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Telecom Update: TDSAT issues interim stay on TRAI's recent regulations

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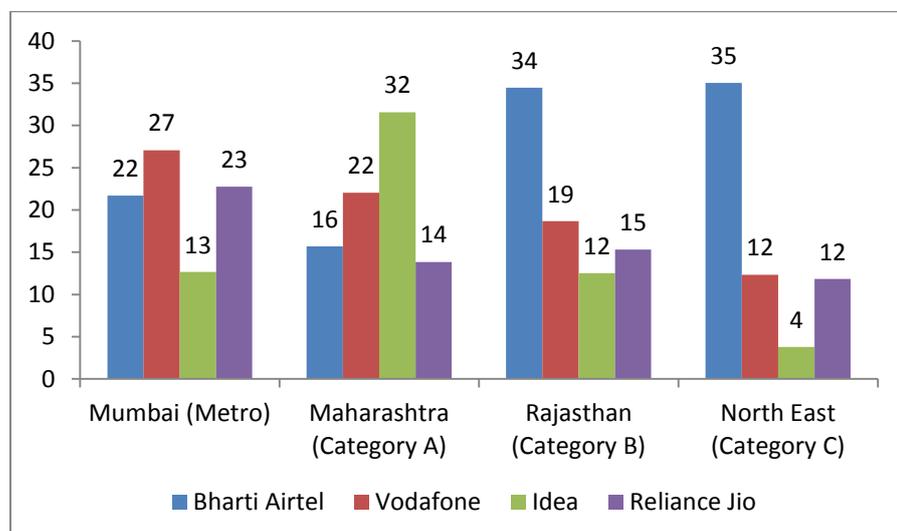
As per media reports, the Telecom Disputes Settlement and Appellate Tribunal (TDSAT) has issued an interim stay order on Telecom Regulatory Authority of India's (TRAI) recent regulations with respect to predatory pricing and reporting of segmented offers.

In February 2018, TRAI amended the regulatory principles of tariff assessment to ensure transparency, non-discrimination and non-predation in telecommunication services. These amendments provided guiding principles to check transparency in tariff orders, definition of non-discrimination, predatory pricing, and assessment of significant market power (SMP) among others.

Predatory pricing

As per this notification, any telco if it adopts predatory pricing will have to pay a penalty. When a telecom service is offered at a price which is below its average variable cost it is referred as predatory pricing. The concept of predatory pricing applies to companies that have significant market power. Prior to the February 2018 notification, any telco had a significant market power if it held a share of 30% of total activity in a telecom circle. The term total activity included subscriber base, turnover, switching capacity and volume of traffic. However, the February 2018 notification narrowed the definition of significant market power to consider only subscriber base and gross revenue with a threshold limit of 30%.

Chart 1: Indicative category-wise share of telcos for wireless segment as on February 2018 (in %)



Source: TRAI, CMIE

Note: Wireline segment has a share of 1.9% in the total subscriber base.

Note: The circles mentioned above are considered to be representatives of the respective categories.

It can be seen from the above chart that the incumbents have already crossed the threshold limit of 30% which restricted them from reacting rapidly to competition. Subsequently, the incumbents opposed the regulation and approached TDSAT which has now issued an interim stay on TRAI’s recent regulations with respect to predatory pricing and reporting of segmented offers.

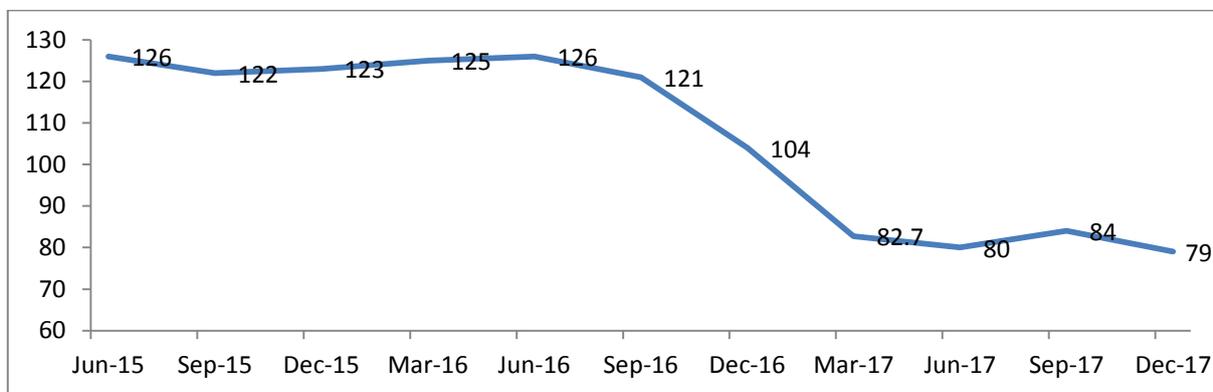
Segmented offers

Segmented offers refer to plans and discounts offered for promotion to retain and acquire customers. TRAI had asked the telcos to display the segmented tariffs publicly and file with the authority in accordance with reporting requirement to ensure transparency and had also mentioned that the telcos would be penalised in case they do not follow the reporting requirements. However, TDSAT has now issued an interim stay on such condition.

The telcos opposed reporting of segmented offers as this requirement made it mandatory for them to disclose all the customised discounts and offers that they gave to their customers. This, in turn, provides an opportunity to competitors to offer better plans or at par plans to the users. Apart from this, making available such details may also prompt the customers to make comparison of their offers among themselves.

The stay on these regulations comes as a major relief to the incumbents as it will encourage them to compete effectively. The industry on the other hand continues with the price-wars which have resulted in a fall in industry’s Average Revenue per User (ARPU). In addition to the price-wars, the regulations like a reduction in Interconnection Usage Charges (IUC) to 6 paise per minute from 14 paise per minute and a cut in International Termination Charges (ITC) to 30 paise per minute from 53 paise per minute also impacted the telcos. Resultantly, the industry’s Average Revenue per User (ARPU) has been on a decline on a sequential basis for the sixth quarter in a row.

Chart 2: All-India GSM Average Revenue per User (ARPU)



Source: CMIE

Concluding remarks

- The interim stay on TRAI’s recent regulations comes as a major relief to the incumbents as it will encourage them to compete effectively and provide customised segmented offers to the users.
- The industry’s ARPU is expected to remain under pressure given the intensity of competition going on in the industry.