

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL
NEW DELHI**

DATED 12TH MAY, 2009

APPEAL NO. 4 OF 2006

Cellular Operators Association of India & Ors. ... Appellants

Vs.

Telecom Regulatory Authority of India. ... Respondent

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BEFORE:

HON'BLE MR. JUSTICE ARUN KUMAR	CHAIRPERSON
HON'BLE DR. J. S. SARMA	MEMBER
HON'BLE MR. G. D. GAIHA	MEMBER

For Appellants : Mr. Navin Chawla, Advocate

For Respondent : Mr. C.S.Vaidyanathan, Senior Advocate with
Mr. Saket Singh, Advocate

ORDER

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Vide this Appeal, the Appellants have challenged The Telecommunications Interconnection Usage Charges (Sixth Amendment) Regulation (1 of 2006) dated 23.2.2006 (hereinafter referred to as the **impugned Regulation**), issued by the Respondent – Telecom Regulatory Authority of India (hereinafter referred to as the **Authority**).

2. The case of the Appellants is that vide a Regulation dated 24.1.2003, the Authority had fixed the Mobile Termination Charge payable to Cellular Mobile operators in Metro areas at Rs. 0.30 per minute and for other Circles, it was fixed at Re. 0.40 per minute. Subsequently, the Authority had, despite representations from the

Appellants, issued the IUC Regulation, 2003 dated 29.10.2003 fixing a uniform rate of Re. 0.30 per minute. It is contended that the Appellants thereupon protested against this fixation but the Authority did not consider the same.

3. Subsequently, the Authority issued a Consultation Paper date 17.3.2005 on the IUC review, in response to which the Appellants made submissions pointing out that the termination charges in India were significantly out of line with the international practice. While internationally, the mobile termination charge accounted for 75% of the retail tariff, in India it was only 14%. It is the case of the Appellants that the Authority refused to share any data with the Appellants thereby violating the mandate of Section 11(4) of the TRAI Act. Subsequently, even as the Authority acknowledged that the Mobile Termination Charges in India were 12-24 times lower than the prevailing termination charges in the world, it issued the impugned Regulation maintaining the termination charges at Re. 0.30 per minute, claiming that this could even be lower. The prayer of the Appellants is that the impugned Regulation be set aside and the matter remanded back to the Respondent for a proper re-examination of the termination charge.

4. After the pleading were completed, this matter was heard by us along with Appeals no. 6 of 2006, 5 of 2007 and 5 of 2008, relating to Access Deficit Charge (ADC) fixed vide the impugned Regulation as well as subsequent IUC Regulations of 2007 and 2008. We, however, notice that the subject matter of Mobile Termination Charge is part of Interconnection Usage Charges which is different from Access Deficit Charge, although both figure in the same impugned Regulation(s). Besides, the Authority has subsequently issued the Telecommunication Interconnection Usage Charges Regulation (Tenth Amendment) 2009 dated 9.3.2009 which was assailed before us by various parties in Appeals no. 2 of 2009, 3 of 2009, 4 of 2009, 5 of 2009, 6 of 2009 and 7 of 2009. A date has been fixed separately for hearing of these Appeals.

5. Since the subject matter in this Appeal is similar to that in the other Appeals cited above, it would be in the fitness of things that this Appeal be re-heard by this Tribunal along with the hearing in other Appeals. We accordingly release this Appeal from being treated as heard and reserved for judgment and it be listed for hearing along with the Appeals no. 2 of 2009, 3 of 2009, 4 of 2009, 5 of 2009, 6 of 2009 and 7 of 2009.

.....**J**
(Arun Kumar)
Chairperson

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(J. S. Sarma)
Member

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(G. D. Gaiha)
Member