

RJIL/TRAI/2024-25/329

31st January 2025

To,

Shri Amit Sharma,
Advisor (Financial & Economic Analysis)
Telecom Regulatory Authority of India
Tower-F, World Trade Centre,
Nauroji Nagar, New Delhi - 110029

Subject: RJIL's comments on TRAI's Draft "The Telecommunication Tariff (71st Amendment) order, 2025".

Dear Sir,

Please find enclosed the comments of Reliance Jio Infocomm Limited (RJIL) on the **Draft Telecommunication Tariff (Seventy First Amendment) Order, 2025** dated 15.01.2025.

Thanking you,

Yours Sincerely,
For **Reliance Jio Infocomm Limited**

Kapoor Singh Guliani
Authorized Signatory

Enclosure: As above

**Reliance Jio Infocomm Limited's comments on TRAI's Consultation Paper on
"Draft Telecommunication Tariff Order (71st Amendment)" dated 15th January 2025**

1. Reliance Jio Infocomm Limited (RJIL) thanks the Authority for giving an opportunity to offer comments on the important consultation paper on draft Telecommunication Tariff Order (TTO) (71st Amendment) proposing to **fix the tariff for broadband connectivity (FTTH) to Public Data Office (PDO) under PM-Wani scheme.**
2. At the outset, **we submit that there should be no intervention in tariff for backhaul connectivity by the Authority.** We note that the Authority has revised the ceiling in this draft tariff order, as compared to the Draft Telecommunication Tariff Order (70th Amendment)" dated 23rd August 2024. However, we are constrained to submit that our reservations against this anti-competitive and anti-investment tariff intervention continues. The proposed intervention does not benefit the consumers but will benefit only the unlicensed entities intending to compete with the TSPs. Further, it will lead to legitimate revenue loss to the TSPs as well as to the Government.
3. We would once again draw kind attention of the Authority to the preamble of TRAI Act i.e. ***'to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector.'*** The proposed amendment is completely against the interest of telecom service providers (TSPs) as well as the retail consumers and should not be implemented to resuscitate a set of service providers.
4. In the Para 15 of the explanatory memorandum to the Draft TTO, the Authority has quoted the tariff being offered by one of the service providers to the PM-WANI scheme and benchmarked the proposed tariff accordingly. It may kindly be noted that each service provider has unique way of offering service products accompanied with a given level of quality of service and SLA. Merely, picking one of the service provider's tariffs and setting the benchmark, ignoring other attributes of the tariff plan is erroneous.
5. In the following sections, we are explaining how the proposed tariff intervention is ill conceived and is against the competitive spirit and investments. Further, the proposal of forcing a set of TSPs to provide the backhaul connectivity to other service providers, at a regulated price, violates the fundamental rights of the TSPs enshrined in **article 14** and **article 19(1) (g)** of constitution of India.

A. PM-WANI Framework

6. In our response letter no. RJIL/TRAI/2024-25/158 dated 6th September 2024, we have explained the structural aspects of the PM-WANI architecture in detail. We are not reproducing the entire section for the sake of brevity but crave your leave to reproduce following key points for consideration.

- a) **Through exempted from the license, PDOA-PDO combination offer competing broadband/internet services to the consumers, primarily using internet over the mobile phone and these services are substitutes to the mobile data service by an access provider.**
- b) **Customers using PM-Wani are the subscribers of the PDOA.**
- c) **PDOA's set the tariff and do the billing of such users.**
- d) **PDOAs are responsible for the KYC and other compliance requirement.**
- e) **PDOAs orchestrate the complete information of control plane of the delivery network.**
- f) **PDOs act as a franchise who put their CAPEX in Wi-Fi APs and obtain the backhaul bandwidth.**
- g) **PDO's revenue stream is completely dependent on the revenue shared by PDOA.**
- h) **Therefore, the PDOA, as an aggregator, is a competitor to the TSPs providing the broadband/internet services.**

7. Evidently, the PDO/PDOA combination is a competitor to telecom services providers and the TSPs cannot be and should not be mandated to subsidize the competition at their own cost.

B. Amendment/Additions in PM-WANI Framework dated 16th September 2024

8. DoT amendment/additions in PM-WANI Framework dated 16th September 2024 have introduced far-reaching changes and enhanced the scope of service of PDOs extensively, besides removing the requirement of commercial agreement with TSP/ISP for connectivity. We are extracting and reproducing these changes as herein below:

New Clause (Annexure-B) Under functions of PDO

5. A PDO is allowed to take internet connectivity at a single location for ex: mall, market, shopping complex, bus station and can network upto 100 Access Points to create a single Wi-Fi hotspot.

6. In an Access Point, it is possible to configure SSIDs, one for private use and another for public use. PDOs could use the existing Access Points working at homes or enterprises for establishing the **public Wi-Fi hotspots** by configuring 2nd SSID and integrating the same with the captive portal registered PDOA, subject to prior intimation to ISP/TSP.

7. PDOs are allowed **to perform the function of Mobile Data Offload (MDO)**.

New Clause (Annexure-B) Under functions of PDOA

6. It will be permissible for any **two PDOAs to enter into a roaming agreement** for permitting each other's subscribers to access Internet from any Wi-Fi Access Points associated with them, either directly or via centralized platforms owned by PDOA(s)

8. PDOAs can push advertisements to the subscribers of PM-WANI subject to consent of subscriber either directly or via centralized platforms owned by them.

New Clause (Annexure-B) Under functions of App Providers

5. App Providers can push advertisements to the mobile users registering for PM-WANI subject to their consent.

9. Clearly, the DoT has enhanced the scope of service by PDO/PDOAs and new avenues for monetization like MDO and advertising have been permitted. Further, the PDOs have been empowered to connect over 100 access points over single connectivity, which would multiply the area coverage of a PDO 100 times which can now run into 100s of Sq. meters. As this deployment will be in dense public places like malls, the target customer base will be in thousands. **Therefore, the old statistics of data consumption by PDOs and tariffs offered by a TSP have become obsolete and irrelevant to this discussion.**

10. Further, in the scenario given in the previous, Para, wherein a single FTTX connection working as backhaul for 100 access points will disturb all the assumptions of downloads in TSPs network and thereby it will disturb the average data usage-based pricing. Therefore, the collective or average data consumption by PDOs will have no relevance in this context and each PDO will have to be treated separately, which will make the proposed tariff ceiling a major business restriction and will prompt the TSPs and ISPs to curtail FTTX connectivity to locations where such misuse is possible.

Thus, this amendment will be anti-fixed line proliferation and against the national goals.

11. Furthermore, the enhanced scope of service and roaming facilities provided by the PDOAs, will further increase the competitive ability of these entities. There is no way a retail FTTX connection could be provided to these competing entities and all connectivity to such entities has to be on the basis of B2B contract covering all relevant possibilities, SLAs and restrictions.
12. We, therefore, request the Authority to kindly drop the proposed new clause in the TTO for the following additional reasons.

C. Policy of Forbearance in telecom tariffs

13. It is submitted that since the notification of Telecommunication Tariff Order, 1999 on 09.03.1999 (“TTO”), the Authority has gradually evolved the policy of forbearance in telecom tariffs. Under this, the Authority gives the service providers freedom to design and implement the tariffs suited to the prevailing market conditions. The expansion in scope of tariff forbearance over the years is credited with the lowest tariffs and generational changes that has soared the teledensity and increased wireless broadband penetration in the country. The policy of tariff forbearance can also be credited with making India, the market with second highest smartphone penetration. Thus, it is important that any changes in the tariff regulations do not alter the basic tenets of forbearance.
14. **In the light of above, we are constrained to submit that draft TTO amendment impinges on the policy of Forbearance and therefore, should not be implemented. There is no justification to impose new restrictions on the TSPs, especially when the tariffs are being compared to two completely different services i.e. one the access services to the consumers and other the backhaul service to other service providers.**

D. Lack of transparency:

15. Section 11 (4) of the TRAI Act provides that the Authority shall ensure transparency while exercising its powers and discharging its functions. However, the entire process of proposing changes in PM-WANI framework lacks transparency. A case in point is amendment dated 16th September 2024. We are constrained to submit that without seeking any recommendations from TRAI which could have been issued by the Authority after due consultation process with all the stakeholders, the DoT has

significantly enhanced the scope of service by PDO/PDOAs and new avenues for monetization like MDO and advertising have been permitted.

16. Further, taking into consideration enhanced scope of PDO/PDOAs, **the old statistics of data consumption by PDOs and tariffs offered by a TSP, TRAI is issuing this Draft TTO with the expressions in the explanatory memorandum, as if the Authority has already decided the tariffs and consultation with the stakeholders in the form of Draft TTO is being done only to complete a formality of consultation.**
17. Another transparency related issue appears to be the lack of full disclosure in the draft TTO amendment about the complete commercial understanding between TSP and PDO/PDOAs, referred by the Authority. We have come across an Expression of Interest (EOI) document¹ for backhaul connectivity to PDOs and it appears that there are revenue share arrangements besides tariff charged by the mentioned TSP from PDOs. Evidently, the entire premise of the TTO amendment that one TSP charges double the FTTX tariff from PDOs is on shaky grounds and needs to be thoroughly scrutinised. Notwithstanding the same, the commercial decisions of one TSP cannot be and should not be enforced on the entire sector.
18. The mere fact that only one TSP out of 4 pan-India TSPs and 100s of ISPs offering FTTX services in the country is having published tariffs for PM-WANI, demonstrates that the market preference is for case-to-case basis contracts for provision of the backhaul connectivity to PDOs and not to offer FTTX based Access services as a substitute of backhaul connectivity.

E. Consumer Tariffs are different from B2B tariffs:

19. At present the consumer tariffs are under forbearance, however, the TSPs are supposed to provide such tariffs in a non-discriminatory and transparent manner while ensuring that such tariffs are non-predatory. Such conditions are to protect the end consumers/subscribers of the services. Further, such tariffs need to be reported to TRAI and published on the website.
20. On the other hand, B2B tariffs, which also include the tariffs for backhaul, are designed to meet the specific needs of the customers. Such tariffs need not be same for each customer. Nor such tariffs are required to be reported or published on the website. TRAI's proposal to fix a ceiling of such tariffs is against the B2B provisions.

¹ <https://kerala.bsnl.co.in/view-pdf/Model1.pdf/>

21. Backhaul service is not sold to the consumers, but to the telecom/internet service providers. PDOA-PDO individually and/or jointly fall in the category of service providers who are allowed to provide similar telecommunication services.
22. **Therefore, any comparison and equalization of the backhaul tariff with the retail consumer tariffs is incorrect and misconceived.**

F. B2B/commercial tariffs are designed differently than retail tariffs

23. The difference in retail and commercial tariffs starts at design level itself. The commercial tariffs are different from the retail tariffs across all sectors. The most prominent example of this in energy sector and day to day examples can be seen in electricity tariffs, cooking gas cylinder rates among others. Even the houses engaged in commercial activities are liable to pay commercial tax by the municipal Authorities. This distinction is not arbitrary and the variance in rates is ascribed to different consumption patterns, demand periods, and infrastructure requirements associated with different set of customers.
24. 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, every service provider has an option to have a commercial tariff for the input services to their competitor who are competing for the same end customers. In this case, the PDOs compete with the TSP/ISP in the broadband/internet market. Therefore, no TSP/ISP can be forced to provide the backhaul services to the PDO at below commercial rate.
25. As noted above, another factor for this distinction is the usage pattern. The usage pattern of a regular FTTH consumer would be characterized by high data consumption during short period of the day with maximum of 3-4 devices latched onto the Wi-Fi network. This understanding leads to designing the data plans for retail customers. Thus, while unlimited data services are offered under the retail plans, the assumption is that majority of the customers except some outliers like gamers etc. will be consuming a small fraction of data quota.
26. On the other hand, any commercial customer/backhaul will have a completely different usage pattern in which the overall consumption will be much higher than the retail customers.

27. This pricing paradigm is amply demonstrated under the wireless tariffs, where most plans provide more than 1.5/2 GB/ 3GB highspeed data per day, but the average consumption is still around 20 GB² per month by wireless consumers. While designing the tariffs, TSPs always keep such consumption pattern in mind and ensure to offer reasonable tariffs. Even those telecom subscribers, who are consuming more than average data are liable to pay reasonable rate.
28. However, when same tariff is offered to a commercial user, who can resell the same data to 100s and 1000s of customers, the consumption pattern would be starkly different and infrastructure required to supply those capacities will be equally higher, leading to need for differential higher tariffs for the commercial users. Thus, the tariff for commercial customers is designed separately to meet two objectives viz. to accommodate higher data demands and to meet higher SLAs and is consequently higher than retail tariff.
29. Furthermore, the FTTH network is designed using a certain “contention ratio”, which is scientifically determined on the basis of usage particulars of retail users. The same “contention ration” cannot be used for a resellers service like PM WANI. Therefore, equating the two services on the basis of charging is irrelevant.
30. Additionally, the internet bandwidth sale to PDOs of PM-Wani Scheme is Backhaul service. The retail tariff applicable for customers is for access service. The rates for backhaul cannot be fixed taking the reference of retail tariffs offered to the customer for access services.

G. Competition Issues:

31. The PDOAs are offering services to customers possessing mobile devices out of their homes and in public areas. Evidently, this customer will be either an existing or a potential customer of a service provider for mobile data services. Thus, for a TSP, its commercial customer will be offering services to its retail customers.
32. Further, it is a well-established fact that on a wholesale level the cost of data provided to FTTH customers is always lower than mobile data. For instance, in RJIL network the wireless users get unlimited 4G data services at a rental of Rs. 649 plus taxes, while the FTTH customer with upto 30 Mbps speed gets access to unlimited data at rental of Rs. 399 plus taxes.

² https://www.trai.gov.in/sites/default/files/QPIR_04072024_0.pdf

33. Thus, practically, if this draft TTO is implemented, a PDOA can get unlimited data at Rs. 798 and sell at least 1 GB data to (say) 1000 customers in a month at the below market cost of Rs. 10 per GB (mobile data pack for 1 GB is for Rs.19), making a windfall profit of over 1000%, while simultaneously depriving the TSP a possible revenue of Rs.19,000 and Government its revenue share by selling same number of 1 GB data packs.
34. Thus, effectively, the proposed TTO amendment, would require the TSPs to cross subsidize a competitor thereby impacting their own revenues, which is not only against best competitive practices but would amount to a mandated assault on the fair market practices. This will also discourage TSPs from rolling out FTTH services in the country apart from being not in consonance with the preamble of TRAI Act.
35. Even, if one has to remotely assume that use of such bandwidth is not for backhaul purpose, but the PDOA-PDO are the reseller of such bandwidth like Virtual Network Operator (VNOs), the Government has rightly opted out of the commercial arrangements and left the same to mutual understanding to the Network Service Operator (NSO) and VNO.
36. Therefore, equating the retail tariffs with the backhaul/B2B tariffs is anti-competitive.

H. Retail tariff as per usage vs allocation

37. As discussed above and submitted before, the retail tariffs are designed to maintain a fine balance between allocation vs. usage. One of the measures used globally to maintain this fine balance is restricting the number of devices that can latch onto the connection using either Wi-Fi or tethering.
38. Globally, major operators do not permit tethering on all data plans and tethering restrictions are implemented on other data plans for example AT&T provides plans with permissible tethering benefits³. Similarly, operators in other economies, including India implement policies against commercial usage of a retail connection.
39. Therefore, mandating the offering of a retail tariff to declared commercial service provider that can potentially have 1000s of connected devices would affect this fine balance and is unjustified.

³ <https://www.att.com/plans/tethering/>

40. Furthermore, it would be not out of place to mention here that under Unified License TSPs are required to monitor the commercial usage and misuse by its customers and accordingly separate tariff policies are put in place for monitoring heavy usage and commercial usage. The customers violating these policies are deemed commercial users and their services are barred, and explanation is sought for misuse. Whereas separate plans for commercial users ensure that their services continue uninterrupted as per plan. However, by mandating same tariff for commercial users, the Authority would lead to possible violations of Unified License apart from retarding rolling out of FTTH network.

41. The resellers are offered bulk minutes/ data for sale. In the Draft TTO, the proposal is to resell the retail data package through PM-WANI. This is against the globally established norms and should not be implemented.

I. Anti-Consumer- increase in tariff

42. In case the Authority requires that retail tariffs are provided to commercial/backhaul users without such restrictions then it would require major changes in the retail tariffs. This may include the removal of unlimited data benefits, increase in monthly rentals and usage restrictions. Consequently, the TTO amendment would become anti-consumer and would end up affecting a large number of retail consumers in a misconceived attempt to provide benefit of lower tariffs for the backhaul services to the PDOA-PDO.

J. Impact on Exchequer

43. Another unwanted consequence of this intervention will be the impact on Exchequer. The loss of revenue for TSPs by this intervention would also lead to loss to exchequer especially when the PDOAs do not pay any license fee.

K. Relevance of PM-WANI

44. An honest, unbiased assessment would reveal that the entire positioning and timing of implementing PDO/PDOA structure was flawed. The whole premise was built on the concept and success of Public Call Offices (PCOs) that were successful in 1990s. No doubt this was a home-grown successful model that could have been useful for broadband proliferation in case all other parameters were similar.

45. The success of PCOs was a result of multiple factors like limited telecom penetration, long waits in getting a telecom connection, no or limited mobile services, high tariffs.

Further, the PCOs were extension of TSPs as they were working on a franchisee model and never competed with the TSPs, whereas PDOA competes with the very same operator who is providing the backhaul bandwidth. This all lead to PCOs becoming an important tool for connectivity. **However, we should also bear in mind that the omnipresent PCOs disappeared once mobile teledensity increased and tariffs became much lower. Same was the case with cyber cafes, that had mushroomed in early days of internet in India, however, slowly disappeared as the market dynamics changed and data services started to be more easily available across the country.**

46. Similarly, the PDOs could have been useful in 2G-3G era of mobile services, when the mobile penetration was increasing but mobile data was priced at around Rs. 250 per GB and you needed to search for a Wi-Fi access point for basic data needs. However, it was implemented in 2020s when 4G data was ubiquitous, data costs were around Rs. 10 per GB.
47. However, the inherent flaws in this model caused by mobile data availability and its low costs led to the failure to take off of the model. Now with the launch and proliferation of 5G services all across the country, the utility of PDOs is further shrinking and the solution needs to be sought elsewhere instead of flawed tariff interventions that will impact all stakeholders, including consumers, in the sector.
48. Further, PM-Wani has been built on an innovative business framework which allows the PDOA to aggregate a large number of Wi-Fi access points and build a competing network with the TSP providing them the backhaul bandwidth. Such PDOA would have an advantage to offering the low-cost mobile data using the crowdsourced/distributed Capex/Opex that too without any compliance obligation. In any telecommunication network, transmission cost/backhaul cost is the substantial portion of the overall cost of the building a network. Any mandatory provision of backhaul at regulated price would provide such PDOAs a huge competitive advantage vis a vis the TSPs who are building their own transmission links for connecting their radio equipment with core equipment.
49. Therefore, before issuing any such consultation paper in the form of Draft-TTO, TRAI should have done consultation on desirability of 'PM-Wani' service, in the light of current proliferation of 4G/5G services and availability of data services at cheapest rate in the world. In our opinion, PM-Wani service is no more relevant. A service in the proposed form can only work to the detriment of service providers and retail users.

50. It is submitted that there can be more than one way of doing a thing correctly and the Authority should explore the possibilities beyond the narrow limitation of current structure and tariff interventions.

51. **Conclusions**

1. The draft TTO amendment is anti-competitive, anti-consumer, disrupting orderly growth of the telecom sector, anti-Exchequer revenue apart from being not in consonance with the preamble of TRAI Act and therefore, should be withdrawn.
2. The draft TTO is not only against the article 19(1)(g) of the constitution but also against the article 14 of the constitution and Unified License as it forces the telecom operator to offer a backhaul service with tariffs benchmarked with a completely dissimilar service.
3. It will retard rollout of FTTH network.
4. No TSP can be forced to sell its network services to its competitors at the arbitrarily regulated prices for building their network.
5. PM-WANI guidelines treat the connectivity of PDO as backhaul bandwidth and backhaul service is not sold to the consumers, but to the telecom/internet service provider on mutually agreed commercials. Therefore, any comparison and equalization of the backhaul tariff with the retail consumer tariffs is incorrect and misconceived.
6. The commercial contractual arrangements, including tariffs, between the PDOA/PDO and TSPs should be left to market forces.