

TARIFF ORDINANCE

PART I General Provisions

Purpose

Article 1 – The purpose of this Ordinance is to set out the principles governing the approval and auditing of tariffs for telecommunication services by taking into account the objectives of promoting the competition in telecommunications sector, stimulating new investments and technological development, extending the telecommunication services throughout the country and protecting the consumer rights

Scope

Article 2 – This Ordinance covers the principles and methods governing the approval and auditing of tariffs for telecommunications services offered to the users by operators under the conditions that the Authority determine that in the related telecommunications services the operator is a legal or physical monopoly or has dominant position or has significant market power in the related service or geographical markets.

Legal Basis

Article 3 – This Ordinance is prepared in compliance with amended Articles 4, 29 and 30 of Telegram and Telephone Law No: 406 and amended Article 7 of Wireless Law No: 2813.

Definitions

Article 4 – The terms used in this Ordinance have the following meanings:

The Board: Telecommunications Board,

The Authority: Telecommunications Authority,

Dominant Position: Any position enjoyed in a related telecommunications market by one or more enterprises by virtue of which, those enterprises have the power to act independently of their competitors and consumers in determining economic parameters such as the amount of production or distribution, price and supply,

Significant Market Power: Any position enjoyed in a related telecommunications market by one or more enterprises by virtue of which, those enterprises have the power to affect economic parameters such as the price of services supplied to other operators and users, the amount of supply and demand, the market conditions, the main telecommunications networks elements used for supplying telecommunications services and the control of access to users,

Cost of efficient service provision: the long-run incremental cost of providing the service plus an appropriate amount of volume-neutral common costs, both inclusive of an appropriate return on capital employed,

Long-Run Incremental Cost (LRIC): Additional cost including the fixed and variable costs depending on the volume in the long-run in case new service or element is included to current production program,

User: Real or legal persons, whether they are subscriber or not, benefiting from telecommunications services,

Price Cap Method: The method of determining the maximum price increase to be applied for the average of tariff changes in a service basket in a specified period.

Criteria

Article 5 – The Board takes the following criteria into consideration in approval of tariffs.

Tariffs shall,

- a) Be based on the cost of efficient service provision,
- b) Correspond to the tariffs under effective competition,
- c) Be fair and non-discriminative among similar users,
- d) Take into account particular circumstances of different user groups,
- e) Shall not give the possibility for financing the cost of some services by the tariffs of other services unless there is an objective justification,
- f) Promote the supply of telecommunications services, technologic development and new investments,
- g) Approximate to the international standards and measures within the framework of developing technologic conditions,
- h) Take into account the prevailing prices of telecommunication services which are the basic inputs for telecommunication services demanded by competitors from the operator, which has dominant or significant market power, to provide their own users with.

PART II Tariff Principles

Criteria to Be Used in Approval of Tariffs

Article 6 – The criteria used in approval of tariffs are as follows:

- a) Tariffs shall be based on the costs of efficient service provision.
- b) Unless there is an objective justification, tariffs shall not;
 - 1) Contain excessive charges which could prevail solely as a result of the operator's significant market power,
 - 2) Contain discounts which could aim to restrict the competition,
 - 3) Create any discrimination among users in relation to other users of identical or similar telecommunication services,
- c) Paragraph (b) above shall not discourage the development of special tariff options that take into consideration particular circumstances and demand characteristics of different user groups.

Methods of Tariff Approval

Article 7 – The Board approves the tariffs according to the following methods and principles.

- a) The Board approves tariffs by using the following methods separately or together.
 - 1) The method on the basis of the Costs of Efficient Service Provision falling to the individual service,
 - 2) Price Cap Method on the basis of measures prescribing for the average of changes in the tariffs for a basket of combined services for a given period.
- b) In the case of determination of tariffs according to Costs of Efficient Service Provision, the Board shall examine compliance with Article 6 (b) (1) for each separate

tariff. Approval shall be denied where the requirements of this Article are not satisfied.

- c) In the case of determination of tariffs according to Price Cap Method, the requirements of Article 6 (b) (1) shall be deemed complied.
- d) Approval shall be denied where it is obvious that they do not meet the requirements of Article 6 (b) (2) and (3).
- e) When carrying out the corresponding evaluation of tariffs, the Board will give due consideration to the tariff options as referred to in Article 6 (c).

Documents Relating to Cost Based Method

Article 8 – Along with any tariff proposal to be verified and audited on the basis of Cost of Efficient Service Provision, the filing company shall submit, for the given service, the following documents:

- a) Detailed service specifications, including the details of quality of service and the general terms and conditions,
- b) For the period of past five years and future three years, realized and forecasted measures relating with service quality,
- c) For the period of past five years and future three years, realized and forecasted volume and revenues and the ratio of services revenue to the total revenue,
- d) For the period of past five years and future three years, realized and forecasted quantities sold and price elasticity of demand,
- e) For the period of past five years and future three years, for each service, the development of detailed cost items and contribution margins,
- f) The financial impact on users with particular reference to the demand structure,
- g) The financial impact on competitors procuring the network for their resale offering,
- h) The impact of tariff differentials on the user groups.

Cost Statements

Article 9 – Cost statements shall comprise direct costs and common costs that cannot be directly allocated to given service. Statements relating to common costs shall set forth how the common costs are allocated to the given service. In the cost statements, at least the followings should be included:

- a) The cost accounting method used to determine the costs,
- b) For the period of past five years realized and for future three years targeted by the operator, materials costs, selling and marketing costs, wage and salary expenses, depreciation, interest expense and other financing expenses,
- c) For the period of past five years realized and for future three years targeted by the operator, capacity utilization rates,
- d) The unit cost of providing the service and the distribution of this cost according to cost elements, especially including the relevant prices of public telecommunications network used.

Cost Based Approval of Tariffs

Article 10 – The following criteria shall be taken into account in the cost-based approval of tariffs.

- a) The Board shall examine the tariffs submitted for approval by investigating to what extent these tariffs are based on the cost of efficient service provision.
- b) Where cost exceeds the cost of efficient service provision according to paragraph (b) above, it shall be deemed to be a redundant expenditure to efficient service provision. This type of expenditure will only be taken into account in the tariff approval procedure in so far as it derives from a legal requirement or the Board accepts the justification of the filing operator.

- c) Under the examination according to paragraph (a) above, the Authority may, for purposes of comparison, refer to the prices and costs so far available of operators, offering corresponding services in comparable markets. In this case, any special features of the reference markets shall be taken into account.

Documents Relating to Price Cap Method

Article 11: Along with any tariff proposal to be verified on the basis of price cap method, the filing operator shall submit, for the given service, the following documents:

- a) Detailed service specifications, including the details of quality of service and the general terms and conditions,
- b) For the period of past five years and next three years, realised and forecasted measures relating with service quality,
- c) For the services in the service baskets determined by the Board, quantities sold in the last six months and the ratio of this to the total quantities sold in the basket,
- d) The prices of services in the service baskets, price changes in comparison with previous year and dates of price changes in the last year,
- e) Detailed information for the services in the service baskets,
- f) Detailed information about the allowance, exceptions and/or other legal requirements implemented in the tariffs of services in the service baskets.

Approval of Tariffs According to Price Cap Method

Article 12 - The following criteria shall be taken into account in the approval of tariffs according to Price Cap Method:

- a) The Board shall establish in the first instance the initial tariff level for the services grouped in the same basket. The Board, for this purpose, may decide to proceed according to Article 10 of this Ordinance.
- b) The measures referred to for approval encompass the following:
 - 1) The rate of price increases in the relevant sector or the overall economy,
 - 2) The expected rate of growth in productivity of overall economy, related sector and/or regulated operator,
 - 3) Other measures required by the Board,
- c) The relationship between the initial tariff level and the cost of efficient service provision shall be taken into account in the specification of the measure, in particular with regard to the rate of growth in productivity.
- d) The productivity and the rates of growth in productivity of companies operating in comparable markets shall be taken into account in the specification of measures.
- e) The Board shall stipulate, in addition to the content of baskets, in particular the period for which the prescribed measure will remain unchanged, the historic reference periods against which compliance with measures will be examined and the conditions under which further services may be included in an existing basket, services may be taken out of a basket or price differentiation can be made in respect of services already included in a basket.
- f) The Board may request the regulated operator to provide it with any information for the purpose of specifying the measures.

Procedure for Tariff Approval

Article 13- The Authority, in accordance with this Ordinance, may lay down in detail the procedure of tariff approval, in particular the documents to be submitted by the operator and the structure of the cost statement and the form of approval. Operators shall apply to the Authority in advance in writing for approval of tariffs.

- a) On the condition that the filing operator submits in full the required documentation, the Board shall make its decision on proposed tariffs as below:

- 1) If it considers the tariff to be decided upon the cost of efficient service provision method, it makes its decision within a period of six (6) weeks after receiving the application. It may extend the period for four (4) weeks.
- 2) If it considers the tariff to be decided upon the Price Cap Method, it makes its decision within a period of four (4) weeks.
 - b) In case the Price Cap Method is used, the Authority shall specify the prescribed measures and the service baskets.
 - c) The Authority shall reject a tariff proposal if the filing operator fails to submit in full the required documentation. In this case, if the service is a given service, the tariff existing before approval shall continue to be implemented. If the service is a new one, it shall not be supplied until the approval of related tariff.
 - d) Tariff changes shall come into force only after an appropriate public notice period set by the Board.
 - e) Approved tariffs shall be published along with the relevant service specifications and provisions relating to tariffs in an appropriate manner in order to provide comprehensible information to users about tariffs. The Board may determine the procedure in which tariffs are published.

Ex Post Review and Auditing of Tariffs

Article 14 – The Authority shall review and audit the tariffs in the following manner:

- a) If the Authority subsequently becomes aware of facts that the operator does not comply with any of the requirements relating to the approval of tariffs as described in Article 6 of this Ordinance, it shall initiate a review of these tariffs. In this case, the Authority shall notify the operator concerned in writing of such initiation.
- b) The Board shall make a decision within a period of ten (10) weeks after initiating the review.
- c) If the Authority concludes that the operator does not comply with the requirements of Article 6 of this Ordinance as described under (a) above, it shall request the operator to adjust the tariffs or tariff-related components of general terms and conditions to the requirements without delay.
- d) In the event that such adjustment according to (c) above is not given effect to, the Board shall prohibit the related tariff and declare the tariffs and tariff-related components of general terms and conditions invalid.

PART III Other Provisions

Participation Rights

Article 15: The Authority may refer to the opinions operators concerned prior to making essential decisions relating to the implementation of this Ordinance, in particular, to the cost of efficient service provision according to Article 7 (a) (1) and the measures determined for Price Cap Method according to Article 7 (a) (2).

Mandatory Measures and Penalties

Article 16: In the case that the operator provides the telecommunication service with an invalid tariff, provides the service based on invalid commercial terms and conditions or does not meet the service quality requirements, provisions of Article 2 (f) of Law No: 406 is implemented by the Authority.

Effective Date

Article 14: This Ordinance shall enter into force on the date of its publication.

Execution

Article 15: This Ordinance shall be executed by the President of Telecommunications Board.