

March 10, 2005, New Delhi

## 1. Subscriber Numbers for February 2005

The total cumulative all India GSM subscriber base rose by **1.13 million** from **38.65 million** by end of January 2005 to **39.78 million** in February 2005, showing a **growth of 2.93%** in the month under review.

The metros accounted for 27% of the subscriber base at 10.77 million subscribers while Category A Circles accounted for 36% of the total subscriber base at 14.34 million subscribers. Category B Circles were not too far behind with 12.34 million subscribers accounting for nearly 31% of the total subscribers.

Delhi continues to be the leading cellular market with 4.02 million subscribers accounting for 10% of the total market, closely followed by Mumbai with 3.85 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	10.66	26.79%	21
2.	BSNL	8.82	22.17%	21
3.	Hutch	7.65	19.22%	13
4.	IDEA	5.07	12.74%	8
5.	BPL	2.51	6.31%	4
6.	Aircel	1.72	4.31%	2
7.	Spice	1.49	3.74%	2
8.	Reliance	1.09	2.74%	7
9.	MTNL	0.78	1.97%	2

## **2. IUC (Fourth Amendment) Regulation (1 of 2005)**

COAI vide its Letter No. TVR/COAI/027 dated **February 24, 2005** submitted to the TRAI 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.

## **3. TRAI's Final Recommendations on Unified Licensing**

COAI vide its Letter No. TVR/COAI/025 dated **February 11, 2005** made a submission to the Ministry of Communications on the above subject. In the submissions, COAI welcomed the following recommendations of the TRAI:

1. Lower license fee revenue share of 6% (USO contribution +1%).
2. Waiver of rollout obligations for long distance segment.
3. Extension of License Fee waiver period for 1<sup>st</sup> and 2<sup>nd</sup> Circle Cellular operators to 6 years in light of the recommended reduction in revenue share license fee.

COAI however submitted that the following concerns of the industry had not been addressed by TRAI: -

1. High Registration Charges of Rs. 107 crores, bundled for national and international long distance, which high charges were flatly applied, whether the licensee operated in 1 Circle or 23 Circles.

2. Apprehensions regarding the concept of Niche Operators: the recommendation allowed them to offer fixed wireless services as well as Internet Telephony. This would create an opportunity to indulge in violations and possibly create another backdoor entrant.
3. Internet Telephony- Huge difference in the fees for restricted Internet Telephony and full-fledged Internet Telephony was another arbitrage opportunity, which would encourage violations.

COAI felt that if the above concerns were not addressed and were accepted in their present form then they would result in stagnated growth levels, increased disputes, etc. which in turn would severely inhibit the achievement of the aggressive growth target of 250 million subscribers by 2007 that had been set by the Government.

In a subsequent meeting with the DoT on **February 25, 2005**, the above views and concerns were also personally conveyed by all the Members.

#### **4. Mobile Telephony for Rural Coverage**

In view of the fact that DoT was considering evolving a model to accelerate rural coverage through mobile services, COAI vide its Letter No TVR/COAI/017 dated **January 31, 2005** made some preliminary submissions to Administrator, Universal Services Fund. COAI suggested-

1. Categorization of rural areas based on economic viability to facilitate penetration in a phased manner.
2. Creation of infrastructure at the identified locations (by DoT) through independent infrastructure companies.
3. Allowing existing service providers to enter into an agreement with the infrastructure companies to lease the infrastructure on an annual rental basis, which would be fixed either through market forces or regulatory intervention.
4. Allowing service providers to set up their own facilities without USO support.
5. Enabling full exploitation of the existing infrastructure of BSNL (fibre as well as microwave) for the backhaul by requiring BSNL to lease the same at TRAI determined tariffs.
6. The capex for the electronics equipments to be funded by the service providers with no subsidy.
7. Mandating infrastructure provision by existing providers to other service providers on a mutually agreed/ DoT determined set of commercial terms.
8. Introducing appropriate regime for favourable IUC, spectrum and other levies like excise duty, service tax, sales tax, etc were to be put in place for rural telephony.

9. Based on the revenues funding the losses, if any, through the USO Fund.
10. Allowing bidding for new rural infrastructure to be open for all infrastructure companies and to be based on specifications laid down by DoT.

COAI pointed out that if the Government reimbursed the entire capital cost of setting-up infrastructure in the rural areas then it would belong to the Government/ USO Administrator and could not be exclusively given to any single service provider.

COAI sought clarification on:

- Whether the concerned lowest bidder would be responsible for operation and maintenance of the rural network after its set up and if so, how would the expenses be reimbursed?
- Who would lease the infrastructure to other service providers and how & who would fix the lease charges?
- Who would provide common infrastructure like MSC?

## **5. BSNL Circular on Implementing of IUC Regulation – Routing and Charging of Roaming Calls**

COAI, vide its Letters TVR/COAI/016 dated January 31, 2005 and TVR/COAI/022 dated February 7, 2005, to TRAI, drew the attention of the Authority to certain unilateral changes made by BSNL in its Circular No. F. No. 352-1/2005- RegIn dated 29.01.2005. Changes were made in the call routing arrangement and revenue sharing arrangement wherein new trunk groups ED, EE, EF & EG were added for CMTS Pol at Level I TAX for national and international roaming subscribers traffic. It was pointed out that:

1. This arrangement as unilaterally demanded by BSNL had no correlation with the TRAI's IUC (Fourth Amendment) Regulation notified vide Notification No. 409-8/2004-FN dated 06.01.2005.
2. In view of the uniform ADC charge of Rs 0.30 per minute for intra as well as inter circle calls, there was no requirement to handover calls of national roaming subscribers on separate trunk group and that too at Level I TAX location.

It was apprehended that BSNL, by insisting on such an arrangement was trying to recover additional carriage charges from cellular operators which was not in consumer interest as it would not only result in inefficient interconnection arrangements but would also increase roaming

charges for all subscribers.

It was submitted that in case of both national and international roamers, the calls made were actually local calls so, the interconnection treatment should be same as that for local calls by inroamers. Hence, separate trunk groups at Level I TAX were not needed. Further, BSNL also indicated that proposed charges at Level I TAX trunk groups were provisional and CMSPs would be required to share 50% of the revenues charged by CMSPs from international roaming subscribers. Such revenue share arrangement on retail/ tariff charges was completely against any of the TRAI notified IUC principles/ regulations.

COAI requested TRAI to issue a directive stating that such routing and charging of calls would be kept in abeyance as they would adversely impact the business of cellular operators both in terms of revenues and costs.

## **6. Telecom News Events**

### **A. Union Budget 2005-06**

The Union Budget for the year 2005-06 was announced on **February 28, 2005**. Hon'ble Finance Minister in his Budget Speech announced the following measures for the Telecom sector:

- a. Custom Duty on ITA-I bound items reduced to zero. With this, custom duty on all the telecom equipments including PIJF cables and optical fibre cables covered under ITC HS 854470 reduced to zero.
- b. All goods for manufacturing goods mentioned above were also exempted from custom duty. With this, all goods required for manufacture of telecom equipments could be imported at zero custom duty.
- c. Custom duty exemption on specified telecom network equipments and parts thereof, if imported by telecom service providers, had been extended beyond 31.03.2005 without any specific time limit. With this custom duty on such equipments, whether covered under ITA-I or not, would continue at zero custom duty.
- d. Custom duty on cellular phones stand reduced to zero with Nil CVD. Parts, components and accessories of mobile handsets including cellular phones continued at zero custom duty with Nil CVD.
- e. Additional duty at the rate of 4% introduced on import of items under ITA. While credit on additional duty would be available to the manufacturers, for set off against excise duty, the

same would not be allowed for set off against service tax for service providers. With the imposition of this duty, telecom equipment when imported by the service operators would attract higher custom duty of 4%. Cellular phones would also attract this duty of 4%.

- f. Services provided by a service provider whose aggregate value of taxable services rendered in a financial year does not exceed Rs. 4,00,000 is exempt from service tax subject to the following:
  - I. Exemption not available to services where person other than service provider is liable to pay tax.
  - II. Exemption not available to services provided by a person under a brand name or trade name.
  - III. Option not to avail the exemption cannot be reversed in a financial year.
  - IV. CENVAT credit on input services or capital goods will not be available.
  - V. Aggregate value computed for all services from all premises of the service provider to be considered.
  - VI. To avail the benefit, value of taxable services in preceding financial year should not have exceeded Rs. 4,00,000.
  - VII. Assessee rendering services from more than one premise or office has the option to register such premises or offices where it maintains centralised billing or centralised accounting system.
  - VIII. Service provider to raise an invoice not later than 14 days of rendering the service or receipt of payment, whichever is earlier.
- g. There has been no change in the excise duty and service tax rates.
- h. Mobile phones taken out of 1/6 scheme of Income Tax.
- i. No change in Section 80 (IA)
- j. Withholding tax on technical services reduced from 20% to 10%.

## **B. 3GSM World Congress**

The 3GSM World Congress was held at Cannes, France from **14-17 February 2005**. It was attended by over 40,000 visitors from 200 countries all over the world.

A strong Government contingent from India, led by Hon'ble Minister of Communications and Information Technology Thiru Dayanidhi Maran was prominent at this years 3GSM World Congress. The delegation included Mr. Nripendra Misra, Secretary, DoT & Chairman, Telecom

Commission, Mr. A.K. Sinha, CMD, BSNL and Mr. N.K. Mangla, Director Commercial & Marketing, BSNL. Several top level CEOs from the private sector were also present like Mr. Sunil Mittal, Bharti, Mr. Asim Ghosh, Hutch, Mr. Vikram Mehmi, Idea, Mr. Dilip Modi, Spice and Mr. C Sivasankaran, Aircel. The size and the senior level participation of the Indian telecom industry made a great impact at Cannes and created a very positive image for India and for Indian Mobile Telecommunications.

Hon'ble Minister shared his vision for mobile telecommunications through a Keynote Address at the Congress. He declared that India had kept pace with fast changing technologies and was ranked among the top 10 telecom networks in the world and the second largest in Asia currently. He also opined that the recently stepped up Foreign Direct Investment limit from 49% to 74% would bring a rich flow of new technology and business methods in the country.

*A report on the 'Highlights of the 3GSM World Congress' can be viewed at the COAI website at [www.coai.com](http://www.coai.com)*

### **C. Telemarketing Public Interest Litigation (PIL) in Supreme Court**

Mr. Harsh Pathak, business & legal consultant, filed a Public Interest Litigation (PIL) on **February 7, 2005**, in the Supreme Court. Mr. Pathak claimed that undesired calls on users' mobile phones for promotion of business by various companies harassed the citizens and also amounted to the violation of their right to privacy. His contentions against the cellular operators were that:

- They were making the data of their subscribers available to other companies to use it for commercial purposes.
- They were involved in telemarketing themselves.

COAI members met to discuss the above issue and decided that COAI would intervene, on the Industry's behalf, in the matter.

### **D. Foreign Direct Investment**

The long-pending proposal, mooted in the last Union Budget, of hiking FDI from 49% to 74% in the telecom sector was finally cleared by the Government on **February 2, 2005**. the highlights of the Government discussions were:

- a. The 74% foreign investment could be made directly or indirectly in the operating company or through a holding company.
- b. The licensee would be required to disclose the status of such foreign holding and certify that the foreign investment was within the ceiling of 74% on a half yearly basis.
- c. Certain conditions have been imposed alongwith. These are-
  - I. Majority of Directors on the board, Chairman, Managing Director, CEO, CTO and CFO would be resident Indian citizens.
  - II. At least one resident Indian promoter to hold at least 10% equity of the licensee company.
  - III. DoT was empowered to notify any other key position in the telecom company that was required to be held by a resident Indian citizen.
  - IV. No traffic (mobile or landline) from subscribers within the country to be hauled to any place outside India. The company could not transfer any accounting, subscriber or network information to anybody outside India.
  - V. Company must provide traceable identity of its subscribers, no remote access would be provided to any equipment manufacturer or any other agency outside the country for any maintenance/ repairs by the licensee.
  - VI. In case of non-adherence to the license conditions being imposed for addressing security concerns, the licenses granted to the telecom company would be deemed as cancelled and the Licensor would have the right to encash the Performance Bank Guarantee and would have no liability for loss of any kind.