

Dated 28.02.2020

To,

The Advisor (F&EA)
TRAI, New Delhi

Sub. : TRAI Consultation dated **17.12.2019** on “**Tariff Issues on Telecom Services**”.

In reference to above subject following comments are submitted for consideration:

PRELIMINARY SUBMISSIONS :

1. We hereby submit our strict reservations regarding the concept of fixation of Floor pricing for tariffs on the ground of it being anti-consumer, anti-competitive and discriminatory. The concept seems have been coined by private TSPs for easy gains at the cost of the subscribers.
2. The present Consultation has been undertaken by the Regulator at the instance of the COAI. The veracity of such a demand made with the apparent intent to obtain easy gains from customers using such statutory forums, is required to be tested under strict scales, as the intent has been contradicted by its own members vide their submission before different forums, on different occasions. Such discrepancy has been rightly discovered by the Regulator under para 1.40.
3. The subject matter, as presented under the paper demands consideration of the matter, in a broader perspective than in an aspect limited to the title of the consultation paper. The present contention arises out of the major issues regarding the poor financial health of Indian telecom sector. The Regulator must consider broader reasons for the present condition of the industry and find reprieve to it. The industry has been bleeding due to over-burdening with plethora of levies and fee(s) imposed over the TSPs. The latest AGR tsunami has worsened the situation for the industry and a long term and in-depth perspective is required to be adopted. The industry is required to be treated for disease than for its symptom. The Regulator, in spite of providing quick gains to TSPs at the cost of customers, should consider

recommending suitable relief from such “FEE” burdens. The Regulator, in the present circumstances should recommend the Licensor for reduction/exemption of various fee’s payable by TSPs under license agreement and review the “Definition of AGR”, with retrospective effect, so as to bring the industry at its own breathe and let it live longer in a healthy and competitive manner.

Further, the PSUs should be actively supported to provide a stabilizing force in the market and their upgradation be geared for the long term for benefit of the entire industry, as private players can also leverage the infrastructure and private-public partnerships can emerge.

Therefore, the above, and not artificial price rigging is the need of the hour.

4. Any “Policy Decision” must be visionary and long term, evaluating long term impact of such decision. Introduction of “Floor Price” concept at present stage may significantly and adversely impact penetration and the very “future” of data services. As mentioned under para 2.14 & 2.15 data services are the backbone of growth of any country and therefore the policies should have a catalytic impact on growth.
5. The practical industry model for any stream should derive itself through market forces and involve least regulatory interference. The Regulator should decide the guidelines and regulate at macro level the free-flow of the industry. However, the concept of “Floor Pricing” depicts micro-level interference and involvement of the Regulator.
6. The concept of “Floor Price” may find place in a market at a nascent stage to secure the interest of small operators against the large ones playing with volumes. However, admittedly the Indian market has surpassed its nascent stage and is approaching consolidation with each operator having significant traffic volume share, should be left to innovate to increase the volumes. Hence introduction of “Floor Price” concept in Indian context may not just breach the interests of subscribers, but will also adversely impact the quality of growth of the industry.
7. “Floor Pricing” is the mandatory minimum price imposed on a customer for availing the basic unit of service and in multiples thereof according to consumption. Further, the same is assumed to be “Uniform” across all the tariff plans of any particular TSP, and also among all TSPs.

Hence, the concept is based on assumption of there being “Uniformity” across plans and operators.

In contrast to the foregoing assumption, the PMR reports across the operators are clearly devoid of any “Uniformity” in QoS values among the TSPs. The QoS in present reference may include any parameter related to mobile data services, including the “Minimum Download Speed”, which is evidently “Non-Uniform” across plans and TSPs for which multiple reasons are cited by TSP including the reasons beyond their control and also the reasons at customer end. The latest TRAI chief statements in public media regarding non-meeting of QoS benchmarks by TSPs may also be considered.

Therefore prescribing “Uniform Price” for “Non-Uniform Grade” services (unless the uniformly guaranteed level of services is ensured) appears discriminatory for not being based on reasonable classification, and so the same is not only illogical unreasonable and discriminatory, but also un-justified from any parameter.

8. Recently, the private TSPs have already substantially hiked the tariffs for data services. It has been learnt from reliable media reports that due to aforementioned tariff increase there has been adverse ramification on consumer spending pattern, which has manifested specifically in the following:
 - Decrease in value of recharges
 - Decrease in number of recharges (or retaining number)

The submission may therefore be considered another deterrent for new experimentation of “Floor Pricing”.

9. The hike in charges levied by private TSPs has anyway benefited their bottom line, and any further hikes in terms of “Floor Tariff” will dampen consumer demand further and put services in an unaffordable range for the poorer strata of consumers.
10. The Indian market comprises multiple consumer profiles catered through a variety of tariff plans. The figures presented in the Consultation paper have relied upon only the “Gross” and “Average” Consumptions thereby completely ignoring the lower strata of consumer(s) having limited consumption but being a significant percentage of the population. The “Floor Price” concept will be discriminatory towards such strata, and constraints of such consumers will be worsened, thus further depriving them of their various fundamental rights achievable through access of such services.

11. The costs of data services under various technologies (2G/3G/4G) being different, implementation of uniform floor price may not just be impractical to implement, but also discriminatory and prejudicial to the business interests of 2G/3G services.
12. The customer in Indian context is price sensitive. Any such provision of “Floor Price for Data Services” may be expected to impact their availing /consumption of services to a significant extent, which may further affect not only the business of TSPs but also the penetration of concerned services accordingly impacting adaptation and growth of the Digital Future of India in multiple dimensions. In summary, such a concept will have a ripple effect on affordability of data (including voice over data) services, to the common man.
13. In the present market scenario, the services are offered to subscribers in bouquet/bundle form comprising Voice/data/message services. Introduction of such concept of “Floor Price” even for any specific component of bouquet will affect product innovation and choices of consumers. Further, as in 4G services voice is offered over data and introduction of “Floor Price” for data will affect the cost of voice services also, adversely impacting the consumer interest.
14. The Consultation paper mentions that Data Prices in India are lowest in world, however the same may be studied in relation with per capita income or purchasing power of average Indian consumer, which is also not high.
15. The Consultation paper mentions the case study of countries wherein the “Floor Price” concept has been undertaken. However as mentioned therein in most of the cases it has been withdrawn. Hence, a word of caution is recommended for introducing such a concept in our country.
16. The Consultation Paper relies on the significant increase in data consumption during a period of years. However, the same should still be considered at a nascent stage in view of, the future of digital services and technologies like 5G being in the pipeline. Such future services and technologies should be exploited by TSPs for further increasing the consumption of data multifold. The TSPs should also innovate to offer variety of services to enhance volume consumption by subscriber, thereby earning the economies of scale. The introduction of “Floor Price” at this stage may hamper the quality of growth in industry.

17. The complexity of deciding “Floor Price” has been discussed under para 2.16- 2.19. The least submission in this regard is that any model used for deriving “Floor Price” will result in undue gains for some TSPs and Losses for others resulting in unnecessary litigations. The ultimate burden for which shall be borne directly/indirectly , by consumer and taxpayers.

ISSUE-WISE COMMENTS

Q1. Do you foresee any requirement of regulatory intervention at this stage in tariff fixation to protect the interest of telecom service providers as well as the consumers? Please support your comments with justification.

Q2. Do you foresee any need for change in TRAI policy of forbearance in tariffs? Please give reasons for your response.

Response: No. As Indian market is approaching consolidation and each operator having significant traffic volume share, should be left to innovate to increase the volumes. Hence regulatory intervention at this stage favoring TSPs, may not just breach the interests of subscribers, but will also adversely impact the quality of the growth of the industry, be it organic or inorganic.

Q3. If the answer to Q1 is in affirmative, is fixing a floor price, i.e. a standing prohibition on TSPs not to offer services below a predetermined price level, the answer? Please give detailed reasons for your response.

Q4. Do you perceive a need to fix floor price despite the fact that the TSPs have increased their tariff recently? Please support your response with detailed justification.

Response: We submit our strict reservations regarding concept of fixation of Floor pricing for tariffs for it being anti-consumer, anti-competitive and discriminatory. The concept seems have been coined by private TSPs for easy gains at the cost of the subscribers.

It has been learnt from reliable media reports that due to the aforementioned tariff increase there have been adverse ramifications on consumer spending pattern, which has manifested specifically in the following:

- Decrease in the value of recharges; and
- Decrease in the number of recharges (or retaining number)

The hike in charges levied by private TSPs has anyway benefited their bottom line, and any further hikes in terms of “Floor Tariff” will dampen consumer demand further and put services in an unaffordable range for the poorer strata of consumers.

Further reasons may be referred to under the heading of “Preliminary Submissions” mentioned above.

Q5(a). What methodology should be used to fix floor price by the Authority and why? Please give detailed methodology with calculations and supporting justification.

Q5(b). If a floor price is considered, what should be the mark up over the relevant costs for arriving at a floor price?

Q6: Considering that cost of delivery of telecom services is likely to be different for different TSPs, what parameters should be considered to decide floor price and why?

Response: The costs of data services under various technologies (2G/3G/4G) being different, implementation of uniform floor price may not just be impractical to implement, but also discriminatory and prejudicial to the business interests of 2G/3G services.

The complexity of deciding “Floor Price” has been discussed under para 2.16-2.19. At the very least any model used for deriving “Floor Price” will result in undue gains for some TSPs and Losses for others resulting in unnecessary litigations.

Further reasons may be referred to under the heading of “Preliminary Submissions” mentioned above.

Q7. Is there a need to fix floor price for mobile data service? If yes, can such floor price be applied uniformly to different categories of subscribers such as retail consumer, corporate, tendered or otherwise contracts, segmented and any other including one on one? If it cannot be applied uniformly, will it not result in discrimination between various categories of subscribers? Please give your answer with detailed reasons and justification.

Response: “Floor Pricing” is the mandatory minimum price imposed on a customer for availing the basic unit of service and in multiples thereof according to consumption. Further, the same is assumed to be “Uniform” across all the tariff plans of any particular TSP, and also among all TSPs. Hence, the concept rests on the assumption of “Uniformity” across plans and operators.

In contrast to the foregoing assumption, the PMR reports across the operators are clearly devoid of any “Uniformity” in QoS values among the TSPs. The QoS in the present reference may include any parameter related to mobile data services, including the “Minimum Download Speed”, which is evidently “Non-Uniform” across plans and TSPs for which multiple reasons are cited by TSPs including the reasons beyond their control and also the reasons at the customer end. The latest TRAI chief statements in public media regarding non-meeting of QoS benchmarks by TSPs may also be considered.

Therefore prescribing “Uniform Price” for “Non-Uniform” services (unless the uniformly guaranteed level of services is ensured) is not only illogical unreasonable and discriminatory, but also un-justified from any dimension.

Q8. What should be the basis and methodology for floor tariff fixation for mobile data service? Give detailed justification and calculations for your response.

Q9. What should be the representative cost for fixing a floor price for mobile data service? Give detailed calculations and justification for your response.

Q10. Should fixation of floor price be considered for voice calls also? Please give your comments with detailed justification.

Q11. If the answer to Q10 is affirmative, given that different technologies are being used to provide voice services (2G, 3G and 4G), what should be the methodology used to arrive at a floor price for voice services? Please give detailed calculations and justification for your response.

Response: Please refer to the comments submitted under the heading of the “Preliminary Submissions” mentioned above.

Q12: Should there be any limit on TSPs to offer free offnet calls? Please explain your response with justification.

Q13. If your answer to Q12 is affirmative, how should unlimited voice calls be defined? Please give your comments with detailed justification.

Response: Free offnet calls are offered by TSPs as a innovative bundle of products designed consciously, taking into consideration the applicable IUC (IUC involving Fixed line is NIL) costs involved therein. The industry should be given a free hand to design more of such innovations based on market opportunities and forces.

Q14. If a floor price is considered, should there be any floor price prescribed for bundled offers, including those having unlimited voice

calls and data? Please give your comments with methodology and detailed justification. The primary concern of any regulator is to safeguard the interest of consumers along with ensuring the orderly growth of the sector. To serve the fulfilment of this purpose, the following questions arise.

Q15. If a floor price is considered, should there be a price ceiling also to safeguard consumer interest? Please give your comments with detailed justification.

Q16. If your answer to Q16 is in affirmative, what should be the methodology used for fixing a price ceiling for mobile data service, voice services and bundled offers. Please give detailed calculations and justification for your response.

Q17. Should all the tariff plans (retail consumer, corporate, tendered or otherwise contracts, segmented and any other including one on one) offered by the TSPs be subject to floor price tariff orders? Please give detailed justifications for your answer.

Q18. How can it be ensured that all the tariff plans of TSPs (retail consumer, corporate, tendered or otherwise contracts, segmented and any other including one on one), comply with the floor tariff orders? Please give you response with detailed justification.

Response: We do not support the concept of fixation of Floor pricing for tariffs (any services, individual or bundled otherwise) for it being anti-consumer, anti-competitive and discriminatory.

For further comments, the heading “Preliminary Submissions” mentioned above may be referred.

Q19. Any other relevant issue that you would like to highlight in relation to the above issues?

Response: The Regulator must consider broader reasons for the present condition of the industry and find reprieve to it. The industry has been overburdened with a plethora of levies and fee(s) imposed on the TSPs. The latest AGR tsunami has worsened the situation for the industry. The industry is required to be treated for its disease than for their symptom. The Regulator, in spite of providing quick gains to TSPs at the cost of customers, should consider recommending suitable relief from such “FEE” burdens. The Regulator, in the present circumstances should recommend the Licensor for reduction/exemption of various fee’s payable by TSPs under license agreement and reviewing the “Definition of AGR”, with retrospective effect, so

as to bring the industry at its own feet and let it live longer in a healthy and competitive manner.

Further, the PSUs should be actively supported to provide a stabilizing force in the market and their upgradation be geared for the long term for benefit of the entire industry, as private players can also leverage the infrastructure and private-public partnerships can emerge.

THE ABOVE SUBMISSIONS ARE WITHOUT PREJUDICE TO OUR LEGAL RIGHTS TO CHALLENGE THE FUTURE TRAI REGULATION IN THE MATTER OR OTHERWISE.

Adv. (Geeta Shankar)

Adv. (Harish Mathur)