

Aircel/TRAI/Corr/2017/051
April 07, 2017

Shri Kaushal Kishore
Advisor (F&EA-II)
Telecom Regulatory Authority of India
MTNL Telephone Exchange Building
Jawahar Lal Nehru Marg (Old Minto Road)
New Delhi – 110 002

Sub: Aircel Comments to Consultation Paper on Regulatory Principles of Tariff Assessment

Dear Sir,

This is with reference to Consultation Paper on Regulatory Principles of Tariff Assessment dated 17.02.2017.

In this regard, we hereby enclose our comments to the above mentioned consultation paper. The comments have also been sent through e-mail at advfea1@trai.gov.in.

We hope TRAI will take our comments into consideration before concluding its approach on the issues listed in consultation paper.

Thanking You,

Yours Sincerely

For Aircel Group



Hemant Coomar
Assistant Vice President
Head – Regulatory Operations

Encl: As stated above

Aircel Limited

Corporate Office : 5th Floor, Building No. 10- A & B, DLF Cyber City, Gurgaon-122 002 (Haryana),
Ph. : +91-124-7945100, 4765400, Fax : +91-124-2350313

Registered Office : Opus Center, 47, Central Road, Opposite Tunga Paradise, MIDC, Andheri East, Mumbai City, Maharashtra, India, 400093
Corporate Identity Number: U32201MH1994PLC284030. Tel No : +91 22 79419999, 22 7941 0250, Fax No: +91 22 28303125.

E-mail: corporate.al@aircel.co.in, website: www.aircel.com

Aircel Response to TRAI Consultation Paper on Regulatory Principles of Tariff Assessment

Question 1: Do you think that the measures prescribed currently are adequate to ensure transparency in the tariff offers made by TSPs? If not, then, what additional measures should be prescribed by the TRAI in this regard? Kindly support your response with justification.

Yes, current measures prescribed by TRAI for ensuring transparency in tariffs are adequate. In fact a number of measures which are already in place include

- i. Terms and conditions regarding Tariff plans are printed with advertisements and detailed T&Cs , if applicable are also available on the service providers website which enables the customer to make an informed choice.
- ii. The details of all acquisition plans along with short term packs are also made available on the service provider's mobile applications.
- iii. Direction on publication of Tariff plans issued on 16th Jan 2012.
- iv. Direction on transparency in tariff offers dated 01.09.2008

The above measures were implemented at a stage when new concepts of product marketing were introduced by the TSPs which required customer education for them to understand and make an informed choice. However, as the customer is now far more informed than 6-8 years earlier, we should move away from some of the archaic methods such as publication of tariffs in newspapers once every six months as that is not serving any purpose – on the contrary this is a huge cost for each TSP. Tariffs which are published in newspapers only communicate the tariff at that point in time and don't reflect the dynamic nature of the hyper competitive market, which can be misleading. In-fact in the on-going discussions with the Authority, TSPs are also working on providing these details on their mobile applications in vernacular as well which can further add to customer ease.

Hence, we submit that the existing measures are more than enough as the markets have matured. On the contrary, we request TRAI to amend its Direction on publication of Tariff plans issued on 16th Jan 2012.

Question 2: Whether current definition relating to “non-discrimination” is adequate? If no, then please suggest additional measures/features to ensure “non-discrimination”.

We agree with the TRAI's tariff principles that the tariff should be non-discriminatory. However, current definition of non-discriminatory may need to be clarified wherein it is mentioned that tariff shall not discriminate between subscribers within the same class and such classification shall



not be arbitrary. We feel that there is a huge difference between discrimination and reasonable classification. Moreover, clause 30.1 of the License agreement also mandates

“The LICENSEE shall register demand/request for telephone connection without any discrimination from any applicant, at any place in the licensed service area and provide the SERVICE, unless otherwise directed by the LICENSOR”

The TSP is liable to register customer request on a non-discriminatory basis, however, it must be appreciated that there are complex business analytics which are very dynamic in nature which go into making different customized offers basis subscriber's usage – accordingly, these are changing very quickly as usage patterns change, giving the customer the extra benefit and reward for his stickiness on the network.

TSPs are providing different kinds of tariffs in terms of segmentation which is being done after analysis of usage in order to incentivize usage so that subscribers may start using their network in the hyper competitive market. Accordingly, offers are varying to different subscribers. To expect all the offers along with the eligibility criteria to be transparently displayed to all is not called for as different subscribers get different offers basis their usage and these are transparently communicated to them. Moreover, such publication of all such offers on the website will only lead to confusing the subscriber as he / she will not be able to choose what is best suited to his / her type of usage. While it is important that transparency be maintained for the subscriber we believe that this need not be mentioned publicly to all since it is not in competitive interest to publish this on a website.

Question 3: Which tariff offers should qualify as promotional offers? What should be the features of a promotional offer? Is there a need to restrict the number of promotional offers that can be launched by a TSP, in a calendar year, one after another and/or concurrently?

Promotions are carried out by TSPs with very clear objective of acquisitions for newly launched services to help gain customer market share or to offer benefits to the existing customers to drive usage and grow the revenues. These objectives vary depending upon different strategies that TSPs may wish to pursue at different stages of their life-cycle. Accordingly, promotions could be in the form of rental / tariff discounts or giving gratification to the consumers for loyalty through increased usage (through free mins, data usage, etc or other non-telecom related gratification through cross promotions or otherwise) or by offering additional benefits on the existing high uptake products like Top Up vouchers / data STVs etc. Considering these varying needs, it is felt that there should not be any regulatory restrictions either in terms of number of promotions in a calendar year or running the same one after another or concurrently as that will tantamount to micro regulation which will interfere with free market dynamics and thereby limit the TSP's capability to respond to market situations. This cannot also be regulated in a hyper



competitive market the type of which we have in India. Ultimately, it cannot be denied that these promotional offers are for the benefit of the consumers.

However, while allowing the freedom to TSPs to run promotional offers, certain principles like transparency, non-predatory pricing need to be ensured to see that consumer interest as well as the TSPs are adequately protected.

Further, we would like to add that TSPs should be allowed flexibility to curtail or extend the promotional offers they have announced for their subscribers depending upon the success or failure of the promotion as it is extremely difficult to predict the same especially over a shorter period. As per TRAI's own observation, the promotions are run for a maximum period of 90 days but the benefits of a promotional offer may or may not be limited to 90 days window, We believe an ideal situation would be to allow promotional offers to run for a period of maximum 6 months (without any restriction in terms of number of days on the benefits that are derived out of such offers as it exists today as well) after which it would assume the nature of a regular tariff offering as TRAI has also put in place a minimum tariff protection rule for a period of six months. This will be similar to allowing of longer validity data STVs which has been allowed by TRAI through its recent amendment.

Question 4: What should be the different relevant markets – relevant product market & relevant geographic market – in telecom services? Please support your answer with justification.

We feel both relevant product market as well as relevant geographic market should be analysed to ascertain anti-competitive behavior in a market by any TSP. For the purposes of relevant product market, we feel that two different categories of wireless and wireline should be seen whereas for the relevant geographic market the competition in a circle (LSA) should be seen. However, both these could be widened when analyzing anti-competitive behavior especially since its impact could be over both types of products ie wireline and wireless considering these are essentially voice and data services as well as going beyond circle boundaries as it could have pan-India impact – therefore limiting any analysis to strictly these confines of wireless / wireline or circle boundaries may not help when analyzing anti-competitive behavior especially if it is happening at a pan-India level.

Question 5: How to define dominance in these relevant markets? Please suggest the criteria for determination of dominance.

Market dominance should be studied not just by looking at a company's position in telecom space as it is not truly reflective of the strength a company may have – sometimes, new entrant could have huge dominance outside the telecom sector or over different sectors in the economy of the country and hence market dominance will have to be seen in that context as well. Such new entrants can behave like a dominant player does and resort to anti-competitive behavior to take on existing players in the market by the sheer financial strength they have through deep

discounted offers – as has been seen in recent times, this has upset the entire dynamics of the market thereby threatening the existence of other players.

Question 6: How to assess Significant Market Power (SMP) in each relevant market? What are the relevant factors which should be taken into consideration?

As per the significant market power (SMP) definition covering various services wherein the subscriber base, turnover, switching capacity and traffic volume should be seen. In consonance with the M&A guidelines, 25% share of the total spectrum held in the circle, 50% spectrum assigned in a given band and 50% market share basis subscriber base and AGR should tantamount to qualification of an SMP. Therefore SMP should be seen holistically to cover both M&A guidelines as well as SMP definition.

Question 7: What methods/processes should be applied by the Regulator to assess predatory pricing by a service provider in the relevant market?

Basis the relevant market, the TRAI should assess whether or not a TSP is applying predatory pricing basis the cost data which is collected by TRAI through the Accounting Separation. Provision of below cost services cannot be allowed for long periods as that is a non-sustainable proposition and only kills competition which is not healthy for the sector as a whole. While carrying out an analysis for predatory pricing, TRAI must also see whether or not there has been a cross subsidy through an external source (other industry sector).

TRAI must also assess predatory pricing not just basis cost data submitted by the concerned TSP but this should be benchmarked against the industry so that a well-balanced average can be determined considering the costs of all players in the market.

Question 8: Any other issue relevant to the subject discussed in the Consultation Paper may be highlighted.

We feel there are no additional issues to be discussed in this Consultation process.

