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The Gazette of the Democratic Socialist Republic of Sri Lanka EXTRAORDINARY

අංක 1416/17 - 2005 ඔක්තෝබර් 26 වැනි බදාදා - 2005.10.26
No. 1416/17 - WEDNESDAY, OCTOBER 26, 2005

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

TELECOMMUNICATIONS REGULATORY COMMISSION OF SRI LANKA

Public Hearing to review the Tariff approved by the Commission for the introduction of Calling Party Pays (CPP) System

ORDER issued by the Committee of Inquiry appointed under the Section 12 of the Sri Lanka Telecommunications Act, No. 25 of 1991, as amended by the Sri Lanka Telecommunications (Amendment) Act, No. 27 of 1996.

The Committee of Inquiry (hereinafter referred as the Committee) appointed to review the tariff approved by the Commission for the introduction of Calling Party Pays (CPP) system invited written submissions from the public through the news media in January 2005. Press notices were published in national newspapers in Sinhala, Tamil and English. This notice was also posted on the website of Telecommunications Regulatory Commission of Sri Lanka (TRCSL). The final date fixed for written submissions was 21st February, 2005. Considering the numerous requests made by the public the Committee subsequently extended the final date up to 31st March, 2005. All seven public Switched Telephone Network (PSTN) Operators namely Sri Lanka Telecom Limited, Suntel Limited, Lanka Bell (Pvt.) Limited, Dialog Telecom Limited, Celltel Lanka (Pvt.) Limited, Mobitel (Pvt.) Limited and Hutchison Telecommunications Lanka (Pvt.) Limited were informed of the public hearing by Director General. Scope of the public hearing was communicated to the general public through the press notice and the related documents were made available to the general public. The Committee specifically invited the public to submit written submissions based on the following ;

1. Acceptability of the cost model and methodology used to calculate network terminating charges.
2. Would the additional charge (mobile termination charge) under CPP system be affordable to the fixed access customers ?
3. Under the CPP system what would happen to the Cellular Mobile tariff plans bundled with free incoming call minutes/flat incoming call rates. Should they be revised ? How and Why ?
4. Any other issues related to CPP tariff.

A press conference was held with the participation of representatives from print and electronic media on the 18th February, 2005 to give wider publicity for the public hearing under the chairmanship of the Director General.

The committee received 4,080 written submissions within the stipulated time from people in different parts of the Island. Submissions were sent by Telecommunications Service Providers, Consumer Association / Unions, Companies,

Professionals and individuals. All the PSTN operators, except two cellular operators namely Mobitel (Pvt.) Limited and Hutchison Telecommunications Lanka (Pvt.) Limited, submitted their written submission to the Committee.

Analysis of written submissions

Although the general public was invited through the press notices to forward written submissions on the specific matters listed 1 to 4 above, majority of the public who made submission had not commented on the stipulated issues but strongly objected to the introduction of CPP system as a whole.

Out of the total number of 4080 submission 1619 submissions were from organized public/consumer groups with similar contents in each category. They have strongly objected to the introduction of CPP system mainly considering the affordability issues of the fixed access subscribers.

There were 2,461 submissions submitted by telecom service providers, private companies, consumer groups/associations/unions and individuals including professionals in the field of telecommunications. Majority of the persons in this category have emphatically protested against the introduction of CPP. A further analysis of the submission received is as follows:-

<i>Submission Category</i>	<i>Nos. of Submissions</i>
Telecom Services providers	08
Private companies, Consumer groups/unions/associations	18
Individuals including professional in the field of Telecommunication	2,435
Organized public/consumer groups (similar context)	1,619
Total	4,080

Oral submissions / evidence

The Committee short listed 81 submissions which were in compliance with the scope of the public hearing and considering the matters upon which it required to hear oral evidence invited 50 persons to make oral submissions. The Committee held hearings at TRCSL on 1st, 3rd and 5th August, 2005. Public notices on the hearings were published in national News papers on 28th, 29th and 31st of July 2005. On all three days there was a large participation by the general public including students of universities, members of security forces, consumer groups, small and medium entrepreneurs and others.

Issues considered by the Committee.

- (i) *Acceptability of the cost model and methodology used to calculate network-terminating charges:-* The public quoted the Consultant's report which explain the calculation of call termination costs and setting of call termination charges for fixed and mobile operators in Sri Lanka which was posted on the website of the Commission and highlighted that the Consultant had used principles of Fully Allocated Historic Costing (FAHC) to calculate interconnection call termination costs, not because of its appropriateness but due to the time constraints. The justification of "time constraints" was highly criticized by the public. Except for one cellular mobile operator no one supported the cost module and the methodology used for the calculation. Professionals and some PSTN operators who participated at the public hearing process recommended Long Run Incremental Costs (LRIC) methodology as the most appropriate cost methodology for the calculation of network termination cost. However one cellular operator was in favour of the FAHC highlighting positive aspect of FAHC over the LRIC.

The public was of the opinion that the percentage use for Weighted Average Cost of Capital (WACC) 23.4% for the calculation of network termination cost was high. It was highlighted that the current interest rates of Sri Lanka and the risk factor of the telecom industry is low. However some of the PSTN operators cited that the impact of the WACC rate would marginally affect the final result. The Committee noted that the Consultant had recommended only 18.1% as WACC though 23.4% has been used for the calculations.

The public drew the attention of the Committee to the fact that the cost data which was used for the calculation of network termination cost is obsolete. The Committee noted that the Consultant had calculated the network termination charges by using cost details of year 2002. The public argued that due to the advancement of telecommunication technologies in the recent past the network cost should go down. The operators were also in agreement to recalculate the network termination cost using their latest cost information.

- (ii) *Affordability of fixed access customers under CPP regime :-* The public strongly highlighted that the existing call charges specially fixed access call charges are very high in Sri Lanka when compared to other countries in the region. The public further stressed that though the number of mobile subscribers are greater than the fixed access subscribers, the users of the fixed access telephony are much higher. The reason being that the people who cannot afford to have their own telephone, highly depend on the fixed access telephony such as payphones or communication centers, to fulfill their communication needs and they have serious affordability problems even with the existing charges. Representatives of payphone companies and communication bureaux confirmed that the people who use their services are very price sensitive and not in a position to afford further price increases.

However very few people expressed their willingness to pay an additional amount of 50 cent to 1 rupee under a CPP regime whilst a clear majority refused to pay any amount other than the existing charges. The Committee noted that the Commission had issued a determination on the terms and conditions on interconnection between Fixed Access operators in November 1998 and another determination on terms and conditions on interconnection between mobile and fixed access operators and between mobile and mobile operators in June 1999. According to this determination call termination charge on fixed access network per minute during peak time was Rs. 1.50.

- (iii) *Under the CPP system what would happen to the Cellular Mobile tariff plans bundled with free incoming call minutes / flat incoming call rates ? :-*

According to the views expressed by the public, most of the fixed access customers or their family members have mobile phones with tariff plans consisting of free incoming minutes. They have selected mobile tariff plans considering their communications requirements and usage patterns. Some people have subscribed to mobile tariff plans with comparatively high monthly rental and/or call charges or monthly revenue commitments, having more free incoming call minutes, whilst others have subscribed to mobile tariff plans with low monthly rental and/or call charges having few free incoming call minutes. They strongly protested against any price mechanism under which they have to pay an additional charge to access mobile phones.

As per the written and oral submissions of cellular mobile operators, they were of the view that tariffs are needed to be revised considering the cost structure under CPP regime but no clear indication was given whether the tariff would increase, decrease or remain the same.

- (iv) *Any other issues related to CPP tariff :-* Professionals in the field of telecommunication who attended the public hearing process argued that the per line cost of telecom networks should be reduced due to innovation of new technologies. Accordingly the charges for telecommunications services should be reduced. Further they highlighted that the network termination charges have been calculated without identifying the appropriate network components linked with traffic termination.

According to the Pager operators, the absence of a firm decision as to whether CPP will be introduced or not, has caused uncertainty in the telecom market and it has badly affected the pager industry. The Committee noted that as per the determination on terms and conditions of interconnection between mobile and fixed access operators, issued by the commission in June 1999, the Commission had accepted the transition to CPP in principle. Further the Committee noted that the Commission had announced the introduction of CPP with effect from 1st of March, 2004 although it was not implemented due to the public outcry raised at a press conference held for this purpose.

Views of the Committee on issues considered in terms of reviewing tariff approved by the Commission for the introduction of calling party pays (CPP) System

Considering the written and oral submissions of the public the Committee is of the opinion that :

The cost methodology i.e. FAHC, the rate of WACC and the cost data used for the calculation of mobile networks termination cost is not appropriate in today's context. Accordingly the tariff approved by the Commission based on the above calculation for the introduction of CCP system is not appropriate.

The view of the Committee on the whole process of Public Hearing

When the Committee short listed the written submissions the Committee noted that only 81 submissions, about 2% of total written submissions, were in line with the scope of the public hearing. However balance 98% written submissions strongly opposed to the introduction of CPP. Further the Committee experienced strong protest for the introduction of CPP from persons who were summoned for oral evidence and the members of the public who attended the hearings. The public highlighted following as reasons for their protest :

- (i) Affordability
- (ii) SLTL customers will have to forgo the benefit of existing 200 free units
- (iii) All the mobile operators offers tariff plans bundled with free incoming minutes
- (iv) Lack of awareness on CPP
- (v) Profitability of cellular operators
- (vi) Disadvantages to the fixed access operators
- (vii) SLTL not moving to per second billing
- (viii) Not providing itemized billing by fixed operators.

The committee believes that the purpose of holding a public hearing is to gather more information to take best regulatory decisions for the benefit of the public. Even though the Committee was appointed to review the already approved tariff on the introduction of CPP considering the submissions made by all stake holders the necessity for such a review has not arisen.

Further the Committee noted that the decision of the previous public hearing, held in 1999, on the implementation of a change from the current mobile party pays (MPP) system to a calling party pays (CPP) system has not been fully implemented to date.

The committee is of the opinion that the voices of the people were loud and clear against the introduction of CPP.

After analyzing the written and oral submissions the Committee has decided that CPP should not be introduced in Sri Lanka. Considering same the Committee does not see the need to review the tariff approved by the Commission for the introduction of CPP.

Aruna Amarasekera,
Chairman, Committee of Inquiry.

Anura Mahanama Jaywickrama,
Member, Committee of Inquiry.

Handapangodage Wasantha Kumara Indrajith,
Member, Committee of Inquiry.

Ramanagge Chandrawansa Ratnayake,
Member, Committee of Inquiry.

Hapuarachchige Priyanga Karunarathna,
Member, Committee of Inquiry.

Watuthantrige Dharmasiri De Alwis,
Member, Committee of Inquiry.

Ruwani Saumya Gunarathna,
Member, Committee of Inquiry.