sections of the people who would find this service to be of particular advantage, for example, old people or people who are sick or woman who do not like to go outdoors to the fixed service PCOs and there is no reason why an alternative which technology has made

available should be denied by means of administrative orders.

3.7 In the light of the above, the TRAI recommends that the cellular mobile operators should not be prevented from offering to the public in their licensed area a service of making call from mobile hand sets. We are deliberately not using the term “mobile-PCOs” because it carries a connotation of a fixed location while this service essentially consists of making available the use of hand set to members of public who do not own a hand set of their own. In our view, this service is not identical to the fixed network STD service offered from PCOs by the franchisees of basic operators. It is in fact a facility for inter-network calls involving a mobile leg and a fixed leg. Since the mobile leg can cover the entire circle at a fixed cost (i.e. the airtime charge) and the fixed leg can be as small as an SDCA, the service can cover a long distance at tariffs which quite often happen to be lower than for the PSTN calls. In other words, these are essentially two different products, although one provides a substitute for the other. It would perhaps be more appropriate to call this service a Community (or Public) Mobile Service. We also recommend that providers of this service should be required to display prominently the tariff which is applicable and which the users of this service are liable to be charged.

3.8 TRAI is aware that to the extent the provision of Community Mobile Service by cellular mobile service providers leads to a reduction in the revenues of fixed service providers, certain repercussions on the tariff structure will have to be examined. This, however, is only one of the several factors, which are going to have a bearing on the various revenue streams. Factors like the major structural changes which are taking place, and the opening up of various service sectors by the government, are all likely to cause a major change in the relative revenue streams of various services and various service providers. At an appropriate time these will be taken into account while reviewing the tariff structure. This consideration is not regarded as an adequate consideration to prevent the extension of a service to public which is otherwise available.

#### **4. TARIFF**

4.1 The DOT, in their letter no.842-302/99-VAS dated 25.7.2000 have also requested the TRAI to determine tariff to be charged from the “users of this service”. Since in the earlier paragraph of their said letter they have spoken of allowing the use of cellular phones only in “situations of inherent mobility”, it would perhaps follow that they want tariff determination for this limited context only. However, since we do not regard this distinction to be a valid distinction, and we have recommended above that within their own service areas the cellular operators should be allowed to provide community mobile service, we would proceed to give our recommendation for this generalized service.

4.2 We recommend that the users of this service should not be charged a tariff which is more than the airtime charge-plus the appropriate fixed network charge, if the call has travelled over some portion of the fixed network. We also recommend that the principal service provider has to ensure the following –

- (i) The service is provided to all those who seek it without discrimination;
- (ii) The general location and the identity of the agent/employee through whom the service will be provided should be made widely known in the community; and
- (iii) The principal service provider i.e. the original licensee has to check from time to time and

ensure that the tariff being charged by his Agent is the same as the advertised tariff