

## **Counter comments on the responses of Bharti and Tata**

We respectfully submit the following counter comments for consideration of the Honourable Authority.

- We do not agree with dominant Major incumbent M/S Bharti comments that charges in the Cable landing station (CLS) segment should be left to market forces. We have not seen any reduction over last 5 years or so to have the benefit of so called ' market forces'. This shows that the ILD market is not competitive market due to high AFC at CLS and thus there is need for regulation by TRAI.
- M/S Bharti has provided international experience of de-regulation. But we have not seen any steps taken by them to reduce the charges.
- The present cable landing station segment is highly concentrated and Bharti & Tata together have a market share more than 95% and thus enjoy the status of dominant operators in this segment. Therefore, their assertion that the regulations of this segment (including charges) need not be regulated is not right. They also provide wholesale & Retail services in the same market thus with strong possibility to cross subsidize wholesale and retail services.
- We understand that the claims of M/S TCL to allow the network elements are not right as the major costs are already reimbursed by the Consortiums and expenditures. This is also reflected in the fact that the CLS charges at the foreign end are much lower for the same cable.
- We believe that the methodology adopted by TRAI is robust and is well supported by majority of the stakeholders.
- Percentage of CLS access charges/ charges for facilities available at cable landing stations have increased from 2~5% to more than 60% of the bandwidth charges. Such upward increase in the percentage of share of

CLS access charges to total cost of bandwidth and gives both incumbents Tata and Bharti arbitrage power to control market in India. TRAI should expeditiously move for downward revision of CLS access charges. There is already enough delay depriving the users the benefit of competitive internet service to the users.

- It is encouraging to see that all stakeholder support the Authority's efforts to determine cost-based CLS access facilitation charges except two large CLS players. These two CLS players have somehow failed to demonstrate that the methodology adopted by TRAI has resulted in the under-recovery of costs.
- Foreign country charges for cable landing station access are a fraction of those charged in India, and significant discrepancies also exist between the backhaul prices that are charged in India and Europe. Those much lower foreign cable landing station access and backhaul charges are available to Bharti, TCL and other Indian operators on the same basis that they are available to everyone else.