

Telecom Regulatory Authority of India
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Clarifications on The Telecommunication (Broadcasting and Cable) Services
Tariff Order 2004

After announcement of the Telecommunication (Broadcasting and Cable) Services Tariff Order 2004, a number of questions have been raised in regard to the underlying import of the provisions of the aforesaid Order. These are answered below:

Q 1: What is the coverage of The Telecommunication (Broadcasting and Cable) Service Tariff Order 2004 dated 15.01.2004?

Ans: The said order shall cover, throughout the territory of India, both for CAS and non-CAS areas, charges payable by

- a) Cable subscribers to cable operator;
- b) Cable operators to Multi Service Operators/Broadcasters (including their authorized distribution agencies); and
- c) Multi Service Operators to Broadcasters (including their authorized distribution agencies).

Q 2: What is meant by word “charges” mentioned in the Tariff Order?

Ans: ‘Charges’ mean and include the charges/tariff rates payable by one party to the other by virtue of the formal/informal Agreement prevalent on 26th December 2003. The principle applicable in the formal/informal Agreement prevalent on 26th December, 2003, should be applied for determining the scope of the term “charges” For instance,

- if under the Agreement applicable as on 26th December, 2003 specified the total amount as rate or charge per subscriber, multiplied by the subscriber base, the ceiling applies to the per subscriber charge and not to the subscriber base.
- if earlier the amount paid varied on certain limited occasions linked to the likely change in the subscribers base for a specified short period, such a

practice could still continue. However, the charge per subscriber in such cases should not be more than those applicable on 26th December 2003.

Q 3: What about the charges if the cable service provider gives lesser number of channels compared to those shown on 26th December 2003?

Ans: The ceiling charges are specified in terms of the products that they pertained to, namely the channels that were shown on 26th December 2003. Normally, there should not be a reduction in the number of channels shown on 26th December 2003. If, however, due to certain unavoidable reasons, the number of channels is reduced, the charges should also be reduced on a pro-rata basis.

Q 4: What about the situation where the channel or cable service was not available on 26th December, and the channel or cable service is being provided after this date?

Ans: In such cases, the Tariff Order does not provide any specific ceiling, and the formal/informal Agreements regarding such charges could be entered into by the relevant parties. However, in specifying the relevant charges, the charges that the broadcaster/Multi System Operator/Cable Operator might have in place in the contiguous areas/similar channels as on 26th December 2003 should be kept in mind.

Q 5: Will the TRAI intervene, in case the subject matter of dispute between two service providers relates to “the number of subscribers”?

Ans: The remedy in this case would lie in

- a civil court;
- Telecom Disputes Settlement and Appellate Tribunal (TDSAT), under section 14 of the TRAI Act..

Q 6: Whether individual subscribers can file complaints with the TRAI?

Ans: Under the TRAI Act, the TRAI does not deal with complaints from individual subscribers/consumers for whom redressal mechanism is available before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the

National Consumer Redressal Commission established under section 9 of the Consumer Protection Act, 1986 (68 of 1986).

Q 7: What is the remedy available for contravention of The Telecommunication (Broadcasting and Cable) Service Tariff Order 2004?

Ans: In case of any violation of TRAI's Order/Directive/Regulation, if a complaint is filed with TRAI with properly documented evidence, TRAI would, after examining the matter give a direction that the Order be followed. If the Order is still not followed, the TRAI has the option of filing a complaint before the appropriate courts under section 29 and 30 read with section 34 of the TRAI Act.

Q 8: What is the remedy available to the stakeholders in case of a dispute between two or more service providers or between a service provider and a group of consumers?

Ans: In case of a dispute between two or more service providers or between a service provider and a group of consumers, the dispute may be referred to Telecom Disputes Settlement and Appellate Tribunal (TDSAT) under section 14 of the TRAI Act.

For more information please see Section 11, 13 and 14 of the TRAI Act on the TRAI website www.trai.gov.in.