



Cellular Operators Association of India

FOR YOUR MOST URGENT KIND ATTENTION, PLEASE
WITHOUT PREJUDICE

TVR/COAI/060
April 09, 2009

The Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg (Old Minto Road)
Next to Zakir Hussain College
New Delhi 110002

Dear Sirs,

TRAI'S TELECOMMUNICATION INTERCONNECTION USAGE CHARGES (TENTH AMENDMENT) REGULATIONS, 2009 (2 of 2009)

This is with reference to the revised IUC Regime notified by the Authority on March 9, 2009.

Further to our submissions vide our letter No. TVR/COAI/051 dated March 30, 2009, we would like to make some additional submissions regarding certain other elements of the revised IUC regime. These include, inter alia, the termination charge for incoming international calls and the Tax/Transit carriage charges.

I. Revision of Termination Charge for incoming ILD calls

1. While we appreciate that the Authority has taken note of our submissions regarding the huge inequity in the termination charges paid and those received by Indian operators for international long distance calls, it is most respectfully submitted that raising the termination charges for incoming international calls by 10 paise per minute, from 30 paise per minute to 40 paise per minute is a negligible increment and does not in any manner address the huge imbalance in the ILD termination charges.
2. The Authority is aware that the termination rates paid by Indian operators are 10 times higher than what they receive from the foreign operators. The Authority in its Consultation Paper on Review of IUC regime had noted that the Indian operators are paying weighted average cost of Rs 3 per minute for termination of their calls in other countries and receive just Rs 0.30 (30 paise) per minute as termination charge for ILD calls terminating in India.
3. It is pertinent to point out that India is a net importer of international traffic, with a nearly 3 to 1 ratio, that is, for every minute that we send out, we receive 3 minutes. With such a high ratio of incoming minutes in the favor of India, the Authority is surely aware that a reciprocal regime in respect of ILD termination rates would bring in precious foreign exchange from other countries for incoming ILD traffic.
4. It is expected that next year the mobile service providers of India will be sending out about 9 billion minutes and at an average rate of INR 3 per minute, India will pay out about INR 27 billion.

On the other hand, India will receive 25 billion minutes and at the increased termination rate of Rs 0.40 per minute, the same will translate into revenues of about INR 10 billion. Thus, on the whole we will end up paying INR 17 billion to International Carriers even though we will be receiving 16 billion minutes more than what we send out.

5. And this imbalance is only increasing with time. It may be noted that recently, a leading operator in UAE, Etisalat has increased the termination from 10cents/minute to 13cents/minute w.e.f 1st April 2009.
6. There thus exists a high degree of imbalance, which needs to be corrected on a priority basis.
7. In light of the above, we would like to once again submit that termination charge for international calls should be higher than that for domestic calls and more in line with the international termination rates paid by us to our counterparts abroad.
8. We verily believe that from April 2007, when IUC on incoming ILD call was Rs.1.30 (which constituted ADC of Rs 1/- and termination of Rs.0.30/-), till the time when IUC was reduced to only Rs.0.30/-, no abnormal growth trends in incoming ILD traffic have been observed.
9. In this regard the Authority has also observed in the current regulation that:

"It would however also be important to appreciate that the arbitrage opportunity arises if the cost of the call on the illegal route is less than that on the legal route. The termination charge is not the complete cost of the calls. Since the grey market operations are not free of cost and may present ILD calls as local calls, therefore if the arbitrage were higher than prevailing domestic local call rates only then there would be enough financial incentive to bypass the legitimate route."

- TRAI Explanatory Memorandum to IUC (Tenth Amendment) Regulations, 2009".

Accordingly, it is submitted that in light of the above view taken by the Authority, and the fact that an IUC of Rs 1.3/ minute did not incentivise grey market activities, the MTC on incoming ILD may be prescribed at Rs 1 to Rs 1.3/ minute.

10. This will not only restore some balance in the termination rates between Indian and foreign operators, but will also lead to increased forex inflows. A higher termination on incoming ILD calls will also result in higher revenues for the Government. It is estimated that at an ILD termination charge of Rs. 1/- to Rs 1.3/- per minute, Indian operators will receive Rs.15,000 to Rs 22,500 million extra in the year (@60 to 90paise; INR 1/- to 1.3 minus 40 paise prescribed by TRAI). Also, assuming a licence fee of 10%, the Government will be receiving an extra amount of Rs. 1,500 million to Rs 2,250 million apart from other taxes / levies.
11. Further, increasing the termination charge on incoming ILD calls will also, in one stroke, make more funds available for all service providers for expansion of service into rural and remote areas without increasing the burden on the Indian consumers.
12. This step would thus also be in line with the policy objective of increasing the expansion of affordable service to rural areas.

II. Transit/ Carriage charge between LDCA to SDCA

1. In respect of the reduction in the Carriage charge between LDCA to SDCA from 20 paise to 15 paise per minute, it is first submitted that while the Carriage Charge for Long Distance Calls within India was revised downwards by the Authority from a maximum of Rs. 1.10 per minute corresponding to the above 500 Km in 2003, to a flat ceiling based Carriage Charge of Rs. 0.65 per minute in 2006, there was no corresponding reduction in the TAX carriage charge between LDCA to SDCA at that time and these charges were allowed to remain unchanged for a period of six years.
2. It is submitted that given that distance based charges, were reduced by 60%, three years ago, a reduction of only 25% in the TAX carriage charge and that too, after a period of six years is very inadequate.
3. It is also noted that the cost calculations and basis for derivation of this value of 15 paise per minute has not been shared with the industry by the Authority.
4. We verily believe that if the TAX Carriage charge between LDCA to SDCA were to be calculated on a cost basis, it would be much lower than 15 paise per minute that has been prescribed by the Authority. We thus believe that there is still ample scope of reduction in the TAX carriage charge.
5. Further, as the Authority is aware, that despite the fact that licenses of the NLD operators have been amended to permit them to carry intra circle long distance calls, the private cellular operators have not been able to take advantage of this facility and are constrained to continue to handover their traffic to BSNL at Level-II TAX. In these circumstances we are distressed to note that the IUC review has not addressed this ambiguity and clarified that access providers are free to choose their NLDO for carrying intra circle long distance traffic and hand over the calls to BSNL at the SDCA level.
6. It is apprehended that by not addressing the above, the Authority is allowing BSNL to preserve its monopoly over intra circle long distance traffic.
7. Consequently, the private operators are constrained to pay a higher TAX carriage charge to BSNL for intra circle long distance traffic 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. Increased competition in the intra circle carriage segment would lead to lower cost for access providers and hence more affordable tariffs for consumers.
8. We are also distressed that the Authority has also disregarded our alternative proposal that all interconnection be prescribed at a common level, viz. LDCA, and that SDCA connectivity be done away with altogether. As already pointed out, 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.

III. Tax Transit Charge

1. In respect of transit carriage charges, the Authority has rightly noted that Hon'ble TDSAT has determined the principle of applicability of transit charges and has directed that on consideration of level playing field, BSNL should stop charging 19 paise from cellular

operators by way of transit charges for accessing BSNL CellOne subscribers, wherever the MSCs of both BSNL CellOne and Private CSMOs are connected to the same BSNL switch.

2. The Authority has further rightly noted that the principle of applicability of the charge would keep governing through Hon'ble TDSAT's order and TRAI's Regulation on transit charges for Bharat Sanchar Nigam Ltd.'s CellOne terminating traffic Regulation 2005 dated 08.06.2005.
3. However, in respect of transit charges applicable to operators other than BSNL, we note that the Authority has also reduced these charges along the same lines as charges for TAX carriage, on the basis that "in both the cases whether it is intra SDCA transiting or it is transiting through TAX work done is same effectively both are transiting of call from one network to another network."
4. In this regard we would like to reiterate our submission that these charges must be calculated separately on a cost basis and we believe that, if a cost based calculation is done, these charges would be lower than the 15 paise per minute that has been prescribed by the Authority.

We hope that our above submissions will merit the kind consideration and support of the Authority.

Sincerely,



TV Ramachandran
Director General

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