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mobile services

VTL/Reg/TRAI/1101/1905

20th January, 2011

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Subject: **Response to TRAI's pre - Consultation Paper on Review of Interconnection Usage Charges**

Dear Sir

At the outset we appreciate and welcome the Authority's pre - consultation paper on 'Review of Interconnection Usage Charges'.

We hope that the Authority will consider our comments, enclosed herewith, at the time of framing the Consultation Paper for Review of Interconnect Usage Charges.

Thanking You

Yours Sincerely

for Videocon Telecommunications Limited

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Encl. Response to TRAI's pre-consultation paper on 'Review of Interconnection Usage Charge'

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Response to TRAI pre-Consultation Paper on 'Review of Interconnection Usage Charges' dated 24th December, 2010

In a Multi-Operator/ Multi Network environment and in a market which is growing by leaps and bounds, it becomes imperative to specify an IUC regime which gives greater certainty to the Inter-operator settlements and facilitates interconnection arrangements. Thus, there is a need for categorically specifying Interconnection Usage Charges / Bill and Keep Regime, without any ambiguities, pertaining to Voice and SMS vis-à-vis carriage/ transit and termination. Further, with the advent of IP based technologies like Wi- Max, HSPA, FMC and NGN, the future of Telecom industry is looking at the co-existence of the multiple technologies, i.e. those which are centric to circuit switching and on the other hand the ones which would be IP centric and hybrid.

However, while reviewing the Interconnection Usage Charges Regulation it is urged to the Authority to kindly consider the following:

1. With the existing disproportionate market share it is but natural that the new entrants have to bear the brunt of the termination charges since the traffic pattern is skewed towards the incumbents with significantly larger market shares which inevitably vest the burden of huge termination payouts on the new entrants.

2. With the wireless subscribers having crossed 700 million mark and given the incumbency levels with glaring imbalances in the market share and skewed traffic pattern, Interconnection Usage Charges, for the new entrants, are an item of cost and not that of revenue as they are, at all times, the net payers of Interconnection usage charges.

3. Spectrum to the new entrants, as against some of the incumbents, has been allotted in the 1800 MHz band which inherently demands significantly higher infrastructure.

4. Termination charges serve as a floor price beyond which tariffs cannot be reduced. Lower termination charges and carriage ceiling charges will result in further benefiting the subscribers directly. Also, the Off net and On net calls ratio will show far greater improvement in the form of increased call flows between different service providers, liberating the subscriber to make inter operator calls with reduced tariffs.

5. Eradicating the arbitrage created vis-à-vis termination charges and thereby thwarting the notion and hence restraining the service providers (incumbents) from transferring their cost onto the other (new) Service Providers to promote a Level Playing Field and a sustainable and an enabling environment for promoting competition.

6. In a market scenario where ARPU is amongst the lowest in the world and interconnection being mandatory for all the operators, the new entrants are liable to pay exorbitant Interconnection Charges per E1 over and above the present Interconnection Usage Charges to the large incumbents while the same incumbents only paid such interconnection charges to only State owned incumbent operators and continue to do so whilst the new entrants pay such charges to state owned incumbents as well as to 4 - 5 other such operators including bringing their own media for the to and fro traffic exchange.

In view of the foregoing and the justifications provided hereafter, we request TRAI to determine a balance by lowering the Interconnection Usage Charges, including termination charges and carriage ceiling, to a level which could pacify the depleting revenues of the new entrants, hence, giving them teeth to compete in the urban market, which is getting saturated by the year, as well as in the rural market against the well established existing service providers.

(i) What should be the framework of Interconnection Usage Charges that meets the requirement of today as well as takes care of future developments like deployment of Wi-Max, High Speed Packet Access (HSPA), Fixed Mobile Convergence (FMC) and Next Generation Network (NGN)?

It is well known that interconnection is a pre-requisite for maturing inter operator communications. Therefore, effective interconnection arrangements are the key for scripting the success story of any telecom Industry. Interconnection amongst the operators has pre-dominantly enabled communications vis-à-vis Voice and SMS and hence the inclusion of the components of these services in the IUC framework is but natural. Therefore, the IUC regime should include Voice, for which at present Termination and Carriage/ Transit charges have been defined, and SMS, which are presently under forbearance due to the belief of the Authority that the Service Providers would continue with their arrangements in a fair, transparent and a non discriminatory manner.

Furthermore, in case of new technologies like NGN and future networks it is pertinent to mention that it is only the media or the under laid network, which will constitute the difference and not the components of IUC. However, since the technology will be new, the components will require a new comprehensive cost based and cost efficient analysis for deducing the inter-operator Interconnection Usage Charges. This may only be reviewed as and when such costs are available post deployment. The Authority may consider fixing a shorter time frame for review of IUC to capture the developments within the tenets of the IUC cost framework.

(ii) What components of IUC for Voice, SMS and any other Value Added Services should be reviewed? What should be the level of charge for each component that requires review? Please give detailed justification/ reason to support your viewpoint?

Interconnection being at the heart and soul of the telecom industry, it becomes imperative to categorically define the charges between the competing operators whereby a sustained development of the industry together with the interest of the subscribers can be nurtured and hence, it is proposed that IUC components of voice as well as SMS need a complete overhauling and review keeping in view the principles of Cost Basis. Telecom Value Added Services essentially utilizes the network of the service provider whose subscribers avail such services without any inter-dependence on inter-operator arrangements. Therefore, in the absence of inter-operator network usage, in most of the Value Added services, as such, need not be considered in the IUC framework.

SMS Termination

At the outset we would like to make a reference to the decision of the Authority dated 21st August, 2006 pertaining to IUC for SMS wherein the Authority has although averred that forbearance on IUC for SMS should continue but it has further categorically observed and deliberated, in its analysis on IUC for SMS, that:

"there is no supplementary cost for terminating and transiting traffic. Primary resources utilized for SMS i.e. the signaling channel (TS-16) are necessary provision for handling the signaling for the voice traffic and are used for SMS only during the period when it is not used for voice traffic signaling or any other service."

"The Authority has also noted that it is a store and forward kind of service and the resources utilized for termination and transit of SMS messages is primarily the signaling channel which is provided for handling the signaling for the voice traffic."

"The Authority further considered that whether there is any justification for regulating it and fix on "cost plus basis model". The Authority is of the opinion that no new cost parameter be adopted. Since IUC for voice calls is fixed on cost basis, the cost plus basis not be consistent with the existing approaches of IUC costing."

"The Authority also notes that SMS termination charge is not regulated in most of the countries."

"As of now, the authority is of the view that the present system of bill and keep for SMS is practical and in benefit of consumers and does not involve any additional costs for operators."

This decision of TRAI was issued in furtherance of the comments received from various stakeholders and the issues raised and deliberated in the Open House pertaining to TRAI's

Consultation Paper on 'Interconnection Usage Charges (IUC) for Short Message Service (SMS)" dated 13th June 2006'.

Furthermore, the Authority has been considerate enough in recognizing in the IUC 10th Amendment that the prevailing trend in the industry is that IUC is not being realized by the service providers from each other. It was further averred that the Authority believes that the service providers would continue with these arrangements in a **Fair, Transparent and Non-Discriminatory** manner. Schedule IV of the amended regulation itself states:

> **"Schedule IV**
>
> INTERCONNECT USAGE CHARGE (IUC) FOR SHORT MESSAGE SERVICE (SMS)
>
> Interconnect Usage Charge (IUC) for Short Message Service (SMS).- Interconnect Usage Charge (IUC) for Short Message Service (SMS) shall be under forbearance:
>
> *Provided* that such charges shall be transparent, reciprocal and non-discriminatory."

Therefore, to sustain the aforesaid it can be righteously inferred that the cost involved in terminating an SMS, in any manner whatsoever, cannot be half the cost for terminating a voice call @ 20p/min, as per IUC order and hence such an exorbitant levy is unwarranted and uncalled for and is non-transparent. Furthermore, since the entire industry is not at consensus to levy termination charge on SMS, it may be termed as arbitrary and discriminatory.

However, in spite of the aforesaid and the existence and acceptance of the Bill and Keep regime across the industry, many incumbent operators in the public as well as in the private domain felt the need for levying Termination Charge for SMS @ 10p/SMS, which is arbitrary and definitely not fair and/ or transparent in nature as envisaged by TRAI, citing reasons that due to the unprecedented skew of SMS traffic their SMSCs, which actually is not utilized while terminating an SMS, are being overloaded or choked and hence there arises a need of being adequately compensated for the same. This, as such, has overlooked the terms of the IUC orders which envisaged a Fair, Transparent and a Non-Discriminatory approach towards SMS as reiterated in the 10th amendment to IUC order. Till date, the Interconnection Agreements with most of the operators do not contain a SMS termination charge.

Moreover, it is pertinent to mention that in a market which is driven by cut-throat competition it becomes imperative to define commercials unambiguously and hence leaving the IUC under forbearance, as presently is the case with SMS, has unarguably left the balance of power to negotiate the commercials tilted, at all times and irrevocably, in favour of the incumbents. Further, we would like to reiterate and emphasize the fact that, a termination charge, if attached to a SMS, would inevitably invite an increase in tariffs pertaining to SMS and hence the cost of termination would ultimately be passed over to the end user, i.e. The Telecom Subscriber.

Therefore, the cost for terminating a SMS is incurred with respect to these components only and since the SMSC of the terminating operator is not utilized in terminating the SMS it is safe to infer that 10p/SMS, which is being charged in addition to the charges for carriage of long distance SMS which is being charged @ 5p/ SMS as signaling charges, cannot be said to be an attributable cost and hence the levy of such a cost, is unreasonable, arbitrary and runs contrary to the tenets of 'Work Done' on 'Cost Basis' adopted by TRAI for defining and setting up of the IUC regime. The levy of the aforesaid charges have been incorporated in the Interconnect Agreement whereby it is stated that the parties agree for the payment of Termination Charges @ Rs 0.10/SMS for the SMS terminated onto the other Party's network irrespective of the originating licensed service area of the SMS of either party and the charges for using CCS 7 links for the signaling for SMS shall be @ Rs 0.05/SMS.

Owing to the more than competitive market and mobile operators objective of boarding and hence enhancing their subscriber base the tariffs, including the SMS tariffs, have hit rock bottom in the Indian Telecom industry, the direct ramification of which is a continuous decline in the ARPU. Moreover, having regard to the enormous inequality in the market share the new operators with an obvious significantly lower market share end up being the net payers of sizeable Termination Charges to the incumbents thereby accruing huge undue profits to the incumbents whilst creating an enormous disparity and hence throwing out the notion of attaining a level playing field and a competitive market in the interest of the subscribers. Therefore, to bring in a sustained development and to uphold the TRAI objective of increasing a healthy competition in the market, it becomes imperative to adopt a regulation which clarifies Bill and Keep.

We therefore, recommend that, the IUC components pertaining to SMS, if it all required to be defined should be strictly cost based and till the time the actual cost is arrived at, TRAI should categorically direct all Service Providers to stop levying the termination charges and mandate a Bill and Keep regime. However, it is strongly urged and most sincerely requested to the authority to mandate the current industry practice of Bill and Keep with respect to SMS.

Voice Termination Charges

Presently, termination charges, being an essential component in the off-net calls when compared with the on-net calls, has acted as an inherent source which has led to an inevitable disparity between off-net and on-net calling. Moreover, the distinct cost advantage, which the incumbents enjoy over the new entrants, of terminating calls within their own network enables them to provide much lower on-net tariffs which inturn too has contributed significantly to the skew towards on-net calling.

It is further, reiterated that setting a termination charge, which tends towards the crest of the cost calculated for both new and the existing operators would not only unnecessarily burden and artificially inflate the net payouts of the new entrants but would also widen the disparity between on-net and off-net tariffs thereby deterring and altering the desired usage patterns of millions of customers.

To sustain the aforesaid an analysis of the GSM traffic pattern depicted in Fig. 1.1 and Fig. 1.2 would corroborate the fact that the gradual increase in the percentage of Off-net calling is inversely proportional to the termination charges since they, inter alia, determine, being the differential factor, between the on-net and off-net tariffs.

S.No	GSM Calls	Sept. 2008	Dec. 2009	Mar. 2010	June, 2010	Sept. 2010
1.	Termination Charges	30p/min	20p/min	20p/min	20p/min	20p/min
2.	Mobile On-net (%)	54%	51.91	50.97	49.79	48.44%
3.	**Mobile Off-net (%)**	**40%**	**43.77**	**45.15**	**46.60**	**48.15%**
4.	Others	6%	4.32	3.87	3.61	3.41%

Fig. 1.1 GSM Traffic Pattern

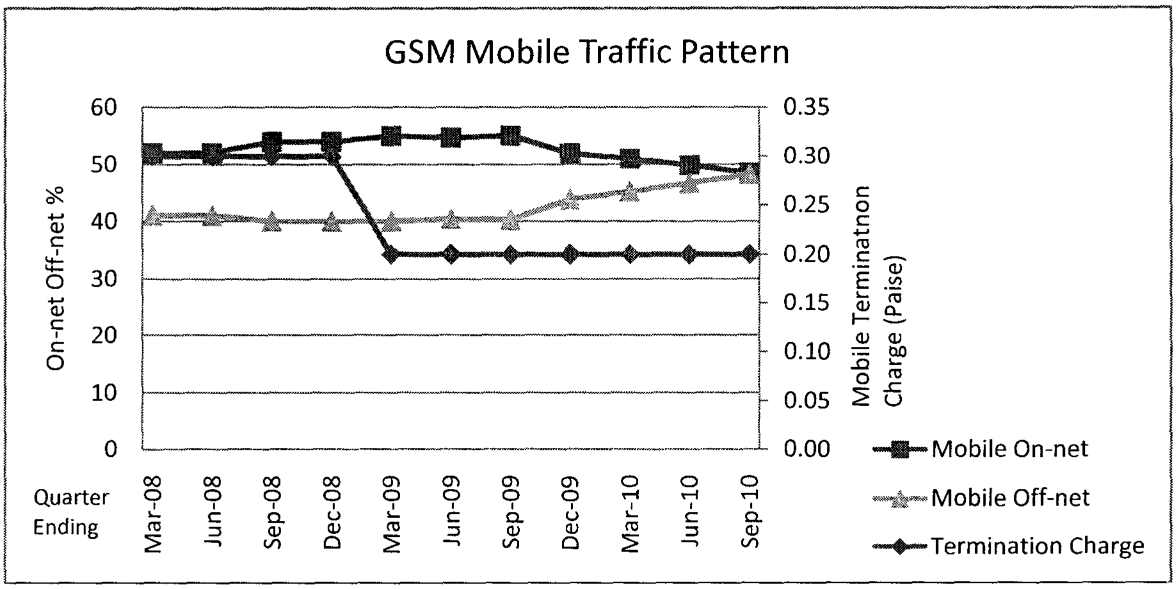

Fig. 1.2 Graphical Representation of GSM Traffic pattern vis-à-vis Termination Charges

Therefore, it is suggested to set the termination charges at the floor of the cost calculated for both the new and the existing operators thereby enabling the customers to bridge the divide of on-net and off-net call ratio and simultaneously relieving the new entrants from being the fund raisers of the existing operators viz. high termination charges @ 20p.

Carriage Charges

TRAI in the 6th IUC Amendment has stated that the average cost per minute after considering the cost in respect of all NLDOs comes to Rs. 0.52/-. Pursuant to the industry sources and the internal analysis a mark up for fixing the ceiling on carriage charge was suggested in the region of 15% to 25%. However, The Authority decided to adopt the highest of the range i.e. 25% and fix the ceiling at 65p.

Presently, carriage charges settled between UAS and NLD license holders are in the range of 30p to 35p. Therefore, it is evident from these settlements that the actual cost incurred or attributable for carriage is far less than the ceiling prescribed by the Authority. Moreover, applying a mark-up over and above the actual cost @ 25% is too high, given that lending and borrowing rate of funds is very low as compared to 2006.

Therefore, in view of the aforesaid and owing to the exponential increase in the NLD traffic from June, 2006 to September, 2010 from 2.71 billion minutes/month to 21.24 billion minutes/ month, it is suggested that the carriage charges need a review to bring the ceiling in proportion with the average range of carriage charges being levied and settled by and between the UAS and NLD license holders.

Transit Charge

At present the transit carriage charges from LDCA to SDCA and transit charges are being charged at 15p and less than 15p respectively. It is pertinent to mention that the calls of other operators are primarily being transited by BSNL due to the absence of the availability of direct connectivity to the local exchanges of BSNL. Further, the constraint of direct connectivity is due to the limitation shown by BSNL on their part and hence it would be unreasonable to allow BSNL to take an undue advantage or gain arising out of the limitation in their network at the cost of other operators. It is therefore urged to the Authority to kindly nullify such charges. However, if doing away with the transit charges does not seem viable to the Authority then it is requested that these charges should be brought down to the bare minimum.

It is further recommended that owing to the huge difference in the ratio of wireless and wireline subscribers the national routing plan needs to be revisited and a single point of connect for each LSA may be defined and adhered to.

(iii) Which of the following approach/ methodology should be used for estimating Interconnection Usage Charges:

(a) Existing Fully Allocated Cost methodology used by TRAI or any Variations in it;
(b) FLLRIC or any other variant;
(c) Bill and Keep;
(d) Left to forbearance all components of Interconnection Usage Charges;
(e) Any other Methodology.

AND

(iv) Explain the approach/ costing methodology adopted, provide the model, if any, developed for estimating the level of each component of IUC for Voice, SMS & any other value added service with all calculation sheet. Give justification for adopting the proposed approach/ methodology. Also provide details of revenue, minutes of usage (MOU) (off-net/ On- net), CAPEX and OPEX corresponding to each network element, Cables etc. separately for your Network.

The IUC regulation was conceptualized with the objective of determining Interconnection Usage Charges with an assessment of the various cost items attributable to the different network elements involved in setting up of a call in a Multi-Operator environment. Therefore, interconnection usage charges is not and should not become a medium of profit making and any aberration from the objectives, by defining and mandating charges which cannot be attributed to setting up of a call, will not only be unreasonable and arbitrary but at the same time will defeat the very purpose of the IUC regulations.

To sustain the Telecom growth and to realize the objective of the Authority to board more and more subscriber by taking the Telecom evolution to their doorsteps at prices which will not pinch their pockets, it becomes imperative that the ratio of Interconnection Usage Charge, which includes termination charge, with the Average Revenue per Subscriber and/ or with Call Revenue incl. Rentals/sub/month is brought down drastically in order to make the telecom services more affordable and reasonably priced which would inevitably attract more and all classes of the subscribers.

Furthermore, since the tariffs and the benefits attached thereto are, inter alia, dependant on IUC realized amongst operators, they inturn play a vital role in determining the number of off-net MOUs per subscriber per month which if increased would thereby lead to a sustained development and encourage a healthy competition in the Telecom Market. The rise in Off-net minutes can be illustrated by the references made in the TRAI published Performance Monitor Report pertaining to September, 2007 and September, 2010 wherein the percentage of Off-net Outgoing minutes, in the light of lowering of termination charges from 30p to 20p, have increased from 38% to 48.15% despite a lower MOU/subscriber/month.

Moreover, the growth of the subscriber base being directly proportional to the lower and reasonable tariffs, which bear a direct nexus with IUC, is evident from the fact that since the commencement of IUC 10th Amendment the subscriber base has grown at a brisk pace of 49.2%. Therefore, adopting a methodology whereby the Termination Charge and carriage for Voice is increased instead of being lowered than the existing rates might deface the very objective of taking the telecom services to every nook and corner of the country and hence turn out to be preposterous.

Furthermore, under the regime of Bill and Keep, the tariffs offered by Service providers either extends the benefit of free SMSs or have rock-bottom SMS tariffs, due to which the SMS outgoing tariff has witnessed an ascending trend from 29 outgoing SMS per subscriber per month in December 2008 to 44 SMS per subscriber per month in September, 2010. Therefore fixing a termination charge on SMS will not only result in higher tariffs of SMS but may as well witness a fall in SMS outgoing traffic per subscriber per month. It is therefore recommended and urged to the Authority to kindly mandate a Bill and Keep regime for SMS in the interest of the Telecom Subscribers.

In view of the aforesaid arguments, it is suggested that the termination charge for Voice may be brought down to 7p to 8p and the carriage charges may also be reviewed in the downward manner and set with a ceiling of 50p. Further, it is also suggested that the transit carriage as well as the transit charge may be done away with or may be brought down to less than 5p in view of the attributable cost and thus upholding the principle of Work Done on Cost Basis. Further, IUC for SMS should not be kept under forbearance and a Bill and Keep regime should be mandated by TRAI.

Further, it is proposed that TRAI may adopt a cost based regime of interconnection usage charges whilst excluding CAPEX and taking into account only those costs which are directly attributable for the completion of a call. Further, the notion of providing cross subsidies viz. IUC, to facilitate and hence catalyze rural penetration and coverage is preposterous since if the same is to be believed then the new entrants, who as appreciated by TRAI are the net payers of IUC, can only dream of penetrating in the rural India. Therefore, the rationale of providing cross subsidies should be reasonable, non arbitrary and non discriminatory and hence, the classification to be made should be in line with the doctrine of 'Intelligible Differentia' whereby such classification should bear a nexus with the object sought to be achieved. Given the existence of the USO fund to incentivize the Service Providers for penetrating in the rural India any classification for providing cross subsidies would tantamount to being unreasonable, arbitrary and discriminatory. To further sustain the aforesaid it is pertinent to mention that a classification otherwise, which is based on new and old operators, given the inequitable market share, skewed traffic and infrastructure, would be well justified and fall within the confines of the doctrine of 'Intelligible Differentia', since such a classification would facilitate and tender a differential treatment to the unequals thus creating a sustainable environment for all and thereby increasing the possibility of a healthier, pro consumer and a competitive market together with a Level Playing Field in its true sense.

(v) Provide cost and revenue corresponding to each service like voice service, SMS, GPRS, EDGE, roaming service and any other value added services. Also provide cost and revenue for interconnecting services like terminating call, originating call, terminating SMS and

Originating SMS. All cost and revenue data may be cross referenced with the accounting separation report submitted to TRAI.

The information sought hereinabove has been submitted with the Authority, vide our letter no VTL/Reg/TRAI/1010/1688 dated 8th October, 2010.

(vi) Justification as to why the model proposed by you should be used for determination of Interconnection Usage Charges for voice calls, SMSs and any other value added services.

As stated hereinabove.