# TO BE PUBLISHED IN THE GAZETTE OF INDIA **EXTRAORDINARY PART III SECTION 4** TELECOM REGULATORY AUTHORITY OF INDIA NOTIFICATION

New Delhi, the 6th December 2022

No. C/(2)/2021-FEA-I: 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 (SIXTY NINTH AMENDMENT) ORDER, 2022 (5 of 2022)

# 1. Short title, extent and commencement: -

- This Order may be called the Telecommunication Tariff (Sixty Ninth Amendment) Order, 2022.
- This Order shall come into force from the date of its publication in the Official Gazette.
- 2. In clause 3 of the Telecommunication Tariff Order, 1999 (hereinafter referred to as the "principal tariff order"), for the word and figures "Schedules I to XII", the word and figures "Schedules I to XIII" shall be substituted.

3. After Schedule XII to the principal tariff order, the following schedule shall be inserted, namely:-

Telecom Regulatory Authority of India

नई दिल्ली-110002/New Delhi-110002

# "SCHEDULE XIII (See clause 3)

Tariff for Short Message Services (SMS) and Cell Broadcast alerts/messages disseminated by service providers through Common Alerting Protocol platform

ITEM	TARIFF	
	Per SMS (in Rupees)	Per Cell Broadcast
		(in Rupees)
(1) Alerts or messages sent during non-disaster situations, other than those sent as per directions issued under the Disaster Management Act, 2005 (53 of 2005)	0.02	Nil
(2) Alerts or messages sent prior to notification of disaster or after the expiry of disaster ,as per directions issued under the Disaster Management Act, 2005 (53 of 2005)	Nil	Nil
(3) Alerts or messages sent during a disaster situation, as per directions issued under the Disaster Management Act, 2005 (53 of 2005)	Nil	Nil
(4) Alerts or messages sent during a disaster situation, other than those sent as per directions issued under the Disaster Management Act, 2005 (53 of 2005)	0.02	Nil

(Kaushal Kishore) 6.12.22. Pr. Advisor (F&EA)

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 9th March, 1999, and subsequently amended as given below: -

Amendment No. Notification No. and Date			
1st	301-4/99-TRAI (Econ.) dated 30.03.1999		
2nd	301-4/99-TRAI(Econ.) dated 31.05.1999		
3rd	301-4/99-TRAI(Econ.) dated 31.05.1999		
4th	301-4/99-TRAI(Econ) dated 28.07.1999		
5th	301-4/99-TRAI(Econ) dated 17.09.1999		
6th	301-4/99-TRAI(Econ) dated 30.09.1999		
7th	301-8/2000-TRAI(Econ) dated 30.03.2000		
8th	301-8/2000-TRAI(Econ) dated 31.07.2000		
9th	301-8/2000-TRAI(Econ) dated 28.08.2000		

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10th	306-1/99-TRAI(Econ) dated 09.11.2000		
11th	310-1(5)/TRAI-2000 dated 25.01.2001		
12th	303-1/2000-TRAI(Econ) dated 25.01.2001		
13th	303-4/TRAI-2001 dated 01.05.2001		
14th	306-2/TRAI-2001 dated 24.05.2001		
15th	310-1(5)/TRAI-2000 dated 20.07.2001		
16th	310-5(17)/2001-TRAI(Econ) dated 14.08.2001		
17th	301/2/2002-TRAI(Econ) dated 22.01.2002		
18th	303/3/2002-TRAI(Econ) dated 30.01.2002		
19th	303/3/2002-TRAI(Econ) dated 28.02.2002		
20th	312-7/2001-TRAI(Econ) 14.03.2002		
21st	301-6/2002-TRAI(Econ) dated 13.06.2002		
22nd	312-5/2002-TRAI(Eco) dated 04.07.2002		
23rd	303/8/2002-TRAI(Econ) dated 06.09.2002		
24th	306-2/2003-Econ dated 24.01.2003		
25th	306-2/2003-Econ dated 12.03.2003		
26th	306-2/2003-Econ dated 27.03.2003		
27th	303/6/2003-TRAI(Econ) dated 25.04.2003		
28th	301-51/2003-Econ dated 05.11.2003		
29th	301-56/2003-Econ dated 03.12.2003		
30th	301-4/2004(Econ) dated 16.01.2004		
31st	301-2/2004-Eco dated 07.07.2004		
32nd	301-37/2004-Eco dated 07.10.2004		
33rd	301-31/2004-Eco dated 08.12.2004		
34th	310-3(1)/2003-Eco dated 11.03.2005		
35th	310-3(1)/2003-Eco dated 31.03.2005		
36th	312-7/2003-Eco dated 21.04.2005		
37th	312-7/2003-Eco dated 02.05.2005		
38th	312-7/2003-Eco dated 02.06.2005		
39th	310-3(1)/2003-Eco dated 08.09.2005		
40th	310-3(1)/2003-Eco dated 16.09.2005		
41st	310-3(1)/2003-Eco dated 29.11.2005		
42nd	301-34/2005-Eco dated 07.03.2006		
43rd	301-2/2006-Eco dated 21.03.2006		
44th	301-34/2006-Eco dated 24.01.2007		
45th	301-18/2007-Eco dated 05.06.2007		
46th	301-36/2007-Eco dated 24.01.2008		
47th	301-14/2008-Eco dated 17.03.2008		
48th	301-31/2007-Eco dated 01.09.2008		
49th	301-25/2009-ER dated 20.11.2009		

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50th	301-24/2012-ER dated 19.04.2012		
51st	301-26/2011-ER dated 20.04.2012		
52nd	301-41/2012-F&EA dated 19.09.2012		
53rd	301-39/2012-F&EA dated 01.10.2012		
54th	301-59/2012-F&EA dated 05.11.2012		
55th	301-10/2012-F&EA dated 17.06.2013		
56th	301-26/2012-ER dated 26.11.2013		
57th	312-2/2013-F&EA dated 14.07.2014		
58th	312-2/2013-F&EA dated 01.08.2014		
59th	310-5(2)/2013-F&EA dated 21.11.2014		
60th	301-16/2014-F&EA dated 09.04.2015		
61st	301-30/2016-F&EA dated 22.11.2016		
62nd	301-30/2016-F&EA dated 27.12.2016		
63rd	312-1/2017-F&EA dated 16.02.2018		
64th	301-20/2018-F&EA dated 24.09.2018		
65th	301-03/2020-F&EA dated 03.06.2020		
66th	C-3/7/(5)/2021-FEA-1 dated 27.01.2022		
67th	C-3/7/(5)/2021-FEA-1 dated 31.03.2022		
68th	C/(5)/2021-FEA-II dated 07.04.2022		

Note 2. – The Explanatory Memorandum explains the objects and reasons for the Telecommunication Tariff (Sixty Ninth Amendment) Order, 2022.

# **EXPLANATORY MEMORANDUM**

#### 1. Introduction

1.1. Section 11(2) of TRAI Act, 1997 provides that:

"Notwithstanding anything contained in the Indian Telegraph Act, 1885 (13 of 1885), the Authority may, from time to time, by order, notify in the Official Gazette the rates at which the telecommunication services within India and outside India shall be provided under this Act including the rates at which messages shall be transmitted to any country outside India:

Provided that the Authority may notify different rates for different persons or class of persons for similar telecommunication services and where different rates are fixed as aforesaid the Authority shall record the reasons therefor".

## 2. Background

2.1 Department of Telecom (DoT), vide its letter dated 25th March 2021 requested TRAI to provide tariffs for Short Messaging Service (SMS) and Cell Broadcast alerts/ messages to be disseminated by Telecom Service Providers (TSPs) through Common Alerting Protocol (CAP) platform during disasters/ non-disasters, for dissemination of geo-intelligent alert messages

प्रधान सलाहकार/Principal Advisor 6.12:22 भारतीय दूरसंचार विनियामक प्राधिकरण Telecom Regulatory Authority of India नई दिल्ली–110002/New Delhi-110002 through telecom network for pan-India implementation. The letter, *inter alia*, stated that:

"The National Digital Communication Policy (NDCP)-2018 of Government of India envisages, inter-alia, the following strategy under para 3.4 of its 'Secure India' mission:

- i. Developing a comprehensive plan for network preparedness, disaster response relief, restoration and reconstruction;
- ii. Establishing institutional framework to promote monitoring of activities, rapid dissemination of early warning disaster notifications and better coordination and collaboration between relevant Ministries/Departments, including the National Disaster Management Authority of India.

Based on the request of National Disaster Management Authority (NDMA), the Centre for Development of Telematics (C-DoT) developed a CAP based pilot platform for dissemination of geo-intelligent alert messages (through telecom network) for State of Tamil Nadu at a cost of Rs 14.99 Crs. The pilot project is at advanced stage of completion. The capabilities of this platform were demonstrated during pandemic/natural disasters of Covid-19 and Cyclones in recent times".

The aforesaid DoT letter, inter-alia, further stated that ".....Platform is not meant to disseminate political/commercial messages.....".

- 2.2 As per Standard Operating Procedure -2020 (SOP) of Department of Telecom for responding to disasters and as per deliberations held with stakeholders during consultation process following four possible categories of alerts/messages may be sent through CAP:
- (i) Alerts/ messages sent during non-disaster situation which may be on chargeable basis.
- (ii) Alerts/ messages sent as per DM Act, 2005 prior to notification of disaster which may be on chargeable basis.
- (iii) Alerts/ messages sent during disaster situation as per DM Act, 2005 and extant SOP which will be free; and
- (iv) Alerts/messages sent during a disaster situation, other than those sent as per Disaster Management Act 2005.

# 3. Consultation Process

3.1 As part of its consultation process, TRAI issued a Consultation Paper(CP) on "Tariff issues related to SMS and Cell Broadcast alerts disseminated through Common Alerting Protocol (CAP) platform during disasters/non-disasters" on 03.11.2021. The purpose of this CP was to elicit stakeholders' views on the tariffs for SMS/ Cell Broadcast disseminated by

प्रधान सलाहकार / Principal Advisor 6 · 12 · 22 भारतीय दूरसंचार विनियामक प्राधिकरण Telecom Regulatory Authority of India नई दिल्ली—110002 / New Delhi-110002 TSPs through CAP platform during disasters/ non-disasters, and to understand the technical aspects that might have an impact on the costing of the service.

- 3.2 Accordingly, views of stakeholders were sought on
- (i) Technical options available with the TSPs for mass message dissemination during disasters and non-disasters;
- (ii) Preferred mode of mass message dissemination viz., SMS or Cell Broadcast Service (CBS);
- (iii) Success rate of message delivery and challenges of SMS and CBS
- (iv) Need for an elaborate tariff fixation exercise for CAP messages, methodology of tariff fixation, and charges for SMS and CBS.
- 3.3 Comments and counter-comments on the issues raised in the CP were sought by 01.12.2021 and 15.12.2021 respectively. A total of 08 comments and 02 counter-comments were received from individuals, Consumer Advocacy Groups (CAGs), associations, organizations and TSPs. These were duly uploaded on TRAI's website.
- 3.4 An Open House Discussion (OHD) on the issues raised in the CP, through video conference mode was held on 19.01.2022, wherein about 80 stakeholders participated and presented their views. Thereafter, stakeholders were given an opportunity to give their supplementary comments, if any, with supporting documents. Supplementary comments were received from two organizations, namely NDMA and C-DoT.

## 4. Views of stakeholders

4.1 Gist of the responses received from TSPs:

#### A. Bharti Airtel Limited:

- The success rate of SMS dissemination through CAP is similar to normal SMS delivery, which is better compared to delivery through CBS and is not dependent on user equipment compatibility.
- SMS is compatible on all handsets whereas CBS may require manual configuration on handsets. Cell Broadcast has many disadvantages and hence, SMS Broadcast is a superior, smarter, and effective option.
- The cost of provisioning of SMS alerts/ messages should be compensated for. It is not an economically prudent and viable option to expand the scope of free-of- cost SMSs/ alert messages. Reimbursement per message of Rs 0.02 should be allowed during the period of disaster. However, if the Government feels it should be free of cost which is the current practice, it may choose to continue to do so. For all other categories of messages, reimbursement should be at the rate of Rs 0.07 per message.

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#### B. BSNL:

- As SMS and CBS are complementary to each other, combination of suitable methods can be adopted depending on type of network, location, availability of time etc.
- For CBS dissemination, CB channel has to be kept always 'on' in mobile handset and consumer would need to be made aware of this aspect.
- SMS dissemination services should not be provided free of cost because the resources used for connectivity to CAP and other deployments by TSPs will not be available for commercial use; hence there should be proper compensation.
- BSNL does not have sufficient data to calculate cost-based tariff for CBS message. Price should be fixed at Rs. 0.05 for SMS. For CBS, charges for alert messages may not be calculated on the basis of subscriber base and on the basis of network elements such as number of cells, etc.

#### C. RJIL

- SMS is the preferred mode of disseminating messages during disasters/ non- disasters as it is more customer friendly and it provides a clear advantage in the diverse device spread in the country, specially in remote and rural areas.
- Disagreed on making all messages using CAP based platform free; requested the Authority to protect the legitimate revenue of the TSPs and prescribe a fair tariff for these SMS; a reasonable tariff for SMS sent through CAP platform will not only compensate the TSPs for the specialized resources utilized but will also act as a deterrent for overuse or frivolous use of the facilities.
- No extensive costing exercise is required; market forces are already in play in costing of bulk messages, and the Authority can adopt the market discovered tariffs with minor adjustments, if required. The CAP platform developed and operated by TSPs, can also be used by the TSPs for their own commercial use for offering similar services to non-government entities.
- Charge of 10p / SMS may be prescribed by the Authority for all the non-disaster messages through CAP platform, while SMSs during disasters situations can continue to be free.

# D. M/s VIL:

- SMS is well understood by end consumers whereas cell-based broadcast does not add any significant value to the alert systems for disaster management, besides posing other technical challenges including handset dependence. Hence, SMS broadcast is the preferred mode of alert dissemination during disaster or even for non-disaster related alerts.
- There is already a service SMS charge defined by the Authority through the Telecom Commercial Communication Customer Preference Regulation (TCCCPR), 2018 i.e., Rs 0.05 per SMS + Rs 0.02 SMS termination charge, which should be used for fixing the tariff for non-disaster SMS through CAP platforms. Further, during disaster there is significant cost escalation in running the network

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4.2 Gist of responses received from Associations:

#### A. COAI:

- The performance of SMS is much better on many parameters like delivery time, reliability, suitability to cover smaller geographic areas etc., making it an obvious choice of disseminating messages to selective geographies. Under CBS, delivery of communication is device dependent.
- There is a cost involved which needs to be recovered. This will enable TSPs to provide efficient and better service during various disasters. Thus, it will be economically prudent and viable that tariff should be chargeable at all times (disaster/ non-disaster). In order to ensure recovery of costs, the SMS charges (through CAP) should be at least 2 paise for disaster- and 7 paise per non-disaster-SMS.
- To enable CBS, there are various key dependencies, which if not met, severely impact delivery. These include: dependency on Government side, dependency on CBS, dependency on 2G/ 3G/ 4G network, dependency on security aspects/ IP networking, dependency on handsets/ devices etc.
- 4.3 Gist of comments received from CAGs:

### A. Consumer Protection Association

- Despite disadvantages, CBS is the most implemented technology in delivering Public Warning System (PWS) messages. An Integrated Public Alert and Warning System (IPAWS) should be put in place, modernizing and integrating the nation's alerting and warning infrastructure.
- A mobile phone text alert system is not the complete answer to the problem of disseminating emergency messages quickly during a crisis. The customer may miss an alert entirely, depending on contextual factors.
- TSPs should broadcast messages at regular intervals, to all the subscribers in the affected areas through SMS/ Cell Broadcast, free of charge before, during, and after disaster period as a part of corporate social responsibility.
- 4.4 Gist of comments received from Companies/Organizations/Firms:

#### A. Everbridge:

- Hybrid Mass Message dissemination engines/ PWS should be considered as these also benefit from automated interfaces with other public warning and information channels to ensure the broadest coverage, accessibility, and reach.
- All phones connected to telecom networks support SMS and the user does
  not need to configure anything on the device as the cell broadcast client for
  government alerts is embedded/ available on all Android, iPhone and Windows
  phones in most of the CB based countries/ markets. However, depending on how
  each device is pre-configured for a specific country/ market, a user might need to
  turn on the alerting function/ configure the same to receive alerts.

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- Setting up a tariff per message may be difficult and could easily end up to be far too low or far too high to cover the costs of deploying a Public Warning System. Also, keeping CAP messages free of cost would be a direct transfer of burden on TSP's as they have to incur costs for infrastructure, maintenance and support delivery of CAP messages; hence not advisable.
- In order to compare the costs and effectiveness of PWS, it is advisable to have similar/ same cost for CB/ SMS technology used for PWS.
- Due to the unpredictability of the number of alerts and the number of citizens going to be reached, an option could be to charge per SMS sent/ population in the targeted (for CB) area basis and bear the costs of deploying a warning system and keeping it operational.

# 4.5 Open House Discussion

- An Open House Discussion (OHD) was held on 19.01.2022 through videoconference mode, wherein about 80 attendees participated. TRAI received two comments post-OHD from NDMA and C-DoT.
- According to NDMA, there should be exemption of tariff for SMS and Cell Broadcast based alerts disseminated through CAP platform for events/ calamities related to cyclone, drought, earthquake, fire (including forest fires), floods, tsunami, hailstorm, landslide, avalanche, cloudburst, pest attack and frost/ cold wave. In extraordinary circumstances, Government may declare an event other than those listed above as 'National Disaster' thereby invoking exemption of tariff. SMS and Cell Broadcast are complementary to each other. In order to mitigate the loss of life and property, it is appropriate to incorporate Cell Broadcast in the CAP-based Early Warning Platform.
- C-DoT mainly highlighted the SMS and Cell Broadcast dissemination duration as observed during the pilot project for the State of Tamil Nadu and based on recent dissemination through the pan-India CAP project. It has been stated that Cell Broadcast (CB) based dissemination is the need of the hour where lead-time to disasters is less. SMS dissemination may not reach the public in critical situations where the lead-time available for disasters is less such as for gas leakage incidents, tsunami, lightning, etc. The fact that CB based dissemination is a newer technology should not be perceived as a deterrent for its implementation in India.

# 5. Analysis and Decision

## (I) Technical Aspects:

- It is noted that two stakeholders have raised the issue of Cell Broadcast resulting in corruption on the SIMs; however, evidence or supporting details have not been provided. Further, C-DoT has stated that the Cell Broadcast Service, as defined by 3GPP specifications, is technically feasible and compatible with SIM technology. C-DoT has further mentioned that corruption of SIM cards seems to be a misconception as such a critical defect would not have allowed the use of cell broadcast internationally.
- Among the technical options available for CAP system, SMS and CBS based dissemination are complementary to each other. Therefore, Authority is of the

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# (II) Rate and related conditions:

- In case of message/alert dissemination through CAP platform, CAP platform will act as Originating Access Provider as it will directly connect to each TSP that will act as Terminating Access Provider. The Authority has carefully considered whether an elaborate costing exercise needs to be carried out before arriving at decisions related to the charging arrangements for SMS and Cell Broadcast alerts/ messages are arrived at.
- With respect to SMS alerts/ messages, the Authority notes that termination charges for SMS are provided for in other Regulations issued by the Authority.
   According to Chapter II of the Short Message Services (SMS) Termination Charges Regulations, 2013 –

"Termination charges for Short Message Services (SMS):-

Every Originating Access Provider shall pay to the Terminating Access Provider a termination charge of Re. 0.02 (paise two only) for each Short Message Service (SMS) terminated by it on the network of Terminating Access Provider."

These termination charges can be readily utilized as a proxy for the cost of terminating SMS alerts/ messages by a TSP, instead of embarking upon an elaborate costing exercise. Indeed, these rates have wide applicability even today, and as can be gathered from the responses of stakeholders, these charges have market acceptance.

- As per para 6.2(xii) of SOP-2020 of DoT for responding to disasters it is mentioned that "TSPs shall broadcast messages at regular intervals, in consultation with STDCC/NTDCC, to all the subscribers in the affected areas through SMSs / Cell broadcast free of cost during disaster period based upon instructions of Nodal authorities as per DM act 2005 i.e. National Executive Committee(NEC)/National Crisis Management Committee(NCMC)/State Executive Committee(SEC). This shall provide details about:
  - a) Details of TSPs helpline numbers.

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b) Details about rescue and relief activities of state government such as tentative schedule of food / water distribution / nearest shelter/ shelter camp etc. as per need of State agencies."

Further, DoT letter dt 25.3.2021 also mentioned that as per above SOP, DoT allows SMS/Cell Broadcast free of cost for definite period and for events where specific request for free of cost messages comes from NEC/NCMC/SEC/Nodal Authorities.

• As per para 29.6 of License Agreement for Unified License it is mentioned that "Disaster/Emergency/Public Utility Services:

The Licensee shall follow the guidelines /directions/ standard operating procedures as may be prescribed for the disaster management/emergency response services or any other instruction issued by Licensor in this regard from time to time."

- Saving life and mitigation of the damaging aftereffects of disaster is a matter of paramount importance. Therefore, swiftness of response of all concerned becomes absolutely critical in the lead up to, during and after expiry of the disaster. Accordingly depending on the exigency of the situation messages/ alerts may have to be issued under the direction of the Disaster Management Act, 2005. The social costs of inadequate or delayed response to disasters is extremely high. Considering the significance of alerts/messages sent prior to and after expiry of the disaster, Authority is of the view that no charges shall be levied for SMS sent prior to and after expiry of disaster as per direction issued under DM Act, 2005 in congruence with practice of sending free SMS/Cell Broadcast as per SOP-2020 of DoT.
- In case of Cell Broadcast alerts/ messages, the Authority notes that this alternative presents an effective and speedy answer to the problem of quick transmission of different kinds of alerts/ messages. No clear evidence has been presented by stakeholders regarding the investments required to be made for enabling CBS, and it is the view of the Authority that the costs that may be involved in setting up and running CBS are not material when compared to the advantages offered by the system in ensuring a quick and easy dissemination of alerts/ messages. Further, the Authority is also conscious of the complexity of arriving at a reasonable basis for charging of CBS services, given the technical features of the system. A complex charging mechanism for CBS would be sub- optimal and inefficient to the context for its use and criticality.
- In light of the above, the Authority is of the view that a case is made out for charges to be levied/ paid by authorities/ agencies for sending SMS alerts/ messages in two situations, namely, (1) where the alerts/ messages are sent during non-disaster situation, and (2) where the alerts/ messages are unrelated to disaster but are sent during disaster by agencies other than designated nodal agencies under DM Act, 2005. Upon balancing the needs of simplicity, safety, and quick response time on the one hand and the costs involved on the other, no case is made out for levying/ paying charges for SMS alerts/ messages in the other two cases, as well as for Cell

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Broadcast alerts/ messages in all four cases. Accordingly, the Authority has decided the following charges for SMS and Cell Broadcast alerts/ messages disseminated by TSPs through Common Alerting Protocol (CAP) platform during disasters and non-disasters based upon instructions on/from Nodal Authorities as per Disaster Management Act, 2005/ other agencies. The following tariff table is being inserted as schedule-XIII under clause 3 of Telecommunication Tariff Order, 1999 in pursuance of the decision of the Authority:

ITEM	TARIFF	
	Per SMS (in Rupees)	Per Cell Broadcast (in Rupees)
(1) Alerts or messages sent during non- disaster situations, other than those sent as per directions issued under the Disaster Management Act, 2005 (53 of 2005)	0.02	Nil
(2) Alerts or messages sent prior to notification of disaster or after the expiry of disaster as per directions issued under the Disaster Management Act, 2005 (53 of 2005),	Nil	Nil
(3) Alerts or messages sent during a disaster situation, as per directions issued under the Disaster Management Act, 2005 (53 of 2005)	Nil	Nil
(4) Alerts or messages sent during a disaster situation, other than those sent as per directions issued under the Disaster Management Act, 2005 (53 of 2005)	0.02	Nil

- The above tariffs shall be chargeable by terminating TSPs from the originator of SMS alerts or messages.
- The Authority shall review the tariffs after a period of two years, keeping in view the experience gained in the running of the CAP platform during this period.

(Kaushal Kishore)

Pr. Advisor (F&EA)

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