

Consultation Paper No.98/4

TELECOM REGULATORY AUTHORITY OF INDIA

CONSULTATION PAPER

ON

**MAINTENANCE OF REGISTER FOR
INTERCONNECTION**

December 3, 1998

TELECOM REGULATORY AUTHORITY OF INDIA
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PREFACE

1. Section 11(1)(l) of the TRAI Act requires the Authority to maintain a register of interconnect agreements. This register is to be kept open for inspection for any member of the public on payment of such fee and compliance of such other requirements as may be provided in the regulations to be framed in accordance with

Section 36(2) of the Act. In this context, various issues pertaining to maintenance of register for interconnect agreements are proposed to be decided through an open consultative process.

2. To facilitate accomplishment of this task in a time bound framework, written comments on this Consultation Paper may be furnished, latest by December 21, 1998, to the Joint Secretary (Commercial), TRAI, 16th Floor, Jawahar Vyapar Bhawan, 1 Tolstoy Marg, New Delhi 110 001. In case of any clarification in the matter, Mr. Rakesh Kapur, Joint Secretary (Commercial), TRAI may be contacted on telephone number 3316782; fax No. 3738708 or e-mail No. trai@del2.vsnl.net.in. The Consultation Paper can also be accessed at the TRAI's web site www.trai.gov.in.

(N. Sharma)

Dated: December 3, 1998.

INTRODUCTION

Competition in the Telecom sector in India has introduced new service providers in different segments, which include basic telecom and cellular mobile telephone service apart from other value added services. Domestic and international long distance communication is still the monopoly of the incumbent operator. Considering that major traffic is originating from or terminating in the local network, interconnection is extremely important for a new entrant for connecting his network to the bottleneck facilities of the local network. Subscribers also need effective interconnection between networks so that they can access all other telephone subscribers and avail of other telecom services. A seamless network is, therefore, essential for viability and competition in the provision of service.

2. Ensuring effective interconnection among service providers is one of the functions mandated to the TRAI under the Act. An analysis of the technical, economic and commercial aspects of the interconnect arrangement between different operators is, therefore, essential for fostering competition and ensuring viability of new entrants

3. The TRAI Act 1997 requires the Authority to maintain a "Register of Interconnect Agreements" which shall be kept open for inspection to any member of public on payment of such fee and compliance of such other requirements as may be provided in the regulations. In this context, the matter needs to be deliberated to decide on various issues relating to maintenance of "Register of Interconnect Agreements" including its formats and contents which would be open to any member of the public. The TRAI has prepared this document on the subject for seeking information from operators and other interested agencies through open consultations before finalizing the regulations with regard to the maintenance of register for interconnect agreements as envisaged under clauses (l) & (m) of Sub-Section (1) of Section 11 of the TRAI Act 1997.

(Justice S.S. Sodhi)
Chairperson

Dated: December 3, 1998.

TELECOM REGULATORY AUTHORITY OF INDIA

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BACKGROUND

1. Section 11(1)(e) of the TRAI Act requires the Authority to maintain a register of interconnect agreements. In accordance with Section 11(1)(m) of the Act, this register is to be kept open for inspection to any member of public on payment of such fee and compliance of such other requirements as may be provided in the regulations. Further, Section 36 (2)(d) deals with the framing of regulation for maintenance of such register. In this context, there is a need to decide on various issues relating to maintenance of register for interconnect agreements through an open consultative process.

INTERNATIONAL PRACTICE

2. Practices in different countries vary significantly with regard to maintenance of the interconnection register in terms of the information available in the interconnect register and extent and method of disclosure of such information. A brief survey of the practices in other countries is given below: -

Australia Confidential between operators and, therefore, not available to the public.

Denmark Publicly available from the incumbent

New Zealand Confidential between operators and, therefore, not publicly available.

Korea Minister of Information and Communications may authorize, after discussion within the Communication Commission, disclosure of information on interconnection as one of the prohibitive

measures from obstructing fair and just competition environment.

Sweden Not publicly available but the incumbent does publish an interconnect list price.

U.K. Publicly available but only for agreements between the incumbents and other operators. Copies available in the OfTel Library.

U.S.A Publicly available for viewing with the individual State Public Utility Commission under the U.S. Freedom of Information Act.

3. In the United Kingdom, OFTEL requires only operators with significant market power to publish interconnect agreements. This in effect means that in the fixed market segment, British Telecom and in the mobile market segment, Vodafone and Cellnet are required to do so. The licensees have the obligation to publish within 28 days adequate description of the agreement and precise method of calculation of the charges. The licensees are also required to publish any provision of the agreement, which have significant effect on the charges due to particular circumstances. The description of the method of calculation should be such that it enables a third party to calculate the charges readily.

4. The Director, OFTEL has powers to exclude any material from publishing if he so considers it fit. The licensee does the publishing of the agreement. But the licensee has to take permission of the regulator by sending a draft of the proposed description seven days prior to publishing the document. After the publishing is done, a copy of the same is sent to the Director, OFTEL. This completes the act of publishing. Any person who wishes to get a copy of the agreement can do so on payment of a reasonable charge. The licensee is obliged to send such document to the person within seven working days of receiving the request.

5. In the United States of America, the Federal Communications Commission does not maintain a record of the interconnection agreements. This responsibility is with the individual States who do so for various service providers within their respective boundaries. Their authority to review and approve the interconnect documents, flows from the Communications Act, 1996. When two companies reach an agreement, the document needs to be filed with the Commission for approval. All interconnect documents are public documents and each is assigned a unique case number when received. Because the terms and conditions contained in these agreements must be made available to other companies that also seek interconnection, there is no provision for trade secret protection.

CONTENTS OF AN INTERCONNECT AGREEMENT

6. Interconnection comprise the commercial and technical arrangements under which service providers connect their equipment, networks and services to enable customers to have access to the customers, services and networks of other service providers. Normally, an interconnect agreement is expected to contain the following information:

- Scope and definition of services;
- Interconnection and POI requirements and principles;
- Provision of information;
- Interconnection provisioning procedures;
- Network and transmission capacity requirements;
- Technical service level commitments;

- Technical specifications and standards;
- Transmission and performance standards;
- Fault reporting and resolution procedures;
- Network safety, protection and related matters;
- Call handling and operations procedures;
- Access to interconnection facilities and sharing of infrastructure;
- Charging mechanisms, billing and settlement procedures;
- Transmission of calling line identification (CLI) information;
- Operator assisted services, directory information and assistance;
- Commercial terms and conditions;
- The universal service contribution of operators;
- Provision for contribution to the cost of local access;
- Network numbering;
- Confidentiality of information;
- Liability and indemnities;
- Force majeure;
- Intellectual property rights;
- Provision for an ICA liaison and co-ordination Management Committee;
- Review periods and terms for review.

7. The TRAI is separately working on framing 'Model Guidelines for Interconnection', which will also prescribe the information required to be incorporated in the Interconnect Agreement, on different aspects of interconnection.

8. Since viable interconnection may emerge solely through commercial and technical agreements, the regulator needs to ensure technical compatibility, effective interconnection and access between different service providers on an equitable and non-discriminatory basis for facilitating competition and promoting efficiency in the telecommunication services including protection of consumer interests. Consumer interests in interconnection arrangements would include: -

- availability of the widest possible range of services at the lowest possible prices in order to stimulate and promote national economic development
- protection of customer's privacy and confidentiality of customer information
- ability of any customer to access any other customer by means of the interconnection of telecom networks on a seamless and transparent basis
- ability of consumers to be able to choose their preferred supplier of network access for local, trunk and international services without artificial or anti-competitive constraint limiting their choices
- improved access for currently under-provided communities, pursuant to the objective of universal access to services.

9. In the normal case, a new entrant will largely be dependent upon the incumbent operator. Since the new entrant is a competitor to the incumbent, normally there will be little incentive for the incumbent to allow efficient access to its facilities for the new entrant. New entrant would also need detailed information from the incumbent about the latter network and operations, both initially and on a continuing basis. This information may include information about forthcoming changes in the incumbent's network. The regulator, therefore, has to understand the needs of the entrant for: -

- a reasonable compensation for the cost incurred in setting up the interconnection

- reassurance that charges properly reflect directly attributable costs
 - the ability to choose suitable locations within the incumbent's network for points of interconnection
 - the determination of adequate technical standards and interfaces
 - access to information concerning the incumbent's network, types and location of switching equipment
 - non-discrimination on quality of service and price
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- safeguards against abuse of market power by the incumbent
 - facilitating seamless and transparent operations
 - methodologies for evaluating interconnection charges, costs of local access and cost contributions towards meeting Universal Service Obligation
 - time bound period for mutual negotiations
 - establishing reciprocal compensation arrangement (such as revenue sharing) for transport and termination of traffic
 - accounting separation in a transparent manner.

10. One model on this issue is that of OFTEL, which screens certain information. But at the same time it is mandatory for the operators in UK to publish precise method of calculation of the charges and also, any provision of the agreement, which materially impinges on the charges.

What information should be maintained in the register?

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11. As per clause (c) of Section 11(1) of the TRAI Act, the Authority has been given the function to "ensure technical compatibility and effective inter-connection between different service providers". If relevant information is not made available to different service providers, it may be difficult to "facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth", as envisaged in clause (h) of sub-section 1 of Section 11 of the TRAI Act. For commercial reasons it may be argued that not all information can be made available to public, as there would be some information, which would have bearing on the business plan of the service provider. Information relating to location of interconnection, architecture etc. for example, can be a business-privy information. Similarly there are some information, which have bearing on the corporate perspective of the service provider. Such information can perhaps not be made available for public scrutiny. But information relating to structure of interconnect charges (averaged or bundled), accounting or structural separation of the incumbent, quality standards of interconnection, information relating to facilitation of equal access etc. need to be made available to all the new entrants as well as consumer groups. This will also help in preventing anti-competitive and discriminatory tactics that any operator may try to indulge in, given that there is duopoly in basic /cellular services in India.

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Who can access the information?

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12. The TRAI believes in a high degree of transparency. But the maintenance of transparency can not be at the cost of divulging business privy information. Clause (i) of sub section 1 of section 11 of the Act enjoins upon the TRAI the function to "protect the interest of the consumers of telecommunication service". Thus, any information that has bearing on consumer interests should be available in the interconnect register for inspection by the public. Thus the category of information, which can be accessed by an interest group, can be decided only on the basis of use and extent of such use of that information by the group. But it must be ensured that operators having received information during the negotiation or establishment of an interconnection arrangement uses the information only for the purpose explicitly mentioned at the time when it was furnished. In particular, this information should not be passed on to other departments, subsidiaries or

partners for whom it may provide a competitive edge.

Mode of dissemination

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13. Mode of dissemination of information would depend on the infrastructure available with the TRAI. While the traditional mode of sending information after receipt of an application is always possible, web enablement device can also be made available, provided a compatible system of payment for seeking the information is installed. Since the time factor has importance in such potentially commercial information, a reasonable time must be assigned within which the information should be made available to the information seeker. Web enablement device can make the information on-line as has been envisaged in the recent IBM study on IT Planning for the TRAI.

Levy of fee

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14. Should there be any fee levied by the Authority for accessing the information? The TRAI Act gives the Authority the power to "levy fees and other charges at such rates and in respect of such services as may be determined by regulations" (clause (p) of Section 11(1) of the Act). It can therefore be decided to levy different charges depending upon the usefulness of the information provided. It may even be decided that such information, which is of consumer interest, may not be charged.

Issues for consideration

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15. Given the above background, this paper seeks opinion from operators, consumers/ consumer groups, financing agencies and other interested parties through open consultation to decide on the aforesaid issues, including the format to be adopted for the interconnect register. Regulation on the maintenance of the interconnection register as provided for in the TRAI Act would then be formulated accordingly.

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