

**CUTS' Comments on TRAI's Consultation Paper on
Differential Tariffs for On-network calls
(No.3/2006)**

Specific Issues for Consultation

Question 1: Whether differential on-network call charges shall be continued to be permitted? Please substantiate your views with reasons.

Differential on-network calls should be permitted. The apprehension raised by stand-alone operators about undue and unfair advantage to large and integrated operators is likely in case of inter-circle level calls. This apprehension can be taken care by ensuring that differential tariffs are not in the nature of vertical price squeeze. The principle in this case should be that the retail tariff (customer to customer tariff) is greater than the sum of IUC charges and ADC.

Consider a hypothetical example. A stand-alone operator in Delhi charges Rs.1.50 from its subscribers to make a call to Airtel subscribers in Mumbai, and its call is 'carried' on Airtel's network, and also 'terminates' on Airtel's network. Airtel on its part charges Re.'X' from its subscriber for making a call from Delhi to Mumbai. If 'X' is less than or equal to the sum of IUC charge and ADC that the standalone operator must pay on inter-circle level call, then Airtel's differential tariff would be in the nature of vertical price squeeze, and TRAI should ensure that such tariffs are not allowed.

The action taken by TRAI against private GSM mobile operators for differential tariffs for calls terminated in private GSM networks as against those terminating in the GSM networks of PSUs, is commendable. Similarly, the differential tariff plan of BSNL discriminating between MTNL subscribers and other subscribers is discriminatory in nature. Such differential tariffs are anti-competitive and should be disallowed outright.

Question 2: What should be the appropriate definition for the term 'on-network' for the purpose of applicability of differential call charges? Please give reasons for your answer.

'On-network' should be defined as the network of the same operator either within or outside the same service or within or outside the same service area. In terms of the classification given in the consultation paper, it should include a) Same Area-Same Service - Same Operator; c) Same Area-All Services - Same Operator; e) All Areas-Same Service - Same Operator; and g) All Areas-All Services - Same Operator.

So long as the principle mentioned in response to question 1 i.e. retail tariff is greater than the sum of IUC charges and ADC is followed, 'on-network' should not be limited to intra-circle level calls.

'On-network' involving multiple operators should be outrightly disallowed. In fact, the two cases of differential tariffs by private GSM operators and by BSNL which are reported in the consultation paper, come under this category, and these are anti-competitive in nature. If a mobile operator of Delhi provides differential call charges for calls terminating in its own mobile network in Delhi and the mobile network of other 'selected' operators in Delhi, then it is discriminating against other mobile operators in Delhi who are left out. This is clearly anti-competitive!

Question 3: Whether differential call charges for calls terminated within a service but different technologies should be treated as discriminatory tariff? If so, give reasons.

If there are no justified grounds for having differential tariffs on calls terminating on GSM or CDMA, then such a tariff scheme is an arbitrary classification and against the principle of non-discrimination. In the present situation, when IUC charges and ADC applicable are identical for both GSM and CDMA terminated calls, differential charges for calls terminating within a service but different technologies should be treated as discriminatory.

Consider a hypothetical example. If BSNL (for calls made from its fixed line) charges different tariffs for calls terminating on Airtel network (GSM) as against Reliance (CDMA), and termination of calls on either technology network does not entail any additional cost to BSNL, then such differential tariffs amount to discrimination and should be disallowed.

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