

**WORLD TRADE
ORGANIZATION**

GATS/SC/42/Suppl.3

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Trade in Services

INDIA

Schedule of Specific Commitments

Supplement 3

(This is authentic in English only)

This text supplements the entries relating to the Telecommunication services section contained on page 7 of document GATS/SC/42.

INDIA - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or Sub-sector	Limitations on Market Access		Limitations on National Treatment	
				Additional Commitments
2. COMMUNICATION SERVICES				
C. Telecommunication Services ¹				The definition and principles on the regulatory framework for the basic telecommunication services subscribed to by India are contained in the annex titled "Explanatory Paper on Additional Commitments by India".
(a) Voice telephone service (CPC 7521**)	(1) Unbound (2) Unbound	(1) Unbound (2) Unbound (3) The service will be permitted to be provided only after the operator gets a licence from the Designated Authority who shall determine the need, if any, for issuance of new licences. The terms and conditions of the licence will be as laid down by the Designated Authority or Government or the prevailing laws in the country.	(3) Unbound	
Limited to local/long distance, for public use over a public telecommunication transport network.				
Wire based (i.e. for fixed network of subscribers).				
				The subject of opening up of national long-distance service beyond service area to competition will be reviewed in the year 1999.

¹ excluding broadcasting services and measures affecting such services. Broadcasting is defined as a form of the uni-directional telecommunications intended for large number of users having appropriate receiving facilities and carried out by means of radio or cable network. This may include sound transmission, television transmission or other types of transmission.

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or Sub-sector	Limitations on Market Access		Limitations on National Treatment	
			Additional Commitments	
	Service operator will be permitted to provide long distance service within the licensed service area only.		Also, the subject of opening up of international service to competition will be reviewed in the year 2004.	
(c) Circuit switched data transmission services (CPC 7523**)	<p>Resale of voice telephone services will not be permitted. However, licensees can grant franchises on commission basis for providing public call offices (PCOs) service.</p> <p>The detailed terms and conditions for providing the service will be as per licence conditions.</p> <p>(4) Unbound except as indicated in the horizontal commitments.</p> <p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Licensed voice telephone service operators will be permitted for transmission of data on the PSTN² network in its licensed service area.</p> <p>(4) Unbound except as indicated in the horizontal commitments</p>	<p>(4) Unbound except as indicated in the horizontal commitments</p> <p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Unbound</p> <p>(4) Unbound except as indicated in the horizontal commitments</p>		

²PSTN refers to Public Switched Voice Telephone Network which is operated by DoT/MTNL or licensed operator.

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or Sub-sector	Limitations on Market Access			Limitations on National Treatment
	(1)	(2)	(3)	(4)
(f) Facsimile services (CPC 7521**)	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Licensed voice telephone service operators will be permitted for transmission of facsimile on the PSTN network in its licensed service area. Franchisees of service operators can provide commercial facsimile services</p> <p>(4) Unbound except as indicated in the horizontal commitments</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Unbound</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Unbound</p>	<p>(4) Unbound except as indicated in the horizontal commitments</p>
(g) Private Leased Circuit Services (CPC 7522**)	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Licensed voice telephone service operators will be permitted to provide leased circuits to their customers, for their own use within their licensed service area. Resale of such leased circuits will not be permitted.</p> <p>(4) Unbound except as indicated in the horizontal commitments</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Unbound</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Unbound</p>	<p>(4) Unbound except as indicated in the horizontal commitments</p>

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons	
Sector or Sub-sector	Limitations on Market Access			Limitations on National Treatment	Additional Commitments
(o) Other Cellular mobile telephone services.	(1) Unbound (2) Unbound (3) The service will be permitted to be provided only after the operator gets a licence from the Designated Authority who shall determine the need, if any, for issuance of new licences. The terms and conditions of the licence will be as laid down by the Designated Authority or Government or the prevailing laws in the country	(1) Unbound (2) Unbound (3) Unbound	Only digital (GSM) technology will be permitted and this will only be terrestrial based.	There will be two cellular service operators in each service area. The position will be reviewed after 10 years. The right of DoT/MTNL to enter into each service area is reserved. The private operator should be a company registered in India in which total foreign equity must not exceed 25%.	(4) Unbound except as indicated in the horizontal commitments.

Explanatory Paper on
Additional Commitments by India

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of :

- (a) control over essential facilities; or
- (b) use of its position in the market.

1. Competitive safeguards

Appropriate measures shall be maintained for the purpose of preventing service suppliers from engaging in or continuing in anti-competitive practices of the following type:

- (a) using information obtained from competitors with anti-competitive results; and
- (b) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport network or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any specified feasible point in the network as indicated in the licence. Such interconnection is provided:

- (a) of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;

- (b) upon request, at points in addition to the network termination points offered to the majority of users as per licence conditions, subject to mutually agreed charges.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It will be ensured that a major supplier will make publicly available either its interconnection agreements, or a reference interconnection offer.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known

to a domestic regulatory authority to resolve disputes regarding appropriate terms, conditions and rates for interconnection within reasonable period of time, to the extent that these have not been established previously.

3. Universal service

India retains the right to define the kind of universal service obligation it wishes to maintain. Such obligations are not regarded as anti-competitive *per se*, since they would be administered in a transparent and non-discriminatory manner.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) All the licensing criteria and
- (b) the terms and conditions of individual licences.

5. Regulatory Authority

The decisions of and the procedures used by the regulatory authority shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective and timely manner.