COAI's comments to TRAI's draft Telecommunication Tariff (Seventieth Amendment) Order, 2024

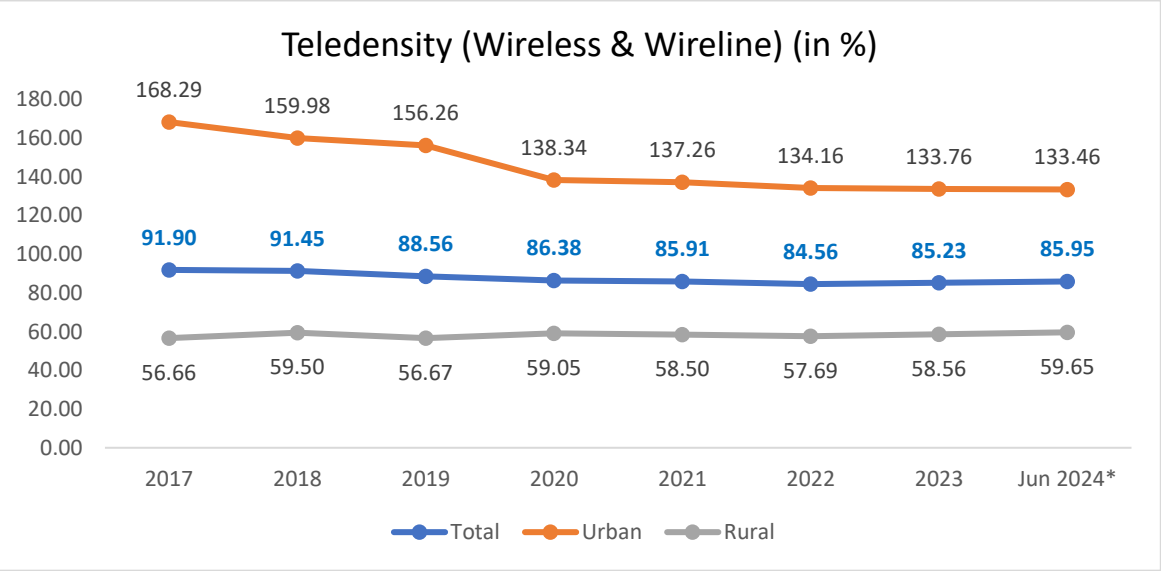
We thank the Authority for providing us with the opportunity to share the comments to the draft Telecommunication Tariff (Seventieth Amendment) Order, 2024.

With regard to the draft TTO (70th Amendment) Order, 2024, we submit as under:

a) At the outset, we submit that the current consultation process does not pass the test of transparency laid down under Section 11 (4) of the TRAI Act, which requires that the Authority shall ensure transparency while exercising its powers and discharging its functions. As per past practices, on any important matter, the Authority has always issued a detailed Consultation paper providing detailed background framework in order to obtain feedback and suggestions to be considered by TRAI. The 'Draft Regulation' is generally issued by the Authority when the issue is already discussed with stakeholders. We are surprised to see the Draft TTO on the tariff aspect of PM-Wani scheme, which has never been discussed with the stakeholders. We understand that before issuing this Draft-TTO, TRAI should have done consultation on desirability of PDO service, in the light of current proliferation of 4G/5G services and availability of data services at cheapest rate in the world. Further, it is also important to highlight that in the normal course, TRAI transparently annexes the reference received from DoT or the communication exchanged with the licensor. However, in this case, only reference to DoT's communication of November 2022 has been made in the explanatory memorandum of the Draft TTO but the communication has not been annexed for the information of stakeholders to give their considered comments. Therefore, we are basing our comments on the extracts provided in the explanatory memorandum.

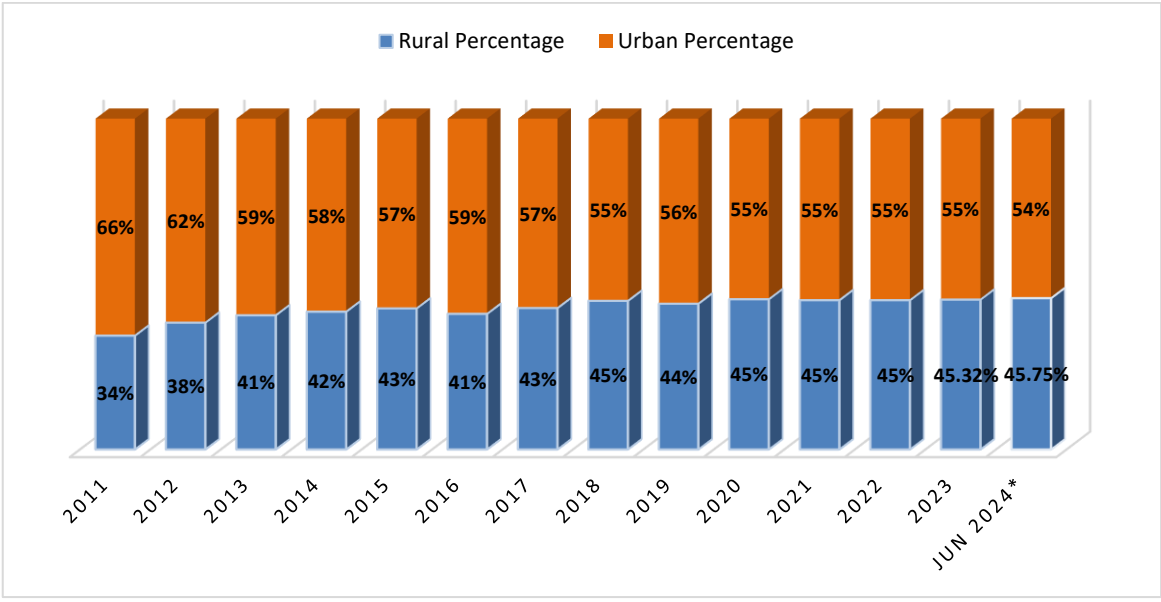
b) The consultation paper does not provide any independent assessment of the issues mentioned by DoT as to what was the bandwidth and number of users envisaged, why low proliferation of public WiFi hotspots and falling usage by customers, could it be on account of other factors eg. preference of TSPs' wireless networks for data usage over public Wi-Fi hotspots thereby steady fall in latter's usage, security concerns associated with public hotspots or if the wireless network was already available at the place of interest.

c) Further, Telecommunication Service Providers (TSPs) have been instrumental in developing the essential digital infrastructure for spread of internet and Broadband throughout India. They have emerged as the cornerstone of the country's digital evolution, working diligently to establish widespread connectivity, even in the most remote regions. TSPs have ensured that the benefits of connectivity are accessible to all. The contribution of TSPs is evident from the significant rise in rural tele-density from 37.48 in 2011 to 59.65 in June 2024.

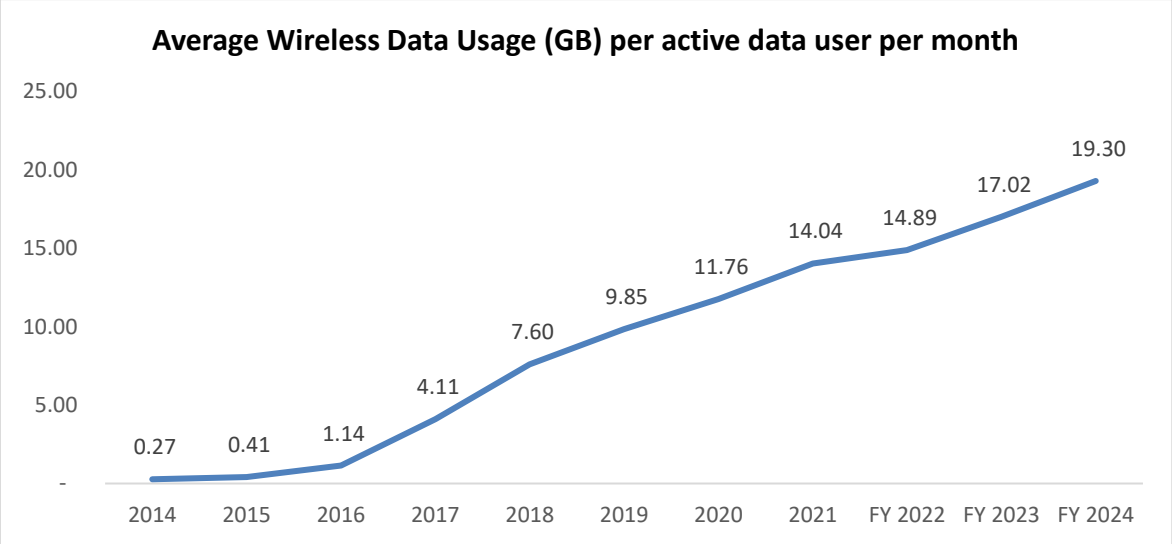


d) Similarly, there has been a dramatic increase in rural internet penetration over the past decade. In 2014, only about 11 out of every 100 people in rural areas had internet access. By March 2024, this figure had more than quadrupled, with roughly 44 out of every 100 rural residents now connected to the internet. This significant growth reflects the expanding digital infrastructure and increasing adoption of internet in the rural areas.

e) The adoption of wireless technology in rural areas has seen remarkable growth over the past decade and a half. In 2011, only 34% of rural subscribers were using wireless services. However, by June 2024, this figure reached over 45% of the rural population. This significant increase reflects broader trends in technological advancement, improved infrastructure, and changing consumer preferences across rural communities.



f) The overall teledensity is close to 85%, and Indian mobile subscriber's average data usage continues to grow at unprecedented pace. As per TRAI reports, the average wireless data usage per active data user per month has increased from 0.27 GB in 2014 to 19.30 GB in FY 2024[1].



g) The hands-off approach employed by TRAI in terms of a policy of forbearance when it comes to telecom tariffs has been fundamental to the growth and development of the sector as well as encouraging healthy competition in the market as well. This has led to a situation where consumers feel no urge to use public WiFi hotspots. Instead, they rather love using Telco mobile data. The deployment of public WiFi hotspots under the PDO model itself are insignificant.[2]

h) Furthermore, we are constrained to highlight that the proposal for consultation is not clear and is ambiguous. The draft tariff order can be interpreted in two ways i.e. the language of the tariff order can also be interpreted that any connectivity provided to PDOs, including internet leased lines, should be offered at tariffs that are at par with tariffs for retail FTTH connections, whereas the intent from explanatory memorandum indicates that the PDOs should be permitted to get access to retail FTTH connections and associated plans. Relevant Para of the explanatory memorandum to the Draft TTO are reproduced below for ready reference:

"6. DOT further added that in the name of commercial agreement, many times TSPs/ ISPs insist on PDOs to connect public Wi-Fi Access Points using expensive Internet Leased Line instead of regular FTTH Broadband connection."

"11. ……The Authority is of the view that such a low data utilization indicates that PDOs requirement may be fulfilled by retail broadband connection and they may not require an Internet Leased Line (ILL) connection."

"12……..The Authority is of the view that PDOs, specifically the small scale PDOs viz. small establishment, local shops/ retailers, chaiwalas, kiranawalas,

[1] TRAI's Indian Telecom Services Yearly Performance Indicators Reports.
[2] Total WiFi hotspots under PM-Wani scheme as on 06.09.2024 is 2,46,693. Source: https://pmwani.gov.in/wani

storekeepers etc., generally having low revenue potential, neither need an ILL connection nor they can afford high backhaul rates which are applicable for large commercial entities. This elevated cost of broadband connectivity may act as an impediment for PDOs, subsequently impacting the proliferation of PM-WANI."

On the other hand, para 14 of the explanatory memorandum indicates that the intent is to fix the tariff as per FTTH, irrespective of the connectivity being provided.

"14. In view of the above, the Authority proposes that for the purpose of providing PM-WANI scheme, PDOs may be charged tariff rate at par with the tariffs for retail broadband (FTTH) connections, for the capacities for which the said retail tariff is being offered to subscribers by the service providers. Based on the experience gained, the Authority may review the proposed arrangement for PM-Wani scheme, after a period of two years."

i) In addition to above, the paper does not provide clarity if this will also apply to TSPs/ISPs who are not even giving FTTH services as such, would not have any benchmark of FTTH prices within their networks. Thus, this amendment cannot apply to such TSPs/ISPs .

j) It is pertinent to note that FTTH (Fiber to the Home) and leased lines to PDOs (Public Data Offices) serve different purposes in the telecommunications ecosystem. FTTH is a direct-to-consumer service, providing high-speed internet to individual households. It's tailored for residential use and personal consumption. In contrast, leased lines to PDOs is a backhaul / business-to-business connection, where telecom operators provide bulk bandwidth to intermediaries. These PDOs then distribute this connectivity to multiple end-users, often in public spaces or underserved areas. As wholesale customers, PDOs resell or redistribute the service, unlike retail FTTH customers who are the final consumers. This fundamental difference in service model, target audience, and usage pattern makes direct comparisons between FTTH and leased lines to PDOs inappropriate, as they occupy distinct segments of the telecom market with different operational and regulatory considerations.

k) It is therefore fundamental to distinguish between these two services as they cater to different needs and are optimized for different types of usage. Using them interchangeably and applying regulatory tariff / price intervention in an interchanged scenario would create inefficiencies, potentially impact the quality of service for both PDOs and end users, while also causing regulatory distortion.

l) Moreover, an Internet Leased Line (ILL) offers dedicated, symmetrical bandwidth directly to businesses, ensuring consistent high speeds, low latency, and superior reliability, essential for enterprise needs. It includes Service Level Agreements (SLAs) guaranteeing high uptime and quick issue resolution, making it ideal for enterprises with mission-critical applications. In contrast, Fiber to the Home (FTTH) offers shared bandwidth to residential users, resulting in variable speeds based on network congestion. FTTH is more affordable but does not come with SLAs, so while it offers good reliability, it may not match the consistency of ILL. The exclusive, uninterrupted connectivity of ILL, coupled with service level agreements (SLAs), justifies higher tariffs compared to the best-effort basis FTTH services in India.

Hence, Tariffs for PDOs under PM WANI scheme cannot be the same as is applicable for retail broadband (FTTH) connection.

m) We respectfully submit that TRAI's role has historically been to provide overarching regulatory frameworks without prescribing specific operational methodologies. This approach has fostered innovation and allowed TSPs to develop efficient, tailored solutions aligned with our unique network architectures and business strategies. We believe that mandating specific connectivity methods or tariffs for a segment may inadvertently hinder innovation, escalate costs, and create operational inefficiencies. Also, TRAI's principle of opting for forbearance in matters of tariffs has yielded positive results for all stakeholders, and this should continue.

n) It is also pertinent to highlight the difference in retail and commercial tariffs, which starts at design level itself and the difference is visible in all sectors like electricity tariffs, cooking gas cylinder rates and commercial tax by the municipal Authorities. This distinction is based on rational criteria of different consumption patterns, demand periods, and infrastructure requirements associated with different set of customers. Similarly, in telecom fixed line data services, the commercial/B2B consumers are offered different tariffs due to their usage pattern. The usage level of retail customers is much less than the commercial customers of the same bandwidth. Further the service level requirement of two set of customers is also different. Therefore, tariffs are different, and no TSP/ISP should be forced to provide the backhaul services to the PDOA at below commercial rate.

o) Further, the commercial customer/backhaul users have completely different usage pattern and much higher consumption from retail customers. There is an allocation vs. usage parameter used in fixing the retail tariff and the same yardstick cannot be appliable for commercial tariffs due to higher consumption and in case of PDO, the commercial user is a reseller, who can sell the same data to 100s and 1000s of customers, clearly, the consumption pattern would be starkly different. Thus, the tariff for commercial customers can never be equal to retail customer and the draft TTO would disturb the tariff structures and can lead to increase in retail tariffs, impact roll out of FTTH and would also have an impact on Exchequer.

p) It is also important to highlight that the PM-WANI (Prime Minister's Wi-Fi Access Network Interface) scheme is financed through the Universal Service Obligation Fund (USOF). This fund is already supported by contributions from Telecom Service Providers (TSPs). This existing contribution mechanism ensures that TSPs are playing their part in advancing the government's digital connectivity goals. Given this existing financial arrangement, any additional regulatory measures that attempt to interfere with or alter the current business model of TSPs in relation to PM-WANI would be unwarranted and difficult to justify.

q) Moreover, given the spread of affordable 4G and 5G service, over the years, Public Wi-Fi has lost its relevance due to several factors. The rapid expansion of 4G and 5G services coupled with extremely low data rates and affordable smartphones, has made personal mobile data connections more accessible and reliable for most users.

r) As a result, the form factor or primary means by which any internet access, including WiFi reaches rural areas is through mobile devices. These handsets are already

being serviced by telecom operators. Consequently, there may be little need for public Wi-Fi infrastructure in these regions.

s) In-fact it is not out of place to mention that different state governments have also tried to expand penetration of public WiFi from time to time but it could still not grow. Ubiquitous availability of mobile data networks and the proliferation of affordable & high-speed mobile data plans have significantly reduced the need for public WiFi as most users find it more convenient and reliable to use their mobile data for internet access.

t) Affordable smartphones and low-cost data services provide convenience and security, reducing reliance on public Wi-Fi, which often suffers from slow speeds and potential security risks. Additionally, the increasing availability of fiber-to-home broadband connections in urban areas has reduced the need for public Wi-Fi hotspots.

u) According to the Indian Telecom Services Performance Indicator report for the period ending December 2023, the average revenue per subscriber per GB of wireless data is Rs 9.13. However, information from the PM-WANI website indicates that Public Data Offices (PDOs) are providing wireless data at rates as low as Rs 6 per GB per subscriber. In spite of the affordable offerings by Public WiFi, customers still prefer and opt for 4G and 5G services of TSPs which offer high speeds without requiring customers to go through any registration or authentication processes. If despite such competitive price points offered by PDOs to consumers, the usage is dropping, there is no reason as to why a retail price intervention be made in the B2B relationship of a TSP and PDO, where there is no market failure.

v) Additionally, concerns about data security and privacy with new or less-established Public Data Operators (PDOs) can deter customers, making it clear that lower pricing alone is not enough to attract them. Consequently, the limited growth of PDO offerings or Public WiFi cannot be attributed to pricing issues. Therefore, we do not understand as to how providing ILL at the same rate as is applicable to retail FTTH, or providing retail FTTH connection to PDOs, can solve the problem of low uptake of Public WiFi/ PM WANI.

w) There is no justification to either offer FTTH connection for commercial backhaul (which will be used for further resale as telecom internet service) at the same pricing as for retail subscriber FTTH where pricing works on an average usage model, or to mandate offering on FTTH connections for a B2B segment of PDOs.

x) When there is demand and a particular technology is able to fulfil consumer need, the proliferation of a technology happens. The same was witnessed during Covid-19 when suddenly need for FTTH arose and has kept on growing. But there is no similar demand for public WiFi today. In-fact today, when a mobile data user is even in a WiFi zone, it does not necessarily switch onto public WiFi simply because the mobile data pack and data benefit opted by the subscriber easily satisfy those needs.

y) Furthermore, considering the aforementioned market realities, any regulatory intervention in the business models or the manner in which TSPs provide connectivity to Public WiFi will also not serve any purpose. Such interventions may not address the core issues which include trust, security, and user experience.

Moreover, there is no assessment on the impact of such regulatory intervention on the forbearance regime, cross-subsidization by retail subscribers to business/commercial users, commercial interests of TSPs/ISPs. **It is imperative that regulatory interventions are proposed along with a detailed regulatory impact analysis (RIA) under consultative process.**

z) We urge the Regulator to recognize the enormity of investments (being) made by TSPs in creating massive telecom infrastructure, and choice of the subscribers who today prefer to keep their mobile data networks as preferred mode of accessing internet, than relying on public WiFi. Further, relevance of public WiFi has diminished significantly.

aa) In view of the above, we suggest that the proposed draft Telecommunication Tariff (Seventieth Amendment) Order, 2024, should not be implemented and the arrangement between TSP and PDOs should continue to be left to market forces.

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