

ASSOCHAM Response to

TRAI Consultation Paper

Compensation to the Consumers in the Event of Dropped Calls

No nation can progress on the path of development without effective communication networks. The key to successful mobile communication is coverage and connectivity. It is therefore quite unfortunate that our national communication network which supports one billion connections is currently facing acute issues of network quality, with the situation rising to very alarming proportions.

We at ASSOCHAM are fully seized of the issue and have done detailed consultations with various sections among several stakeholders before arriving at a common understanding as to how to resolve the issue. We believe that the issue involves multiple stakeholders viz. Government at the Centre, the States, the local municipalities and other stakeholders and is not a simple case of Operators vs Consumers. It is being made out as if the operators are principally responsible for this situation and have either not made any investments in the network infrastructure at all or have made very insignificant ones. It has to be understood that the industry prospers only if consumers are satisfied. When considered in a holistic and rational manner, consumer and industry interests are, more often than not, congruent.

While there could be many possible reasons for call drops, it is generally accepted that one of the basic causes is inadequate coverage or weak signals from cell towers.

DoT & TRAI are absolutely right when it states that operators must ensure network optimisation which is a core requirement and also a continuous process. It is correct when it states that operators have to first set up an optimum network and then continuously optimise or “tune” their networks on an ongoing basis while constantly reviewing the flow of voice and data streams across the networks. Let us take the quantum of spectrum as a “given” and not argue about it being less or more. In network engineering, for a given quantum of spectrum for a service area that has defined topography and subscriber base/distribution, the optimum network for the given spectrum is simply decided by two specific parameters, - the number of radiating towers required for satisfactory coverage of the service area and the optimum location of these towers to achieve the desired signal distribution. Any deviation from either of these critical factors directly impacts the optimum design and adversely affects the quality of service. This is an unavoidable outcome of the deviation. No amount of adjustment of other network features can compensate for this.

So, let us take a look at the root causes of the issue at hand from a holistic & rational perspective.

I.TOWERS

It is well accepted that Telecom Towers are critical installations on which the backbone of mobile communication rests. These are essential for realising the vision of inclusive growth. The success of initiatives like Digital India, Smart Cities and Broadband for All, which the Government intends to implement in Mission Mode, depends on this critical and essential infrastructure. Mobile communications also play an important role in social and economic growth and disaster management for which mobile towers are a pre-requisite.

While the tower companies and the telecom service providers (TSPs) should surely be happy to make additional investments in business by providing extra towers, regrettably a spate of adverse actions by Municipalities, local authorities and the States have not made this possible. Increasingly over the last year or two, the industry is facing tremendous challenges as regards both factors i.e the desired number of towers and the optimum location for each tower. In the last several months, the growth of subscribers warrants an increase of several thousands of extra towers optimally located and it is estimated that about one lakh towers would be needed over the next two years to meet coverage requirements. However, instead of facilitating the needed extra towers, about 10,000 of even existing towers have been shut down and another 12000 rendered unusable by Municipal authorities and other local bodies for unjustified reasons alleging non-compliance to their impractical and incorrect local tower guidelines.

In this respect, ASSOCHAM warmly compliments the Hon'ble Minister for Communications & IT- Shri. Ravi Shankar Prasad on the historic initiative achieved by working with the Ministry of Urban Development to announce that Government properties shall now be made available wherever required and feasible, for the installation of towers by the mobile operators. Once accepted and implemented by the State Governments, this will surely be a big boon to the operators to help improve their services. Hon'ble Minister Shri Ravi Shankar Prasad has already written to the CMs and one sincerely hopes that the expected results are achieved on this front at the earliest.

ASSOCHAM earnestly requests the Hon'ble Minister to arrange a similar decision for towers in defence controlled areas to provide satisfactory call quality there.

It should be noted that the Indian Telegraph Act clearly covers the aspect of installation of towers and provides the Department of Telecommunications, Govt. of India full powers as regards the installation of the towers. *(As per the Indian Telegraph Act of 1885, the term "telegraph" would cover the radio waves and the term "telegraph line" would cover the wire or wires or cable employed in the ground as well as above and term "post" covers the towers used in mobile communication today.)*

Many of the disputes on tower installation arise due to issues raised by the local authorities and State Governments applying unreasonable and impractical conditions and charging exorbitant and arbitrary 'licence fees' and other fees for tower installation. In this context, it needs to be pointed out that the Indian Telegraph Act 1885 does not have any provision for the charging of the license fee by the State Government. *Thus it clearly follows from the Indian Telegraph Act that "the power to make rules for the conduct of telegraphs and impose charges thereof have been conferred on the Central Government under Section 7 of the said Act.*

Thus it can be concluded from the combined and harmonious reading of Sections 4, 7, 10, 12, 15 etc of the Indian Telegraph Act, 1885 that State Governments cannot charge license fee or any other kind of fee, levy or tax for installation and establishment of mobile towers. They should only charge nominal one time administrative fee which may be a "reasonable amount" as may be decided by the State Government to recover its cost on the issue of permission for installation of tower. It is also to be noted that as per the Act, the central Government is to be the final deciding Authority in case of any disputes that may arise between Telegraph Authority and Local Authority, in consequence of the local authority refusing the permission referred to in Section 10 Clause c or prescribing any condition under Section 12.

Reference is also made to the TRAI Recommendations dated 12 April, 2011 on Telecommunication Infrastructure Policy, where they have clearly stated the following under section 1.32, 1.35 & 1.36.

Section 1.32

Accordingly, local authority's power and authority in terms of exercising the provisions of the Indian Telegraph Act, 1885 should apply only to those properties that are vested in or under the control or management of local authority and all other private properties would not be under the purview of the local authorities. Consequently in so far as private properties are concerned; all transactions in terms of the provisions of the Indian Telegraph Act, 1885 would lie directly between the telegraph authority and the property owner without the intervention or mediation of any local authority. The matter relating to private property will continue to be between telegraph authority and the owner of the property.

Section 1.35

The disputes between the telegraph authority and local authority in consequence of local authority refusing permission or prescribing any condition or in consequence of telegraph authority omitting to comply with requisition made by local authority to remove or alter telegraph 22 line can be settled through a dispute resolution authority provided under Section 15. The dispute resolution authority for such dispute can be decided by Central Government. Our understanding is that no such authority has been established by Central Government and generally in the absence of such authority cases are landing in the courts. It is necessary that such an authority should have a comprehensive view of the working of the local bodies and should also have sufficient administrative experience and stature for quick resolution of the dispute. Resolution of disputes by different authorities is likely to result in disparate treatment of the subject. A single authority will help in the development of uniform guidelines. The Authority is of the opinion that the Joint Secretary in DoT is best suited to carry out this task.

Section 1.36

The Authority recommends that Central Government should appoint Joint Secretary in DoT as the Dispute Resolution Authority for dealing with the cases of refusal of permission or imposition of conditions for granting permission by local authority.

Attention is hereby also drawn to the TRAI recommendations on 17th April, 2015 on Broadband Acceleration to the National ROW policy which also covers towers wherein the Authority stresses on single window time-bound clearances and recovery of one time reasonable " administrative " charges from the tower companies for permission to install towers and to accord the critical infrastructure status to the industry .

It should be noted that the Hon'ble Delhi High court in its decision dated 29/04/2011 in W.P. (c) 3267/2010 had ruled that "MCD is not empowered to insist upon a license for installation of the towers and therefore the question of MCD levying any fee for towers does not arise. The court quashed the fee being demanded by MCD while ruling that there is no justification whatsoever for the same.

“Once it is held that MCD is not empowered to insist upon a licence for installation of towers, the question of MCD levying any fee therefore does not arise. There is thus no justification whatsoever for the fee so demanded by the MCD and the same is set aside / squashed.”

- Delhi High Court order

The State Governments and local authorities need to have a clear understanding of the above and thus not impede the progress of telecom towers roll-out since it has been recognised world-over as an important tool for the socio-economic development of the community, the State and the nation. The fact that Telecom Towers have been recognised as "Core Infrastructure " required for expeditious growth and modernisation of the various sectors of the economy can be gauged by the fact that the same has been included by the Government of India in its Gazette notification dated 27th March 2012 which provides the harmonised list of Infrastructure.

ASSOCHAM requests that all concerned authorities in the Centre and the various States implement this critical infrastructure aspect in true letter and spirit.

II. ASPECTS OF EMF RADIATION EXPOSURE

Apart from the difficulties raised by the local authorities, in many cases, towers are being shut down or not allowed to come up for reasons of unfounded concerns as regards possible harmful effects of EMF exposure. In 2008, DoT introduced EMF limits for towers and cell phones in line with the World Health Organisation recommended *ICNIRP (International Commission for Non-Ionising Radiation Protection) limits which followed by the vast majority of nations and has a built-in margin of safety of as much as 50 times! The WHO has clearly endorsed the ICNIRP limit to all countries and stated that this is an adequately protective standard for all and that there is no evidence to warrant a reduction of these limits.*

Cell phones emit extremely low EMF, several fold below the ICNIRP/WHO limit. It is important to understand that the EMF exposure from towers is even far lower in intensity than that from the mobile towers. *As pointed by WHO in 2013, the EMF from towers is about a thousand times lower than that from mobile phones.*

The Government of India had, on purely precautionary basis to address public perception, reduced the Tower EMF limits in 2012 drastically to one-tenth of ICNIRP/WHO. This makes our limits for stricter 90% of other countries of the world. It should be appreciated this well

intentioned move was done purely to address the public concern in some areas and was not warranted by evidence or facts.

It may also be noted that the factor of thousand times lower exposure from towers compared to cellphones was relevant with ICNIRP tower limits. However India is now following as low as one-tenth of ICNIRP. Hence the EMF exposure from towers in India is probably several thousand times lower than that from the mobile phones.

The above action, on an ultra – precautionary basis addresses all possible concerns and make all places whether schools, colleges, hospitals , heritage places, etc and all categories of people - young or old, healthy or weak, child or pregnant women etc would be more than adequately covered by these ultra- protective limits.

A couple of other significant fall-out effects of this 2012 action may need to be considered here. Firstly, to meet one-tenth of the earlier limit, the signals would obviously have to be very much weaker. This could be an important cause for the worsening call drop situation since two years. Secondly, due to weaker signal, the handsets have to work much harder to catch the signal. Hence the battery life could get impacted. Thus, our ultra- precautionary one-tenth ICNIRP standard/limit is quite possibly contributing to more challenges in some areas. Most importantly, it is likely to be keeping our network call quality very much on the edge, getting unbalanced by small normal variations in other factors.

To allay any unjustified public concerns regarding EMF from towers, **ASSOCHAM wishes to assure that the Tower EMF limits in India are at a level which is more than several thousand times below the permissible international standard (set by ICNIRP) and due to non-ionising nature of the radiation, are not considered to pose risks to human health and safety.**

3. EFFECT OF DE-STABILISED NETWORKS

Destabilized Networks: Nowhere else in the world have running and well- performing licenses, with settled and well stabilised networks serving millions of customers, been terminated as here in India in November 2014, and their “in-use spectrum” taken away and replaced with completely different frequencies. With such a massive disruption in frequencies, a tremendous amount of retuning and optimising of networks involving several thousands of towers is an inevitable consequence. This would doubtless result in impacts on network/call quality that would take a long time indeed to resolve and settle. ***TRAI had understood this and clearly advised in 2010 itself that operators would need about two years to make adjustments for the change.*** This did not happen and we are probably therefore suffering the consequences thereof. As stated earlier, no other country has invited such massive network disruptions by not extending/ renewing licenses. Call drops, therefore, are not a surprising result.

Compensation to the Consumers in the event of the Dropped Calls:

- i. As explained above, the call drop situation is not because of industry alone but due to a mix of many other issues for which the industry has little or no control. Hence, Industry is of the view that consumer compensation by operators will not resolve problem of the call drops alone.
- ii. Internationally nowhere the compensation to consumers for dropped calls is mandated, except for one country i.e. Columbia.
- iii. There are several Technical and Reconciliation issues involved such as identification of the responsible TSP for the Call Drop; issues pertaining to handset quality, interference due to illegal wideband repeaters etc. resulting in call drops.

We at ASSOCHAM are therefore of the view that following steps/initiatives can resolve the issue of the Call Drops substantially:

- Focused efforts to secure government buildings and constructive center-industry engagement with local bodies
- Learning from spectrum change-over issues in metro service area in order to avert larger scale problems in future

It is pertinent to point out the efforts made by the industry to help alleviate the issue, despite several operational & policy related challenges that exist.

Efforts made by the operators to resolve the Call Drop issue:

Over the last several weeks the issue of call drops has been an area of major concern which has attracted much attention. The industry has taken serious recognition of the issue and is working on a war footing basis to reduce the Call drop incidence. Some of the initiatives taken are mentioned below.

1. Special Drive test conducted by the operators to analyse the reasons for the Call drops i.e. for the Radio Frequency Optimization.
2. Roll out of the 3G and 4 G network i.e. offloading the traffic from 2G networks and optimised hand-offs between 2G, 3G & 4G sites.
3. Reached out to customers, seeking their help to identify areas where they face call drops and their suggestions on setting up mobile cell-sites.
4. Offloading of the traffic to Wi-Fi
5. Installation of IBS and Small cells for improving indoor coverage
6. Augmentation of existing RF resources.

7. T.V program conducted by the Industry in creating awareness of the issue of Call drops
8. Continuous optimisation efforts such as regular drive tests, TRX reshuffling, periodic automatic frequency plans, etc.

FINAL SUMMARY

In summary, ASSOCHAM requests TRAI to kindly use its good offices to recommend to the central Government and DOT to announce the following measures.

- 1. DOT should notify clear rules derived from its advisory guidelines dated 1st August, 2013 for the installation of towers in the country***
- 2. For abundant clarity, DOT may clarify through its rules above that the fees/charges levied by local authorities /states for tower installation should be a nominal and reasonable amount which should be sufficient to cover the cost of administrative charges.***
- 3. Detailed implementation plans & procedures may kindly be notified for the availability of Government properties for tower installations all over India***
- 4. As in the case of Government properties, DOT is requested to kindly extend similar supportive action for location of towers on Defence land & buildings.***
- 5. All concerned authorities in the Centre and various States to ensure implementation of the Gazette notification dated 27th March, 2012 in letter and spirit which lists towers as "Core Infrastructure "***
- 6. As a part of the education process for the RWAs & the masses, it is hereby clearly stated that the Tower EMF limits in India are at a level which is several thousand times below the permissible international standard (set by ICNIRP/WHO) and due to non-ionised nature of radiation, these are far from being harmful to the human body.***
- 7. In light of above we believe that in order to resolve concern on call drops, genuine multi stakeholder alignment and collaboration is the way forward. Compensation to the Consumers for the Call Drops may not be mandated as we believe that it will not help resolve the problem of call drops.***

Hence, ASSOCHAM's response to the questions in the CP may be deduced from the aforementioned observations.

RESPONSE TO TRAI CP's QUESTIONS:

Answer to Q1:

ASSOCHAM Response

ASSOCHAM does not recommend that calling consumers should be charged for call duration of less than 5 seconds. In case the call gets dropped after 5 seconds duration, then the last pulse after which the call dropped should not be charged.

Answer to Q2 & Q 3:

ASSOCHAM Response: No Comments

Answer to Question No.4:

ASSOCHAM Response

ASSOCHAM requests TRAI to recognise the services of the operators who bring the Call drop to below 2% by offering some incentive by way of rebate in license fees or reduction in terms of taxes etc . This could motivate the operators to deliver better quality of service, thereby leading to higher consumer satisfaction .This way, both the Operators and the Government stand to benefit as enhanced customer goodwill & satisfaction shall translate into enhanced revenues for both the operators and higher license fees & taxes for the Government.