COUNTER COMMENTS ON ISSUES FOR CONSULTATION

Telecom Users Group of India

It has been mentioned in response to Issue No. 2 that Reliance and Tata have only one tariff plan each for Prepaid Subscribers. This is factually incorrect. Reliance offers 1p/sec, 50p/min and Rs. 1.20/call in addition to multiple top-up cards and special packs. Similarly Tata offers different prepaid plans by the name of Talk Zyada, Talk Plus, Chatter Box Plan, Pay per call Plan, Celebration Plan and Lets Rock Plan. The TUGI should have at least taken the trouble of looking up the internet.

It has been mentioned in response to Issue No. 3 that: -

a. Majority of prepaid subscribers in the country are illiterate
b. They intend to subscribe to simple tariff plan
c. Current trend for prepaid subscribers is to have one plan by large operators like Tata & Reliance in each service area
d. New entrant like Etisalat have only one plan

My response is

a. The assertion that majority of prepaid subscribers in the country are illiterate is absurd.
b. No reason or basis has been given to arrive at this statement of intention of the subscribers
c. If their logic is to be accepted, then not only multiple tariff plans but also multiple operators should also be banned. As they have already said that current trend is to have "one plan by large operators…", so the smaller operators should be asked to shut shop.
d. Let us hope and pray that new entrants like Etisalat having only one plan will be able to root out the "problem of existing operators hell bent upon confusing the illiterate subscribers by offering multiple tariff plans".

It has been said in response to issue no. 4 that most of the plans are dormant and only one or two plans are significantly used. Then what exactly is the problem of the TUGI. If only one plan is significantly used then the existing situation is almost like one plan for all.

CTSA

The organisation has not given any views whatsoever on any of the issues. However, it wishes to be invited for Open House Discussion and the expenditure should be met from CUTCEF funds.

If they have no views on any of the issues then they should NOT be invited to attend CAG meets or OHD with the expenses billed to CUTCEF.

Consumer Care Society

It has been stated that they would like to strongly support "Mandating "One Standard Plan for All Service Providers" particularly for the prepaid subscribers" as it would be a big advantage. Further in the MNP regime this will be greatly welcome. No reasons have been given to indicate how such a stipulation would be of any special benefit in MNP regime. They have said that there will be the advantage that there will be no confusion and easy to understand. However, they have not appreciated that multiple plans benefit customers having different needs and having a single plan may adversely affect majority of persons. For example if existing 1p/sec, 50p/min and Rs. 1.20/call plans benefit equal number of persons, then mandating any one of these will adversely affect two thirds of the subscribers and WILL NOT benefit the one third of the subscribers who are already on the plan. Even if the proportions are different, we find that while many people would be adversely affected, nobody would benefit.

Consumers' Protection Association

It has been stated that "Consumers' Protection Association is of the opinion that standard Tariff plan/pack for Rs 50.00, Rs 100.00 and multiples of Rs 100.00 on the principle of Standards of Weights and Measures (Packaged Commodities) Rules 1977 will help the consumers compare the service quality and other benefits within the same plan of different SPs." Unfortunately, they have not been able to even comprehend what is meant by a tariff plan/ pack. Accordingly, no comments are being given.

Orissa Consumers' Association

In response to issue no. 4 (existence of large number of tariff plans and offers in the market being beneficial for the subscribers) it has been said, "Yes but same to be intelligible to common men. Seem cards are being sold in unauthorized sale center who are not ready & willing to meet the quarry of the subscribers & assist him in case of any difficulties. Now in open market spurious seem cards are now sold. Regulations should be made to that effect to penalize the offenders & service providers who are selling their seem cards through the unauthorized persons. Anti socials are using the seem card purchasing from unauthorized sellers to commit crime offend/give threat to people & throw away the seem card to avoid identity/detection.."

While there is some merit in saying that salesperson should be capable and willing to answer any queries of subscribers and should assist them, it must be appreciated that insisting on such conditions would: -

a. Make it impossible to sell/ provide services in remote areas.
b. Push up the cost of the service, which will ultimately pinch the consumers. A small town "paanwala" may sell five SIM cards in one day at a margin of say Rs. 20 per card; but it will be impossible to have a sales outlet with a trained salesperson for a small town where only ten-twelve SIM cards per day can be sold.

Bombay Telephone Users' Association

The BTUA has commented on the text of the CP, para by para, to find fault with TRAI at every opportunity. The BTUA has accused the TRAI of leading the discussion in Consultation Papers into the preferred questions of its choice so that only some selected issues come to the fore and others are kept out of the picture. According to BTUA, this approach is primarily adopted to mask the infirmities of TRAI performance. However, in their eagerness to vilify TRAI, the BTUA has not taken the trouble to spell out what are the specific questions that should 'also' have been raised. This has been said in spite of the fact that the Consultation Paper clearly invites the stakeholders to raise any other issue that they feel is relevant to the consultation and give their comments thereon. This only shows the prejudiced and malicious approach of BTUA.

BTUA goes on to say

"BTUA is of the view that the Consultation Paper could have approached the issues differently; broadly discussing issues relating to pre-paid consumers and post-paid consumers. Such an approach would have highlighted the issues related to 96 percent of the subscriber base who are suffering the maximum from the lack of transparency in these operations....

... There is therefore no logic why the charges collected from them per unit call and for equivalent services continue to be substantially more than post-paid subscribers. There has to be a fair and equitable treatment given to all consumers, unless there are services provided which are extra. In this case, the reverse is true. TRAI as an institution established by law and under the constitution of this country should enlighten citizens of the logic that allows this anomaly."

Thus their entire submission is based on the erroneous assumption that the charges collected from prepaid users per unit call and for equivalent services are substantially more than post-paid subscribers. This is far from the truth. They should have at least taken the trouble to go through the latest performance indicator report issued by TRAI. The report dated 5th October 2010 clearly brings out the following figures: -

GSM – Full Mobility Service

	Postpaid	Prepaid	Reference
ARPU	Rs. 509	Rs. 106	Table 2.2
Outgoing Minutes of Use	551	180	Table 2.4
Average Outgoing per Outgoing Minute	Rs. 0.75/ Min	Rs. 0.52/ Min	Table 2.6

CDMA – Full Mobility Service

	Postpaid	Prepaid	Reference
ARPU	Rs. 433	Rs. 51	Table 2.9
Outgoing Minutes of Use	494	123	Table 2.11
Average Outgoing per Outgoing Minute	Rs. 0.77/ Min	Rs. 0.40/ Min	Table 2.13

The BTUA has been harping on something which is no longer relevant on account of the changed scenario. Moreover, if they do not trust the TRAI figures, then I would recommend that they switchover the mobile connections of their office bearers from postpaid to prepaid (or vice versa) and within a month they will come to know of the fact that Prepaid connections are cheaper.

This renders the BTUA as a rebel without a cause.

The BTUA has accused TRAI of shying away from hard work. However, the kind of hard work put in by the BTUA is apparent from their response to the CP, which is high on diatribe against TRAI/ DoT/BSNL and low on facts and figures. **They have chosen to comment on past history rather than commenting on the tariff issues at hand or any other tariff issues that should have been raised.**

The BTUA has been 'touched' by the confidence reposed by TRAI in the Service Providers regarding number of tariff plans in operation. However, **the BTUA has not taken the trouble to show a single instance where any of the Service Providers had more than 25 plans in operation.** Being a representative body of Telecom Users of Bombay, they could have easily collected the data from their members in this regard to expose TRAI and the Service Providers. However, it is easier to blame TRAI than to do some hard work.

It is not worthwhile to comment on the irrelevant rants of BTUA. However, as regards their comments on specific issues, the comments have been given.

As regards the tariff levels for voice telephony in India being among the lowest in the world, BTUA says that it is so not because of TRAI but in spite of it. The BTUA goes on to say that:-

1. If talk time was purchased in bulk in the international market, in March 2003, the cost was Rs.0.10p per minute;
2. The STD tariffs in the country were Rs. 38 per minute in March 2003;
3. The ISD tariffs in the country were Rs. 95 per minute in March 2003; and
4. The tariffs have come down to Rs. 6.50 per minute for ISD and Rs. 1 per minute for STD on account of international pressures to balance international tariffs because across the globe the payouts to India were not tenable anymore and every international operator was clear that the government monopolies had used this telecom cash cow to fund the Consolidated Fund of India through the revenue route and it was hurting them immensely.

The claims made by BTUA are false and without any basis. Pointwise comments are as under: -

1. If talk time was available for Rs.0.10p per minute (when purchased in bulk in the international market), in March 2003, then today the cost should have come further down. Then accordingly, the ISD call rate amongst different countries should be of the order of Rs. 0.20p per minute (with 100% profit margin). They have not pointed out a single pair of countries in the world where the ISD calls from one country to another is available for Rs. 0.20p per minute (half a cent per minute). I have not come across such rates in 20 countries across four continents.
2. The STD tariffs in the country were never at Rs. 38 per minute in the last 20 years. The STD tariffs for landlines used to be based on the time of the day when the call was being made and the distance between the two stations. Maximum STD pulse rate for distances exceeding 500 km was 2/4/8 in early 1990s. This implied that every 2 seconds were counted as one call during daytime, every 4 seconds were counted as one call from 7 pm to 10 pm and every 8 seconds were counted as one call after 10 pm. There used to be long queues outside PCO booths for making calls after 10pm. Thus the maximum STD rate during the last 20 years was Rs. 30 per minute (@ 2second pulse during daytime for distances exceeding 500 km).
3. The ISD pulse rate for USA was 1.1 sec during early 1990s, which translates to Rs. 55 per minute.
4. It is absurd to even suggest that the domestic tariffs have come down on account of international pressure.

The BTUA has said regarding premium services that

“When a SMS for premium service is generated by the SP, the very first screen must compulsorily provide for exit option and failure to adopt such a software provision should result in cancellation of the license of the SP.”

The BTUA does not realise that SMS for a premium service is not generated by the SP, but is composed by a subscriber and sent to the SP.

The BTUA has also suggested that an examination of the instrument software provisions of all manufacturers of mobile phones must be conducted to study what compulsory norms are needed in the instrument logic that allow for immediate rejection of such calls on the first screen itself. If necessary, additional amendments, regulations etc. should be put in place to bring mobile instrument manufacturers under provisions for compliance on this issue.

The BTUA has not spelt out what they intend to do with the existing mobile phones. They would certainly like a regulation to force all the subscribers across the country to bring their mobile phones for installation of new instrument software.

This is not an implementable idea.

The BTUA has said regarding allowing SPs to raise ISD tariffs for Lifetime Subscribers, “If the information provided is true, there appears to be a case for exempting limitations subject to approval of each plan only for International calls and review of situation if the broader picture changes."

However, **the BTUA has not bothered to find out the truth about the information provided by the SPs.** The information about foreign exchange rates is in public domain. Some hard work on the part of BTUA would have shown that the claims of the SPs are hollow. The rates of Dollar are almost at the same level as they were when the freeze was introduced and the rate for Pound Sterling is about 9% less than what it was at the time, the freeze was introduced. No mention has been made about giving any kind of exit option to the subscribers.

BTUA has also suggested formation of an internal committee of TRAI with representatives of CAGs and SPs for reviewing cases of misleading advertisements.

The matter directly pertains to the Advertisement Standards Council of India. Formation of more committees would not help anybody. If they are so keen to work on the issue, they should form an internal committee of BTUA and give inputs/ complaints to ASCI and TRAI every month.

The BTUA says that it was the new operators who really brought in competition in tariff benefiting consumers and "THE REGULATOR HAS CONTINUED TO "CLOSELY WATCH ON THE DEVELOPMENTS" AND "CLOSELY WATCH ON THE DEVELOPMENTS"AND AGAIN WATCH, WATCH AND WATCH." Further, it has said that TRAI has always been a toothless Tiger.

If the BTUA really believes in what it has said, then it should dissociate itself from the Consultation Process of TRAI and wait for the new operators to bring in more competition so that all the real and imaginary grievances of BTUA are addressed. However, it appears that BTUA is keen on getting involved with the TRAI by proposing formation of committees with representatives of CAGs for consideration of various issues. This shows their intellectual and moral bankruptcy.

Consumer Protection Association, Himmatnagar, Gujarat

No Comments

VOICE

VOICE says, "...It is important to realize that all these directions and regulations are to protect consumer interests. SP are obliged to understand and implement them but what about consumers? TRAI should take steps to disseminate these results to consumers. TRAI website is not a site on which every consumer logs on. TRAI should establish links on website of registered CAGs. The newsletters and publications of CAGs registered with TRAI should be used for this purpose."

It may be mentioned that: -

1. No registered or unregistered CAG can boast of a website which is visited by even 10% of the number of consumers visiting TRAI website.
2. Nothing prevents the registered or unregistered CAGs to provide link to TRAI website.
3. The websites of registered or unregistered CAGs are managed by the CAGs themselves and therefore TRAI cannot establish any link on website of registered or unregistered CAGs on its own. The link has to be provided by the CAGs themselves.

VOICE further states, "...In 2004, TRAI contracted TERI for designing software which would enable tariff comparison on a click of a mouse. This software was ready for use by 2005.However such software was not put in use and was discarded. The reasons given were its lack of technical feasibility and workability. It is learnt that telecom companies were against this software."

VOICE has insinuated that the software was technically feasible and workable and TRAI aborted the project at the behest of telecom companies. The CAGs (including VOICE) are certainly independent organisations working for consumer rights and cannot be influenced by telecom companies. Why do the CAGs not put up such software on their websites? The consumers are interested in knowing about the tariff plans currently on offer. Information about the current plans is available from the websites of all the service providers. The CAGs can easily gather this information and put up a comparison tool on their websites which are visited by large number of consumers as VOICE itself has said earlier.

Regarding benefits of large number of tariff plans, VOICE says that it is not choice but a mere confusion.

It is not understood as to how choice can be made available to consumers without having more than one tariff plan. Further, with every decision/ choice, there is always an element of confusion. Such confusion is inherent irrespective of the product being bought. A buyer is confused while buying garments, sweets, consumer durables, books, soaps etc. However, in such situations, it is said that the consumer is spoilt for choice. It is only in telecom sector that consumer activists say that choice leads to confusion. If large number of tariff plans do not offer choice to consumers and only confuse them, then by this logic, there should not be any choice in any other sector as well.

VOICE has also pointed out that voting by SMS on premium numbers for "Kaun Banega Crorepati" allows the organisers to earn crores every night. Well, if a person wishes to buy a lottery ticket, then what can the regulator do about it.

<u>Consumers Guidance Society</u>

No Comments

Rajkot Saher Jilla Grahak Suraksha Mandal Rajkot

It has been suggested that all the Service Providers should give uniform tariff offers to the subscribers and the tariff for SMS should also be uniform and tariff offer validity should also be uniform. This would mean that there will be no competition whatsoever. **This Consumer Action Group is advocating formation of a cartel.** Once all the Service Providers start acting in concert then there will be no competitive pressure on the operators to bring down tariffs.

COAI

COAI has indicated that they believe that there are enough reasons to allow the service providers to realign the ISD tariff in respect of existing lifetime subscribers. They have referred to various reasons listed in the Consultation Paper to say that such realignment is necessary. The reasons listed in the consultation paper are lame and do not justify such realignment. These reasons were discussed in my comments sent earlier. For the sake of ready reference, these are reproduced hereunder

S. No.	Ground	Comments
(i)	Termination charges to several countries have been increased in the recent past.	The operators are silent about the countries for which termination charges have come down. Variation in termination charges with time is a business risk associated with making such lifetime tariff offers.
(ii)	There has been a 25% increase in foreign exchange rate resulting in higher payout in rupee terms, affecting the revenues from ILD business.	**This is patently false**. The forex rates had gone down after 21st March 2006 [when the "The Telecommunication Tariff (Forty third Amendment) Order, 2006" was issued] but the service providers did not pass on the benefit of lower forex rates to subscribers. Now the forex rates are again in the vicinity of the 21st March 2006 levels. Now the operators want an increase due to a rise in forex rates. However, they have not bothered to clarify that the increase is with reference to lower forex rates the benefit of which they did not pass on to the subscribers. It would be seen that the Monthly Exchange Rate Average for Dollar for October 2010 is 0.2% more than Monthly Exchange Rate Average for March 2006, whereas in October 2010, the Monthly Exchange Rate Average rate for Pound Sterling was 9% **less** than the Monthly Exchange Rate Average for Pound Sterling for March 2006. For movement of forex rates please see Annexure to these comments.

<table>
<tr><td>(iii)</td><td>In some of the countries the payout is more than what the service providers get from the subscriber.</td><td>The operators are silent about the countries for which payout is much less than what the service providers get from subscribers. Not all components of a business can be equally profitable.</td></tr>
<tr><td>(iv)</td><td>Recently higher termination charges are being levied by some service providers (near monopolies in some gulf countries which control the international gateways).</td><td>The operators are silent about the countries for which termination charges have come down. Not all components of a business can be equally profitable.</td></tr>
<tr><td>(v)</td><td>Just like in the case of international roaming tariff, the factors relevant for deciding ISD tariffs are also outside the control of Regulatory Authorities in India.</td><td>The factors may be outside the control of Regulatory Authorities in India, the tariffs are under control of the Regulatory Authorities in India.</td></tr>
<tr><td>(vi)</td><td>The price freeze on all tariff items for lifetime customers without providing a corresponding guarantee that there shall be no increase in the input costs is unfair.</td><td rowspan="2">A. Enticing the subscribers with lower tariffs and charging them for lifetime validity and then increasing the tariffs is also unfair.
B. The subscribers should be given a fair exit option by refund of charges paid by them for lifetime validity (on a pro-rata basis) and compensation for change in contact number pursuant to exit from the lifetime validity plan (if the subscriber chooses to change the service provider).
C. The service providers did not pass on the benefits of lower input costs in other segments of the telecom business. Not all segments of a business can be equally profitable.</td></tr>
<tr><td>(vii)</td><td>A large percentage of subscriber base (65-70%) is in the lifetime prepaid category and the provisions of 43rd amendment to TTO prohibit them from increasing tariff for this category of subscribers creating difficulties in recovering the cost of ILD business.</td></tr>
<tr><td>(viii)</td><td>The termination charges for incoming international calls are specified in the IUC Regulation and the Indian service providers do not possess the equal opportunity to negotiate bilateral agreements on a reciprocal basis with their overseas counter parts.</td><td>The tariffs that were offered in the first place were determined after taking into account the regulatory framework in the country.</td></tr>
</table>

(ix)	The limitations on increasing tariff were introduced by the Authority to provide some insulation to the customers from arbitrary increases in tariff. However, in the instant case of ISD tariffs, the revision in tariffs are necessitated by commercial and financial reasons affecting sustainable business.	A. Enticing the subscribers with lower tariffs and charging them for lifetime validity and then increasing the tariffs is also unfair. B. The subscribers should be given a fair exit option by refund of charges paid by them for lifetime validity (on a pro-rata basis) and compensation for change in contact number pursuant to exit from the lifetime validity plan (if the subscriber chooses to change the service provider). C. The service providers did not pass on the benefits of lower input costs in other segments of the telecom business. Not all segments of a business can be equally profitable.

COAI has further said regarding situations of cross-restrictions of recharges that the service providers will also endeavour to develop appropriate systems so as to reject when an ineligible subscriber recharges with a particular recharge voucher. It is not clear as to what benefit does a consumer derive out of such a system. Having bought a recharge coupon or having paid the shopkeeper for e-recharge, the consumer would find it difficult to get a refund in case of a rejected recharge.

The System should not reject the recharge and the subscriber should be given the credit for any cross restricted recharge in his main account which can be used by him for making calls/ SMS.

AUSPI

The comments of AUSPI on realignment of ISD tariffs and regarding situations of cross-restrictions of recharges are similar to those of COAI. My counter-comments to the comments of COAI given above are not being repeated for the sake of brevity.

Summing Up

It appears that the Consumer Action Groups are only interested in getting funds from CUTCEF or the Ministry of Consumer Affairs. Their only intention in trying to run down TRAI appears to be that they want to be seen as champions of consumers without doing anything worthwhile for the benefit of consumers.

Responses of associations of Service Providers are along expected lines.

Annexure

The rates of forex vis a vis Rupee since 21st March 2006

Monthly Exchange Rate Average

	US Dollar	UK Pound
March 2006	Rs. 44.3378	Rs. 77.3331
March 2007	Rs. 43.7936	Rs. 85.2786
March 2008	Rs. 40.1452	Rs. 80.3503
March 2009	Rs. 51.2062	Rs. 72.6416
March 2010	Rs. 45.4982	Rs. 68.4721
October 2010	Rs. 44.425	Rs. 70.4515

Source: www.x-rates.com

Minimum Monthly Exchange Rate Average

	US Dollar	UK Pound
January 2008	Rs. 39.2704	
May 2010		Rs. 67.221