

13<sup>th</sup> September, 2024

**Shri Amit Sharma,  
Advisor (Financial & Economic Analysis),  
Telecom Regulatory Authority of India,  
New Delhi.**

**Sub: BIF's Counter comments on "DRAFT - THE TELECOMMUNICATION TARIFF (SEVENTIETH AMENDMENT) ORDER, 2024" (Draft TTO) dated 23 August 2024**

**Ref: DRAFT - THE TELECOMMUNICATION TARIFF (SEVENTIETH AMENDMENT) ORDER, 2024 dated 23 August 2024 (Draft TTO) & BIF's comments dated 6 September 2024**

Dear Sir,

With reference to the above, please find enclosed BIF's counter comments to the comments of some stakeholders.

We earnestly request your kind consideration in this regard.

Best Regards,



T.V. Ramachandran,  
President,  
Broadband India Forum

**BIF's Counter-Comments to the comments of some stakeholders on the "DRAFT - THE TELECOMMUNICATION TARIFF (SEVENTIETH AMENDMENT) ORDER, 2024 dated 23 August 2024" (Draft TTO)**

Broadband India Forum (BIF) thanks TRAI for providing the opportunity to present its counter comments. In our review of the comments of stakeholders we have noticed that few of them have provided misleading and incorrect views.

1. The following comments of a few stakeholders pertain to the process followed by TRAI:
  - The current consultation process lacks transparency, violating Section 11(4) of the TRAI Act.
  - Typically, TRAI issues a detailed Consultation Paper on important matters to gather stakeholder feedback.
  - Draft Regulations are usually issued after stakeholder discussions.
  - The Draft TTO on PM-WANI tariffs was released without prior stakeholder consultation.
  - TRAI should have consulted on the need for PDO services, considering the availability of low-cost 4G/5G data services.
  - Normally, TRAI annexes communication from the Department of Telecommunications (DoT) for transparency.
  - Their comments are based on the limited information in the explanatory memorandum.
  - Section 11(2) of the TRAI Act, which empowers TRAI to notify different rates for different subscribers, does not apply to PDOs because PDOs are service providers and not "subscribers."

**BIF's counter comments:**

**(i)The above comments of few stakeholders are misplaced and misleading.** The PM WANI scheme was announced on 9 December 2020 where it was mentioned that *"The Union Cabinet headed by Prime Minister Shri Narendra Modi today approved the proposal of Department of Telecom (DoT) to proliferate Broadband through Public Wi-Fi networks under the framework of Prime Minister's Wi-Fi Access Network Interface (PMWANI). This framework takes forward the goal of National Digital Communications Policy, 2018 (NDCP) of creating a robust digital communications infrastructure."*

PM-WANI is already an established policy which was approved by the Union Cabinet on the proposal was made to it by DoT after due consultations on Public Open WiFi architecture were done by TRAI. TRAI had conducted multiple consultations regarding this which began in July 2016 and released papers and notes regarding this. TRAI had also initiated a pilot in July 2017 to conduct field trials. **Thus, when the current consultation focuses on limited issue of tariff amendment, the comments of some stakeholders that 'TRAI should have consulted the need of PM WANI' or 'the current process lacks transparency', are demeaning the Cabinet decision which was in the public interest and for the overall growth of the sector and are deliberately disregarding the transparent and due processes followed by DoT and TRAI throughout.**

(ii) Through the above said announcement of Union Cabinet decision, the objectives and the modalities of PM WANI Scheme, including provision of internet bandwidth to PDOs by telecom and internet service providers, were in public domain and known to the consumers, TSPs, ISPs and all players (prospective PDOs, PDOAs, APP Providers). **The concerned TSPs and ISPs cannot provide incorrect comments now to justify their predatory and non-transparent practice of charging for internet leased line, that too as commercial tariffs, when the tariff for PDO is proposed to be intervened by TRAI.**

(iii) The PM-WANI scheme aims to provide affordable connectivity by allowing small PDOs to use FTTH connections. **The PDO Booklet<sup>1</sup> issued by DoT for prospective PDOs on <https://pmwani.gov.in/wani> i.e. PM-Wani Central Registry website, mentions typical annual broadband cost for PDO as Rs.6000/-. However, the annual broadband cost for PDO has been extortionate, as some TSPs and ISPs have set the rate between Rs. 4 lakhs - Rs. 8 lakhs annually, on which there is complete silence in their comments.**

(iv) **Some TSPs and ISPs have not been supporting PM WANI Public WiFi scheme, much before the issuance of this draft TTO by TRAI.** An example of the same is their comments in a recent TRAI's Consultation Paper on the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023. The consultation on that Consultation Paper

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<sup>1</sup> [https://pmwani.gov.in/assets/landing-page/booklets/Booklet\\_PDO\\_English.pdf](https://pmwani.gov.in/assets/landing-page/booklets/Booklet_PDO_English.pdf)

was closed before the issuance of Draft TTO by TRAI. Their comments were duly countered in BIF's submissions pursuant to that Consultation Paper. **Therefore, their comments are more to deflect the underlying problem of non-transparent and incorrect rates to PDOs.**

- (v) **It may be noted that almost 4 years before the introduction of PM WANI Scheme (i.e. in and around 2015-2016), the telecom and internet service providers had agreed with DoT to provide at least 1 million Public WiFi hotspots, however, they hardly provided any Public WiFi hotspots, thus forcing the Regulator and the Government to look at a democratised model of Public WiFi i.e. PM WANI.**
- (vi) **The concerned TSPs and ISPs are denying internet bandwidth to PDOs and are non-transparent with regard to tariffs, which is a major cause of non-proliferation of PM WANI scheme.** The Explanatory Memorandum to the Draft TTO mentions that even DoT has communicated to TRAI 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. This fact has not been denied by the stakeholders who have opposed Draft TTO.** Section 11(4) of the TRAI Act mandates that the Authority shall ensure transparency while exercising its powers and discharging its functions. TRAI, through its tariff orders, has continuously endeavored to provide adequate safeguards to protect and promote consumer and service provider's interests while ensuring orderly growth of the telecom sector. **The first and the foremost pre-requisite to achieve the aforesaid objectives is by ensuring transparency in communication of relevant information and rates by the service providers, which need to be consistent with overall framework. Such transparency in communication is not only relevant to ensure that consumers benefit from the access to critical information regarding the product/service but also to maintain and increase the competition intensity, vital for growth and development of the sector. Thus, TRAI's Draft TTO is to ensure transparency so that all concerned are communicated about tariffs of internet bandwidth to PDOs by TSPs so that Public WiFi can duly proliferate in public interest.**
- (vii) The Explanatory Memorandum to the Draft TTO provides details and TRAI has sought comments and counter comments of the Draft TTO. **The process**

**is same as that of many earlier TTO amendments where a specific tariff item was the subject matter.**

(viii) TRAI's authority under Section 11(2) is extended to regulating tariffs that ensure equitable access to broadband services for the public. The regulation of tariffs for PDOs is in line with this mandate, as PDOs function as intermediaries to expand public broadband access. PM-WANI is already an established policy, and the current consultation focuses on tariff amendments for which TRAI is the authority. **The proposed amendments related to tariffs fall within TRAI's mandate to ensure fair pricing and promote the adoption of public Wi-Fi.**

2. Comments of a few stakeholders pertain to forbearance and are as follows -

- TRAI's hands-off, forbearance policy on telecom tariffs has fuelled sector growth and competition has led to consumers prefer Telco mobile data.
- TRAI's principle of opting for forbearance in matters of tariffs has yielded positive results for all stakeholders, and this should continue.
- There is no assessment impact of such regulatory intervention on the forbearance regime,
- The forbearance regime has led to a healthy growth of sector where consumers feel no urge to use public WiFi hotspots. Public Wi-Fi deployment under the PDO model remains insignificant.

### **BIF's counter comments**

- (i) The TTO provides for three types of tariffs at broader level viz.: (a) Tariffs specified in the TTO; (b) Tariffs subjected to tariff ceiling specified in the TTO; and (c) Tariffs under forbearance. **TRAI's forbearance is designed to allow market-driven pricing while ensuring affordability and fair access.**
- (ii) The 'forbearance' is subject to reporting requirements and adherence to specified principles of tariff assessments, namely, (a) transparency; (b) non-discrimination; and (c) non-predation. **In the given case of tariff for PDOs for internet bandwidth the principles of non-predation and transparency have been severally violated which has led to non-proliferation of PM WANI. In cases where market**

**mechanisms fail to provide affordable services, regulatory intervention is justified.**

(iii) The small entrepreneurs i.e., PDOs, who entered the PM WANI scheme, have incurred losses due to exorbitant rates of internet bandwidth to them. TRAI's intervention will ensure that public Wi-Fi remains an affordable option, particularly for low-revenue entities like small shop owners who act as PDOs.

(iv) **The uncertainty caused by exorbitant tariffs is a major cause for low deployments under PM WANI. We submit that for proliferation of PM WANI, it is necessary that the tariffs be specified in TTO.**

3. Comments of a few stakeholders are as follows -

- FTTH (Fiber to the Home) and leased lines to PDOs serve distinct purposes in the telecom ecosystem. FTTH is a direct-to-consumer service aimed at providing high speed internet to individual households. Leased lines to PDOs function as backhaul connections, where telecom operators provide bulk bandwidth for redistribution by PDOs to multiple end-users.
- The two services differ in service model, target audience, and usage pattern, making direct comparisons inappropriate.
- B2B (commercial) tariffs should be different from retail tariffs due to different usage patterns and costs.
- Applying regulatory tariff or price interventions interchangeably between these services would cause inefficiencies, impact service quality, and lead to regulatory distortions.

### **BIF's counter comments**

(i) **There is no concept of leased line to PDOs under PM WANI scheme.** The Explanatory Memorandum to the Draft TTO mentions that even DoT has communicated to TRAI 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.

- (ii) The PM-WANI scheme aims to provide affordable connectivity by allowing small PDOs to use FTTH connections. **The PDO Booklet<sup>2</sup> issued by DoT for prospective PDOs on <https://pmwani.gov.in/wani> i.e. PM-Wani Central Registry website, provides business model for a PDO. It mentions typical annual broadband cost for PDO as Rs.6000/-. However, there is a huge price difference in broadband connectivity cost, which is between Rs. 4 lakhs - Rs. 8 lakhs annually being asked from PDOs, and Rs.6000/- annually as mentioned in DoT's PDO booklet.**
- (iii) **The FTTH connections must be made available to PDOs (such as local shops) at affordable rates to promote widespread Wi-Fi access and leased-line prices on retail services cannot be imposed.**
- (iv) **The requirement of PDO is the internet bandwidth, which is mentioned in the Union Cabinet's decision of 9 December 2020.** There is no difference between the FTTH (Internet bandwidth) provided at home or to PDO. At home there are multiple users and devices, who / which authenticate through the WiFi password, to avail internet services. Similarly at the PDO shop, the end users /devices automatically authenticate through PM WANI defined process (initial one time authentication is through mobile number). It is submitted that a connection is same at home and at PDO shop. It cannot be said to be access in one case and backhaul in other case. The WiFi is same in both the cases and the internet access connection is given by TSP/ISP to home/shop.
- (v) PM-WANI is not a typical commercial service provider but a model designed to provide affordable, widespread internet access. Thus, applying FTTH retail tariffs in this specific context aligns with the goal of affordable internet proliferation.
- (vi) **As mentioned above, regulatory intervention is required in such tariffs as the market mechanisms have failed to provide PM WANI services. The situation, if not addressed, will result in the concerned TSPs/ISPs continuing to levy very high prices for internet bandwidth to PDOs in name of internet leased line and/or commercial tariff,**

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<sup>2</sup> [https://pmwani.gov.in/assets/landing-page/booklets/Booklet\\_PDO\\_English.pdf](https://pmwani.gov.in/assets/landing-page/booklets/Booklet_PDO_English.pdf)

**thus making PM WANI unviable and defeating the goal of bridging the digital divide.**

4. Comments of a stakeholder that 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. The stakeholder has also commented that It will be retarding rolling out of FTTH network. There are similar comments by a few other stakeholders.

### **BIF's counter comments**

**(i) For the last 8 years the some TSPs and ISPs have not assisted in Public WiFi but on the contrary have resisted it every time. This they could do in the absence of any tariff intervention. The tariffs for internet broadband were left to market forces and such market mechanism has failed. The charges of Rs.4 lakh to Rs. 8 lakh per annum to provide a Public WiFi service at a small shop is a clear example of predatory pricing and this has resulted in a shortage of Public WiFi in the country, where the public which cannot afford FTTH connectivity is being deprived of its benefits.**

**(ii)** The assumptions and some calculations given by the stakeholder on the usage and loss of revenue to the extent of Rs.19000 per month to TSP, is presumptive, incorrect and conjectural. It is based on flawed assumptions, including that all data consumption will shift from mobile to public WiFi. It is not considering that common man needs more data consumption than that he can avail under the mobile plans, considering that most of mobile data plans have usage limits. The example of Rs. 649 plan is also incorrect as the current ARPU is much lower. The per GB revenue calculations are only presumptive and based on incorrect assumptions.

**(iii)** The data consumption of FTTH-WiFi connections is globally much more than the mobile data consumption. This is true for even developed countries, which have far more penetrated mobile tele density on 4G/5G.

**(iv)** India, at present has only 0.5 million Public Wifi Hotspots (including 0.2 million on PM WANI). India is way below in Public WiFi density, with UK, USA, and China having 175X, 50X and 75X on Per Million Population Basis. The



Policy Targets regarding Public WiFi hotspots are 50mn by 2030 under Bharat 6G Vision. It is well proven that WiFi is complementary to mobile services.

- (v)** If 50mn PM WANI hotspots are established in India, then with average revenue for internet bandwidth of Rs. 1000 per month, the additional revenue of TSPs will be Rs. 60,000 crore per year. Further, in such a situation, more and more population will get conversant with internet resulting in more mobile connections and FTTH connections, as has been the case in many other countries. This will complement to new earning opportunities and to the digital economy in a sustainable manner.
- (vi)** The decision of Union Cabinet in 2020 specifically mentioned that **the telecom and internet service providers will also benefit due to the sale of bandwidth to PDOs. There is great merit in this statement and it is strange that business opportunity as big as PM WANI is being overlooked by concerned TSPs and ISPs.**
- (vii)** By enabling PDOs to operate, the PM-WANI scheme could lead to more widespread internet use, potentially increasing overall data usage and revenues in the long term. The PM-WANI model will introduce more players and more business opportunities which will expand the market rather than diminish it.
- (viii)** In fact, the expansion of affordable internet through public Wi-Fi will complement FTTH growth by creating demand in areas that previously lacked broadband access. PM-WANI is intended to coexist with other broadband initiatives like FTTH and mobile and not replace them. These will operate synergistically, with public Wi-Fi serving as a bridge for underserved areas.
- (ix)** The PM-WANI scheme is part of India's broader digital inclusion strategy, aimed at addressing inequalities in internet access, particularly in rural and underserved regions. The proposed tariffs for PDOs are aligned with this objective.
- (x)** India cannot be forced into a data deprived country by having predatory pricing for internet bandwidth connectivity. It will be anti-consumer and orderly growth of sector, if the PM WANI Public WiFi is stifled which will lead to increase in digital divide. Therefore, the tariff intervention, as the one proposed, is the need of the hour.

**(xi) In light of the above, it can be seen that comments by the stakeholder are devoid of any merits and the draft TTO rather aims to address and correct the current anti-competitive and anti-consumer practices that are disrupting orderly growth of the telecom sector.**

5. Comments of a stakeholder that the draft TTO is not only against the article 19(1)(g) of the Constitution but also against the article 14 of the Constitution as it forces the telecom operator to provide same tariff for two completely dissimilar services. The concerned stakeholder has also commented that forcing TSPs to provide network inputs to other providers at regulated prices violates constitutional rights.

### **BIF's counter comments**

(i) The Constitution does not prohibit reasonable restrictions on business activities in public interest and overall nation's growth. In this case, regulated tariffs will only serve the public interest by promoting affordable internet access under PM WANI scheme, especially in remote areas where market-driven prices have proved to be unaffordable.

**(ii)The proposed tariff is designed to address market failures and ensure affordable access to essential services like broadband.** Courts have historically upheld such regulations in cases where public welfare is a key concern.

**(iii)** As mentioned earlier that distinction as regard to retail and commercial or access and backhaul or FTTH and internet leased line are not applicable in the given framework of PM WANI. Rather such distinctions, have been wrongly imposed and practised by some TSPs and ISPs, which has resulted in stifling of the Public Wifi in India. Any such distinctions are also against the policy and decisions of the Government on the subject of PM WANI.