



Counter Comments on Consultation

on

**"Access Facilitation Charges and Co-location Charges
at Cable Landing Stations"**

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1. Reliance Communications Ltd (RCOM) hereby submits counter comments on responses received from two dominant Cable Landing Station Owners on TRAI's consultation paper on "Access Facilitation Charges and Co-Location Charges at Cable Landing Stations".
2. RCOM's suggestion to reduce Access Facilitation Charges as much as by 98% is led by the principles of cost based charging and reducing costs of operations for all operators across the industry and enhancing competition. If TRAI reviews the Access Facilitation and Co-location charges in line with the cost, the consumers would get the full benefits of a pro-industry, pro-competition policy framework in form of lower bandwidth charges and cheaper Internet and related services.
3. The response of RCOM, Vodafone, ACTO, ISPAI and their members clearly bring out that CLS market is uncompetitive and Access Facilitation Charges are far above costs. It has been established any doubt that there is urgent need for regulatory intervention and substantial reduction of charges.
4. The two dominant Owners of Cable Landing Stations (OCLS) which together have 98% market share in Cable landing Station (CLS) segment believe that market is competitive and no regulatory intervention is required. RCOM strongly opposes these views of dominant operators.
5. The responses from these dominant owners of cable Landing Station can be best described as anti competition, anti-consumer and pro-oligopoly. We feel that the good work done by the Authority in promoting competition should continue and the fallacious arguments being put forth by these dominant operators should be rejected. The Authority has all along supported open competition and kept consumer interest at the forefront of its policy. RCOM is confident that TRAI will continue to push a pro-consumer and pro-competition approach through review and significant reduction in Access facilitation Charges.
6. These dominant Owners of Cable Landing Stations are taking advantage of their CLS facilities by charging astronomically high fees for interconnections between the submarine and terrestrial operators at the CLS facility. These operators have significant market power and providing services in both upstream and downstream markets. They are charging very high fees for accessing CLS but the prices for downstream services like internet and bandwidth are such that it is not possible for standalone ILD operator to effectively compete these integrated operators. **It is therefore necessary check vertical price squeeze and revise the Access Facilitation and Colo charges. The following example which RCOM had mentioned in its comments also will clearly bring-out existence of vertical**

price squeeze and anti-competitive price strategy being adopted by the dominant CLS operators.

7. ***In recently concluded tender process by a PSU (BSNL, Jan 2012) for Internet services, following is the comparison between the CLS AFC and the total price of the Internet service provided in India, by the service providers at 'L1 prices'.***
 - ***For the Port+Pipe configuration requested (i.e. Internet Port in USA/Europe, along with extension to India with International Submarine capacity, and Indian CLS AFC included) was quoted at Rs. 1.25 Crs per year for STM16 capacity. The CLS AFC at Mumbai on SMW4 cable itself is Rs. 70,66,496, which corresponds to 56% of total price. (all prices exclude taxes)***
 - ***For Internet port at various locations in India, the L1's quote was Rs. 1.39 Crores per annum (which includes global Internet ports, peering, upstreams, international capacity, AFC, domestic NLD backbone and access network, cross-connects and other overheads). The CLS AFC at Mumbai is therefore close to 51% of the total L1's price.***
8. ***In view of the above Access Facilitation Charges may be brought to a level which create effective level playing field and competition is promoted amongst the standalone and integrated ILD operators.***
9. The submission of dominant CLS owners that CLS market is competitive is totally flawed. It may be noted that out of 12 subsea cables landing in India, 9 land in the CLS belong to these two dominant operators. **Currently, nearly 98% International Internet traffic exchanged with India is routed either from Europe, or Asia (Singapore or Hong Kong).** These dominant operators have complete control over these routes.
10. Therefore, effectively, 75% of submarine cables connecting to India land in CLS owned by two dominant OCLS. Nearly 95% of capacity activated in India is in landing stations owned by these operators. Over 98% of Internet and Enterprise traffic to/from India is routed via CLS owned by these two operators, and 100% of connectivity to main business destinations and Internet (i.e. Europe, Asia, and USA via Europe or Asia) is controlled by these two operators.
11. There are no other subsea cables connecting India with either Europe, USA or Asia (Singapore/HKG/Japan) which do not land in their Cable Landing Stations.
12. All Subsea cables to Europe / Asia and their landing stations in India are absolutely essential facilities, as it is not possible due to commercial and technical reasons to add any new landing stations to the existing cables.

13. These two large Owners of Cable Landing Stations control 98% of 'raw material' for the essential Internet, IPLC and Enterprise VPN services in India. The Access facilitation Charges being more than 50% of total bandwidth charges from India to international destinations like USA and Europe, clearly indicate that market is skewed and not at all competitive.

14. In view of the above RCOM would like to reiterate the following:

- TRAI should immediately review the Access Facilitation and Co-location charges and align these to costs
- TRAI should take into account that it is a standard international practice for the cable landing station owners to recover these costs of building and operating the CLS from the submarine cable owners on proportionate basis of design or lit capacity. Thus as per standard Accounting Principles all costs which have been reimbursed should not be included in the cost for Access facilitation Charges.
- In case of 10G circuits and above, the subsea equipment like Submarine Line Terminating Equipment (SLTE) can be directly connected to the terrestrial access POP equipment at the CLS via simple optical fiber cross-connects. Therefore additional elements in the traffic path to split a 10G circuit into lower order channels and re-combine them before handover to local access provider should not be taken into account for 10G and higher capacity. Neither there should be any active elements and long fibers introduced to artificially inflate the costs and AFC. The existing methodology then the revised AFC should be as under:
 - AFC for STM64 to be based on direct costs for fiber cross-connects
 - AFC for STM16 = AFC for STM64 (divided by) 2.5, plus proportionate costs for necessary active electronics
 - AFC for STM4 = AFC for STM16 (divided by) 2.5, plus proportionate costs for necessary active electronics
- Regulate the prices for transit capacity also along with the capacity being accessed in the country.