

**TO BE PUBLISHED IN THE GAZETTE OF INDIA  
EXTRAORDINARY PART III SECTION 4**

**TELECOM REGULATORY AUTHORITY OF INDIA  
NOTIFICATION**

**New Delhi, the 1<sup>ST</sup> OCTOBER, 2012**

**THE TELECOMMUNICATION TARIFF (FIFTY THIRD AMENDMENT)  
ORDER, 2012**

**No. 5 of 2012**

No. 301-39/2012-F&EA— In exercise of the powers conferred upon it 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 hereby makes the following Order further to amend the Telecommunication Tariff Order, 1999, namely: -

- 1.** (1) This Order may be called the Telecommunication Tariff (Fifty Third Amendment) Order, 2012.  
(2) This Order shall come into force from the date of its publication in the Official Gazette.
  
- 2.** In clause 3 of the Telecommunication Tariff Order, 1999 (hereinafter referred to as the principal tariff order), for the word and figures “Schedule I to XIII”, the word and figures “Schedule I to XII” shall be substituted.

**3.** In Schedule II to the principal tariff order, under the heading “Tariff”, in the entries occurring against the item “(6) Tariff for prepaid service”, in the proviso, for sub-clause (ii) of clause (f), the following sub-clause shall be substituted, namely:-

“(ii) a nominal fee, not exceeding ten percent of maximum retail price of top up voucher or three rupees, whichever is less, shall be levied towards administrative cost or expenses for each top up voucher.”

**4.** Schedule XIII to the principal tariff order and entries thereunder shall be omitted.

(Raj Pal)  
Advisor (F&EA)

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 9<sup>th</sup> March, 1999, and subsequently amended as given below:-

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

30 <sup>th</sup>	301-4/2004(Econ) dated 16.1.2004
31 <sup>st</sup>	301-2/2004-Eco dated 7.7.2004
32 <sup>nd</sup>	301-37/2004-Eco dated 7.10.2004
33 <sup>rd</sup>	301-31/2004-Eco dated 8.12.2004
34 <sup>th</sup>	310-3(1)/2003-Eco dated 11.3.2005
35 <sup>th</sup>	310-3(1)/2003-Eco dated 31.3.2005
36 <sup>th</sup>	312-7/2003-Eco dated 21.4.2005
37 <sup>th</sup>	312-7/2003-Eco dated 2.5.2005
38 <sup>th</sup>	312-7/2003-Eco dated 2.6.2005
39 <sup>th</sup>	310-3(1)/2003-Eco dated 8.9.2005
40 <sup>th</sup>	310-3(1)/2003-Eco dated 16.9.2005
41 <sup>st</sup>	310-3(1)/2003-Eco dated 29.11.2005
42 <sup>nd</sup>	301-34/2005-Eco dated 7.3.2006
43 <sup>rd</sup>	301-2/2006-Eco dated 21.3.2006
44 <sup>th</sup>	301-34/2006-Eco dated 24.1.2007
45 <sup>th</sup>	301-18/2007-Eco dated 5.6.2007
46 <sup>th</sup>	301-36/2007-Eco dated 24.1.2008
47 <sup>th</sup>	301-14/2008-Eco dated 17.3.2008
48 <sup>th</sup>	301-31/2007-Eco dated 1.9.2008
49 <sup>th</sup>	No. 301-25/2009-ER dated 20.11.2009
50 <sup>th</sup>	301-24/2012-ER dated 19.4.2012
51 <sup>st</sup>	301-26/2011-ER dated 19.4.2012
52 <sup>nd</sup>	301-41/2012-/F&EA dated 19.09.2012

Note 2. – The Explanatory Memorandum explains the objects and reasons for the Telecommunication Tariff (Fifty Third Amendment) Order, 2012.

## **EXPLANATORY MEMORANDUM**

### **Processing Fee on talktime top up vouchers**

The existing structure of Processing Fee was mandated vide TTO(50<sup>th</sup> Amendment) notified on 19.04.2012 as per which ceiling on Processing Fee is Rs.3/- in respect of top-up denominations of Rs.20/- and above and Rs.2/- for top-up denominations below Rs.20/-. The National Telecom Policy, 2012 has emphasised the need to enhance the ability of the poorer sections of the society, both in rural and urban areas, to benefit from technology. In this context, the Authority looked at the manner in which the Processing Fee mandated vide TTO (50<sup>th</sup> Amendment) was being implemented in the market. It was observed that Processing Fee of Rs.2/- is being charged on top-up vouchers having Maximum Retail Price (MRP) of Rs.10/- by all service providers. In respect of higher denomination top-up vouchers the service providers do not generally charge any Processing Fee and also in some cases monetary value equal to or greater than the MRP is made available. It was seen that the impact of fixed amount of Processing Fee is relatively more on top-up vouchers of smaller denominations as compared to higher top-up vouchers.

2. The Authority had initiated a consultation process by issuing a consultation paper dated 03.08.2012 seeking views of stakeholders on the proposal to review the present structure of Processing Fee on talktime top-up vouchers so as to make it more equitable and affordable especially to the lower end subscribers. Following three options were proposed for consultation:-

- (i) Mandating a tiered structure of levying processing fee.
- (ii) Mandating processing fee ad valorem at ten per cent of MRP with a ceiling of rupees three.

(iii) Mandating that there should not be any processing fee at all.

3. Comments received from stakeholders have been considered. The service providers in general have not favoured any one of the above proposed options, rather argued for enhancing Processing Fee on all top-up vouchers to Rs.3/- or placing Processing Fee under forbearance. A few individuals who have furnished comments have favoured option (ii) or preferred NIL Processing Fee so as to help the low income people from rural/semi-urban areas. One service provider has also expressed views in favour of option (ii).

4. It has been noted that the present manner of charging Processing Fee leads to a regressive burden on lower denomination vouchers. The Authority feels that various elements of cost associated with the provision of top-up vouchers need not necessarily be recovered by way of Processing Fee. Tariff for telecommunication services being under forbearance, the operators have the flexibility to recover costs through levy of tariff for various items under tariff plan, subject to the prevailing regulatory prescriptions. Thus, there is no basis for the demand for a higher Processing Fee on top up vouchers on the ground of increase in cost.

5. Processing fee could be levied as a fixed amount or as a certain proportion of MRP of the top up voucher. The fixed amount of processing fee is favoured from the point of view of transparency and simplicity. However, the impact of fixed amount of processing fee is unreasonably high on smaller denomination top up vouchers. After considering various facts and also the feedback received during the consultation process, the Authority has decided to mandate the processing fee on top up vouchers as a ceiling based on 10% of the MRP of top up voucher with denominations up to Rs.30 and Rs.3 for top up vouchers with denominations more than Rs.30, as proposed under option (ii) in the

consultation paper. As per this determination, there shall be a ceiling on processing fee for top up vouchers based on 10% of MRP of the top up voucher or Rs.3, whichever is less. The TTO (53<sup>rd</sup> Amendment) seeks to implement the above decision of the Authority.

6. In order to ensure provision of top up vouchers in denomination of Rs.10, it is reiterated that the mandate to offer and make available to the consumer top-up voucher denomination of rupees ten as envisaged in TTO (50<sup>th</sup> Amendment), will continue to be in operation.

### **Review of Tariff for Premium Rate Services**

7. The TTO 51<sup>st</sup> Amendment notified on 20.04.2012 specified ceiling tariff for certain categories of Premium Rate Services (PRS). Thus, the calls made and SMS sent to participate in contests and competitions and voting shall not be charged more than four times of applicable local charges. Representations were received that these provisions were difficult to implement due to several reasons, particularly linking the rates for calls and SMS made to participate in contests and competitions and to vote in television and radio programmes with the rates for local call charges and SMS charges in the tariff plan opted by the subscriber. In this background, a consultation process was initiated to seek the views of stakeholders on the subject by issuing a consultation paper dated 03.08.2012. Following options were placed for consultation:

- (i) Mandating a ceiling of Rs.3/- for calls (per minute) and per SMS made for the above purposes/.
- (ii) Doing away with the tariff ceiling for such calls and SMSs.

8. The Authority has considered the comments and feedback received from the stakeholders. All the service providers and their associations have unanimously stated that tariff for such PRS should be kept under

forbearance. Views have been expressed that such services are not basic or utility services and in many cases involve a fair amount of content, the value of which may vary widely. The service providers have also stated that they are implementing several transparency measures specified by TRAI through various Regulations and guidelines. Since the rates are transparently conveyed, subscribers can make an informed choice for using or not using the service. Tariff for Premium Rate Services, when related to the local call charges of the subscriber, gives rise to several problems both in terms of difficulty in implementation and ensuring transparency. There are quite a large number of tariff plans offered by different operators having different Local Call Charges. The pulse rate applicable for local calls are also different for different plans and services. Charging for PRS have to be at a uniform pulse rate which is generally '60 seconds' and this would be part of the negotiated agreement between service providers and other parties involved in the provision of PRS.

9. Another difficulty is that the subscriber is not actually charged at a uniform single rate in his tariff plan on most of the occasions. This is due to the fact that the actual charges for local calls/ SMS would be different for peak/ off peak, on-net/ off-net and also depending on the special tariff packs (STVs) availed by him from time to time. Thus, in addition to the difficulty in implementation, the subscriber will also not have a clear idea on the level of the local call charges applicable for him at the time of availing the PRS.

10. Linking the charges for PRS to the local call rates may also make it difficult to implement the transparency measures which have been separately mandated. Thus, the broadcasters will not be able to communicate a single rate on their TV shows and radio programmes during the programme, since there is no uniform rate that can be so conveyed. The Telecom Consumer Protection Regulation, 2012 states

“Every service provider providing or giving access to a Premium Rate Service shall ensure that the rate of such call is conveyed to the consumer through a voice alert prior to the materialization of the call...”. Similarly, the TRAI Direction issued on 03.05.2005 requires the service providers to publish in all communications/ advertisements relating to Premium Rate Services, the pulse rate/ tariff for the service. When each subscriber is required to pay local call charges of his plan which again is of dynamic nature and not uniform, compliance of the above regulatory mandates would become difficult.

11. The Authority has also noted that generally such PRS are availed by customers who are educated and capable of understanding the financial implications involved. Therefore, the regulatory concern would be limited to enforcing the transparency measures whereby the subscriber is made aware of the charges and financial consequences, if he chooses to avail these services. In this regard , under the Telecom Consumer Protection Regulation, 2012, it has been mandated that every service provider providing or giving access to a Premium Rate Service shall ensure that the rate of such call is conveyed to the consumer through a voice alert prior of the materialisation of the call.

12. The ceiling tariff specified through the TTO (51<sup>st</sup> Amendment) was applicable only to a few categories of PRS while vast majority of other PRS continued to be under forbearance. Keeping in view the practical difficulties in implementing the ceiling tariff and the feedback received during the consultation process, it has been decided to keep the tariff for calls/SMS made to participate in contests and competitions and to vote in television and radio programmes under forbearance, as is the case with other Premium Rate Services.