

April 14, 2005

1. Subscriber Numbers for March 2005

The total cumulative all India GSM subscriber base rose by **1.24 million** from **39.78 million** by end of February 2005 to **41.03 million** in March 2005, showing a **growth of 3.12%** in the month under review.

The metros accounted for 26.81% of the subscriber base at 11 million subscribers while Category A Circles accounted for 36.31% of the total subscriber base at 14.9 million subscribers. Category B Circles were not too far behind with 12.63 million subscribers accounting for nearly 30.78% of the total subscribers. Category C Circles accounted for 6.1% of the total subscriber base at 2.49 million subscribers.

Delhi continues to be the leading cellular market with 4.09 million subscribers accounting for 10% of the total market, closely followed by Mumbai with 3.97 million subscribers accounting for 9.68% of the total market.

A summary picture of the company wise performance is given below:

SI No.	Name of the company	No of Subscribers (In mn)	% Market Share	No of Service Areas
1.	Bharti	10.98	26.77%	21
2.	BSNL	9.41	22.93%	21
3.	Hutch	7.80	19.01%	13
4.	IDEA	5.07	12.36%	8
5.	BPL	2.58	6.28%	4
6.	Aircel	1.76	4.28%	2
7.	Spice	1.44	3.51%	2
8.	Reliance	1.12	2.72%	7
9.	MTNL	0.88	2.15%	2

2. Sites/ Services in Border Towns – Punjab and other Border Telecom Circles

In response to a Government directive to some operators that mobile services not be provided within 10 kms of the international border COAI, vide its Letter No. TVR/COAI/053 dated **March 31, 2005** made the following submissions: -

1. The Border Service Areas included some very important towns which were being served by all the operators of the service area, including the public sector operator.
2. Adherence to 10Kms provision of license would entail stoppage of service in these important areas, which would not only deprive the citizens in these towns of the benefits of mobile services but would also have an adverse impact on tele density and growth of telecom services.
3. In the last Parliament session, the Hon'ble Members of Parliament too had raised this issue/ concern that the subscribers/ populations in the border areas were being deprived of the benefits of the Cellular Telephony.
4. The purpose of this restriction was not to cause dissatisfaction or to deprive the populations living in the border towns of the benefits of mobile telephone, but was only to ensure that no signal should cross the international border, due to security reasons.
5. In order to fulfil the security requirements, the operators confirm that the signal does not cross the international border and automatically become unusable.

In the light of the above, COAI requested DoT to review its Order and allow the Operators to offer mobile services within the boundaries of the service area, subject to the strict condition that the signal did not, under any circumstances cross the international boundary. It was further submitted that if however, the Government still deemed it necessary to stipulate such restrictions, then the same provisions should be applied equally and non-discriminately to all cellular operators with effect from a common date, so as to ensure equity and level playing field amongst all players.

3. Reliance Infocomm's New Unlimited Talktime Plans

COAI vide its Letter No. TVR/COAI/049 dated **March 29, 2005** to TRAI submitted that Reliance Infocomm, with its new Unlimited Talktime Plans, was violating TRAI's 33rd Amendment to TTO 1999, dated December 08, 2004. COAI drew the attention of the Authority to its 33rd Amendment whereunder it was clearly stated that: -

1. "Any differential tariff assuming the nature of vertical price squeeze.... will not be permitted".
2. "Service Providers shall conduct a self-check of existing tariff in view of the above Guidelines and if any tariff schemes in operation are inconsistent with these guidelines, the same shall be immediately withdrawn under intimation to the Authority."

COAI also drew the Authority's attention to its clarification that vertical price squeeze is a recognized anti-competitive practice engaged by an operator with SMP.

COAI submitted that Reliance was an operator with SMP and its Tariff Plans, by virtue of offering 'unlimited' talktime to its own customers across different service areas were in violation of the Authority's Tariff Order as notified in its 33rd Amendment. It was further submitted that these tariffs were predatory as the same tariff rates were not transparently available to other access providers who were its competitors. COAI believed that by offering such tariffs, Reliance was squeezing the margins of its competitors as it lowered its rental tariffs of competitive services in the downstream market whilst not extending this facility to its competitors for wholesale prices (carriage charges) in the upstream market.

COAI sought urgent intervention of the Authority to direct the immediate withdrawal of the above predatory tariff plans.

4. TRAI Consultation Paper 4/2005 on Interconnect Usage Charge Review

A. TRAI issued its Consultation Paper on IUC Review on **March 17, 2005**. The Paper raised a wide range of issues including:

1. Admissibility of ADC for non-BSNL Fixed Line Operators.
2. Justification of ADC on Fixed Wireless Lines.
3. ADC as Percentage of Revenue, or a variant such as a mixed model, higher ADC on NLD and ILD calls, etc.
4. Period by which ADC regime should be merged with the USO regime.
5. Carriage Charges including differential rates for carriage, scope for negotiation, etc.
6. Termination Charges including differential rates for fixed/ mobile, urban/ rural, scope for negotiation, etc.
7. Sharing of Roaming Charges on revenue basis.

B. In this context, COAI vide its Letter No. TVR/COAI/051 dated **March 30, 2005** requested

TRAI to transparently share the following data/ information with the industry:

1. Segment wise reporting of Financials for the licensed services of BSNL in accordance with TRAI stipulated Accounting Separation Guidelines.
2. Traffic data involving varied type of calls between incumbent and other access providers' data for different long distance slabs within outside circles.
3. Financial data demonstrating deficit in fixed access business after accounting separation of BSNL accounts into licensed service categories.
4. Information as to exactly how much ADC has been collected by BSNL and the other basic operators since the time it has been first implemented in May 2003 before proceeding with another round of implementation of the modified regime.

It was submitted that the above data would help to evaluate and provide meaningful inputs to the current consultation process towards strengthening of a vibrant telecom sector in India. As the receiving and processing this information would take some time, COAI sought for an extension of 15 days for submission of response.

C. In confirmation of the above, COAI vide its Letter No. TVR/COAI/059 dated **April 7, 2005** reiterated its request for industry data and also requested TRAI to share some more data regarding the Fixed Wireless Services being offered by the private operators. This would include inter-alia:

1. The number of FWT connections since inception,
2. The average minutes of use &
3. The average ARPUs on these lines.

It was submitted that the FWT data would have a significant financial implication and a major bearing on the ongoing IUC/ADC Review. COAI also sought for a further extension upto May 15, 2005 for submission of response.

5. Lock in of FWTs

A. Pursuant to the IUC (Fourth Amendment) Regulation (1 of 2005) issued by the Authority on January 6, 2005, COAI vide its Letter No. TVR/COAI/027 dated **February 24, 2005** submitted to the Authority that the above regulation created a non-level playing field for cellular operators vis-à-vis operators offering Fixed Wireless Services. COAI drew the attention of TRAI to the following:

- The cost of providing Fixed Wireless Service was same as that for the cellular mobile.
- FWTs were portable and could be used throughout the service area just like cellular mobile and they were also advertised and offered as mobile services.

In light of the above, there was no justification for payment of ADC to WLL (F) but not to cellular. COAI pointed out that payment of ADC on FWTs significantly disadvantaged the cellular operators as FWTs constituted 77%-97% of the fixed lines of the two large private operators offering it as mobile service. This created a non-level playing field for the cellular operators. COAI thus requested the Authority to ensure level playing field between wireless operators by ensuring that either

- The FWT services be excluded from the ambit of ADC.

Or

- The cellular operators too, be entitled to recover ADC.

B. On **March 4, 2005** TRAI issued a Directive on the issues related to WLL (F) Services. The Authority directed that:

1. The terminal used for fixed wireless services should be strictly confined to the premises of the subscriber.
2. There should be no misleading advertisements in the electronic and print media.
3. It was the Licensee's responsibility to ensure that the subscriber terminal was operated in accordance with the terms of the License for fixed lines.
4. Any violation would attract action against the Licensee under the relevant clauses of the License Agreement.

C. Following the industry's concern on the Fixed Wireless Services being usable throughout the service area, DoT vide its Order No. 10-10/03-II/Vol.IV dated **March 23, 2005** clarified that: -

1. The Fixed Wireless services should be strictly confined to the premises of the subscriber.
2. It was the licensee's responsibility to ensure that these instructions were complied with.

DoT also stated that wherever such restrictions could not be imposed, the FWT service would be treated as WLL (M) feature for all purposes which inter-alia would include Numbering Plan, Interconnection Usage Charges, Interconnection Arrangements, etc.

D. In this regard COAI vide its Letter No. TVR/COAI/047 dated March **28, 2005** wrote to the Secretary General, AUSPI requesting its support in obtaining the numbering scheme of its members, allocated separately for fixed wireline and for the fixed wireless services in each of the SDCAs in which these services were being offered.

But no support has been forthcoming from the AUSPI who state that this is a Licensor-Licensee issue and that COAI and its members have no role to play in this regard.

6. Post Budget Memorandum of Cellular Industry

COAI vide its Letter No. TVR/COAI/045 dated **March 21, 2005** submitted its Post Budget Memorandum to the Ministry of Finance. COAI welcomed the removal of mobile phones from the 1/6 Scheme of Income Tax as it was a major barrier to the growth of mobile services. The removal of the same was also a clear recognition by the Government that the cellular services were a common man's service and the users are not a part of the tax bracket being targeted under the scheme of Income Tax.

However, a few key concerns of the industry which had been overlooked in the Union Budget for 2005-06 were submitted for reconsideration. These were:

1. Extension of the 80IA Benefit to Telecom at par with other Infrastructure Sectors.
2. Clarification on the Applicability of CENVAT credit to Telecom Infrastructure Equipment.
3. Credit of Additional Customs Duty of 4% against payment of Service Tax.

It was submitted that the resolution of these key issues would greatly help in meeting the tele density objectives of the nation.

7. BSNL Circular on Implementation of IUC Regulation

Pursuant to the TRAI IUC Regulation (4th Amendment) of January 6, 2005, BSNL had come out with a Tariff Circular on January 29, 2005, stipulating inter alia that handover of calls of national roaming subscribers would be on separate trunk groups at Level I TAX location.

The COAI vide its letter No. TVR/COAI/016 dated **January 31, 2005** had objected to this circular submitting inter alia that this would result in additional carriage charges, increased roaming

charges as well as inefficient interconnection arrangements. It was further submitted that in case of international and national in-roamers, the calls made were actually local calls and therefore the treatment accorded should be similar and thus there was no need for a separate trunk group.

COAI had also objected to BSNL stipulating that in case of international roaming calls, CMSPs would be required to share 50% of their roaming revenues. It was submitted that such stipulation was completely against all TRAI's regulations and principles.

COAI also approached the TRAI for its intervention in the matter and TRAI's clarification was issued vide Letter No. 409-2/2005-FN dated March 11, 2005.

In this context, COAI wrote back to TRAI on **March 17, 2005** vide Letter No. TVR/COAI/039 submitting inter alia that the core issue of where a call from an in-roamer is to be handed over to BSNL for termination i.e. at Level-I TAX or Level-II TAX, had not been clearly addressed by the Authority.

Further COAI expressed concern on the Authority's statement that, all calls made by national roamers should be treated as NLD calls and all calls by international roamers should be treated as incoming ILD call, and the ADC for NLD /ILD calls would be applicable respectively. It was submitted that such stipulation was unjust and inequitable and sought to unfairly penalize the roaming benefits that could be offered by the cellular operators to their consumers.

It was further submitted that an ILD was defined as one, which either originated in India and terminated abroad or originated abroad and terminated in India; and a NLD call was defined as one, which originated in one service area and terminated in another service area within the geographical boundaries of India. It was submitted that a local call made by a national or international roamer could not be treated as an NLD/ILD calls.

In the context of BSNL demanding a share of the roaming revenues, it was submitted that if revenue had to be shared between the various operators involved in completing a call end to end, based on the tariff charged to the customer, then the same principle had also to be applied for incoming ILD calls as well, where high settlement rates were being collected by the ILDOs from the foreign carriers and termination charges of only Rs. 0.30 per minute was being paid to terminating cellular operators.

8. The Telecommunication Tariff (Thirty Fourth Amendment) Order, 2005 (1 of 2005)

TRAI issued its Telecommunication Tariff Order (1 of 2005) on **March 11, 2005**. The Order dealt with the issue of regulating the tariff for International Bandwidth. The International Bandwidth Service was provided through International Private Leased Circuits (IPLC). The Authority had fixed ceiling tariff for three most commonly used capacities/speed i.e. E1 (speed of 2 Mega bits per second), DS-3 (speed of 45 Mega bits per second) and STM-1 (speed of 155 Mega bits per second). The salient features of the tariff fixed in respect of international bandwidth were:

1. The ceiling tariff for IPLC half-circuit in respect of E1, DS-3 and STM-1 capacities at Rs. 13 Lakhs, Rs.104 lakhs and Rs.299 lakhs per annum were fixed after a reduction of 35%, 71% and 70% respectively. Operators were at liberty to offer tariffs that were lower than the ceiling tariff fixed by the Authority.
2. The prescribed ceiling tariff would be applicable for all destinations, capacities and types of cable systems used for carrying either voice or data.
3. The service providers were required to offer Standard Tariff Package containing tariff for half circuits for all routes/destinations for which circuits were offered.
4. The tariff for capacity/speed below E1 and for IPLC offered through satellite media was kept under forbearance.
5. The ceiling tariffs prescribed by this Order would take effect from 1st April 2005.

The Authority stated that it would shortly issue the Tariff orders revising the existing ceiling tariff in respect of Domestic Leased Circuits (Domestic Bandwidth).

9. The Telecommunication Tariff (Thirty Fifth Amendment) Order, 2005 (2 of 2005)

The Telecommunication Tariff Order (TTO) 1999 contained nine Schedules (I to IX). The title of Schedule IV of Telecommunication Tariff Order notified on March 9, 1999 was "Leased Circuits". The Authority by issuing the thirty fourth Amendment to TTO 1999 on 11.3.2005 had renamed the existing Schedule IV as "Domestic Leased Circuits" and added Schedule X, i.e. INTERNATIONAL PRIVATE LEASED CIRCUIT (IPLC)-(Half Circuit). The present amendment intended to make consequential change in clause 3 under section III of TTO.

10. Direct Dialing for Maharashtra, West Bengal, Tamil Nadu & Uttar Pradesh

A meeting was held by DoT on **March 9, 2005** to discuss the limited issue of:

1. Removing the pre-fix '0' for Mobile Terminated calls between
 - Mumbai & Rest of Maharashtra
 - Kolkata & Rest of West Bengal
 - Chennai & Rest of Tamil Nadu
 - UP (West) & UP (East)
2. Considering the introduction of local call tariffs for the above calls.

The submissions made by COAI during the meeting were: -

- 1) There was technically no difficulty in removing the prefix '0' for mobile terminated calls.
- 2) However, '0' was historically associated with STD and STD charges, removal of the prefix would raise the demand/ expectation for offering the service of local tariffs.
- 3) Operators would not be able to meet this demand as these were separate service areas and calls between these areas had to necessarily go through an NLD operator.
- 4) From a regulatory point of view, there was no difference in character between Delhi-Mumbai call and a Mumbai-Pune call as these were calls between two separate service areas.
- 5) If this facility was introduced only for the above four states it would lead to non-level playing field and unfair competition in as much as a service provider present in both service areas in the respective states would have an unfair advantage over the operators who were present in one of the two service areas in terms of inter-alia:
 - Roaming charges,
 - Points of presence,
 - Payments of ADC,
 - Etc.
- 6) There was no rationale why this facility should only be available in Maharashtra, West Bengal, Tamil Nadu & Uttar Pradesh and not be extended equally throughout the country.
- 7) Giving this facility only in the above mentioned four states would be unfair for service providers in the rest of the country who had an exactly similar case and argument for allowing direct inter-circle connectivity and had in fact been seeking the same in public interest for many years now.
- 8) Any proposal / solution that was applied to Chennai, Tamil Nadu; Mumbai, Maharashtra; Kolkata, West Bengal and UP (East) & U P (West), must be equally applicable to all other service areas to ensure fair treatment and level playing field.

- 9) The core issue was not the removal of the prefix '0' as consumers do prefix a '0' for PSTN terminated STD calls even within a state. The core issue was affordability of long distance services. Introduction of inter-circle connectivity as had been sought by the industry for many years would go a long way towards addressing the demand of all consumers for cheaper long distance services.

The details of this may be worked out on an all India basis in transparent consultations with all stakeholders.

11. Financial Bank Guarantee for Spectrum Charges

In response to a Demand raised by the Wireless Finance Division of DoT for a 1-year Financial Bank Guarantee to scrutinize spectrum charges, COAI vide its Letter No. TVR/COAI/030 dated **March 4, 2005** submitted that this would impose a further financial burden on the cellular operators who were already under severe financial strain on account of having to bear the high burden of regulatory costs while offering lowest tariffs in the world. Regulatory levies already accounted for 1/3rd of the operating costs of the operators. COAI further submitted that: -

1. License fees were paid by operators upon completion of the quarter. Spectrum usage charges which were also revenue /AGR based should be recovered on the same basis as license fees. This would be logical as well as it would reduce reconciliation problems and operational difficulties.
2. Bank Guarantees were relevant in early days of telecom liberalization. The value of the investments, the networks that were physically in place and the regular payments being made by the operators constituted sufficient safeguards of the commitment and credentials of the operators.
3. Bank Guarantees benefited neither the end-customer nor the industry nor the Government. These benefited only the banks. The margin money and the banking charges would have to be recovered from the end user tariff which would be against the Government's objective of offering increasingly affordable tariffs to stimulate growth and rapidly increase tele density.
4. Over the last couple of years the Government had reduced various Bank Guarantees like Financial Bank Guarantee and the NLD Performance Bank Guarantee as they impacted the cash flows of companies and added a significant cost burden on the operators. Thus, raising a

new demand for Bank Guarantee for spectrum charges would be a retrograde step in the march towards lower costs and the resultant lower tariffs for end-users.

5. TRAI in its final recommendations on Unified Licensing had opined that a penalty clause in the License agreement would ensure compliance to license terms and conditions and there should thus be no requirement for a Financial Bank Guarantee.

COAI sought the intervention of the DoT to resolve the issue keeping in view its above submissions.

12. TRAI (Access to Information) Regulation, 2005 (3 of 2005)

TRAI issued its Regulation on 'Access to Information' on **March 4, 2005**. The highlights of this Regulation were:

1. A service provider furnishing any information to the Authority would make a request in writing to keep that information or a part thereof confidential. It would also furnish a non-confidential summary of the portion sought to be kept confidential. The request should be accompanied by reasons for keeping the information confidential.
2. If the Authority is of the opinion that it was necessary or expedient to disclose the information in public interest, it shall do so and if it proposes to reject the request, it shall inform him in writing the reasons for doing so, and give him an opportunity to make a representation against the same within a period stipulated by it.
3. A service provider seeking access to information of another service provider should make a request in writing to the Authority, with a copy to the service provider whose information was being sought.
4. The Authority would reject a request if it was of the view that:
 - The information was exempt, or
 - It was covered by one of the grounds for refusal, or
 - The request was not reasonable or genuine, or
 - It had not been made for legitimate purpose, or
 - It was not in public interest.
5. A request would be exempted from disclosure if:
 - It was covered under trade & commercial secrets and the information was protected by law, or

- If the information was commercially & financially sensitive.
6. The Authority has the right to refuse a request if:
 - It was too general in nature, or
 - The information required was too voluminous, or
 - The information had already been published, or was likely to be published soon, or was regularly published from time to time.
 7. The Authority would provide the information in the form it considers proper.
 8. If the Authority refused access to information on the ground that it was exempted from disclosure, then it would give access to that part of information which was not exempted.
 9. Nothing contained in this Regulation would apply to information lawfully required by a Government agency or required in connection with enforcement or administration of law.
 10. A Fee of Rs. 500 per page would be charged for providing information under this Regulation.