TCL/RA/TCL/TRAI CP-IUC/CC/2014/12 December 29, 2014

Advisor (NSL),

Telecom Regulatory Authority of India,

Mahanagar Doorsanchar Bhawan,

Jawaharlal Nehru Marg (Old Minto Road),

New Delhi 110002

Sub: TCL Counter Comments on the responses submitted by various stakeholders to the TRAI CP on Interconnection Usage Charges

Dear Sir,

Kindly find attached herewith Tata Communications Ltd. Counter-comments on the Responses submitted by various stakeholders to the TRAI Consultation Paper dated 19.11.14 regarding Interconnection Usage Charges.

It is requested that our Counter-comments may be kindly taken on record.

Kind regards,

For Tata Communications Ltd.

(Praveen Sharma)

Authorized Signatory

TCL COUNTER-COMMENTS to TRAI CP on IUC

Vodafone

Q.15 The Authority has already prescribed access charges to facilitate the introduction of calling cards. Is there any other issue which needs to be addressed so that the consumer gets the most competitive tariff for ISD calls?

We have concerns on certain aspects with regard to the Calling Card Regulation, which we have already shared with the Authority……….

TCL Counter Comment:

We would like to submit and reiterate that the provision of Calling Card services by ILDO directly to the consumer are based on the agreed principle of substituting Calling Cards as a cost effective alternative to Carrier Access and Carrier Selection regime (CAC and CPS regime) which was envisaged as the mechanism to offer choice to the Subscriber for accessing the ILD and NLD calls. The original principles of TRAI Directions July 2002 clearly envisage the choice of long distance service provider to reside with the consumer and not with the Access Service Providers from whom they are taking access services.

The Calling Card services was accordingly envisaged for the Long Distance Operators in the larger consumer interests. Though the Carrier Selection envisaged vide TRAI Directions of July, 2002 enabled the consumer to choose its Long Distance Operator both for National Long Distance calls as well as International Long Distance calls, the same could not be implemented and Indian consumers were deprived of this benefit of choosing Long Distance Carrier for making National and International calls for long.

We would like to invite the attention of the Hon'ble Authority to its recommendations on Provision of Calling Cards by the Long Distance Operators dated 20.08.2008 which was accepted by DoT and necessary amendments in the NLD/ILD licenses were issued by DoT to enable the Long Distance Operators for providing Calling Card services. Needless to say the same was implemented after extensive and due consultations where the inputs of all stakeholders were taken into consideration and accordingly Provision of Calling Cards by the Long Distance Operators was advised by TRAI and accepted by the DoT as the most cost effective way to enable choice of Long Distance services to the end consumer as alternative to the Carrier Access Code and CPS regime.

However, none of the Long Distance Operators were practically able to launch their Calling Card Services. The primary reason for the same was that the Origination Charges were not prescribed by TRAI and were left to be negotiated between the operators and as expected the Access Operators were successful in blocking any such initiatives by Long Distance Operators and denied interconnection for launch of Calling Card Services. Consequently, the laudable objective with which these licensing changes and the regulations were issued could not be implemented.

Hence as a necessity the Hon'ble Authority based on considered arguments and analysis mandated the Origination Charges for access of ILD calls through Calling Cards to ensure that the subscribers are able to finally choose between the International Long Distance Services provided by the ILDOs.

There have been arguments submitted against the mandate of Origination Charges vide the latest regulations issued by TRAI mandating access via wireless and wireline have been set at Rs. 0.40 per minute and Rs. 1.20 per minute. It may be seen that the Authority has already taken a considered view where suitable compensation is rendered to the Access Operators for providing access to origination of ILD calls in the capacity of Access providers.

We shall like to submit that as per the Access Service License the Access Providers are in the business of providing local calling and enabling Access to services to the end consumer while the actual long distance service provision is done by the relevant Long Distance Service provider carrying the call. Its needless to say that there is no case of differential treatment of Origination irrespective of the nature of the call as the 'work done' by the Access Service provider in providing 'Access' to the service does not change. However in the latest determination the Hon'ble Authority has already considered the impact of competitive markets and enable a higher than cost based origination charge as a compensation to the Access Providers.

The prescription of access charges recently by the Authority vide its Regulation dated 19 -08-2014 would go a long way in introduction of this consumer centric Calling Card services provided the incumbent GSM operators do not block such services by denying interconnection for these services to the ILDOs. At the present stage although the Regulation prescribing the access charges have been issued by the Authority it is learnt that the incumbent GSM operators are still not providing interconnection for such Calling Card services. It is therefore requested that a directive needs to be issued to all the Access Providers for providing the ILDO-Access Provider interconnect for the Calling Card services in a time bound manner so that consumers are able to avail Calling Card services for ISD calls at competitive rates.

We believe other arguments about ILD services impacting the business case of Access Service provider are unfounded as it is clearly acknowledged in the arguments given by the some of the access service providers that ILD calling is only a lower share of the total revenues the Access Provider is earning and unlikely to impact the revenue earning of majority of the Access service providers. However for the ILDOs who are squeezed on margins the business potential of offering direct services to the consumer is comparatively significant and will lead to more focus on providing cost effective, quality ILD services to the end subscribers.

We believe the argument given by some of the access service providers that forbearance of tariffs was implemented to compensate for below cost termination charges is devoid of merit as

a) clearly in the current IUC regulations and amendments thereafter the Authority have taken a considered view of costs for domestic call terminations and provided for more than fair share in International Termination charges (Currently Rs. 0.40 per minute against Rs 0.20 per minute for domestic calls).

b) The total revenues from International Long Distance voice are only a small share of the total revenues of the Access providers to merit this argument of impact on their business cases. **However it apparently can also be interpreted as acknowledgement from the access providers that the tariffs for Long distance calls have been artificially kept high which again emphasizes the importance of the Calling Card Regulations to enable choice to the end consumer.**

In summary, the provision of Calling Cards by ILDOs and consequent choice of long distance services to the end consumers was a principle incumbent since the inception of the Carrier Selection directives in the year 2002 and further steps should be taken by the Authority to ensure that the same is implemented appropriately.

Q.16 Do you feel that the Authority's intervention is necessary in the matter of International Settlement Rates? If so, what should be the basis to determine International Settlement Rates?

Vodafone:

No, we are of the view that it is not in the jurisdiction of TRAI to regulate foreign operators on international settlement rates. This should be left upon the mutual agreement basis between the Indian ILDOs and Foreign Telcos. However, we request the Hon'ble Authority to upwardly revise the termination charge to be paid to Access operators for incoming international calls to at least @Rs.1/min from the current termination rate of 40p/min. This will strengthen the ILDOs to negotiate a higher settlement rates with foreign operators. This will not only put ILDOs in a comparatively competitive position with foreign operators but also generate more foreign exchange for the country.

TCL Counter Comment:

We are also of the view that TRAI does not have jurisdiction to regulate the charges that foreign operators levy for carriage and termination of calls routed by Indian ILDOs. However, it is definitely within the scope and jurisdiction of TRAI to prescribe the charges payable to any licensed Indian Operator, whether Access Operator or Long Distance Operator by a foreign operator. TRAI would be well within its rights to prescribe appropriate Interconnection Usage Charges for ILDOs as far as Inbound International Calls transiting International Gateways of the licensed operators in India is concerned.

While COAI as well as Vodafone are suggesting upward revision of termination charges for International Incoming Calls to India to INR 1.00 per minute citing considerations of higher foreign exchange earnings for India as a country, their suggestion of making this entire amount payable to the Access Operator alone (as Termination Charge) completely ignores the fact that the Indian Licensed ILDOs have a significant role to play in carriage and termination of these calls. Their suggestion of giving this entire revenue of INR 1.00 per minute to the terminating Access Operator not only goes completely against the Cost-Based principle of IUC Regime but also lacks any rationale or justification to disregard an IUC component for the ILDOs on a "work-done" principle.

It is submitted that the IUC Regime must provide for a more equitable distribution of the prescribed charges/Floor for terminating International Inbound calls to India. We therefore suggest that the Authority may consider a uniform termination charge to be paid to Access operators for incoming international calls, i.e., it should be the same as that for domestic calls. Over and above this termination charge, the Access Operator may be given a revenue share of 30% on the amount computed from international incoming call termination charge/Floor minus the domestic termination charge. While fixing the termination charge for international incoming calls the arbitrage opportunity which such calls provide vis-à-vis local calling charges needs to be kept in mind. For example if local calling charges are 60 paise per minute on an average then the charges for international incoming call termination should not exceed 60 paise as it would give rise to grey market which in turn would adversely impact the national security concerns.

Post this consultation process it is expected that the termination charge for domestic calls may come down to a level of 10 to 15 paise per minute in the next regulation with a stipulation of migration towards bill and keep regime in next three years as per the draft IUC filings done by TRAI in the Hon'ble Supreme Court. In such a scenario there cannot be a direct correlation between the termination charges for the domestic calls and termination charge for the international calls. In case of the termination of the international calls, major work for the same is done by ILDOs whereas the access provider's network is utilized only for the termination of the call in the last leg. Thus the charge payable to the Access Provider should be a small portion of the international call termination charge and this should also progressively reduce to zero. Therefore any charge which is defined as termination charge for international calls should be split between the ILDO and the Access Provider on a work done principle. A framework that provides for 70% to the ILDO and 30% share to the Access Provider would ensure equitable sharing of costs relative to work done by the individual operators involved in the carriage and termination of the international call.

In case the domestic termination charge is determined to be higher in value than the existing 20 paise per minute or remains unchanged at 20 paise per minute, the international call termination charge should be divided as revenue share between the ILDO and the Access Provider as follows:

c) 20 paise per minute or higher equivalent to domestic termination charge to be paid to the Access Provider.

d) Balance international termination charge (after payment of a) above) to be shared between the ILDO and Access Provider in the ratio of 70:30.

For example if the domestic termination charge is revised to Re.0.25 per minute and the international termination charge is revised to Re.0.60 per minute then revenue shares shall be as follows:

i) Access Provider: Re.0.36 per minute (Re.0.25 plus 30% of Re.0.35)
ii) ILDO: Re.0.24 per minute (70% of Re.0.35)

Justification for the revenue share to the ILDOs have been provided in detail in TCL's response to Question No. 17.

Q.17 Is there a need to fix a floor for international carriage charge for incoming international traffic or prescribe some revenue share between access service provider and the ILDO to safeguard the interest of ILDOs?

Vodafone:

No, the situation does not arise in view of our response to Question 16 above. The revenue share between Access Providers and the ILDOs should continue to be left upon mutual agreement basis which is dependent on ILD termination rate. The Hon'ble Authority, therefore should upwardly revise the current ILD termination rate to Rs.1/- per minute from the current rate @40p/min.

TCL Counter Comment:

Currently as per the March, 2009 IUC regulation the termination charge for international calls is 40 paise whereas the termination charge for domestic calls is 20 paise per minute. These charges have remained unchanged for more than 5 years now. Over these years, the International Incoming to International Outgoing calls ratio has changed drastically to 20:1 (from 5:1 earlier). The growth in International Inbound volumes and no change in the International Termination Charges of INR 0.40/min for the last 5 years has meant a significant gain (400% margin) for the Access Operators since the cost for termination of these calls by Access Operators is close to INR 0.10 per minute (approx.).

It may clearly be seen that in case of ILD calls carriage both from India to the world as well as ILD incoming calls to India, ILDOs play an extremely significant role to ensure call completion. However, it may be seen that the current market situation is making it unviable for ILDOs to sustain the ILD business. Especially in case of ILD Incoming calls, the settlement rates to India have dropped to unsustainable levels. This has been brought out in multiple submissions made by Indian operators in the past that the current IUC regime protects the Access Operators' share in the revenue from Incoming International Calls but does not prescribe any IUC component for the ILDO to cover the costs of its operations including compliance with security requirements related to the international gateways.. It may be seen that while the regulations have ensured that the access operators are compensated duly (and in case of the latest regulations currently applicable allowing Re 0.40/min of termination charges more than the due share) against the actual cost of network /work done for completion of these calls, the ILDOs have been bearing the brunt of reduction of costs both on the outbound traffic and the inbound traffic. While currently the cost of termination to India for an ILDO is Re 0.40/min i.e., ~ 0.007 US Dollar/minute, the market price for India termination being offered by some carriers is as low as 0.0075 US Dollar/minute which leaves a meager margin of only 0.0005 US Dollars per minute (~ 3 paisa) for ILDOs. Similar is the case with ILD Outgoing, while the consumer still continues to pay as high as Rs 4/min for destinations like USA, the share of margin for ILDOs in the traffic is not more than 0.0010 US Dollar (~ 6 paisa). The margins being made by ILDOs are not even sufficient to cover the cost of bandwidth being maintained by the ILDOs for carriage of calls leave aside getting a reasonable return on their investments.

The current situation is not conducive for ILDOs to continue to invest in their business and is detrimental to a level playing field that ensures free competition in India market. Not only it impacts the ability of stand-alone ILDOs to earn sustainable revenues, it impacts their ability to service the requirements of making the International telecommunications affordable to Indian consumers.

Thus, there is definitely a case for prescribing a Floor for International carriage charge for International traffic and to prescribe a revenue share between access provider and ILDO in order to ensure the following-

a. National interests are protected not only from the standpoint of License Fee payable by operators to the government but also the security considerations. The Gap between the Floor and Domestic tariffs for long distance calls should be kept as low as possible, so that it does not provide a huge arbitrage to Illegal Grey Market for terminating calls through channels other than licensed ILDOs. Measures to curb grey market should be taken by DoT side by side and implemented with cooperation of all licensed operators.
b. Consumer interest is protected by not allowing unfair advantage to any access operator owing to its dominant position in the market. Create a level playing field for all operators by not departing from a cost-based IUC Regime coupled with a revenue share arrangement that works on “work-done” principle to allocate revenue on International Inbound calls among ILDO and Access operators in an equitable manner.

We accordingly suggest that ILDO carriage charge payable to ILDOs to be included as mandatory component in IUC and would like to submit as follows:

1. Forbearance in International termination rates payable by access operators to ILDOs should continue
2. A new component of IUC, which is the **ILDO Gateway charge** of Re 0.25/min as a floor or as determined during costing exercise should be included in the IUC Regime to

compensate for cost of ILDO involved in carrying international calls to and from various international destinations.

3. All Settlement rates to International Carrier should be a sum of ILDO Gateway charge (floor of Re 0.25/min) and prescribed termination charges payable to mobile operators (which should be cost based or as determined by the Authority through its review of cost of termination) along with NLD carriage component as applicable.

4. Over and above the negotiated termination rates for ILD Outbound calls being transited through ILD switches, the ILDO Gateway charge should be payable by access operators to ILDOs to compensate for the deployment of complex routing systems for management of International Call routing at the ILDO Gateway.

Alternatively any charge which is defined as Floor termination charge for international calls should be split between the ILDO and the Access Provider on a work done principle. A framework that provides for 70% to the ILDO and 30% share to the Access Provider would ensure equitable sharing of costs relative to work done by the individual operators involved in the carriage and termination of the international call.

Q.18 What is the most appropriate level for International Termination Charge? Should it be uniform or should it depend on the originating country/region? Please provide full justification for your answer.

Vodafone:

We are of the view that existing termination charges for the incoming international calls to India needs an urgent review and we recommend an increase of the same to at least @ Rs.1.00 per minute from the current charge of 40p per minute fixed by TRAI in 10th Amendment to IUC Regulations dated 9th March 2009. We draw Hon'ble Authority's attention on the below rationale behind the recommendations to increase the same at the level of at least Rs.1/ per minute. The same was represented by COAI also vide its letter dated 27th December 2013.

a. An increase up to the level of 800% has been witnessed on international call termination rates in the past one an year that too in the countries like Pakistan and Bangladesh. The termination rates charged to India by UAE have increased from Rs.6.18 to Rs.8.04 during the last 4 years.
b. The increased termination rates to at least Rs.1/- per minute will help to reduce the pricing arbitrage currently existing in favour of foreign operators.
c. An increase in termination rates will help our country to earn valuable foreign exchange.

We do not suggest any regulatory intervention for revenue share between access provider and ILDOs in view of high competition in both the categories and thus it best be left to be decided by market forces on mutual agreement basis.

We are of the view that the ILD termination charge should be on uniform basis to avoid potential disputes / queries by Access Providers and foreign Telcos.

TCL Counter Comment:

It is submitted that keeping the international termination charge at Re.1/- would be counterproductive as it would give rise to grey market and adversely impact the national security which is undeniably of paramount importance. The argument of fixing the termination charge at Re.1/- has been raised in the earlier consultation process preceding the 2009 IUC regulation and the same was not accepted by the Authority because of security concerns which are valid as on date also. Besides, the Authority must also keep in mind that the International Inbound calls has increased more than four fold since the last review of IUC, the Access Operators have been receiving a more than fair share of INR 0.40 per minute on these calls even as their cost of termination is close to approx.. INR 0.10 per minute.

Termination charge for the international calls must be fixed at a level that ensures appropriate cost recovery for operators involved in the carriage and termination of these calls. While doing so one has to be mindful of the arbitrage opportunity that gets created due to lower domestic calling tariff vis-à-vis international termination charge. Greater the gap between the two the more impetus it is likely to provide to the illegal operators to mask or re-originate international calls as domestic calls. For example presently the domestic calling tariff is in the range of 30 paise to 60 paise per minute as against 40 paise per minute international call termination charge. Thus despite a marginal arbitrage opportunity there is still scope for the grey market operators to terminate international calls in India bypassing the licensed ILDOs. In this connection, due to increasing instances of grey market operations DoT has recently issued instructions to all the Operators.

With the possibility of depleting regime for the domestic call termination charges and even otherwise due to competitive forces , the local call tariff may come down to the range of 25 to 40 paise per minute because it is highly unlikely that overall reduction in the termination charge would be on passed to the end customers by the CMSPs. In order to achieve the objective of an orderly growth of the telecom sector it would be therefore advisable to keep the termination charge in the range of 40 to 60 paise with 70% revenue share to the ILDOs and 30% revenue share to the Terminating Access Operator on the basis of work done principle and cost incurred by each of these parties or alternatively it should be sum of new IUC component for ILDOs (ILDI Gateway Charge) and MTC as determined by TRAI.

Grey Market Issues:
Higher termination charge for international calls vis-à-vis the domestic calling rates would lead to proliferation of grey market which is highly undesirable as it poses serious security threat to the country besides depriving the Government and licensed operators of

legitimate revenues which would accrue to them in case the calls are terminated through the licensed ILDOs.

One recent example is the case study of Pakistan where the international call termination charges were increased from approximately US $0.0100 per minute to US$ 0.0880 and international clearing house (ICH) was set up to handle all international calls to Pakistan. This increase of the termination cost for international calls increased arbitrage opportunity and promoted the grey market in Pakistan significantly despite other measures to monitor and control the grey market operations. Pls refer to the link given below for an Article indicating the legitimate Pakistan termination traffic decreased from 1.3 billion per month to 500 million after termination rate for international calls was increased. As per unconfirmed estimates, the total Pakistan termination market continues to be 1.3 bn minutes per month however the legal operators are now almost reduced to 350mn minutes per month.

http://www.nation.com.pk/business/03-Feb-2014/ldi-market-deal-in-doubt-as-one-cellular-operator-quits-ich

Extract from the Article: LAHORE – " The country's second largest cellular operator, has quitted the deal of International Clearing House (ICH), due to financial losses of over Rs2.2 billion, putting a question mark over the sustainability of LDI market share agreement.

Market sources said that the international incoming minutes were standing at about 1.3 billion minutes per month during pre-ICH scenario, while now after the ICH agreement, the minutes/moth have dropped to 500 million minutes/month due to higher termination rates."

It is argued by some operators that the Mobile termination costs particularly in Europe and Middle East are high as compared to India. While this is true, it is also a fact that the costs of termination of international calls in these countries is quite close to the cost of making calls locally in these countries. As such this does not create much arbitrage opportunity and there is not much scope for grey market. This is not true in Indian context where call rates for domestic calls are very competitive and the approach of keeping artificially high costs of termination for international incoming calls to India is likely to distort the market which is in a phase of rapid growth and is likely to lead to mushrooming of grey market and associated security issues.

Bharti Airtel

Q15. The Authority has already prescribed access charges to facilitate the introduction of calling cards. Is there any other issue which needs to be addressed so that the consumer gets the most competitive tariff for ISD calls?

Bharti Airtel's Response:

It is submitted that the Regulation on 'International Calling Card Services (Access Charges)' has been issued without adequate consideration to the view of the Industry on the said matter.

Moreover, while the consultation exercise on the same issue focused on revenue sharing arrangements, the Authority has mandated cost based origination access charges for calling cards to be paid by the ILDO to the Access Service Provider. The origination access charges for such access via wireless and wireline have been set at Rs. 0.40 per minute and Rs. 1.20 per minute, respectively.

Access providers undertake heavy investments to set up critical infrastructure for telecom services, and any policy that inhibits, rather deprives them of their ability to pursue flexibility in pricing to recover these investments would be detrimental to the financial health of the access providers. The regulation, in its current form, is highly discriminatory and is against the access providers, as it shifts prevailing tariff forbearance from access providers over to ILDOs, who have now been reduced to the capacity of providing cost based origination services. We humbly submit that this regulation is essentially a step backwards and needs to be reviewed urgently.

This regulation would allow the ILDOs, to emerge as Access Providers, who without a network of their own would serve consumers otherwise served by access providers. The access providers have made huge capital intensive investments to set up networks and the investments shall be hampered. This regulation would allow the ILDOs to displace a large part, if not the entire, ISD traffic from the access providers, even though the latter is the entity that builds, operates and manages the whole network.

The Regulation in its present form has resulted in unbundling of the access network and has hampered and impeded on the ability of the access providers to offer a range of services at affordable prices. Such regulation would also have an associated inflationary effect on the cost/tariffs of domestic services as the 'cushion' available to the access providers for offering affordable local and NLD calls has been voided.

<u>Competition and affordability in the ILD segment:</u>

The competition in the international long distance segment has increased significantly with as many as 8-12 access players per service area. The same has resulted in a significant decline in the international long distance tariffs. In addition to the reduction in overall ISD tariffs, the service providers are also offering numerous add-on packs which allow subscribers to make international long distance calls at substantially reduced tariffs. Most operators offer ISD Special Tariff Vouchers (STVs); these provide cheaper calling rates without the need for a cumbersome call initiation process typical of calling cards. Clearly there is enough competition in the market and customers already have ample choice in respect of their long distance calls.

Moreover, we also wish to state for the record that switching costs in the Indian telecommunications market poses no barriers to exit for subscribers, who can switch to another operator within a week. Concerns of Authority over lack of choice for subscribers for ISD services are completely unfounded and do not reflect an accurate picture of the ISD market.

Impact of Regulation on Indian TSPs

The Regulation, in its current shape and form, would have the following associated impacts on Indian TSPs:

- This would effectively deter investments by access providers since they will neither be able to get adequate compensation for their investments nor would have flexibility to run their business. This will ultimately lead to an adverse impact on building and nurturing national telecommunication networks. In our view, regulating ISD tariffs, if required at all, as in the case of Roaming and Domestic Leased Line tariffs, would have been a far more appropriate approach than allowing the entry of this new class of operators i.e. ILDOs, essentially to act as resellers of the access services, who without making any significant investments in infrastructure, sustain their businesses just by riding on the investments made by access providers.

- While prescribing termination charges under Interconnect Usage Charge (IUC) regulation, the Authority did not take into account a number of costs such as CAPEX, distribution cost, administrative costs, etc. While, these costs have a real impact on the economics of access services, and no rational reason can be presented for their exclusion, the authority explained the forbearance in Origination charges (IUC Regulation 2009) as the rationale behind prescribing below cost termination charge. TRAI previously noted that '…… Service providers are free to recover their CAPEX from the rental and the Origination charges that is under forbearance…. The fixation/regulation of the access origination charge results in withdrawal of the facility granted to the originating service provider to recover the loss caused due to below cost fixation of termination charge. Consequently, the operators have been deprived of a crucial and important recourse available for recovering their costs which will force the operators to recoup the losses by enhancing the local/national call rates.

- In addition to the above, we wish to submit that origination access charges prescribed vide this regulation have been set even lower than origination charges for domestic toll free services which are primarily set on the basis of revenue share and do not have any connection with the costs.

- Mandating access origination charges in case of calling cards would tantamount to unbundling of access network, which is neither a goal, nor a change that has followed due consultation process.

- Under the Calling Party Pays (CPP) regime, the originating operator collects revenues on behalf of all participating networks and has the power to control tariffs. With the ability to control tariffs, the access provider is able to recover the costs of origination as well as the deficit from below cost termination. The current regulation will allow the transiting operator, a man in middle, who makes negligible investments to drive tariffs. As per industry estimates, access service providers have committed heavy investments (over 95%) in the entire telecom network as against the miniscule 2-3% invested by ILDOs. The power to drive tariffs should logically be the domain of the operator with the largest investment, i.e., the access service providers but with this Regulation, this power will radically shift to operators with microscopic investments, which should not be the case.

- This regulation has been issued with the retail consumer in mind, with little or no focus on its impact on the enterprise or B2B telecommunications business in India. International calling cards can be misused as substitutes for International Toll Free Services (ITFS). In the case of ITFS, revenue flows from the terminating/foreign operator to an Indian ILD operator, who in turn shares the revenue with originating Access Service Providers in India. However, in the case of calling cards, the Indian ILDO will tend to sell calling cards in India to the customers of the originating operator instead of the terminating operator, as a substitute of ITFS. This will not only displace ITFS revenues (origination charge) from the ILDO/Foreign Operators and harm the B2B telecommunications business in India, but would also lead to a significant reduction in foreign exchange. The contribution of ITFS revenues to the foreign exchange reserves of the country is well established, and as such merits consideration when analyzing the telecommunications access services market.

- The subject matter of this regulation has a direct nexus with the IUC regime, in so far that the current prescription of origination access charges is in essence a modification of the IUC framework. Access operators today find themselves in the midst of financial hardship, owing to below cost termination charges mandated via regulation. Forbearance in origination charges was intended to help operators recover the losses from below cost termination charges. The current regulation has essentially capped origination charges while the termination charges are already regulated at below cost levels. This selective approach by the Authority has effected an indirect amendment in the IUC framework without undertaking a corresponding deliberation/consultation from the entire industry.

We propose that the access charges for international calling cards be looked afresh along with this comprehensive consultation on the complete IUC framework.

TCL Counter Comment:

We believe that there is absolutely no ground or basis for a contention that the Regulation in respect of introduction of Calling Cards was issued without adequate consideration to the view of the industry. Not only was this Regulation on international Calling Card services (Access Charges) issued after proper consultation with the entire industry, we believe this was inordinately delayed due to resistance from Access Providers to provide access to Long Distance carriers and thereby denying the consumers the right to choose their Long Distance Operator for making Long Distance calls. This Regulation has paved the way for a service that was already a part of the ILDO's license for many years but could never be launched due to absence of a Regulation that prescribed the Access Charges for the Calling Cards Service. Having left the Access Charges to mutual negotiation between the operators earlier, none of the ILDOs were practically able to launch such service earlier since unreasonable high Access Charges were demanded by Access Operators and interconnection was denied to ILDOs. For effective and timely implementation of this regulation in the larger consumer interest we would request the Authority to ensure time bound provision of interconnection by the Access Providers including Airtel to the ILDOs for Calling Card services at the access charges prescribed in the said regulation.

It is denied that the Regulation on 'International Calling Card Services (Access Charges)' is discriminatory or against the Access Providers. In fact this Regulation has been long due from the point of view of consumer interest as well as Long Distance carriers. In fact the choice of Long Distance carriers was to be provided to the consumers through the carrier selection directives of TRAI of July, 2002 but same could not be implemented due to legacy network of BSNL/MTNL and huge cost of implementation of carrier selection in their network. We would like to submit and reiterate that the provision of Calling Card services by ILDO directly to the consumer are based on the agreed principle of substituting Calling Cards as a cost effective alternative to Carrier Access and Carrier Selection regime (CAC and CPS regime) which was envisaged as the mechanism to offer choice to the Subscriber for accessing the ILD and NLD calls. The original principles of TRAI Directions July 2002 clearly envisage the choice of long distance service provider to reside with the consumer and not with the Access Service Providers from whom they are taking access services.

At that time all the Long Distance carriers including Airtel has advocated the need to provide the consumer choice through Calling Card services and extract of their response to TRAI Consultation Paper of 7th May, 2008 is reproduced below:

"Thus, we are of the view that in the present context where (i) the operators will have to incur huge cost for implementation in carrier selection (ii) a large number of NLDOs are operating with razor-thin margins (iii) technical and operational difficulties will be faced by operators in implementation of carrier selection (iv) long distance tariffs are coming down consistently, the implementation of carrier selection may not be a viable proposition from operator as well as from customer's perspective.

Therefore, we are of the view that introduction of carrier selection has lost its relevance in the current scenario. Nonetheless if the Hon'ble Authority is of the view that subscribers need further choice in respect of their long distance services, the same can be achieved in a more speedy and cost effective way through calling cards."

While it is agreed that Access Providers undertake investment to set up their infrastructure for Telecom Services, Long Distance operators also put in substantial investments for creating their network and in carriage of international Long Distance calls dominant role played by the ILDOs. The argument that the international calling card regulation would deprive access providers of their ability to pursue flexibility in pricing to recover their investments is not tenable as the said regulation is in the larger consumer interest and provides choice to the consumer for choosing the ILDO on the cost considerations so that the Access Provider from whom the consumer is taking the mobility/access service cannot charge exorbitant charges for international calls. In any case the Access Providers are being compensated adequately by the prescribed access charges which become due to them.

The argument that the regulation for international calling card services (Access Charges) would allow the ILDOs to emerge as Access Providers is totally unfounded, untenable and baseless in the face of the carrier selection directives of TRAI dated July, 2002, provisions of the license agreement as well as the structure of the Indian Licensing regime. It may be noted that in India we have service specific licensing regime wherein local calling services is provided by the Access Providers to the consumers whereas NLD/ILD calling services to the end consumers are provided by the NLDOs and ILDOs. Access Provider by virtue of its license can neither provide inter service area NLD call service nor can it provide ILD call service to the end consumer. The NLD/ILD call service to the end consumer is provided through NLDOs/ILDOs respectively and an Access Provider therefore has to interconnect with Long Distance providers for provision of such services. It is therefore denied that the TRAI Regulation on International Calling Card services has resulted in unbundling of the access network or it has hampered the ability of access providers to provide services at affordable prices. Rather this regulation would go a long way in introducing competition in the international long distance calling and provide a choice to the end consumer for selecting its ILDO on the basis of call charges and quality of services.

We would like to quote following from the rationale even by the Authority while recommending the introduction of Calling Card for NLDOs/ILDOs vide its recommendations dated 20th August, 2008:

"4.4 During a review of long distance markets **the Authority found that the competition is not effective despite intense play of market forces in the access segment.** It emerged that, because the long distance minutes are bundled by the access providers and sold along with the access and local minutes, competition in the long distance market was not visible. **Evidence available with the Authority suggests that unless long distance minutes**

are unbundled and a choice is facilitated to consumers in the matter of long distance carrier selection, through the proposed model of long distance calling cards, effective competition is unlikely to occur in this space. The Authority further noted that despite a slew of policy measures implemented by the Government in the year 2005 in the form of reduction in entry fee and annual licence fee for long distance operators and despite various other factors that led to reduction of cost in the long distance market, the tariffs rule uniformly high across access service providers for the last 3 years or so.

4.5 **To accelerate competition in the long distance sector and also keeping in the view that in the absence of carrier selection the choice of selecting long distance carrier may be provided through calling cards**. In the larger interest of telecom consumers the Authority decided to recommend amendment in the licensing conditions of the NLD and ILD license to allow them direct access to consumer specifically for provision of respective voice telephony service through calling cards……..” **Emphasis supplied.**

It is submitted that the reasons mentioned in the 2008 recommendation of the Authority are valid as on date as there is singular lack of competition to the consumers in so far as international calling charges are concerned and consumers are forced to pay the charges fixed by the vertically integrated Access Provider for such international calls.

It is evident that the Authority has already considered views of all stakeholders where suitable compensation is rendered to the Access Operators for providing access to origination of ILD calls in the capacity of Access providers.

We shall like to submit that as per the Access Service License the Access Providers are in the business of providing local calling and enabling Access to services to the end consumer while the actual long distance service provision is done by the relevant Long Distance Service provider carrying the call. Its needless to say that there is no case of differential treatment of Origination irrespective of the nature of the call as the ‘work done’ by the Access Service provider in providing ‘Access’ to the service does not change. However in the latest determination the Hon’ble Authority has already considered the impact of competitive markets and enable a higher than cost based origination charge as a compensation to the Access Providers.

We believe other arguments about shift of revenues from ILD services impacting the business viability of Access Service provider are unfounded as it is clearly acknowledged in the arguments given by the some of the access service providers that ILD calling is only a lower share of the total revenues the Access Provider is earning and unlikely to impact the revenue earning of majority of the Access service providers. However for the ILDOs who are squeezed on margins the business potential of offering direct services to the consumer is comparatively significant and will lead to more focus on providing cost effective, quality ILD services to the end subscribers.

We believe the argument given by some of the access service providers that forbearance of tariffs was implemented to compensate for below cost termination charges is devoid of merit as

a) clearly in the current IUC regulations and amendments thereafter the Authority have taken a considered view of costs for domestic call terminations and provided for more than fair share in International Termination charges (Currently Rs. 0.40 per minute against Rs 0.20 per minute for domestic calls).

b) The total revenues from International Long Distance voice are only a small share of the total revenues of the Access providers to merit this argument of impact on their business cases. **However it apparently can also be interpreted as acknowledgement from the access providers that the tariffs for Long distance calls have been artificially kept high which again emphasizes the importance of the Calling Card Regulations to enable choice to the end consumer.**

It is denied that international calling cards would have any adverse impact on the ITFS services as contended by Airtel or at all. The ITFS service is provided using 000800 number scheme whereas international calling card services would be provided using 1800 number series.

In summary, the provision of Calling Cards by ILDOs and consequent choice of long distance services to the end consumers was a principle incumbent since the inception of the Carrier Selection directives in the year 2002 and further steps should be taken by the Authority to ensure that the same is implemented appropriately.

Q16. Do you feel that the Authority's intervention is necessary in the matter of International Settlement Rates? If so, what should be the basis to determine International Settlement Rates?

Bharti Airtel's Response:

We believe that the Authority can play an important role with respect to the International settlement rates by taking up the matter with the regulators/ diplomatic channels in the foreign countries having very high settlement rates.

Currently, many of the countries, where a majority of traffic is terminating from India have very high international termination rates. To illustrate, the average settlement rates for some of such counties are as below:

Countries Average International Settlement rates in Rs /min

Countries	Average International Settlement rates in Rs /min
Maldives	28.96
Myanmar	13.20
Oman	13.11
Afghanistan	10.50
Qatar	9.00
UAE	8.33
Philippines	6.90
Saudi Arabia	6.93
Sri Lanka	6.16
Nepal	5.40
Pakistan	5.28
Switzerland	5.10
Japan	4.80
Bhutan	2.40
Australia	2.10
Germany	1.32

As indicated in the table above, the Indian operators pay higher international termination charge to the foreign operator whereas the amount received by them for termination of international calls is lower owing to the same being regulated by the Authority.

Further, we would also like to state that the Indian operators do not have control over the retail rates charged to the consumer by the foreign operator for India bound calling. However, our international termination rates are regulated. Therefore, we are neither able to provide lower rates to users in India nor we are able to charge the foreign operators on an equitable basis. The present situation is that of a non-level playing field.

The Authority should support the industry by exploiting the diplomatic channels and open bilateral conversations/ negotiations with the foreign regulators/ licensor for reasonable and equitable international settlement rates.

TCL Counter Comment:

We do not agree with the above views that the reasonable or equitable international settlement rates can be achieved through conversations/negotiations with foreign regulators/licensors. Even as engagement between Foreign regulators and Licensors does have an influence on the international settlement rates, this by no means can be a substitute or for that matter an approach to fix equitable settlement rates in a complex global telecommunications environment characterized by multiple operators in different countries.

The world order has moved on from legacy bilateral model between the countries since long. Complex considerations govern the pricing policies adopted by different operators and the emergence of OTT ("Over The Top") players. International settlement rates are a function of the costs incurred by licensed operators to terminate calls to the country in question. Therefore, the termination costs applicable as per local regulations, taxes, duties, revenue share, etc., which comprise the costs of an ILDO form the basis for International settlement rates. Such rates are mutually negotiated between operators internationally. However, these arrangements need not necessarily be simple bilateral arrangements but may be complex multilateral/multi-product deals. In fact, there are much fewer bilateral arrangements than in the past due to evolution of the international telecom market into a hubbing business model with commodity-like trading of voice calls..

Therefore, we believe that the Authority needs to be proactive in making appropriate Regulatory announcements in the interest of the nation and its consumers while deciding the International Call Termination charges for India. A Floor Price for International Incoming calls coupled with a revenue share mechanism between ILDOs and Access operators would be in the interest of the nation (Foreign Exchange Revenues,), Consumer (No additional costs for receiving Inbound calls; accessibility through legal operators; CLI manifestation etc) and also the operators (Access Operators as well as ILDOs compensated fairly on Work-Done principle).

Q17. Is there a need to fix a floor for international carriage charge for incoming international traffic or prescribe some revenue share between access service provider and the ILDO to safeguard the interest of ILDOs?

Bharti Airtel's Response:

International Settlement rates globally are a function of the mobile/ fixed termination charges and therefore indirectly contribute to margin for ILDOs as they operate on cost plus basis, covering their carriage costs and the business risk associated with international long distance business. In such manner, the ILDOs will be safeguarded from any business associated risks and the interests of ILDOs will be taken care as per the competitive market forces.

Therefore, we do not recommend fixing the floor for international carriage charge or prescribing some revenue share between access service provider and the ILDO.

TCL Counter Comment:

We do not agree with views of Airtel that international settlement rates indirectly contribute to margin for ILDOs as they operate on cost plus basis. In case of very high international termination charge there is every possibility of vertically integrated ILDO in India edging out the stand alone ILDO from the market using its dominance in the access market by squeezing the interconnect capacities and applying vertical squeeze on such stand alone ILDOs. As on date Airtel is the most dominant Access Provider in India having 30 to 35% of the total international incoming traffic destined towards its network.

Currently as per the March, 2009 IUC regulation the termination charge for international calls is 40 paise whereas the termination charge for domestic calls is 20 paise per minute. These charges have remained unchanged for more than 5 years now. Over these years, the International Incoming to International Outgoing calls ratio has changed drastically to 20:1 (from 5:1 earlier). The growth in International Inbound volumes and no change in the International Termination Charges of INR 0.40/min for the last 5 years has meant a significant gain (400% margin) for the Access Operators since the cost for termination of these calls by Access Operators is close to INR 0.10 per minute (approx.).

It may clearly be seen that in case of ILD calls carriage both from India to the world as well as ILD incoming calls to India, ILDOs play an extremely significant role to ensure call completion. However, it may be seen that the current market situation is making it unviable for ILDOs to sustain the ILD business. Especially in case of ILD Incoming calls, the settlement rates to India have dropped to unsustainable levels. This has been brought out in multiple submissions made by Indian operators in the past that the current IUC regime protects the Access Operators' share in the revenue from Incoming International Calls but does not prescribe any IUC component for the ILDO to cover the costs of its operations including compliance with security requirements related to the international gateways.. It may be seen that while the regulations have ensured that the access operators are compensated duly (and in case of the latest regulations currently applicable allowing Re 0.40/min of termination charges more than the due share) against the actual cost of network /work done for completion of these calls, the ILDOs have been bearing the brunt of reduction of costs both on the outbound traffic and the inbound traffic. While currently the cost of termination to India for an ILDO is Re 0.40/min i.e., ~ 0.007 US Dollar/minute, the market price for India termination being offered by some carriers is as low as 0.0075 US Dollar/minute which leaves a meager margin of only 0.0005 US Dollars per minute (~ 3 paisa) for ILDOs. Similar is the case with ILD Outgoing, while the consumer still continues to pay as high as Rs 4/min for destinations like USA, the share of margin for ILDOs in the traffic is not more than 0.0010 US Dollar (~ 6 paisa). The margins being made by ILDOs are not even sufficient to cover the cost of bandwidth being maintained by the ILDOs for carriage of calls leave aside getting a reasonable return on their investments.

The current situation is not conducive for ILDOs to continue to invest in their business and is detrimental to a level playing field that ensures free competition in India market.

Not only it impacts the ability of stand-alone ILDOs to earn sustainable revenues, it impacts their ability to service the requirements of making the International telecommunications affordable to Indian consumers.

Thus, there is definitely a case for prescribing a Floor for International carriage charge for International traffic and to prescribe a revenue share between access provider and ILDO in order to ensure the following-

a. National interests are protected not only from the standpoint of License Fee payable by operators to the government but also the security considerations. The Gap between the Floor and Domestic tariffs for long distance calls should be kept as low as possible, so that it does not provide a huge arbitrage to Illegal Grey Market for terminating calls through channels other than licensed ILDOs. Measures to curb grey market should be taken by DoT side by side and implemented with cooperation of all licensed operators.
b. Consumer interest is protected by not allowing unfair advantage to any access operator owing to its dominant position in the market. Create a level playing field for all operators by not departing from a cost-based IUC Regime coupled with a revenue share arrangement that works on “work-done” principle to allocate revenue on International Inbound calls among ILDO and Access operators in an equitable manner.

We accordingly suggest that ILDO carriage charge payable to ILDOs to be included as mandatory component in IUC and would like to submit as follows:

1. Forbearance in International termination rates payable by access operators to ILDOs should continue
2. A new component of IUC, which is the ILDO Gateway charge of Re 0.25/min as a floor or as determined during costing exercise should be included in the IUC Regime to compensate for cost of ILDO involved in carrying international calls to and from various international destinations.
3. All Settlement rates to International Carrier should be a sum of ILDO Gateway charge (floor of Re 0.25/min) and prescribed termination charges payable to mobile operators (which should be cost based or as determined by the Authority through its review of cost of termination) along with NLD carriage component as applicable.
4. Over and above the negotiated termination rates for ILD Outbound calls being transited through ILD switches, the ILDO Gateway charge should be payable by access operators to ILDOs to compensate for the deployment of complex routing systems for management of International Call routing at the ILDO Gateway.

Alternatively any charge which is defined as Floor termination charge for international calls should be split between the ILDO and the Access Provider on a work done principle. A framework that provides for 70% to the ILDO and 30% share to the Access Provider would ensure equitable sharing of costs relative to work done by the individual operators involved in the carriage and termination of the international call.

Q18. What is the most appropriate level for International Termination Charge? Should it be uniform or should it depend on the originating country/region? Please provide full justification for your answer.

Bharti Airtel's Response:

The termination charge on Incoming ILD calls to India is amongst the lowest prevailing worldwide as is evident from table 4.3 of the consultation paper. The termination rates for international calls in most of the countries across globe are also regulated akin to India. While there has been significant increase in termination rates in other countries over last 5 years, the rates in India have not witnessed any change and have been constant at 40 paisa p.m. In comparison, the termination paid by Indian operators is approximately Rs 3-3.50/min. This arbitrage has resulted in highly skewed ration of incoming international calls to outgoing international calls. As of today, this ratio between outgoing and incoming calls stands at 1:20 an increase from 1:5 in the last 6 years. This has put severe pressure on industry's margins and revenues which are also impacted by the unlicensed OTTs (Over the top operators) players viz. Skype, Google etc.

Such a skew has the following implications:-

a) Indian customers subsidize the calling costs for international operators. This despite international callers having a much higher paying capacity (per capita GDP) compared to Indian customers.

b) Adverse impact on profitability of Indian telecom operators. Please note that the Indian operators share at current termination charges is just 3% of the total tariffs charged in countries from where the outbound calls originate.
c) Lost opportunity to earn higher foreign exchange by the country. At the present traffic volume of 88 billion minutes p.a. an increase of 50 paisa per minute will fetch additional forex revenues to the tune Rs. 4,400 crore per annum (~$733 million per annum).

The dramatic increase in incoming traffic has forced Indian operators to undertake network expansion to maintain quality and customer experience thus making it imperative that the termination charges are increased.

We also believe that charging differently for different countries may not be advisable as this will only result in international traffic flowing through the least cost path.

Thus, in view of the above submissions and in order to have parity with the charges paid by the Indian operators for termination in foreign countries, the termination charge for incoming international calls in India should be raised closer to Rs. 3-3.50 per minute either in one go or in a phased manner.

TCL Counter Comment:

We do not agree with the view that termination charge for incoming international calls in India should be raised closer to Rs. 3 to 3.50 per minute either in one go or in a phased manner. Such a move would be counter-productive in our view, and lacks any rationale for increasing the Termination Charges being paid to Access Operators Nine fold !! Indian telecom market has seen phenomenal growth over the last decade and the advantage of a consistent Regulatory environment for a multi-operator scenario must not be frittered away by a move to irrationally high settlement rates which lead to rampant grey market. Creating a significant arbitrage opportunity for the Illegal Operators to bypass the licensed ILDOs has significant risks and proven disadvantages like-

a. Security risks associated with calls not being routed through gateways of ILDOs but through illegal grey market operators. This could be higher than 50% of the overall market
b. Not in consumer interest to receive calls with incorrect or no CLI or domestic CLI since illegal operators manipulate the CLI to taken advantage of the arbitrage opportunity created by high settlement rates
c. Unfair compensation to the access operators at the cost of ILDOs. Even as the revenue per minute of the Access Operator may increase 9 fold, the ILDOs would face loss of revenues due to emergence of huge grey market.
d. Complete departure from the underlying backbone of the IUC Regimes. No linkage whatsoever with the cost base or work done principle.

It is submitted that keeping the international termination charge even at Re.1/- would be counterproductive as it would give rise to grey market and adversely impact the national security which is undeniably of paramount importance. The argument of fixing the termination charge at Re.1/- has been raised in the earlier consultation process preceding the 2009 IUC regulation and the same was not accepted by the Authority because of security concerns which are valid as on date also.

Termination charge for the international calls must be fixed at a level that ensures appropriate cost recovery for operators involved in the carriage and termination of these calls. While doing so one has to be mindful of the arbitrage opportunity that gets created due to lower domestic calling tariff vis-à-vis international termination charge. Greater the gap between the two the more impetus it is likely to provide to the illegal operators to mask or re-originate international calls as domestic calls. For example presently the domestic calling tariff is in the range of 30 paise to 60 paise per minute as against 40 paise per minute international call termination charge. Thus despite a marginal arbitrage opportunity there is still scope for the grey market operators to terminate international calls in India bypassing the licensed ILDOs. In this connection, due to increasing instances of grey market operations DoT has recently issued instructions to all the Operators.

With the possibility of depleting regime for the domestic call termination charges and even otherwise due to competitive forces , the local call tariff may come down to the range of

25 to 40 paise per minute because it is highly unlikely that overall reduction in the termination charge would be on passed to the end customers by the CMSPs. In order to achieve the objective of an orderly growth of the telecom sector it would be therefore advisable to keep the termination charge in the range of 40 to 60 paise with 70% revenue share to the ILDOs and 30% revenue share to the Terminating Access Operator on the basis of work done principle and cost incurred by each of these parties or alternatively it should be sum of new IUC component for ILDOs (ILDI Gateway Charge) and MTC as determined by TRAI.

Grey Market Issues:
Higher termination charge for international calls vis-à-vis the domestic calling rates would lead to proliferation of grey market which is highly undesirable as it poses serious security threat to the country besides depriving the Government and licensed operators of legitimate revenues which would accrue to them in case the calls are terminated through the licensed ILDOs.

One recent example is the case study of Pakistan where the international call termination charges were increased from approximately US $0.0100 per minute to US$ 0.0880 and international clearing house (ICH) was set up to handle all international calls to Pakistan. This increase of the termination cost for international calls increased arbitrage opportunity and promoted the grey market in Pakistan significantly despite other measures to monitor and control the grey market operations. Pls refer to the link given below for an Article indicating the legitimate Pakistan termination traffic decreased from 1.3 billion per month to 500 million after termination rate for international calls was increased. As per unconfirmed estimates, the total Pakistan termination market continues to be 1.3 bn minutes per month however the legal operators are now almost reduced to 350mn minutes per month.

http://www.nation.com.pk/business/03-Feb-2014/ldi-market-deal-in-doubt-as-one-cellular-operator-quits-ich

Extract from the Article: LAHORE – “ The country’s second largest cellular operator, has quitted the deal of International Clearing House (ICH), due to financial losses of over Rs2.2 billion, putting a question mark over the sustainability of LDI market share agreement.

Market sources said that the international incoming minutes were standing at about 1.3 billion minutes per month during pre-ICH scenario, while now after the ICH agreement, the minutes/moth have dropped to 500 million minutes/month due to higher termination rates.”

It is argued by some operators that the Mobile termination costs particularly in Europe and Middle East are high as compared to India. While this is true, it is also a fact that the costs of termination of international calls in these countries is quite close to the cost of making calls locally in these countries. As such this does not create much arbitrage opportunity and there is not much scope for grey market. This is not true in Indian context where call rates for domestic calls are very competitive and the approach of keeping artificially high costs of termination for international incoming calls to India is likely to distort the market which is in a phase of rapid growth and is likely to lead to mushrooming of grey market and associated security issues.

Idea

Q18:- What is the most appropriate level for International Termination Charge? Should it be uniform or should it depend on the originating country/region? Please provide full justification for your answer.

Idea Response :

a) ILD worldwide is a very competitive business and lot of small companies are aggregators/sell calling cards to collect traffic. In case of India bound traffic, majority of India incoming traffic is originated by small companies (dialers), it is impossible to track the originating country/region for the call as the A number is arbitrary. Thus it is not recommended to fix the India termination charges based
on originating country/region as it will be difficult to implement. Also we are not aware of any country which has followed this system.

b) India has one of the lowest termination rates for IDD. The termination rates in the smaller neighbouring countries as illustrated below

Country	Rates in cents/min
India	0.75
Pakistan	8.8
Bangladesh	1.5
Srilanka	9.6
Nepal	8.75
Maldives	65

c) This creates a huge imbalance and opportunity loss for the country to earn more forex. Today for one outbound minute, India gets about 15- 20 min Inbound minutes. **Considering this, the optimal level for India termination charges should at least be Re 1/min.. However considering the risk of rise in grey traffic under a regime of high termination rates, the Authority may need to prescribe strict monitoring of grey traffic.**

TCL Counter Comment:

We do not agree with a view that the termination charge for incoming international calls in India should be raised closer to Re.1/- per minute

It is submitted that keeping the international termination charge at Re.1/- would be counterproductive as it would give rise to grey market and adversely impact the national security which is undeniably of paramount importance. The argument of fixing the termination charge at Re.1/- has been raised in the earlier consultation process preceding the 2009 IUC regulation and the same was not accepted by the Authority because of security concerns which are valid as on date also.

Fixing a Re 1/- international termination charge and creating a significant arbitrage opportunity for the Illegal Operators to bypass the licensed ILDOs has significant risks and proven disadvantages like-

a. Security risks associated with calls not being routed through gateways of ILDOs but through illegal grey market operators. This could be higher than 50% of the overall market
b. Not in consumer interest to receive calls with incorrect or no CLI or domestic CLI since illegal operators manipulate the CLI to taken advantage of the arbitrage opportunity created by high settlement rates
c. Unfair compensation to the access operators at the cost of ILDOs. Even as the revenue per minute of the Access Operator may increase manifold, the ILDOs would face loss of revenues due to emergence of huge grey market.
d. Complete departure from the underlying backbone of the IUC Regimes. No linkage whatsoever with the cost base or work done principle.

Termination charge for the international calls must be fixed at a level that ensures appropriate cost recovery for operators involved in the carriage and termination of these calls. While doing so one has to be mindful of the arbitrage opportunity that gets created due to lower domestic calling tariff vis-à-vis international termination charge. Greater the gap between the two the more impetus it is likely to provide to the illegal operators to mask or re-originate international calls as domestic calls. For example presently the domestic calling tariff is in the range of 30 paise to 60 paise per minute as against 40 paise per minute international call termination charge. Thus despite a marginal arbitrage opportunity there is still scope for the grey market operators to terminate international calls in India bypassing the licensed ILDOs. In this connection, due to increasing instances of grey market operations DoT has recently issued instructions to all the Operators.

With the possibility of depleting regime for the domestic call termination charges and even otherwise due to competitive forces , the local call tariff may come down to the range of 25 to 40 paise per minute because it is highly unlikely that overall reduction in the termination charge would be on passed to the end customers by the CMSPs. In order to achieve the objective of an orderly growth of the telecom sector it would be therefore advisable to keep the total International Inbound call termination costs in the range of 40 to 60 paise. In order to define the shares of Access Operators and ILDOs in this overall cost of 40 to 60 paise, the IUC Regime may provide for

a. Defined Revenue Share : 70% revenue share to the ILDOs and 30% revenue share to the Terminating Access Operator on the basis of work done principle and cost incurred by each of these parties, OR

b. Define a new IUC component for ILDOs (say, ILDO Gateway Charge) and Termination Charges payable to Access Operators separately as determined by TRAI.

Grey Market Issues:

Higher termination charge for international calls vis-à-vis the domestic calling rates would lead to proliferation of grey market which is highly undesirable as it poses serious security threat to the country besides depriving the Government and licensed operators of legitimate revenues which would accrue to them in case the calls are terminated through the licensed ILDOs.

One recent example is the case study of Pakistan where the international call termination charges were increased from approximately US $0.0100 per minute to US$ 0.0880 and international clearing house (ICH) was set up to handle all international calls to Pakistan. This increase of the termination cost for international calls increased arbitrage opportunity and promoted the grey market in Pakistan significantly despite other measures to monitor and control the grey market operations. Pls refer to the link given below for an Article indicating the legitimate Pakistan termination traffic decreased from 1.3 billion per month to 500 million after termination rate for international calls was increased. As per unconfirmed estimates, the total Pakistan termination market continues to be 1.3 bn minutes per month however the legal operators are now almost reduced to 350mn minutes per month.

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It is argued by some operators that the Mobile termination costs particularly in Europe and Middle East are high as compared to India. While this is true, it is also a fact that the costs of termination of international calls in these countries is quite close to the cost of making calls locally in these countries. As such this does not create much arbitrage opportunity and there is not much scope for grey market. This is not true in Indian context where call rates for domestic calls are very competitive and the approach of keeping artificially high costs of termination for international incoming calls to India is likely to distort the market which is in a phase of rapid growth and is likely to lead to mushrooming of grey market and associated security issues.

COAI

B. International Settlement and Termination Charge

Q15: The Authority has already prescribed access charges to facilitate the introduction of calling cards. Is there any other issue which needs to be addressed so that the consumer gets the most competitive tariff for ISD calls?
&
Q16: Do you feel that the Authority's intervention is necessary in the matter of International Settlement Rates? If so, what should be the basis to determine International Settlement Rates?
&
Q17: Is there a need to fix a floor for international carriage charge for incoming international traffic or prescribe some revenue share between access service provider and the ILDO to safeguard the interest of ILDOs?
&
Q18: What is the most appropriate level for International Termination Charge? Should it be uniform or should it depend on the originating country/region? Please provide full justification for your answer.

COAI Comments:

1) The termination charge for Incoming ILD calls to India is amongst the lowest in the world.
2)
a) In the table below, we compare the India international termination rate to that prevailing in the countries that together account for more than 50% of the outbound international calls from India. Termination rates (TR) for international incoming calls in various countries:

	US$ per min	INR per min		US$ per min	INR per min
India	0.0064	0.4	Oman	0.21	12.98
Pakistan	0.0885	5.47	Qatar	0.15	9.27
U S	0.01	0.62	UAE	0.13	8.04
Australia	0.055	3.4	Germany	0.0251	1.55
Nepal	0.095	5.87	U K	0.0151	0.93

b) The termination rates charged to India by the UAE have increased from Rs.6.18 to Rs.8.04 during the period 2009 to 2012.\

2) Imbalance between the Incoming and the Outgoing minutes

a) The number of international incoming minutes to India is estimated to be ~68 billion per annum, with outbound close to about 4.5 billion minutes per annum. The blended termination rate paid by Indian operators is around Rs 3.50/min for outgoing international calls compared with the 40 p/min termination rate received by them on international incoming calls. The difference in the marginal cost of calling, in part, explains the 15:1 imbalance in international calling.

b) Hence, we would like to submit that there is need to bridge the gap between the blended termination rate paid by Indian operators for outgoing international calls and termination rate received by them on international incoming calls.

c) Further, as is evident from the above, the Indian operators' cost towards termination charges is much higher in comparison to the revenue earned by them in the form of termination charges paid by foreign operators. This has resulted in:

- The Indian customer subsidizing the calling costs for international operators
- Adverse impact on profitability of Indian telecom operators
- A lost opportunity to earn higher foreign exchange by the country

The international callers abroad predominantly have a much higher paying capacity (per capita GDP) than consumers in India. It has led to Indian subscribers and telecom operators being treated in an inequitable and unfair manner while also creating disequilibrium in the Balance of Payments for India.

d) Since growth in Indian termination traffic has displaced the origination traffic by 15 times, it has reduced the negotiation power of Indian operators to cut down the cost with the operators of various countries.

e) We are of the view that the increased termination rates will help to reduce the pricing arbitrage currently existing in favour of foreign operators which has built up over the years and thus, reduce the tariffs of the ILD calls.

3) Increase in Foreign Exchange inflows: The increase in termination rates will help India to earn valuable foreign exchange, which currently is skewed against India by the imposition of these artificial trade barriers by international regulators in their home countries. Assuming that there is no reduction in inbound traffic volume in India post termination charge increase, the foreign exchange earning opportunity could be as high

as about Rs. 41 bn per annum, if the current Termination rates are conservatively increased to Rs 1/min.

4) Uniform Charge: Further, we would like to submit that the International Termination Charge should be uniform and should not depend on the originating country/region.

Key Submission:

a) In order to bridge the gap between the blended termination rate paid by Indian operators for outgoing international calls and termination rate received by them on international incoming calls, as a first step, we recommend that the ILD termination charge to be increased from 40 paise per minute to Rs. 1.00 per minute in the near term.
b) This will help enhance foreign exchange earnings of India.
c) The charge should be uniform across geographies.

TCL Counter Comment:

We do not agree with a view that the termination charge for incoming international calls in India should be raised to Re.1/- per minute for reasons outlined in our submission as well as paras below.

We do agree that the charge must be fixed and the same should be uniform across geographies.

Fixing the international termination charge at Re.1/- would be counterproductive as it would give rise to grey market and adversely impact the national security which is undeniably of paramount importance. The argument of fixing the termination charge at Re.1/- has been raised in the earlier consultation process preceding the 2009 IUC regulation and the same was not accepted by the Authority because of security concerns which are valid as on date also.

Fixing a Re 1/- international termination charge and creating a significant arbitrage opportunity for the Illegal Operators to bypass the licensed ILDOs has significant risks and proven disadvantages like-

a. Security risks associated with calls not being routed through gateways of ILDOs but through illegal grey market operators. This could be higher than 50% of the overall market
b. Not in consumer interest to receive calls with incorrect or no CLI or domestic CLI since illegal operators manipulate the CLI to taken advantage of the arbitrage opportunity created by high settlement rates
c. Unfair compensation to the access operators at the cost of ILDOs. Even as the revenue per minute of the Access Operator may increase manifold, the ILDOs would face loss of revenues due to emergence of huge grey market.

Complete departure from the underlying backbone of the IUC Regimes. No linkage whatsoever with the cost base or work done principle.

Termination charge for the international calls must be fixed at a level that ensures appropriate cost recovery for operators involved in the carriage and termination of these calls. While doing so one has to be mindful of the arbitrage opportunity that gets created due to lower domestic calling tariff vis-à-vis international termination charge. Greater the gap between the two the more impetus it is likely to provide to the illegal operators to mask or re-originate international calls as domestic calls. For example presently the domestic calling tariff is in the range of 30 paise to 60 paise per minute as against 40 paise per minute international call termination charge. Thus despite a marginal arbitrage opportunity there is still scope for the grey market operators to terminate international calls in India bypassing the licensed ILDOs. In this connection, due to increasing instances of grey market operations DoT has recently issued instructions to all the Operators.

With the possibility of depleting regime for the domestic call termination charges and even otherwise due to competitive forces , the local call tariff may come down to the range of 25 to 40 paise per minute because it is highly unlikely that overall reduction in the termination charge would be on passed to the end customers by the CMSPs. In order to achieve the objective of an orderly growth of the telecom sector it would be therefore advisable to keep the total International Inbound call termination costs in the range of 40 to 60 paise. In order to define the shares of Access Operators and ILDOs in this overall cost of 40 to 60 paise, the IUC Regime may provide for

c. Defined Revenue Share : 70% revenue share to the ILDOs and 30% revenue share to the Terminating Access Operator on the basis of work done principle and cost incurred by each of these parties, OR
d. Define a new IUC component for ILDOs (say, ILDO Gateway Charge) and Termination Charges payable to Access Operators separately as determined by TRAI.

Grey Market Issues:

Higher termination charge for international calls vis-à-vis the domestic calling rates would lead to proliferation of grey market which is highly undesirable as it poses serious security threat to the country besides depriving the Government and licensed operators of legitimate revenues which would accrue to them in case the calls are terminated through the licensed ILDOs.

One recent example is the case study of Pakistan where the international call termination charges were increased from approximately US $0.0100 per minute to US$ 0.0880 and international clearing house (ICH) was set up to handle all international calls to Pakistan. This increase of the termination cost for international calls increased arbitrage opportunity and promoted the grey market in Pakistan significantly despite other measures to monitor and control the grey market operations. Pls refer to the link given below for an Article indicating the legitimate Pakistan termination traffic decreased from 1.3 billion per month to 500 million after termination rate for international calls was increased. As per unconfirmed estimates, the total Pakistan termination market continues to be 1.3 bn minutes per month however the legal operators are now almost reduced to 350mn minutes per month.

http://www.nation.com.pk/business/03-Feb-2014/ldi-market-deal-in-doubt-as-one-cellular-operator-quits-ich

Extract from the Article: LAHORE – " The country's second largest cellular operator, has quitted the deal of International Clearing House (ICH), due to financial losses of over Rs2.2 billion, putting a question mark over the sustainability of LDI market share agreement.

Market sources said that the international incoming minutes were standing at about 1.3 billion minutes per month during pre-ICH scenario, while now after the ICH agreement, the minutes/moth have dropped to 500 million minutes/month due to higher termination rates."

It is argued by some operators that the Mobile termination costs particularly in Europe and Middle East are high as compared to India. While this is true, it is also a fact that the costs of termination of international calls in these countries is quite close to the cost of making calls locally in these countries. As such this does not create much arbitrage opportunity and there is not much scope for grey market. This is not true in Indian context where call rates for domestic calls are very competitive and the approach of keeping artificially high costs of termination for international incoming calls to India is likely to distort the market which is in a phase of rapid growth and is likely to lead to mushrooming of grey market and associated security issues.

Aircel

Q16: Do you feel that the Authority's intervention is necessary in the matter of International Settlement Rates? If so, what should be the basis to determine International Settlement Rates?
&
Q17: Is there a need to fix a floor for international carriage charge for incoming international traffic or prescribe some revenue share between access service provider and the ILDO to safeguard the interest of ILDOs?
&
Q18: What is the most appropriate level for International Termination Charge? Should it be uniform or should it depend on the originating country/region? Please provide full justification for your answer.

Aircel Response:

……………. Presently, the charges being very low in comparison to outgoing, we recommend a rational approach be taken to set the floor price at a reasonable level, if not at par with other countries. Further, the floor price should also provide the revenue sharing between an ILDO and the terminating access operator, to upkeep the business interest of ILDO and creating market potential for them to become profitable. The ILDO's also have considerable work done in an incoming international calls which is linked to their overseas business tie-ups, creating infrastructure for carriage of call within India and outside India as well.

Keeping above in view, we strongly urge that the floor price for incoming international call be kept at Rs 1/minute at ILDO's end. Out of this Rs 1/minute, the termination charge to be paid to an access operator should also be increased from the present Rs.0.40/minute to Rs 0.60/minute and balance Rs 0.40/munite to be retained by the ILDO.

At the same time, we would like to raise the apprehension that increase in ILD termination rates would increase illegal activities related to Grey Call market, in the short term. However, there are adequate DoT guidelines and provisions under stature including criminal case, which can take care of this in a long time.

TCL Counter Comment:

We do not agree with a view that the termination charge for incoming international calls in India should be raised closer to Re.1/- per minute. We do agree with the apprehensions raised about growth of Grey Market if the arbitrage opportunity were to be higher.It is submitted that keeping the international termination charge at Re.1/- would be counterproductive as it would give rise to grey market and adversely impact the national security which is undeniably of paramount importance. The argument of fixing the termination charge at Re.1/- has been raised in the earlier consultation process preceding the 2009 IUC regulation and the same was not accepted by the Authority because of security concerns which are valid as on date also.

Fixing a Re 1/- international termination charge and creating a significant arbitrage opportunity for the Illegal Operators to bypass the licensed ILDOs has significant risks and proven disadvantages like-

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In case the domestic termination charge is determined to be higher in value than the existing 20 paise per minute or remains unchanged at 20 paise per minute , the international call termination charge should be divided as revenue share between the ILDO and the Access Provider as follows:

I. 20 paise per minute or higher equivalent to domestic termination charge to be paid to the Access Provider.
II. Balance international termination charge (after payment of a) above) to be shared between the ILDO and Access Provider in the ratio of 70:30.

For example if the domestic termination charge is revised to Re.0.25 per minute and the international termination charge is revised to Re.0.60 per minute then revenue shares shall be as follows:

i. Access Provider: Re.0.36 per minute (Re.0.25 plus 30% of Re.0.35)
ii. ILDO: Re.0.24 per minute (70% of Re.0.35)

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