



Representing the ecosystem of Internet -Bharat Model

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**Sub: CCAOI's comments on the TRAI Consultation Paper on Consultation Paper on
Tariff Issues of Telecom Services**

Dear Sir,

At the outset, we wish to thank TRAI for giving us the opportunity to submit our comments on the consultation paper, on issues pertaining to the tariff's of telecom services.

As an organisation, CCAOI, represents the different stakeholders of the internet ecosystem in India – internet service providers, content providers, intermediaries, including cyber cafes, and consumers, aims to promote internet to the common masses in India by voicing the challenges of entrepreneurs and grievances of consumers on their behalf.

Please find enclosed a copy of our comments in response to the questions raised in the consultation paper, where responses have been sought.

Thanking you and looking forward for favorable consideration of suggestions in the interest of growth of internet in the country.

Yours very truly,
for CCAOI

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CCAOI comments on TRAI consultaion paper on Tariff issues of Telecom Services

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.

CCAOI Response:

We do not believe that tariff fixation is in the best interests of either telecom service providers or consumers, in the long run, for the following reasons mentioned below.

Except for ceiling tariffs for national roaming, fixed rural telephony, international private leased circuits, domestic leased circuits and mobile number portability charges, tariffs for all other telecommunication service are currently under forbearance. Given this, telecom service providers (TSPs) have the ability to shape tariffs based on free market forces alone, where such forces are determined by the ebb and flow of consumer demand, preferences and supply of services. As a consequence, TSPs have been able to develop innovative products in keeping with consumer demand, while ensuring the price point is one that meets their needs and well as the consumers. TRAI, itself, has noted, that the policy of forbearance has resulted in “emergence of new and innovative products in the market that are designed to provide telecom services at affordable and competitive price to the consumers”¹

Both forms of price fixation, price ceiling and price flooring, while imbued with short-term benefits for TSPs and consumers, respectively, may be detrimental to the interests of both groups in the long-term.

Price flooring, while on the face of it is helpful to TSPs, may deter newer entrants from participating in the TSP market, thereby reducing competition, and dampening the drive for innovation, better quality of services, and reducing consumer choice.

As regards consumers, their rights are best served through free and fair competition. Price ceiling, on the other hand, while beneficial to consumers in the short-run, by providing broader access to more persons, it will ultimately cripple competition, and compromise quality of service.

Introduction of price regulation will limit TSPs’ flexibility to provide customised consumer plans, tailored for different segments, which enables them to even out costs while maximising quality of services and expand the reach of their networks.

¹ The Telecommunication Tariff (Sixty Third Amendment) Order, 2018, Available at: https://main.trai.gov.in/sites/default/files/TTO_Amendment_Eng_16022018.pdf

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

CCAOI Response:

No, we do see the need for a change in TRAI's policy of forbearance, for the following, amongst other reasons:

- (i) Forbearance does not mean lack of regulation, but rather lack of state intervention only where the market forces are sufficient to protect suppliers and consumers alike;
- (ii) TSPs have benefitted from such lack of unwarranted regulatory intervention, by being able to expand their networks in the absence of price regulation;
- (iii) Consumers have benefitted through lower per-unit costs to them, as a result of TSPs ability to service larger networks;
- (iv) Price fixation defeats competition, and generates inferior products and services and creates the risk of a monopolistic industry;
- (v) Price regulation (especially price flooring) may ease the cost burden on TSPs in the short run, but will create an anti-competitive pattern that may be difficult to reverse; once the telecom market becomes sedentary, it may be difficult to invigorate TSPs to develop newer, innovative products, or institute effective, and necessary quality control standards, ultimately harming the consumer; and
- (vi) International best practices in this arena have steered clear from price regulation in the telecom sector (e.g. Canada).

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.

CCAOI Response: Not applicable.

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.

CCAOI Response:

As stated above, we do not believe the current scenario calls for the institution of a floor price.

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.

CCAOI Response:

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Floor pricing, as a concept, is intended to ensure that TSPs do not offer their services below a certain price, to ensure their provision of services remains cost-effective. Yet, whether or not such floor price is “cost-effective”, depends on the scope of costs incurred by the TSPs in the first place, which may differ from one to another.

Given the variable criteria at play, there is no methodology that may be applied across the board to all TSPs to identify a floor price that may benefit them collectively. As such, floor pricing is access-prohibitive, anti-competitive and, consequently, not in the consumer’s best interests; an alternative approach to easing the same burden would be through re-evaluation of regulatory costs imposed on TSPs.

Q5(b). If a floor price is considered, what should be the mark up over the relevant costs for arriving at a floor price? Please give detailed calculations and justification for your response.

CCAOI Response:

As indicated above, we are of the view that there is no clear methodology that may be applied across the board to all TSPs to identify a floor price that may benefit TSPs collectively, owing to differential operational costs. Such variable costs make it impossible to determine the appropriate quantum of “mark up” on relevant costs for the purpose of arriving at a floor price.

Aside from this, such an approach would be regressive, as it echoes the monopolistic “cost plus regulation” regime that was once popular. As such, in the absence of concrete and uniform criteria for ascertaining a floor price, the system is ripe for abuse, engendering anti-competitive behaviour that may negatively impact consumers.

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? How can it be ensured that such a floor price fixation exercise does not result in windfall profits to few TSPs? Please give your response with detailed reasoning.

CCAOI Response:

The floor price fixation will undoubtedly result in windfall profits for a few TSPs, given certain TSPs are likely to incur lower service delivery costs than others. As the cost of delivery of a service is unique to each TSP, and turns on the nature of the TSP, the kinds of service being provided, and operational costs associated with the same, bridging this gap, through easing of regulatory constraints / costs, is the only way to reduce the quantum of windfall profits to a few.

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.

CCAOI Response:

No, we do not believe instituting a “floor price” for mobile data services will be beneficial in the long-term. Access to the internet is vital; placing a floor price on avenues for such access would create a hurdle to such access for certain groups of consumers. In fact, introducing a floor price would run contrary to the spirit of many private and public engagements in this space, that seek to drive internet accessibility through provision of free / low-cost services. Regardless of the mode through which mobile data is made available to consumers – on an individual or a corporate basis: introducing a floor price could negatively impact subscription to such services, as a whole, thereby ultimately narrowing access to the internet.

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

CCAOI Response: There is no one-size-fits all methodology, as indicated above.

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

CCAOI Response:

We do not recommend the introduction of a floor price for mobile data services, as indicated above. As also noted above, a practical difficulty in implementing such floor pricing stems from differential costs incurred by different TSPs: in view of the same, setting a “representative” cost is an incredibly difficult task. In any event, the fixation of a representative floor price for such services, and a resultant floor price ought to be avoided as the same will always invoke consumer concerns surrounding access to vital services that will, no doubt, be negatively impacted by such changes.

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

CCAOI Response:

With the introduction and expansion of 4G networks, voice calls, being the less-opted for option do not, in any event, require intervention through floor price fixation. In fact, low tariffs over the last few years have caused an expansion in the availability of such services to even the poorest customers: introducing floor price for such voice calls would only shrink the consumer base, and risk endangering such consumer access.

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.

CCAOI Response: Not applicable.

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

CCAOI Response:

As long as the provision of free calls does not create any other indirect cost for a consumer (e.g. through a resultant increase in the cost of another service), we do not see any trouble with offering consumers free calls. No

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

CCAOI Response: Not applicable

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.

CCAOI Response:

Bundled offers promote wider distribution of services not just through sheer volume, but due to the concessions often built into their framework. The offer of “unlimited voice and data services” is one such concession, and one primarily responsible for increasing a subscription base, and consequently lowering per-unit cost of delivery of services. Instituting a floor price for such bundled offers will

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inflate the cost of such services, negatively impacting subscription rates and halting network expansion, particularly in rural areas. Aside from shrinking the consumer base as a whole, the negative impact of such floor pricing on the access of the poorer consumer, is a particular concern.

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.

CCAOTM Response:

We do not recommend the introduction of a price ceiling. Consumer interests are best served through the existence of competition, which enables (i) consumer choice, and (ii) improves quality of service. Introducing a price ceiling would, ultimately, be anti-consumer, as newer entrants may be deterred by a prohibitive pricing model, thereby reducing consumer choice. Quality of service, which is a product of TSPs having the flexibility to implement cost-effective prices, in addition to the existence of a variety of suppliers in competition with one another, will also suffer with the introduction of price ceiling.

Q16. If your answer to Q15 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.

CCAOTM Response:

As indicated above, we do not recommend price ceiling. We do not, believe there is a one-size fits all model, in a market, composed of diverse stakeholders (private and public) providing a range of telecommunication services (wired, wireless, 2G, 3G and 4G). Such diversity in the consumer base, services, and underlying the operational costs is not attuned to uniform price ceiling. The differential pricing models adopted by each player, turn on their independent costs, balanced by the market forces of demand and supply. Instituting a price ceiling across the board would disrupt this balance, while failing to take into account differential costs incurred by different players in the market.

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.

CCAOI Response:

No. As indicated in our responses above, we do not support the introduction of floor-pricing across any or all tariff plans, as the same is anti-competitive and thereby anti-consumer.

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 your response with detailed justification.

CCAOI Response:

The volume of customer connections, and the complexity brought in by bundled offers, will make the uniform application of such floor tariff orders an extremely difficult task. Ensuring compliance, by extension, will prove to be an equally difficult and expensive process, ironically, adding to TSPs' operational costs. As suggested above, we do not recommend the introduction of floor pricing.

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

CCAOI Response:

Consumers, particularly in the recent past, have experienced great deficiencies in quality of telecom services. Service providers claim high debts have reduced their capacity to effectively provide services across various circles, leaving consumers with, at best, patchy services in many cases. Given this, TRAI should consider an alternative approach to securing consumer rights: through reducing some of the higher operational costs (e.g. spectrum auction costs, for instance) that burden telecom service providers for years on end, causing them to cut corners, and ultimately, to provide an ineffective, and inferior quality of service to their consumers.