

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 24th January, 2008

THE TELECOMMUNICATION TARIFF (FORTY-SIXTH AMENDMENT) ORDER, 2008

(No. 1 of 2008).

No. 301-36/2007-Eco. --- In exercise of the powers conferred upon the Telecom Regulatory Authority of India under sub-section (2) of section 11, read with sub-clause (i) of clause (b) of sub-section (1) of the said section, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India (TRAI) hereby makes the following order further to amend the Telecommunication Tariff Order, 1999, namely:-

1. (1) This Order shall be called the Telecommunication Tariff (Forty-sixth Amendment) Order, 2008.

(2) This Order shall come into force from the date of its publication in the Official Gazette.

2. In Schedule I to the Telecommunication Tariff Order, 1999 (hereinafter referred to as the principal Tariff Order), for items 10 and 11 and entries relating thereto, the following items and entries relating thereto shall be substituted, namely :-

Schedule – I

Basic Services (Other than ISDN)

ITEM	TARIFF
“10. Tariff for itemized bills in respect of long distance calls	NIL
10A. Tariff for provision of hard copy of the bill or printed copy of the bill to the customer	NIL
11. Other matters relevant to tariff including billing cycle	Forbearance

3. In Schedule II to the principal Tariff Order, after item 7 and entries relating thereto, the following item and entry relating thereto shall be inserted, namely:-

Schedule II

Cellular Mobile Telecom Service (CMTS)

ITEM	TARIFF
“7A Tariff for provision of hard copy of the bill or printed copy of the bill to the customer	NIL

[M. Kannan]
Advisor (Economic)
Telecom Regulatory Authority of India

Note.1. – The Telecommunication Tariff Order, 1999 was published in the Gazette of India, Extraordinary, Part III, Section 4 under notification no.99/3 dated the 9th March, 1999, and subsequently amended by the following notifications, namely:-

Amendment No.	Notification No. and Date
1 st	301-4/99-TRAI (Econ) dated 30.3.1999
2nd	301-4/99-TRAI(Econ) dated 31.5.1999
3rd	301-4/99-TRAI(Econ) dated 31.5.1999
4th	301-4/99-TRAI(Econ) dated 28.7.1999
5th	301-4/99-TRAI(Econ) dated 17.9.1999
6th	301-4/99-TRAI(Econ) dated 30.9.1999
7th	301-8/2000-TRAI(Econ) dated 30.3.2000
8th	301-8/2000-TRAI(Econ) dated 31.7.2000
9th	301-8/2000-TRAI(Econ) dated 28.8.2000
10th	306-1/99-TRAI(Econ) dated 9.11.2000
11th	310-1(5)/TRAI-2000 dated 25.1.2001
12th	301-9/2000-TRAI(Econ) dated 25.1.2001
13th	303-4/TRAI-2001 dated 1.5.2001
14th	306-2/TRAI-2001 dated 24.5.2001
15th	310-1(5)/TRAI-2000 dated 20.7.2001
16th	310-5(17)/2001-TRAI(Eco.) dated 14.8.2001
17th	301/2/2002-TRAI(Econ) dated 22.1.2002
18th	303/3/2002-TRAI(Econ) dated 30.1.2002
19th	303/3/2002-TRAI(Econ) dated 28.2.2002
20th	312-7/2001-TRAI(Econ) 14.3.2002
21st	301-6/2002-TRAI(Econ) dated 13.6.2002
22nd	312-5/2002-TRAI(Eco) dated 4.7.2002
23rd	303/8/2002-TRAI(Econ) dated 6.9.2002
24th	306-2/2003-Econ dated 24.1.2003
25th	306-2/2003-Econ dated 12.3.2003
26th	306-2/2003-Econ dated 27.3.2003
27th	303/6/2003-TRAI(Econ) dated 25.4.2003
28th	301-51/2003-Econ dated 5.11.2003
29th	301-56/2003-Econ dated 3.12.2003
30th	301-4/2004(Econ) dated 16.1.2004
31st	301-2/2004-Eco dated 7.7.2004

32nd	301-37/2004-Eco dated 7.10.2004
33rd	301-31/2004-Eco dated 8.12.2004
34th	310-3(1)/2003-Eco dated 11.3.2005
35th	310-3(1)/2003-Eco dated 31.3.2005
36th	312-7/2003-Eco dated 21.4.2005
37th	312-7/2003-Eco dated 2.5.2005
38th	312-7/2003-Eco dated 2.6.2005
39th	310-3(1)/2003-Eco dated 8.9.2005
40th	310-3(1)/2003-Eco dated 16.9.2005
41st	310-3(1)/2003-Eco dated 29.11.2005
42nd	301-34/2005-Eco dated 7.3.2006
43rd	301-2/2006-Eco dated 21.3.2006
44 th	301-34/2006-Eco dated 24.1.2007
45 th	301-18/2007-Eco dated 5 th June, 2007.

Note 2. – The Explanatory Memorandum explains the objects and reasons for the Telecommunication Tariff (Forty – sixth Amendment) Order, 2008.

Explanatory Memorandum

It has come to the notice of the Telecom Regulatory Authority of India (TRAI) that a mobile service provider has offered a post-paid tariff plan in which the subscribers are being given bills through SMS or email. The hard copy of the bill is available to the subscribers only on payment of a fixed amount as determined by the operator.

2. The Authority has examined the issue keeping in view the provisions in the Indian Telegraph Rules, 1951, licence agreements for Cellular Mobile Telecom Service (CMTS), Unified Access Service, National Long Distance (NLD) and International Long Distance (ILD) services relating to billing and customer service.

3. Under the provisions of the Indian Telegraph Rules, 1951, the charges for calls in message rate and measured rate system shall become payable on presentation of a bill. It also stipulates that, any notice, bill or demand from the Telegraph authority for any fee or charges due from a subscriber may be served by delivery to the subscriber, or by sending it by post to the address of the subscriber or by leaving it at the premises or upon which the apparatus is installed. Rule 439 of the Indian Telegraph Rules, 1951 reads as under:-

“439. Charges when payable

Charges for calls in message rate or measured rate system shall become payable on presentation of a bill therefor. The periods for which bill shall be prepared and the dates by which they shall be payable shall be fixed by the Telegraph Authority.”

Rule 442 of the Indian Telegraph Rules, 1951 reads as under:-

“442. Service of notice and bills

Any notice, bill or demand from the Telegraph Authority for any fee or charges due from a subscriber may be served by delivery to the subscriber, or by sending it by post to the address of the subscriber or by leaving it at the premises in or upon which the apparatus is installed.”

Besides, CMTS licence agreement (Condition 7 in Part I of Schedule II) and the Unified Access Service license agreement (Clause 30.4) also, *inter-alia*, stipulate that it shall be the responsibility of the licensee to issue or cause to be issued bills to its subscribers for use of the service. As per these licensing conditions, the billing system of the licensee shall be able to generate the billing information, in adequate details, to ensure satisfaction to the customer about the genuineness of the bill. The licence agreements for these services also mandate that the directions of TRAI, from time to time, in this regard shall apply.

4. Taking note of the above position, the Authority initiated a consultation process on the 1st January, 2008 by circulating a draft Tariff Amendment Order, alongwith a background note and a press release, inviting comments of stakeholders on the proposal for amending the Telecommunication Tariff Order to incorporate an explicit provision for providing bill in hard copy free of cost to all post paid subscribers.

5. Various stakeholders including Service Providers, Consumer Organizations and Associations of Service Providers had responded to this consultation process with written comments. Stakeholders have in general overwhelmingly welcomed the proposal of the Authority for mandating provision of hard copy / printed copy of the summary bill to the post paid consumers free of cost. All Service Providers who have responded to the consultation process, have stated that they were already giving hard copy of the bill free of cost to their post-paid customers. Some of the Service Providers and the Associations of Service Providers have suggested that the amendment should also provide clarity as regards the provision of printed copies of the itemized bills for local calls and Short Message Service (SMS) to consumers. They have suggested that the tariff amendment order may clarify that itemized bills for local calls and SMS are to be provided to the consumers at some cost and that the charges for such itemized bills for local calls and SMS should be kept under forbearance. Some of them have also suggested that even after getting bills in electronic form, if a customer insists for a hard copy of the bill, then it should be at a cost. It has also been suggested that, considering the convenience of electronic bills to a large section of subscribers, hard copy of bills should not be mandated and choice of receiving bills, hard copy or soft copy, should be left to the subscribers.

6. Consumers and Consumer Organisations have generally commented in favour of the proposal of the Authority by stating that such a move would go a long way in educating and informing laymen – consumers to know the details of their bills. One Industry Association has submitted that, as regards the low end post-paid customers (having bill amount of say Rs.100/-), SMS

and e-mail should be considered as valid way for informing the customers of the dues payable by them.

Analysis:-

7. The bill represents the true extent of the service actually provided by the service provider and also the details about the service and conditions, which are available to the subscribers.

8. Some of the purposes of issuing or obtaining the telephone bills through hard copy, *inter-alia*, are to ----

- a) understand and satisfy oneself about the genuineness of the bill;
- b) facilitate making of payment;
- c) verify the charges incurred by the consumer;
- d) monitor usage or expenditure by consumer.

9. Recently, TRAI has undertaken a detailed study on the presentation of the bills to the consumers and after a limited consultation, issued a Direction vide No. 303-4/2007-QoS, dated the 4th May, 2007 specifying various guidelines as to how the bill should be presented to the consumers. It was mandated that bill must contain certain useful information to the consumers in addition to the amount of the bill. The Authority had also issued the Telecom Consumers Protection and Redressal of Grievances Regulations, 2007 dated 4th May 2007 in which the Authority has envisaged provision of usage details even to the pre-paid mobile users.

10. The Authority in its Direction vide F.No. 303-4/2007-QoS dated the 4th May, 2007 has specified a number of information, which are useful to the consumers, to be captured in the bill. Such information cannot be easily, conveniently and comprehensively captured in short message service (SMS) and bill sent through SMS would not give sufficient clarity. Most of the consumers who own a phone may not be having access to computer and internet to obtain the bill through e-mail. Access to e-mail is normally not available to the persons who are in the low-income category. It is, therefore, in the interest of the consumers that the service providers give the bills in an understandable form to their consumers. It would, therefore, not be consumer friendly to permit service providers to levy extra charges for providing hard copy of the bill.

11. The Authority has noted that the service providers of other sectors such as Electricity Corporations, Water Utilities services, and Financial Institutions, etc., are not charging any amount for providing the hard copy of the bill.

12. For any services, the subscribers have the right to know and verify the charges levied by the service providers without any exception. Thus, provision of a fixed sum for providing hard copy of the bill is anti-customer. In the views of the Authority, a classification of low end subscribers based on monetary value suggested by the Industry Association is likely to be termed as arbitrary as usage and bill values are relative in nature. Further, 'low-end' customers are the ones who cannot generally afford to have access to computer / internet and, therefore, it is this category of customers who needs protection.

13. The Authority after careful consideration of the provisions relating to billing in the Indian Telegraph Rules, 1951, license agreements for Cellular, Unified Access, NLD and ILD licenses and also the views expressed by stakeholders is of the view that it is necessary to mandate the service providers to provide hard copy of the bill to its post-paid subscribers free of cost. However, if any customer opts for receipt of the bill through e-mail, instead of hard copy, the service providers can supply the same after obtaining explicit consent from the consumers. In all other cases, the service provider must ensure that the bills are generated and delivered to the consumers in printed form free of cost.

14. It is clarified that it has already been mandated to provide itemized bill in respect of long distance calls free of cost on request. As regards the suggestion of the service providers that the Tariff Amendment Order may clarify that itemized bills for local calls and SMS are to be provided to the consumers at some cost and that the charges for such itemized bills for local calls and SMS should be kept under forbearance, it is clarified that the existing provisions of telecommunication tariff order are clear that itemized bills in respect of long distance calls are to be provided to the subscribers free of cost. However, the issue of providing itemized bills in respect of local calls and SMS remains already under forbearance. The requirement now being mandated is only in respect of the basic / summary bill and the itemized bill in respect of long distance calls are to be provided to subscriber free of cost. This being the position the Authority does not deem it necessary to provide for any specific provision in the tariff order for itemized bill for local calls / SMS.

15. This amendment to the principal Tariff Order by the Telecommunication Tariff (Forty-sixth Amendment) Order, 2008 incorporates the decision of the Authority that the telecom customers must get the bill in a printed paper form without any extra charge from them.