

**TO BE PUBLISHED IN THE GAZETTE OF INDIA  
EXTRAORDINARY PART III SECTION 4**

**TELECOM REGULATORY AUTHORITY OF INDIA**

**NOTIFICATION**

**New Delhi, the 21<sup>st</sup> November, 2014**

No. 310-5(2)/2013-F&EA — In exercise of the powers conferred upon it under sub-section (2) of section 11, read with sub-clause (i) of clause (b) of sub-section (1) of the said section, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following Order further to amend the Telecommunication Tariff Order, 1999, namely:

THE TELECOMMUNICATION TARIFF (FIFTY NINTH AMENDMENT) ORDER, 2014

No. 8 of 2014

**1.** (1) This Order may be called the Telecommunication Tariff (Fifty Ninth Amendment) Order, 2014.

(2) This Order shall come into force from the date of notification in the official Gazette.

**2.** In clause 7 of the Telecommunication Tariff Order, 1999, in sub-clause (i),---

(a) in the first proviso, after the words "access provider", wherever appearing, the words "or Internet service provider" shall be inserted;

(b) after the second proviso, the following proviso shall be inserted, namely:-

“Provided also that nothing contained under this sub-clause shall apply to any Internet service provider during a financial year if the total number of its subscribers is less than ten thousand on the last day of the preceding financial year”.

(Manish Sinha)  
Advisor (F&EA-I)

Note.1. – The Telecommunication Tariff Order, 1999 was published in the Gazette of India, Extraordinary, Part III, Section 4 under notification No.99/3 dated 9<sup>th</sup> March, 1999, and subsequently amended as given below:

<b>Amendment No.</b>	<b>Notification No. and Date</b>
1 <sup>st</sup>	301-4/99-TRAI (Econ) dated 30.3.1999
2 <sup>nd</sup>	301-4/99-TRAI(Econ) dated 31.5.1999
3 <sup>rd</sup>	301-4/99-TRAI(Econ) dated 31.5.1999
4 <sup>th</sup>	301-4/99-TRAI(Econ) dated 28.7.1999
5 <sup>th</sup>	301-4/99-TRAI(Econ) dated 17.9.1999
6 <sup>th</sup>	301-4/99-TRAI(Econ) dated 30.9.1999
7 <sup>th</sup>	301-8/2000-TRAI(Econ) dated 30.3.2000
8 <sup>th</sup>	301-8/2000-TRAI(Econ) dated 31.7.2000
9 <sup>th</sup>	301-8/2000-TRAI(Econ) dated 28.8.2000
10 <sup>th</sup>	306-1/99-TRAI(Econ) dated 9.11.2000
11 <sup>th</sup>	310-1(5)/TRAI-2000 dated 25.1.2001
12 <sup>th</sup>	301-9/2000-TRAI(Econ) dated 25.1.2001
13 <sup>th</sup>	303-4/TRAI-2001 dated 1.5.2001
14 <sup>th</sup>	306-2/TRAI-2001 dated 24.5.2001
15 <sup>th</sup>	310-1(5)/TRAI-2000 dated 20.7.2001
16 <sup>th</sup>	310-5(17)/2001-TRAI(Econ) dated 14.8.2001
17 <sup>th</sup>	301/2/2002-TRAI(Econ) dated 22.1.2002
18 <sup>th</sup>	303/3/2002-TRAI(Econ) dated 30.1.2002

19 <sup>th</sup>	303/3/2002-TRAI(Econ) dated 28.2.2002
20 <sup>th</sup>	312-7/2001-TRAI(Econ) 14.3.2002
21 <sup>st</sup>	301-6/2002-TRAI(Econ) dated 13.6.2002
22 <sup>nd</sup>	312-5/2002-TRAI(Eco) dated 4.7.2002
23 <sup>rd</sup>	303/8/2002-TRAI(Econ) dated 6.9.2002
24 <sup>th</sup>	306-2/2003-Econ dated 24.1.2003
25 <sup>th</sup>	306-2/2003-Econ dated 12.3.2003
26 <sup>th</sup>	306-2/2003-Econ dated 27.3.2003
27 <sup>th</sup>	303/6/2003-TRAI(Econ) dated 25.4.2003
28 <sup>th</sup>	301-51/2003-Econ dated 5.11.2003
29 <sup>th</sup>	301-56/2003-Econ dated 3.12.2003
30 <sup>th</sup>	301-4/2004(Econ) dated 16.1.2004
31 <sup>st</sup>	301-2/2004-Eco dated 7.7.2004
32 <sup>nd</sup>	301-37/2004-Eco dated 7.10.2004
33 <sup>rd</sup>	301-31/2004-Eco dated 8.12.2004
34 <sup>th</sup>	310-3(1)/2003-Eco dated 11.3.2005
35 <sup>th</sup>	310-3(1)/2003-Eco dated 31.3.2005
36 <sup>th</sup>	312-7/2003-Eco dated 21.4.2005
37 <sup>th</sup>	312-7/2003-Eco dated 2.5.2005
38 <sup>th</sup>	312-7/2003-Eco dated 2.6.2005
39 <sup>th</sup>	310-3(1)/2003-Eco dated 8.9.2005
40 <sup>th</sup>	310-3(1)/2003-Eco dated 16.9.2005
41 <sup>st</sup>	310-3(1)/2003-Eco dated 29.11.2005
42 <sup>nd</sup>	301-34/2005-Eco dated 7.3.2006
43 <sup>rd</sup>	301-2/2006-Eco dated 21.3.2006
44 <sup>th</sup>	301-34/2006-Eco dated 24.1.2007
45 <sup>th</sup>	301-18/2007-Eco dated 5.6.2007
46 <sup>th</sup>	301-36/2007-Eco dated 24.1.2008
47 <sup>th</sup>	301-14/2008-Eco dated 17.3.2008
48 <sup>th</sup>	301-31/2007-Eco dated 1.9.2008
49 <sup>th</sup>	301-25/2009-ER dated 20.11.2009
50 <sup>th</sup>	301-24/2012-ER dated 19.4.2012
51 <sup>st</sup>	301-26/2011-ER dated 19.4.2012
52 <sup>nd</sup>	301-41/2012-F&EA dated 19.09.2012

53 <sup>rd</sup>	301-39/2012-F&EA dated 1.10.2012
54 <sup>th</sup>	301-59/2012-F&EA dated 05.11.2012
55 <sup>th</sup>	301-10/2012-F&EA dated 17.06.2013
56 <sup>th</sup>	301-26/2012-ER dated 26.11.2013
57 <sup>th</sup>	312-2/2013-F&EA dated 14.07.2014
58 <sup>th</sup>	312-2/2013-F&EA dated 01.08.2014

Note.2. – The Explanatory Memorandum explains the objects and reasons for the Telecommunication Tariff (Fifty Ninth Amendment) Order, 2014.

## **Explanatory Memorandum**

1. The clause 7 of the Telecommunication Tariff Order, 1999 (hereinafter referred to as the TTO, 1999) stipulates that all service providers shall comply with the reporting requirement in respect of tariffs specified for the first time and also all subsequent changes; provided that in respect of tariff plans offered by a telecom access provider to bulk customers, such as corporates, small and medium enterprises, institutions, etc. either in response to a tender process or as a result of negotiations between the access provider and such bulk customer, the reporting requirement shall not apply. The reporting requirement has been defined in clause 2 (l) of TTO, 1999 as obligation of a service provider to report to the Authority, any new tariff for telecommunication services and/ or any changes therein within seven working 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 and non-predation.
  
2. With regard to the tariff reporting requirement, Internet Service Providers Association of India (ISPAI) requested the Authority for the following:
  - (i) Exemption from tariff reporting requirement for small Internet Service Providers (ISPs) as there are large number of small ISPs, who are providing internet services under Category - B or C in a limited manner and they have neither huge subscriber bases nor high revenues.
  - (ii) Exemption from tariff reporting for the tariffs offered to bulk customers, similar to the one that exists for access service providers for all ISPs.
  
3. In this regard, the Authority had issued a draft TTO (59<sup>th</sup> Amendment), 2014 on the 24.09.2014 exempting the small ISPs (having subscribers <10,000)

from the reporting requirement and extending the existing exemption given to access providers in respect of tariff schemes offered to bulk customers in response to a tender process or as a result of negotiations between the access provider and such bulk customer to the ISPs, for comments of the stakeholders to be submitted by the 14.10.2014.

4. Comments have been received by the Authority from 10 stakeholders (3 Industry Associations, 5 TSPs, 1 Consumer association and 1 other). The comments received have already been uploaded on the website of TRAI. The comments received from the stakeholders are summarized as under:
  - a) Most of the stakeholders have supported the extension of the existing exemption for access providers in respect of tariff schemes offered to bulk customers in response to a tender process or as a result of negotiations between the access provider and such bulk customer to the ISPs.
  - b) Some of the stakeholders have supported and welcomed the decision of the Authority to exempt the small ISPs from tariff reporting requirement.
  - c) One of the stakeholders has opined that the subscriber criteria for small ISPs with less than 10,000 should be for each licensed service area instead of pan India.
  - d) One of the stakeholders (ISPAI) has requested that all the category-C ISPs be exempted from reporting requirement irrespective of their number of subscribers.
  - e) Some of the stakeholders have opined that the tariff reporting requirement should be uniform across all service providers irrespective of the services offered by them/size of their subscriber base. They have also opined that there is no linkage between the number of subscribers of an operator and the regulatory obligation of tariff reporting.
  - f) Some of the stakeholders have opined that the market is highly competitive which ensures the consumer interest with regard to tariffs is protected; therefore, all the service providers should be exempted from tariff reporting and not just those ISPs with minimum 10,000 subscriber base.

- g) One of the stakeholders has opined that there are several consumers' complaints against these small ISPs and therefore, no exemption should be granted to them. It may be noted that the complaints enumerated by the stakeholder are related to quality-of-service, billing, etc., which cannot possibly be addressed through reporting of tariff to TRAI.
5. With regard to the issue of exemption of tariff reporting requirement for small ISPs, the Authority took note of the following:
- a) The Authority has been relaxing the reporting requirement alongside the evolution of competition in the market. Regulation has moved from a regime where tariffs were to be filed at least five days before the implementation, to the current regulatory regime, in which the tariffs have to be reported within seven working days after implementation.
- b) The main objective intended to be achieved through the process of tariff reporting is to have a check on the tariff schemes from the point of view of their being consistent with the regulatory principles in all respects including IUC compliance, non-discrimination and non-predation.
- c) On 31.03.2014, there were about 25.2 crore Internet subscribers in the country. Top 10 ISPs command about 97.87% of the entire ISP market, in terms of number of subscribers. Top 18 ISPs have subscriber bases greater than 1 lakh and top 43 ISPs have subscriber bases more than 10,000. The ISPs, who have a subscriber base greater than 10,000, together hold 99.93% of the total ISP market.
- d) The small ISPs with subscriber bases less than 10,000, operate in small pockets only and account for just 0.07% of the total ISP market. Given the extent of their scale of operation and market reach, it is quite unlikely that these small-sized ISPs would violate the regulatory principles sought to be achieved by way of tariff reporting, especially in the competitive environment.
- e) Exemption from tariff reporting requirement granted to these small ISPs does not mean that the regulatory principles, guidelines, etc. would not

apply to these small ISPs. Keeping in view the small size of operations and resultant turnover of these small ISPs, the Authority feels that such exemption would help them in reducing their compliance costs and once they achieve a subscriber base of 10,000 they will come under the ambit of tariff reporting requirement.

6. After detailed deliberations and further examination, the Authority has decided the following:
  - (i) To exempt any ISP from the reporting requirement during a financial year if the total number of its subscribers is less than ten thousand (<10,000) on the last day of the preceding financial year. However, such Internet service providers shall ensure that the tariffs offered by them are consistent with the regulatory principles and comply with all the regulatory requirements.
  - (ii) To extend the existing exemption given to access providers in respect of tariff schemes offered to bulk customers in response to a tender process or as a result of negotiations between the access provider and such bulk customer to the ISPs also.