COAI Response to TRAI Consultation paper on "Review of Interconnection Usage Charge"

At the outset we would like to submit that interconnection regulation should be as per the international best practices. The same have been enunciated in the WTO Reference Paper and the GATT framework as detailed in our letter No. TVR/COAI/219 dated October 23, 2008. The best practices include:

- *Interconnection to be ensured for all in a timely manner, under non-discriminatory terms, at cost oriented rates that are transparent & Reasonable.*
- *Ensure that a major supplier will make publicly available either its interconnection agreements, or a reference interconnection offer.*
- *A service supplier requesting interconnection with a major supplier will have recourse, to an independent domestic body to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time*

It is also submitted that the Indian mobile sector has witnessed exponential growth in the last few years. However, in spite of the fact that the sector has witnessed excellent growth and the service is affordable, large parts of the geographic area and large portions of the population are yet to be covered. There is an urgent need to expand the service to rural areas and connect the unconnected. And huge investment is required for the same.

Thus we respectfully submit that the Authority may kindly consider putting in place an IUC regime which enables expansion of service to the rural and uncovered areas.

Q.1 What components of Interconnect Usage Charge (IUC) should be reviewed?

The Interconnect Usage Charge (IUC) consists of the following components:

i) Origination Charge
ii) Carriage charge
iii) TAX Transit charge
iv) Transit/ Carriage charge between LDCA to SDCA
v) Termination Charge

i) Origination Charge - Origination charge is presently under forbearance. Since the market forces are working well and the service is affordable, we are of the view that NO Regulatory intervention is required with regard to the Origination charge.

ii) Carriage Charge - The Authority in its paper has noted that, with regard to Carriage charge, the prevailing market rates are below ceiling of Rs 0.65 per minute. This it self establishes the fact that NLD carriage market is largely competitive. TRAI has also noted that most of the service providers are also offering tariffs in the range of Rs 0.34 per minute to Rs 0.60 per minute depending on volume of traffic, period for which the traffic is committed. In view of the same it is submitted that there does not exist a need to review Carriage Charge.

iii) TAX Transit Charge - With regard to Transit charge, it is first submitted that this charge as prescribed by the Authority is to be applied in exceptional circumstances only and should not be imposed as a rule.

However, as noted by the Authority in the consultation paper, a new entrant may not be in a position to establish direct interconnection in one go with all service providers and therefore there may be a need to allow transit connectivity in the interim. It must however be emphasized that such facility should be time bound and should be cost based so that burden of the transit charge does not get transferred in the form of higher tariff to the consumers.

Keeping the above in mind we believe that there is a sufficient case for a review of the TAX Transit charge.

It may however be noted that as per TDSAT's judgment dated May 3, 2005, the Hon'ble Tribunal directed that wherever the MSCs of both BSNL's CellOne and Private CMSOs' are connected to the same BSNL switch, BSNL shall not impose any transit charges. This was also issued by the Authority in the form of a Regulation dated June 8, 2005.

It is submitted that above mentioned submissions are without prejudice to our contentions as contained in the proceedings before the Hon'ble Supreme Court on the Transit Charge matter.

iv) Transit/ Carriage charge between LDCA to SDCA – Although the licenses on the NLD operators have been amended to permit them to carry intra circle long distance calls , the private cellular operators have not yet been able to take advantage of this facility and are constrained to continue to handover their traffic to BSNL at Level-II TAX . Consequently the private operators have to pay a transit charge of 20 paise per minute for the same even though the private NLDOs are willing to carry the same at a fraction of the price. This is not only making this segment non – competitive but is also against consumer interest.

It is submitted that increased competition in the intra circle carriage segment would lead to lower cost for access providers and hence more affordable tariffs for consumers.

It is thus submitted that the Authority may either ensure increased competition in this segment by allowing the access providers to use private NLDOs for their intra circle long distance calls or review the cost downwards so that it is strictly cost based.

Further, it may be noted that though the Carriage Charge for Long Distance Calls within India was revised downwards by the Authority in its 23rd February 2006 Regulation from the slab based carriage charges introduced in 2003 i.e. Rs. 1.10 per minute corresponding to the above 500 Km call to **a ceiling based Carriage Charge with specified ceiling at Rs. 0.65 per minute, there has been no corresponding reduction in the Transit/ carriage charge of Rs. 0.20 per minute between LDCA to SDCA** as prescribed by the TRAI in the IUC Regulation dated 29.10.2003 which was based on costs prevailing at that time.

Hence, there is need to review the cost based Transit/ Carriage charge between LDCA to SDCA.

In the alternative, the Authority may also like to consider a scenario where it may like to consider and decide that henceforth all interconnection may be prescribed at a common level, viz. LDCA and that SDCA connectivity is done away with. In this context, it may be noted that LDCA connectivity is already applicable to UAS/CMSP. Further, the license of NLDO also prescribes connectivity at LDCA level despite which, BSNL insists on connectivity at SDCA level. With connectivity at LDCA level, it would be the responsibility of the terminating operator to carry the call between LDCA and SDCA at its own cost.

v) Termination Charge - Since the issuance of the first IUC Regulation in 2003, there have been many developments in the telecom sector. While some developments have exerted downward pressure on the costs there are others which have exerted upward pressure on costs. We are therefore of the view that while looking at the aspect of Termination Cost, a holistic view should be taken by the Authority.

Further, it may be noted that there are international best practices in cost modeling for MTC and the increasing global trend is to adopt a Hybrid FLRIC model for determination of MTC.

Thus, while there is a case for review of Termination Charge, we are of the view that the same should be determined in a holistic manner and in line with the international best practices.

Q2. In view of the details provided in the paper, please give your opinion whether TRAI should continue with the existing methodology of fully allocated cost with appropriate assignments for termination charge or changeover to LRIC or its variant. Please provide full justification.

Indian telecom sector has witnessed an exponential growth in the last few years. However, despite phenomenal growth in tele-density, the urban-rural divide continues and telecom infrastructure in rural areas is below expected levels. Benefits of competition are yet to reach rural markets. There is a pressing need to expand the telecom service to the rural masses. This issue has been attracting lot of attention from the Government, Policy maker and the Regulator.

While huge investments are required to meet the desired objective, we are also of the view than a IUC Regime/ termination charge based on international best practices will be a key facilitator for expansion of service to rural and uncovered areas.

An examination of global best practices with regard to the costing principles for the determination of mobile termination charges suggests a clear shift to cost-based methodologies. The Long Run Incremental Cost Model (LRIC) has emerged as the preferred choice of regulators not only in Europe but also in several developing markets. With regard to the application of the LRIC model, certain best practices have emerged based on the experience of NRAs in countries which have deployed this model.

In this regard we would also like to submit that the methodology followed by the Authority as per which of relevant operational expenses are recovered from airtime/ call charges and capex is recovered from rental may not be appropriate and also not in line with the international best practices adopted by regulators in other parts of the world. It may also be pertinent to note that in India more than 90% of the subscribers are prepaid and this category has no rentals and a nominal processing fee.

The Hybrid FLRIC model, based on a hypothetical efficient operator is widely accepted to be the international best practice in cost modeling for MTC as it provides a view on likely costs of the network going forward, verified against actual past performance.

TRAI had also recognized in its notification (No. 409-5/2003/FN, dated 29th October 2003) that there is a need to eventually move to LRIC based MTC estimation model. An extract from TRAI's notification of 2003 is given below:

> "*The Authority considered the framework used for calculating the IUC under the previous exercise, and noted that the cost basis used had been historical average costs from audited accounts of BSNL. It noted that for costing purposes, several countries had used Forward Looking Long Run Incremental Costs (FLLRIC), i.e. a methodology under which only a portion of*

stranded costs (or costs arising due to past high equipment prices or old technologies) is included in the calculation of costs."

"The Authority noted that the difference between historical costs and forward looking costs would be large, and relying on costs based only on modern and forward looking technologies would imply a large burden from the stranded costs for BSNL. While the Authority feels that change over to FLLRIC model is imperative, it examined the implications of a sudden changeover against a gradual changeover"

In light of the above, we recommend the Hybrid FLLRIC model for determination of MTC in line with international best practices and taking into account all the relevant costs.

The above listed issues pertaining to international best practices have also been detailed in the White Paper by SVP and the GSMA report on International best practices submitted by COAI to the Authority vide letter No. TVR/COAI/219 dated October 23, 2008.

Q3. Should termination charge be strictly 'cost-based' or should the principle of 'cost-oriented' be applied taking into account other affecting factors? Give reasons in support of your answer.

We are of the view that cost-based pricing methodologies more accurately reflect the underlying cost of providing interconnection services. They are thus more conducive to promoting market entry and competition. Consequently, most countries have moved or are moving towards cost-based determination of interconnection charge. WTO, EC and IRG have also recommended adoption of cost based approach.

Q4. In the absence of cost data for value added services, how should the revenue of such services be taken into account for determination of termination charge?

Since the cost involved for providing VAS services are not being taken into account, the revenues from such services also should not be taken into account.

Q5. Are asymmetric termination charges justified? If yes, which of the following should be the basis?

(i) Existing service providers vs. new entrant
(ii) Urban lines vs. rural lines
(iii) Mobile termination charge vs. fixed termination charge

Give justifications for your answer.

NO comments. A separate paper on Asymmetry has been submitted to the Authority (vide COAI Letter No. TVR/COAI/236, dated December 02, 2008).

Q6. Should the existing practice of applying the same principles and methodology for calculation of fixed and mobile termination be continued? If not then what should be the methodology for fixed and mobile termination charges? Give full justification.

As stated in our response above, the Hybrid FLRIC model, based on a hypothetical efficient operator is widely accepted to be the international best practice for determination of termination charge. Thus Hybrid FLLRIC model should be used for determination of termination charge for both fixed as well as mobile.

Q7. Explain in detail the impact of the proposals being submitted by you for mobile and fixed termination charge on tariff and why?

Tariffs are primarily driven by the extent of competition in the market. A cost based IUC regime based on international best practices can be a facilitator of competition in the market.

Q8. Are asymmetric domestic and international termination charges justified? If yes, then whether international termination charge should be fixed higher/lower than domestic, should be on reciprocal basis with other countries or left under forbearance? Give justifications.

As the Authority is aware, the Indian operators are paying weighted average cost of Rs 3 per minute for terminations of their calls in other countries as compared to a termination charge of just Rs 0.30 per minute on incoming ILD calls in India.

In light of the above we would like to submit that termination charge for international calls should be higher than that for domestic calls. Either the termination charge for international incoming calls should be brought under forbearance or the same should be prescribed on a reciprocal basis with different countries.

Increasing the termination charge on incoming ILD calls will make more funds available for all service providers, including BSNL, for expansion of service, without increasing the burden on service providers or the consumers.

We believe that the issue of grey market can be addressed through stricter monitoring and control. DoT also has a network of Telecom Enforcement Resource & Monitoring (TERM) cells in place which is already carrying out monitoring and vigilance functions. These resources can be used for stricter monitoring and control of the grey market.

Q9. What should be the ceiling of carriage charge for long distance calls?

(i) Maintain at the same level
(ii) Increased/ decreased on the basis of current data
(iii) Higher ceiling for remote/ rural areas and one ceiling for rest

Please give sufficient reasons with data in support of your answer.

As mentioned in the consultation paper, the average cost per minute after considering the cost in respect of all NLDOs ranges from Rs. 0.16 per minute to Rs 0.72 per minute and as the prevailing market rates are below the ceiling of Rs 0.65, which clearly establish that NLD carriage market is largely competitive and there is a no need to review the present ceiling of Rs. 0.65 per minute.

Hence the same should be retained at same level.

Q10. Which of the following options should be the TAX transit charges for intra SDCA transiting?

(i) Maintained at the same level
(ii) Left to forbearance
(iii) Increase/ decrease on the basis of current data

Please give sufficient reasons with data in support of your answer.

As the Authority is aware, the Hon'ble TDSAT vide its judgment dated May 3, 2005, had directed that:

"……On considerations of level playing field, we direct that BSNL should stop charging 0.19 paise from cellular operators by way of transit charges for accessing BSNL CellOne subscribers, wherever the MSCs of both BSNL CellOne and Private CMSOs are connected to the same BSNL switch. We are of the view that our direction will take effect from the date of this judgment. We authorize TRAI to make this part of the regulatory regime."

The above order was given by the TDSAT in order to ensure level playing field after the Tribunal noted that BSNL CellOne has utilized the connectivity of BSNL PSTN with the other cellular operators for getting connected to their networks and thereby the related cellular subscribers. The Hon'ble TDSAT noted that cellular operators have paid port charges to BSNL for the Level-1 TAX connectivity, but that BSNL CellOne was getting the benefits of connectivity to the other cellular operators without paying the PSTN transit charges. TDSAT thus held that on considerations of level playing field BSNL was not justified in charging transit charges to the extent of 19 paisa for accessing BSNL CellOne subscribers.

Pursuant to the above Order of the Hon'ble Tribunal, TRAI, on June 8, 2005, issued its Regulation No. 10 of 2005 whereby the above directions of the TDSAT were made part of the interconnect / regulatory regime. Para 2 of the Regulation states as below:

"No transit charge shall be levied by BSNL (Bharat Sanchar Nigam Limited) on Cellular Operators for accessing BSNL's CellOne subscribers, wherever the MSCs of both BSNL's CellOne and Private CMSOs' are connected to the same BSNL switch."

It is therefore submitted that insofar as connectivity between the BSNL and the private operators is concerned, the law regarding the same has already been laid down by the Hon'ble TDSAT and has also been enshrined in the form of a Regulation by the Authority and thus, there is no case for any transit charges to be levied by BSNL in cases wherever the MSCs of BSNL's CellOne and Private operators are connected to the same BSNL switch.

As regards transit connectivity per se, it is submitted that the Authority has always held the same to be an exception and not a rule.

In any event, this charge was last determined in 2003 and as has already been pointed out there have been several developments in the telecom sector since then, some which have exerted a downward pressure on the costs and others that have exerted an upward pressure on the costs. It is therefore submitted that just as in the case of MTC, there is a clear case for a review of the same on the basis of current data.

It is submitted that above mentioned submissions are without prejudice to our contentions as contained in the proceedings before the Hon'ble Supreme Court on the Transit Charge matter.

Q11. What should be the transit/ carriage charge from LDCA to SDCA?

(a) No need to specify separately
(b) Under forbearance
(c) Increase/ decrease on the basis of current data

Please give sufficient reasons with data in support of your answer.

As mentioned in the consultation paper, at present a mobile call being made to a BSNL fixed Line subscriber is handed over by the CMSP at the Level 2 TAX from where it is carried on the BSNL network for termination in the SDCA in which the subscriber is located.

The IUC charges for this facility /segment have been prescribed by TRAI at 20p/minute for termination of calls in any SDCA within the LDCA governed by the Level 2 TAX. BSNL has however challenged this provision of the TRAI IUC Regulation in TDSAT and was charging distance based charges for carrying and terminating such calls. It was only upon an interim order of the Hon'ble TDSAT that BSNL is now carrying such calls for 20p/minute, pending adjudication of this matter in TDSAT.

Private NLDO operators who have rollout upto the SDCA level are equally capable of carrying such calls, which then be handed over to BSNL in the respective SDCA for termination on their network.

On December 14, 2005, DoT amended the licenses of NLD Operators and allowed NLDOs to carry and terminate intra-circle traffic with the mutual agreement and consent of the originating service provider.

This amendment in the licenses of NLD Operators was welcomed by the industry as this would increase competition & choice in the intra circle long distance segment as it would give the access providers more choice in giving affordable services to their consumers.

However, despite the above amendment, due to various reasons, this facility has not been implemented as BSNL did not allow the private NLDOs to terminate the intra-circle traffic on its network and as a result of which, Access Providers were not able to exercise the right to choose a private NLDO to handover such intra circle traffic which is meant for termination on BSNL's network.

This issue has been taken up by us repeatedly both with the DoT as well as the Authority, but to no avail.

As the private NLDOs were willing to carry these calls at even less than half the rates being charged by BSNL, the end customers of the access providers are being deprived of the huge advantage that the access providers could have delivered by being able to negotiate lower intra circle carriage rates with the NLDOs and choose the best option to terminate their calls at the SDCA level.

It may also be noted that 20p/minute charged by BSNL are being offered by virtue of the interim order of the Hon'ble TDSAT when in fact BSNL is in reality wanting to recover distance based charges.

There is no doubt that the availability of competition in the LDCA-SDCA segment will result in a reduction of this RS.0.20 per minute being charged by BSNL thereby reduction in the cost of the telecom services for the end customer.

As the paramount objective of Licensing / Regulatory Regime has always been to protect the interest of the end customer by ensuring that enough competition is made available in each segment of the telecom services, we believe that the service providers should either be allowed to handover their traffic through NLDOs at the SDCA level or the charges for the same should be reviewed and made strictly cost based.

In this context it may be noted that though the Carriage Charge for Long Distance Calls within India was revised downwards by the Authority in its 23rd February 2006 Regulation from the slab based carriage charges introduced in 2003 i.e. Rs. 1.10 per minute corresponding to the above 500 Km call to **a ceiling based Carriage Charge with specified ceiling at Rs. 0.65 per minute, there has been no corresponding reduction in the Transit/ carriage charge of Rs. 0.20 per minute between LDCA to SDCA** as prescribed by the TRAI in the IUC Regulation dated 29.10.2003 which was based on costs prevailing at that time.

In the alternative, the Authority may also like to consider a scenario where it may like to consider and decide that henceforth all interconnection may be prescribed at a common level, viz. LDCA and that SDCA connectivity is done away with. In this context, it may be noted that LDCA connectivity is already applicable to UAS/CMSP. Further, the license of NLDO also prescribes connectivity at LDCA level despite which, BSNL insists on connectivity at SDCA level. With connectivity at LDCA level, it would be the responsibility of the terminating operator to carry the call between LDCA and SDCA at its own cost.

Q12 India is preparing for launch of 3G mobile services. Which of the following option would you consider best? Give reasons, practicality and method of implementation of your choice.

(i) 3G termination charge same as 2G termination charge
(ii) Forbearance of 3G termination charge
(iii) Higher or lower 3G termination charge?
(iv) Should be considered at a later stage?

As the Authority is aware, the 3G auction is expected to be completed in the first half of 2009. There is a high possibility that the actual price determined through auction would be much higher than the minimum reserve price decided by the government.

It is hereby submitted that presently the take-up and usage of 3G services is uncertain. Also, there are a number of cost related factors with a 3G network (relative to a 2G network that are required to be considered in the near term such as:

- Migration to the new technology.

- Demand risk due to uncertain take up in the near term.

- Costs to the early adopters of 3G technology.

There might also be issue of Non- level Playing field if there is different termination charge for the 3G services and the 2G services.

Hence, we are of the view that the issue of setting the termination charge of 3G mobile services should be considered at the later stage, when there is more clarity regarding the pricing of 3G spectrum.

Q13. New developments like WiMax, HSPA, FMC, NGN and further advancements in access technologies are expected to complicate the termination scenario further. What should be done in the current review to take care of these future developments?

As noted by the Authority, the new developments like WiMax, HSPA, FMC, NGN will further complicate the termination scenario as it will bring the multi-operator multi-service scenario into picture, which will give new dimensions to the interconnection issues among the operators.

Also, due to the advent of these technologies the inter-operator charging would become a function of a) Grade of service, b) Content, and c) network elements being used while carrying the traffic, hence further complicate the issues.

Although, in some ways the said technologies also simplify the issue of interconnection charge i.e. it might help through Simplification in Network Architecture and Reduction in POI to simplify the settlement of Interconnect Usage Charges.

Hence, it will be very difficult to predict the level of complications due to advent of these technologies, therefore it is submitted that the interconnection scenario under these technologies should be considered at the later stage.

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