

TELECOM REGULATORY AUTHORITY OF INDIA

Responses received on

Consultation Paper no. 18/2006 dated 22nd December 2006

on

'Resale in International Private Leased Circuits (IPLC) Segment'

Revised on 24.1.2007

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**Comments of various stakeholders on the issues raised by TRAI in its
consultation paper no. 18/2006 dated 22nd December 2006**

On

“Resale in International Private Leased Circuits (IPLC) Segment”

Q.1 Who should be a ‘Reseller’ and what should be the Scope of ‘Resale’ in the context of IPLC market in India? Give justification.

M/s BSNL

Reseller should be an Indian Registered Company as defined for other licensee of Telecom Services. This company should not have any equity participation, direct or indirect, from any of the Licensed Telecom Operators in India. This will ensure that there is no coordinated pricing mechanism among a set of ILDOs and the resellers. This will further offer the resellers a free market situation where their entrepreneurship will blossom.

The scope of resale can be as follows:

1. Providing end-to-end leased circuits between India and country of destination where both ends of circuits are terminated in the user premises.
2. The reseller should be able to provide services like multiplexing / de-multiplexing of bandwidth, protocol conversion on point to point leased circuits, time dependent bandwidth provisioning etc. which are not strictly in the domain of other licensed telecom service operators. However, the services provided should not impinge into the right of the other telecom operators i.e. Access Providers, ISPs, NLDOs and ILDOs.

The reason for limiting the services to the end-customers is that in any other formulation, the possibility of foreign carriers delivering their services originated in the foreign land directly to the customers in India which otherwise require a licence in India, under the guise of reseller, cannot be ruled out and there will be hardly any method available to monitor and control provision of such services. Thus, there will be a possibility of foreign entities offering services in the country in an unauthorized/illegal / clandestine manner. This will create a possibility of furtherance of the existing grey market. It also has a potential of killing the incentive for indigenous development of Value Added Services that are likely to be flooded from the foreign market.

M/s Bharti

Before allowing the concept of Reseller in the context of IPLC market in India, we feel that the Hon’ble Authority should be driven by 2 main principles i.e. (i) only the serious players are allowed to act as a Reseller and (ii) the level playing field between the International Long Distance Operators (ILDOs) and Reseller are maintained, which will ensure the growth of both the segments / sectors parallel, not at the cost of each other’s segment/sector.

Keeping in view the above principles in mind, we suggest that the scope of Reseller should be as under:-

1. The reseller should be a registered Indian Company under Companies Act 1956.
2. Presently, the reseller should be allowed to resell bandwidth with or without value addition.
3. The resellers should be classified as 'Minimum FBO' instead of 'Non-FBO' since delivering service and assuring service levels requires for interconnecting Equipment, Service Management Systems. These must be procured/owned by the reseller.

M/s BPL

Any entity or company desirous of Reselling the international bandwidth to corporate/individual customers for their dedicated requirement and who has obtained the licence/registration from the competent authority would be termed as a "Reseller". The scope of resale in IPLC market in India should include the following:-

- ❖ Access to the Cable Landing Station (CLS) for purchase of wholesale bandwidth from international carriers/ILDOs
- ❖ Extension of this bandwidth to any location for their customers in India through leased lines provided by NLDOs/Access providers.
- ❖ To provide own infrastructure like billing system, multiplexing equipment and last mile access to the premises of the IPLC customer through any cable/wireless system.

COAI

- a. COAI believes that any entity or company desirous of reselling international bandwidth to corporate/individual customers for their dedicated requirement and who has obtained the licence/registration from the competent authority could be termed as a "Reseller".
- b. The Reseller will be required to extend the international bandwidth purchased from the ILDO to his own operating station. For this purpose, the Reseller will have to install an end-link from the cable landing station to his own operating station in the same town/city. Co-location of equipment of the Reseller should be facilitated/mandated in the cable landing station on mutually agreed terms and conditions. The Reseller can be permitted to install the end-link on his own or the end-link can be provided by the Access Providers.
- c. The scope of resale in the IPLC market in India may include:
 - Access to Cable Landing Stations (CLS) for purchase of wholesale bandwidth from international carriers/ILDOs
 - Extension of this bandwidth to any location for their customers in India through leased lines provided by NLDOs/Access providers.
 - Provision of own infrastructure like billing system, multiplexing equipment monitoring facilities.

M/s Pacific Internet

There is a tremendous growth taking place in the BPO and the ITES sector in India. This sector has to be consistently cost competitive to hold its leadership position. Labor arbitrage alone cannot help it sustain. One of the biggest costs incurred by them is the telecom cost, read as cost of IPLCs through which they transact their business. We believe that currently the prices are not market competitive and the market is underserved.

Allowing for resellers will provide competition and increase choices for customers. A reseller will not necessarily be involved in building or creating infrastructure. They will hold appropriate license to sell these services.

We are of the opinion, a reseller should preferably have either some form of a license to provide for any of the telecom related services or should be able to demonstrate expertise in the telecom space or should have expertise in integrating telecom services or providing telecom solutions which includes IPLC, VPN or Internet as a key component or which can acquire some of the needed expertise and should be financially sound. We believe this is necessary as its imperative for BPO, ITES, Corporate or any other entities, which use IPLC a prior expertise to be served appropriately and expertly. It is also necessary to protect the interest of the users from “Fly by night operators”.

The resellers must be allowed to resell:

- Last mile
- International bandwidth
- Backhaul

M/s Reach (Ltd.)

Qualifications of a Reseller

REACH submits that it is essential to ensuring competition in the IPLC market in India that any reseller regime maximise the number of active IPLC providers. Increasing the number of IPLC providers will prevent market collusion, encourage service innovation and increase customer choice in the Indian market.

REACH considers that it should be open to both ILDOs and non-ILDOs to resell IPLCs, provided that the services resold are obtained from a properly licensed operator.

Restricting resale to ILDOs (reselling each others' capacity) would not truly qualify as resale. As recognised in paragraph 2.4 of the Consultation Paper, inherent to the concept of resale is the potential to enter the market “without an infrastructure or by making value additions through-

It could be argued that China has reduced its level of IPLC pricing largely without allowing reselling. While few international carriers have been able to make meaningful inroads into China, the China international capacity market has benefited from the proximity of the fully-liberalised highly-competitive telecommunications market in Hong Kong – where resale abounds. That is, some of the lowest priced capacity in the world is available from Hong Kong, and operators in China can couple this external capacity with their own domestic

capacity to offer comparatively low price end-to-end IPLC and other external bandwidth services.

This conduit to external capacity through Hong Kong also has the effect of applying downward pricing pressure on China circuits that do not land in Hong Kong – because non-Hong Kong circuits have to compete with Hong Kong prices to virtually any location in the world. Further pricing pressure is now also building with the development of Euro-Sino land cables. As these land cables can be brought virtually to the doorstep of China without the need for direct involvement or ownership by a licensed operator in China, the incumbent operators in China may not have the same level of control over these cable systems as they do over the segments of submarine cable systems landing in China – and associated pricing.

¹ *This restriction on eligibility is discussed further in response to Question 3 below.*

-additional infrastructure owned or leased”. For the full benefits of resale to be realised, non-facilities operators must be permitted to participate in the market.

Scope of Resale Activities

The permitted scope of reseller business activities in India should be formulated as broadly as possible. A narrow definition of IPLC resale activities would inevitably lead to incumbent operators trying to impede resale by constantly challenging technical definitions and/or distinctions. A broad definition permits resellers to increase their investment in facilities in order to substitute or add value to the wholesale products they acquire from ILDOs. The operation of switches and other facilities not directly involved in the customer access network should be included within the scope of permissible reseller activities to allow resellers to increase their deployment of facilities as may be efficient as their business develops.

Fully liberalised telecommunications regimes in countries like Australia and the UK, essentially, allow all services to be resold. While this may not be appropriate under India’s current licensing regime, this international experience shows that a broad and flexible approach to the types of services IPLC operators can provide is consistent with sustained market and infrastructure development.

From the perspective of customer convenience, a widely defined scope of resale will allow service providers to offer comprehensive end-to-end IPLC services. Limitations on the range of business activities should not prevent IPLC resellers from providing a complete IPLC service (including local access) to its customers. It would be a significant impediment to competition and an inconvenience to customers if IPLC resellers could not, for example, obtain local access as a wholesale input, and customers were issued two bills for the circuit (one from the UASL operator for local access and another from the IPLC reseller for other components of the service).

The essential nature of these inputs to a reseller’s business reinforces the need to create a robust regime whereby the necessary wholesale components of an IPLC service can be acquired from facilities providers at a competitive price.

In other jurisdictions a services/reseller licensee can generally call on any facilities licensee to provide different elements of a service for it. Where these elements are not available at a competitive price, a regulated wholesale regime is in place to require facilities providers to make access available. For example, a services licensee may obtain submarine cable capacity from one facilities licensee, but may ask another facilities licensee to "land" or provide cable station connection/backhaul services for this capacity. This is discussed in detail in response to Consultation Question 10.

M/s Asia-Pacific Carriers' Coalition

APCC believes that there is a significant and underserved need in India for competitive and straightforward end-to-end IPLC service contracts. Allowing international telecom service providers and others to act as "Resellers" for the Indian portion of an end-to-end IPLC service will provide competition and increase choices for customers in India and elsewhere for end-to-end IPLC service. APCC is, of course, in favor of a completely open marketplace and believes that domestic Indian entities and organizations should be eligible for 'Reseller' status. We believe that the focus should be on the Customer's convenience and an easing of the regulations to encourage end-to-end IPLC comprehensive service contract offerings in the marketplace,

APCC also is of the view that the registered Reseller, per se, will not be engaged in building infrastructure. In those cases where the entity registered as a Reseller holds other Indian telecoms licenses, facilities and infrastructure will be regulated under those licenses. Accordingly, APCC respectfully suggests that the Reseller registration not be restricted to existing categories of license holders in India. APCC believes that the interests of India as a whole can be served with a registration process akin to what currently is done with respect to DOT's successful Other Service Provider registration.

As regards to scope-of-service, APCC is firmly of the view that to be successful the Reseller program must allow true end-to-end services. This means that the Reseller program must allow the Reseller to resell (i) cross-connection (at the submarine cable landing station), (ii) backhaul services, (ii) the last-mile local loop, and (iii) other network components provided by licensed service providers necessary to provide the end-to-end solution.

M/s Organge Business Services

We suggest that the reseller should be what is known elsewhere, such as in the EU, as 'service provider' and not a licensed 'infrastructure owner' or a 'facility-based operator'. This will ensure that needful and effective competition will develop in the segment with reselling not being limited to existing domestic carriers or network operators. IPLC resellers should purely be 'service providers' (service-based) operators).

The reseller should have full rights to 'resell' with access to last mile as current NLD/ILD operators have.

M/s Sify

A reseller shall be company registered in India incorporated under The Companies Act, 1956 who may be given the right to lease wholesale bandwidth from Facility Based Operators (ILDOS) and resell the same with or without any value addition, in discreet quantities in the retail market. A reseller can either be a company having only the specific reseller license or companies already holding either of the following licenses, ISP/NLD/ILD/UASL issued by the licensor in India.

The scope of the reseller license shall include resale of direct, point to point, leased circuits between India and the destination country. The reseller licensee may provide leased circuits to the following two categories of customers:

- a. **Individuals/corporates who do not possess any other license issued by the Department of Telecom** – In this case, the reseller shall ensure that the customer is not using the leased circuit for carriage of any third party traffic or provide any kind of switched voice service to the public using the leased circuit. The leased circuit must not be connected to the Public Switched Telecommunications Network on either end.
- b. **Customers already possessing ISP/NLDO/ILDO/UASL license** – Such customers may use the leased circuit for provision of services that lie within the scope of their respective licenses.

In order to provide services, the reseller licensee must enter into agreement with existing licensees (UASL / ISP / CMSP / NLDO) or other licensed resellers to gain last mile access. The existing licensees from whom last mile infrastructure is to be leased, must ensure that they are providing services and infrastructure that fall within the scope of their license and strictly within the service area as defined in their respective licenses.

M/s Reliance Communications

The Reseller should be:

- a. an Indian Company registered under the Company's Act 1956.
- b. the scope of resale should be restricted to Resellers IPLC only i.e reseller shall ensure that the IPLC is not used for the carriage of third party traffic or to offer any form of public switched telephony.
- c. The reseller may subscribe to leased circuit services from any ILDO.

M/s AT &T Global Network

Any reasonably qualified legal entity should be eligible for authorization to provide resold IPLC circuits and services in India, subject to the foreign direct investment ceilings described below. Resale licenses should authorize the resale of all facilities and services required to provide IPLCs on an end-to-end basis, including international circuits, cable station connection and backhaul services, and domestic local and long distance circuits to the customer premise. Open market entry to provide these services is consistent with the predominant international practice in liberalized markets and would best ensure that India obtains to the greatest extent possible the well recognized benefits of competition in the form of increased private sector investment, greater efficiencies and innovation and lower prices.

M/s VSNL

A reseller in the context of IPLC market in India should be a service provider who may lease International Private Leased Circuits (IPLC) in bulk capacity from any of the licensed ILDOs and then resell them on a retail basis to its own end user / customers

on demand in smaller denominations of E1s, multiples of E1s or fractions of E1s by de-multiplexing the bulk capacity purchased from the ILDO. For avoidance of any doubt, Resellers should, by definition, only “resell” IPLC services of ILDOs and therefore should not be allowed to procure capacity directly from cable systems / cable operators (for example, as MIU Kms from consortiums like SMW3, SMW4, etc.). This would ensure that the Resellers do not buy infrastructure from non-Indian / un-licensed entity..

The resellers scope of service should be defined in a manner so as to facilitate them buying IPLC in bulk from the licensed ILDOs and then resell the IPLC on a retail basis in smaller denominations by de-multiplexing the bulk bandwidth. The scope of service should further include all service liabilities including customer support, service level, monitoring and security obligations.

Resellers may resell retail IPLC from their own PoPs without modification or may also choose to make value additions like creating different billing plans or targeting their marketing on specific user groups, etc. Establishment of a PoP will also ensure that a reseller has complete control over the services it provides.

M/s BT Global Service

Resellers generally are the entities registered in the country to provide a particular retail service to the end users by procuring the same in bulk from facility based operators. Resellers are often Non Facility Based (Service Based) Providers which should be regulated very lightly and have minimum or nil roll out obligations. As there are no requirements for ILDO other than the financials requirements, there should be no such roll out obligations for Resellers. Therefore any entity registered in India who wishes to provide retail International connectivity services should be permitted to be a Reseller.

Regarding scope of Resale, it should cover end to end provision of all types of IPLC services including Leased Data Circuits, Leased Voice Grade Circuits and provision of VPN based on any technologies like IP, ATM, Frame relay etc., including the domestic and last mile connectivity.

M/s HCL

Any eligible, non facility based operator, Franchisee, including NLDOs etc. may be permitted to resale the IPLC. International practice shows that in many countries the number of IPLC providers are very large and most of them are non-facility based operators, who do not own the international cable systems. These non-facility based operators called as Resellers. The Resellers will buy higher capacities of International bandwidth from the ILDOs & NLDOs, in wholesale & can do reselling through disaggregating the higher capacity, into smaller denomination, without infrastructure or by making value additions through additional infrastructure owned or leased. The Reseller of IPLC should be allowed to access the end users.

M/s Tata Teleservice Ltd.

A reseller in the context of IPLC market in India should be a service provider who may lease International Private Leased Circuits (IPLC) in bulk capacity from any of the licensed ILDOs and then resell them on a retail basis to its own end user / customers

on demand in smaller denominations. Resellers should, by definition, only “resell” IPLC services of ILDOs and therefore should not be allowed to procure capacity directly from cable systems / cable operators (for example, as MIU Kms from consortiums like SMW3, SMW4, etc.). This would ensure that the Resellers do not buy infrastructure from non-Indian / un-licensed entity. The scope of service should further include all service liabilities including customer support, service level, monitoring and security obligations. Resellers may resell retail IPLC from their own PoPs without modification or may also choose to make value additions like creating different billing plans or targeting their marketing on specific user groups, etc. Establishment of a PoP will also ensure that a reseller has complete control over the services it provides.

Shri P.K.Basak, (Dir. & Sr. Advisor)

Any company with marketing & trading skills (preferably in Telecom sector) could become a good fit to be a Reseller. For VSAT service providers, ISPs with or without Gateways, Other Service Providers (OSPs) etc, it will open up new opportunities. New parties - also keen to enter in the Telecom business - could be the new entrants.

The resale in its simplest form will be retailing bandwidth out of bulk purchase of capacity. Other form of services may extend to providing bandwidth on demand, bandwidth trading (like a stock market buying & selling), etc. It will not involve in any switching, connection to Public Networks & real time voice telephony. Essentially a Reseller will be a non-Facility Based Operator (non FBO). Unlike in other countries India is yet to open up the sector to switch based Value Added Resellers (VARs) using facilities & equipments to provide customized VA services in select market segments.

IPLC market in India covers BPO, KPO, LPO, Banking, Financial services, IT, ITES, CUG, Intranet, Extranet etc. The potential through higher levels of competition is enormous. With 2007 being as well declared as the Year of Broadband, take up growth can also be far reaching.

Q.2 What eligibility criteria should be set for Resellers? Please comment with reasons?

M/s BSNL

The eligibility criteria for Resellers may be same as applicable for any other licensed telecom service provider. There appears to be no reason to have different eligibility criteria.

M/s Bharti

In order to maintain the level playing field between the ILDOs and Reseller as well as to ensure that only serious players can act as a Reseller, the following eligibility criteria should be prescribed for the Resellers:-

- a) The Reseller should pay the same Entry fee and Licence Fee, which is presently applicable for ILDOs. Since, the Government has already reduced the Entry Fee as well as Licence Fee to great extent; the applicability of Entry Fee and Licence Fee would ensure the entry of only serious players, who has the minimum financial standing and are keen to offer their services on long term basis.
- b) From time to time, we have been representing to the Department / Regulator that the provision of the Bank Guarantee should be removed for the telecom operators. While, we hope that the Government / Regulator would consider our request favourably, however, till a favourable decision is taken, the Reseller should also be subject to the provision of Performance Bank Guarantee (PBG) / Financial Bank Guarantee (FBG) as ILDOs.

As stated above, the overall regulatory and licensory framework for Resellers of IPLC should be in line with that of ILDO for PBG, FBG, Entry Fee, License Fee, License Period etc. Only the sections dealing with voice service would not be applicable for them.

The reseller should be permitted to offer capacity denominations of nx64, E1, nxE1 up to DS3, but not including DS3 in order to create market demarcation with the existing wholesale carriers. Customer grievances redressal mechanism, associated organization structure and process.

The Hon'ble Authority would appreciate that after adopting the above approach, we can hope to stop fly by the night type of operators who can close shop overnight leaving their customers high and dry.

M/s BPL

As mentioned in our general comments, the entry and regulatory conditions for the Resellers should be very simple and less stringent so as to attract adequate number of players. Some experience in provision or marketing of telecom and/or IT enabled services may be preferred for licensing of IPLC Resellers.

COAI

- a. The entry and regulatory conditions for the Resellers should be simple so as to attract adequate number of players into this segment.
- b. It is suggested that some experience in provision or marketing of telecom and/or IT enabled services may be preferred for licensing/registration of IPLC Resellers.

M/s Pacific Internet

As mentioned earlier, the interests of the end users should be protected. A reseller should:

- Preferably have either some form of a license to provide for any of the telecom related services or
- should be able to demonstrate expertise in the telecom space or
- should have expertise in integrating telecom services or providing telecom solutions which includes IPLC, VPN or Internet as a key component
- Should be financially sound.
- Should be able to demonstrate relation ship with service providers and carriers.

A license or prior expertise or carrier management capabilities coupled with financial health will give the necessary confidence to the customers to go the resellers. IPLC is very integral to the BPO / ITES business and it is not advisable to take chances with resellers who are looking for short term gains. Resellers with the mentioned expertise will have proper processes, systems and the skill to do a significantly better job.

M/s Reach (Ltd.)

To be eligible, resellers should have capacity landing in India (if they are international operators) or, be able to access such capacity through commercial contractual arrangements with international operators. We consider this criterion to be important to ensuring market integrity and the quality of IPLC services.

Within this general limitation on eligibility, we submit that India should adopt a light regulatory approach, as taken in the Malaysia, Singapore, Hong Kong, and the Philippines. As discussed previously, it is essential to the development of competition that resellers are allowed easy market entry and have access to wholesale inputs necessary to provide an end-to-end service. Barriers to reseller market entry will impede competition and the associated downward pricing benefits which the TRAI is looking to achieve from resale operations will not materialize. Accordingly, the eligibility criteria for resellers should be minimal and framed in broad terms.

M/s Asia-Pacific Carriers' Coalition

APCC feels that the Reseller program must focus on providing Indian and international (MNC, Investors) customers with the full end-to-end IPLC solution. Customers may become confused if some resellers do not have the ability to provide all segments of the service.

Global telecommunications companies who either have their own cable capacity touching India, or can demonstrate that they have contracted for such capacity, should be eligible. Similarly, other entities that can demonstrate that they have commercial contract mechanisms in-place to both (i) provide the international transit capacity and (ii)

service the distant-end, also should be eligible. Any entity, such as an ISP, with the ability to secure international transit service from a member of a submarine cable consortium, and the ability to provide the distant end local access (either directly or in combination with the services of licensed local access service providers on the distant end), should be eligible.

M/s Organge Business Services

The eligibility criteria for the reseller should be as limited as possible. To substantiate this-under the European Union (EU) regime of General Authorizations (the EU 'Licensing regime') there are only limited requirements for operators. The market entry, licensing, requirement only comes down to a completing a Notification process, where some of the basics are requested (Please see e.g. Articles 3,4,6 of the Annex-Directive 2002/20/EC of the European Parliament and the Council on Authorization of Electronic Communications Networks and Services.)

M/s Sify

The purpose of introducing resellers is to enhance capacity usage, promote competitiveness and drive innovation. All these should culminate into lowering of prices but not at the cost of reliability. As mentioned in the consultation paper, leased circuits are vital and very critical infrastructure for businesses and corporates. Therefore, due caution needs to be taken to avoid non-serious players operating just with the sole intention of generating some quick revenue. We feel, though there should not be any limit on the number of resellers being allowed to operate, strict measures needs to be implemented keep a strong check on the activities of resellers. A light touch regulatory regime would be appropriate for resellers while some minimum eligibility criteria should be set in order to discourage absolutely non-serious players.

- (i) The Licensee should be a Company incorporated under The Companies Act, 1956 in India. A reseller license may also be held by a Limited Liability Partnership, and
- (ii) The Authority should determine a minimum net worth of the individuals owning or combined net worth of individuals holding majority stake in the company.

M/s Reliance Communications

The eligibility criteria for Resellers should be:

a. Net worth as well as paid up capital of Reseller should be similar to that of ILD operators on the date of application. The reseller should be required to maintain this net worth till the validity of the license.

b. Reseller should also submit Financial Bank Guarantee (FBG) of Rs. 8 crores within one year after the date of signing the licence agreement or before the commencement of service (whichever is earlier). This is required as surety for payment of license fee and adherence to the licensing conditions.

M/s AT &T Global Network

To foster open market entry, eligibility criteria for resellers should be objective and transparent and should be the minimum necessary to ensure competence and the ability to supply services in a lawful manner. Such an approach would be consistent with established international trade principles, as set forth in Article VI of the WTO General Agreement on Trade in Services, and would encourage competition to the fullest extent.

M/s VSNL

Following eligibility criteria should be set for Resellers.

- The applicant should be an Indian company registered under Companies Act, 1956 which is a requirement for all other licenses of telecom services as well.
- Net worth and Paid Up Capital of the applicant company should be same i.e. Rs.2.5 crores similar to that prescribed for an ILDO in the ILD licence. This will ensure that only serious (and capable) companies can become resellers to provide IPLC which can be a critical component of the customers' business / networking requirements.

M/s BT Global Service

As mentioned above the eligibility criteria for a Reseller should be much lighter than that for ILDO. In fact the resellers should be treated like "class" category of service providers authorized to provide such service just by simple registration with the licensor.

M/s HCL

The applicant must be an Indian company, registered under the Companies Act 1956.

M/s Tata Teleservice Ltd.

Following eligibility criteria should be set for Resellers.

- The applicant should be an Indian company registered under Companies Act, 1956 which is a requirement for all other licenses of telecom services as well.
- Net worth and Paid Up Capital of the applicant company should be same i.e. Rs.2.5 crores similar to that prescribed for an ILDO in the ILD licence. This will ensure that only serious (and capable) companies can become resellers to provide IPLC which can be a critical component of the customers' business / networking requirements.

Shri P.K.Basak, (Dir. & Sr. Advisor)

Since bandwidth is in focus as a premium resource some eligibility criteria for Resellers should be in place:

- An Indian registered company
- Minimum Net Worth (to be specified)
- Cross holding in related Telecom Service Companies (like CMTS / UASL / NLDO / ILDO) to be limited to max 10% equity (to ensure competition norms)
- Outline of Business Plan for at least initial 3 years
- Full Security Clearance (or conditional approval if the applicant is already under investigation)

Q.3 What should be the maximum limit of total foreign equity to be maintained in the Reseller Company at any time?

M/s BSNL

This service is not capital intensive. Therefore, foreign equity participation does not appear a necessity. However, if it is decided to permit foreign equity, it could be on the lines as already decided for the telecom sector.

M/s Bharti

We feel that FDI norms should also be same for the Resellers as that stipulated in the ILD license.

M/s BPL

The total direct and indirect foreign investment in the reseller company should not exceed 74%. All the terms and conditions for foreign investment as applicable to the other telecom licensees should also apply to resellers of telecom services.

COAI

- a. The FDI norms for Resellers should be the same as that stipulated in the ILD license.
- b. Thus, the total direct and indirect foreign investment in the reseller company should not exceed 74%. Further, all the terms and conditions for foreign investment as applicable to the other telecom licensees should also apply to resellers of telecom services.

M/s Pacific Internet

We believe that there should be no restriction on the percent of foreign equity of the entity registered as a Reseller. A reseller will be a virtual player, he will be selling infrastructure which owned by NLD / ILD operators. This program is only to increase the market reach.

M/s Reach (Ltd.)

We submit that the amount of foreign equity in a reseller should be unrestricted.

Policy justifications for limiting foreign ownership of basic infrastructure facilities used to provide value-added services relate to the importance of domestic ownership of key infrastructure and national security. These policy concerns do not apply to resellers as resale by foreign-owned entities will not affect the underlying ownership of infrastructure. National security concerns can be addressed at the facilities provider level (without imposition of additional burdens on resellers).

“We note no eligibility criteria apply in fully liberalized markets like UK or Australia, which no longer rely on licensing regimes to regulate

communications service providers. Rather, anyone can participate, provided they comply with the relevant telecommunications legislation. The UK and Australian markets remain vigorously competitive and highly innovative”.

REACH notes that IPLCs by nature involve an international dimension and foreign investment restrictions may encourage artificial ownership and contracting structures that reduce the operational efficiency of resellers and reduce their capacity to deliver lower prices to India consumers.

M/s Asia-Pacific Carriers' Coalition

APCC is of the view that the goal should be to maximize the number of qualified Resellers serving the IPLC marketplace in India. Thus, APCC respectfully submits that there should be no restriction on the percentage of foreign equity of the entity registered as a Reseller.

APCC is not unmindful of TRAI's previous comments on this issue (e.g., DOT'S November 3, 2005, Press Note regarding FDI percentage limitations), but respectfully suggests that the conditions relevant to requiring caps on foreign equity ownership in facilities or value-add service provider are inapplicable to the Reseller program. All telecom facilities in India will continue to be owned, provided, and controlled by the Indian-licensed ILD or NLD. The Reseller will be provisioning and managing the end-to-end IPLC service, aggregating invoices and billing, collecting and paying for the various service segments. The 'value-add' of the Reseller program for India is primarily in terms of market efficiency, not technology or telecommunications infrastructure.

For these reasons APCC respectfully submits that no material benefit would accrue to India by requiring local equity ownership.

M/s Organge Business Services

There should not be a limitation. This is a potential barrier to entry for international/global operators.

M/s Sify

We feel that there is no need to mandate a maximum limit of total foreign equity to be maintained in the reseller company. A reseller should not have the right to set up an International gateway since traffic from the reseller's customers will route through the International gateways of the licensee from whom wholesale capacity has been leased. Therefore, even a company with majority or total foreign holding may also act as a reseller after acquiring the reseller license and subject to fulfillment of other eligibility conditions.

M/s Reliance Communications

The maximum limit of total foreign equity in the Reseller Company should be 74% in line with the current telecom policy.

M/s AT &T Global Network

All foreign ownership restrictions impede effective market entry and competition. AT&T accordingly encourages the Government of India to allow 100 percent foreign

ownership for all forms of telecommunications license . AT&T commends India's recent measures to increase foreign direct investment limits to 74 percent for ILD and NLD operators, and encourages the continuation of this liberalization process to remove all such limitations.

M/s VSNL

The maximum limit of total foreign equity to be maintained in the company should be as admissible in telecom service sector with the same terms and conditions as are being settled for other telecom services including security related conditions.

M/s BT Global Service

For ILD licence which allows the provision of many services including retail IPLC service and switched voice service, the total foreign equity permitted is 74%. For a Reseller company which will be permitted to provide only the lease line connectivity on retail basis without setting up of its own infrastructure the same restriction is not justified. As the Reseller will be procuring its infrastructure from ILDOs, there appears to be no need for any maximum limit on the foreign equity in the company. Such a provision would encourage more foreign entities to invest in the country and hence can help bringing in more Investment. Resellers should be treated similar to the value added service providers like ISPs, OSPs etc. where there is no limit on the foreign equity.

M/s HCL

FDI should not exceed 74%.

M/s Tata Teleservice Ltd.

The maximum limit of total foreign equity to be maintained in the company should be as admissible in telecom service sector with the same terms and conditions as are being settled for other telecom services including security related conditions.

Shri P.K.Basak, (Dir. & Sr. Advisor)

Resellers (SBO) may be allowed to max 100% FDI similar to ISPs (without Gateways), IP-I etc. Foreign entities from friendly countries will only be allowed to participate in ILD value creation. Foreign investment may also be put on automatic routes.

Q.4 What should be the entry fee applicable for a Reseller in IPLC? Please substantiate the answer with reasons.

M/s BSNL

The entry fee should be reasonably high to ensure that only serious players enroll themselves. This will be in the interest of the ultimate users as there will be a high level of confidence in the continuity and quality of service. However, it should not be so high that it de-motivates the potential players and makes it an entry barrier. It is felt that minimum entry fee should be equivalent to that applicable to an ILDO.

M/s Bharti

In order to maintain the level playing field between the ILDOs and Reseller as well as to ensure that only serious players can act as a Reseller, the following eligibility criteria should be prescribed for the Resellers:-

- a) The Reseller should pay the same Entry fee and Licence Fee, which is presently applicable for ILDOs. Since, the Government has already reduced the Entry Fee as well as Licence Fee to great extent; the applicability of Entry Fee and Licence Fee would ensure the entry of only serious players, who has the minimum financial standing and are keen to offer their services on long term basis.
- b) From time to time, we have been representing to the Department / Regulator that the provision of the Bank Guarantee should be removed for the telecom operators. While, we hope that the Government / Regulator would consider our request favourably, however, till a favourable decision is taken, the Reseller should also be subject to the provision of Performance Bank Guarantee (PBG) / Financial Bank Guarantee (FBG) as ILDOs.

As stated above, the overall regulatory and licensory framework for Resellers of IPLC should be in line with that of ILDO for PBG, FBG, Entry Fee, License Fee, License Period etc. Only the sections dealing with voice service would not be applicable for them.

The reseller should be permitted to offer capacity denominations of nx64, E1, nxE1 up to DS3, but not including DS3 in order to create market demarcation with the existing wholesale carriers. Customer grievances redressal mechanism, associated organization structure and process.

The Hon'ble Authority would appreciate that after adopting the above approach, we can hope to stop fly by the night type of operators who can close shop overnight leaving their customers high and dry.

M/s BPL

The entry fee for a reseller in IPLC should be lower than full-fledged ILDO licence. The entry fee of maximum of Rs. 50 Lakh to 100 Lakh may be prescribed for registration of IPLC Resellers.

COAI

- a. The entry fee for a reseller in IPLC should be lower than full-fledged ILD licence as the reseller does not have the responsibility to set up / create network infrastructure
- b. It is suggested that the quantum of entry fee may be decided by the Authority after taking into consideration the various rights and responsibilities of the reseller vis-à-vis the ILDO.

M/s Pacific Internet

A significant fee will discourage interested players. We should look at the example of some of the other countries mentioned in the consultation document.

M/s Reach (Ltd.)

Entry fees should be minimal. Potential resellers will include smaller niche players addressing particular market segments and who will be crucial to driving market developments but cannot afford high entry fees. A high licence fee regime will create a barrier to resale market entry, and consequently defeat the fundamental goal of resale – to promote competition and service innovation to the benefit of end users.

REACH submits that ILDOs and NLDOs are likely to pass through to resellers their existing AGR-based licence fees as part of the wholesale charges for IPLC services. The composition of an additional AGR-based licence fee on the reseller would “double-tax” the service provided by the reseller to the consumer and would significantly affect the competitiveness of resellers against ILDOs/NLDOs.

REACH would support a flat licence fee for resellers that reflected the administrative costs of the regulator in overseeing the reseller market.

Other jurisdictions have recognised the importance of low annual fees to the success of the resale market: in Singapore it is less than US\$3,000 (annual), Hong Kong less than US\$100 (annual) and Philippines less than US\$1,000 (one time).

Alternatively, if a 6% AGR fee is imposed on resellers, REACH submits:

- (a) the facilities provider’s revenue from wholesale inputs to reseller IPLC activities should not be included in their 6% AGR levy (to avoid double-taxation); and
- (b) the non-India component of any IPLC provided by a reseller be excluded from the 6% AGR levy paid by resellers (to avoid taxation of services and facilities acquired and operated outside India.)

M/s Asia-Pacific Carriers' Coalition

APCC feels that the entry fee should help defray TRAI/DOT's actual costs in administering the program, but that should be the limit of it. As noted above, APCC feels that the primary objective is market efficiency and ensuring that Indian and

International (MNC's, Investors) Customers enjoy a robust, competitive marketplace for end-to-end IPLC Services.

A substantial entry fee will discourage qualified entrants from registering as Resellers, to the detriment of the competitive marketplace, and thus to Indian Customers.

M/s Organge Business Services

The entry fee should be as low as possible or nil, such as it is not to become a barrier to entry. If Resale will be allowed through specific licenses, the license fees attached should only relate to the administration costs that the regulatory body TRAI and Department of Telecommunications (DoT) has to administer this segment. As this is an activity that does not require many government resources in terms of administration, it should have low or no license fees.

Please see Article 12 of the EU Authorization Directive (Annex), as mentioned in Q 2, related to the license fee principles as mandated by the EU. Therefore most EU member states have low or even no license fees for Resale activities.

M/s Sify

The purpose of imposing an entry fee is to filter out non serious players from the market. Since, the reseller license would be a liberal one with no roll out obligations and low annual license fee, there is a chance that non-serious players might enter the market. This is undesirable since IPLCs are critical infrastructure for businesses and reliability of the service provider is of prime importance.

Since none of the provisions of the reseller license would impose any liability of heavy investment on the licensee, the entry fee may be the only way to deter and keep put non-serious players. Therefore, we feel that a suitable entry fee may be imposed so that the market do not remain wide open to everybody while at the same time should not put heavy burden on serious players having legitimate business cases.

M/s Reliance Communications

The entry fee applicable for Reseller should be similar to that applicable for ILDOs.

M/s AT &T Global Network

Any license entry fee, whether for facilities based or resale operations, should be no higher than necessary to recover the administrative costs associated with the application and related regulatory monitoring activities. As TRAI notes in the Consultation Paper (p. 14), the general international practice is to follow this minimal cost-recovery approach.

M/s VSNL

As Resellers would be competing with ILDOs in the IPLC market, we feel that the entry fee applicable to a Reseller for a reseller licence should be equal to that of an ILDO (i.e. Rs.2.5 crores), for the reason of maintaining a level playing field. The other reason

for proposing same entry fee for resellers is to prevent non-serious and fly-by-night operators from entering into national security sensitive services of international bandwidth selling.

M/s BT Global Service

Resellers will offer only a small portion of the services of ILDOs and other operators in India and are unlikely to enter the market if the barriers to entry are too high. Large entry fees may become an impediment for the entry of smaller players in this segment, thereby defeating the very purpose of introduction of Resellers. It is worth mentioning that in Singapore there is no entry fee for Service Based Operators which also includes Resellers. Similarly, in Hong Kong, no entry fee is levied. In Korea, ISPs which are very lightly regulated are permitted to Resell IPLCs. Similarly, in Europe (U.K included) no licence fee is levied for the resale of IPLCs. Therefore it is strongly recommended that no entry fee should be levied for the Resellers in India.

M/s HCL

There should be NO entry fee because a Reseller only sells the products which the service provider is authorized to sell under the licence, i.e.he sells what he buys from the service provider and gets his nominal arbitrage on difference between bulk rate and retail rate. NLDOs should be allowed to resale the IPLC, with out paying additional entry Fee.

M/s Tata Teleservice Ltd.

As Resellers would be competing with ILDOs in the IPLC market, we feel that the entry fee applicable to a Reseller for a reseller licence should be equal to that of an ILDO (i.e. Rs.2.5 crores), for the reason of maintaining a level playing field. The other reason for proposing same entry fee for resellers is to prevent non-serious and fly-by-night operators from entering into national security sensitive services of international bandwidth selling.

Shri P.K.Basak, (Dir. & Sr. Advisor)

For Resellers perhaps a nominal entry fee of approx Rs 5 lakhs may suffice (while considering in proportion the recently reduced entry fees of Rs 2.5 crores for ILDOs). As always the entry fees will be onetime & non-refundable.

Q.5 Enumerate the factors that should be taken into account while determining the Licence fee for Resellers? What should be the level of Licence fee? Should minimum amount of licensee fee be specified irrespective of AGR?

M/s BSNL

On the logic given in answers of Question 2 to 4, the licence fee can also be pegged to the levels already prescribed for ILD license, subject to a minimum of Rs. 1 crore.

M/s Bharti

As stated above, the level of Licence fee for the Reseller should be the same as ILDOs i.e. 6%, based on revenue sharing regime. The Hon'ble Authority should keep away from Fixed Licence Fee keeping in the view the past experiences, which resulted into migration of the telecom operators from fixed licence regime to revenue share regime.

M/s BPL

The licence fee for the IPLC Resellers should be the same as for ILD/NLD licensees i.e. 6% of AGR. Any differential in license fee resulting in non level playing field between the various players eligible for providing the same facilities/services is likely to lead to grey market and by-passing of revenues/licence fee. However, in order to avoid double charging of licence fee to the end customer for the sale of the wholesale bandwidth by the ILDO and retail bandwidth by the reseller, credit may be given to the reseller for the licence fee payable on the bandwidth charges paid by the reseller to the whole seller.

COAI

- a. The licence fee for the IPLC Resellers should be the same as for ILD/NLD licensees i.e. 6% of AGR.
- b. Any differential in license fee would not only result in non level playing field between the various players who are providing the same facilities/services, but is also likely to lead to encouragement of grey market activities, by-passing of revenues/licence fee, etc.
- c. Further, in order to avoid double charging of licence fee to the end customer for the sale of the wholesale bandwidth by the ILDO and retail bandwidth by the reseller, credit may be given to the reseller for the licence fee payable on the bandwidth charges paid by the reseller to the whole seller.

M/s Pacific Internet

There should not be double levies. 6% AGR should be levied only once. This is most critical

There should be only a minimum annual fee. One can look into examples of other countries mentioned in the consultation document.

M/s Reach (Ltd.)

Entry fees should be minimal. Potential resellers will include smaller niche players addressing particular market segments and who will be crucial to driving market developments but cannot afford high entry fees. A high licence fee regime will create a barrier to resale market entry, and consequently defeat the fundamental goal of resale – to promote competition and service innovation to the benefit of end users.

REACH submits that ILDOs and NLDOs are likely to pass through to resellers their existing AGR-based licence fees as part of the wholesale charges for IPLC services. The composition of an additional AGR-based licence fee on the reseller would “double-tax” the service provided by the reseller to the consumer and would significantly affect the competitiveness of resellers against ILDOs/NLDOs.

REACH would support a flat licence fee for resellers that reflected the administrative costs of the regulator in overseeing the reseller market.

Other jurisdictions have recognised the importance of low annual fees to the success of the resale market: in Singapore it is less than US\$3,000 (annual), Hong Kong less than US\$100 (annual) and Philippines less than US\$1,000 (one time).

Alternatively, if a 6% AGR fee is imposed on resellers, REACH submits:

- (c) the facilities provider’s revenue from wholesale inputs to reseller IPLC activities should not be included in their 6% AGR levy (to avoid double-taxation); and
- (d) the non-India component of any IPLC provided by a reseller be excluded from the 6% AGR levy paid by resellers (to avoid taxation of services and facilities acquired and operated outside India.)

M/s Asia-Pacific Carriers' Coalition

APCC submits that a principal concern of TRAI must be creation of a level playing field between facilities-based operators and Resellers. Either the ILDO/NLDO Local Access providers must be exempt from the 6% AGR revenue share when selling to Resellers, or Resellers must be exempt. Without an exemption on either the supply side or the Reseller-sales side, the Reseller will be exposed to a 6% Customer-facing price disadvantage. Given the modest margins for high-value telecom products such as IPLCs such market disadvantage could well be the difference between a viable business and failure for a Reseller. In the event that TRAI determines to exempt the ILDO/NLDO Local Access providers from the 6% revenue share and impose a levy on the Reseller, clarifying the definition of AGR is of great importance. Would-be entrants to the Reseller market need clarity and reasonable certainty to plan their businesses and attract investment. APCC furthermore submits that in the event TRAI determines to impose a 6% of AGR levy on the Reseller-customer contract side, the regulations must clearly exempt all *non-Indian* portions of the end-to-end IPLC service from such levy.

With regard to an entry or annual or minimum fee, APCC suggests that the 6% of AGR levy referred to above adequately addresses the need for license fees. Notwithstanding

the foregoing, APCC would be open to an annual, fixed license fee to address TRAI/DOT's ongoing expenses in monitoring and managing the program. APCC respectfully suggests that TRAI consider the benchmarks set by other regulators in the region in setting such fees:

Hong Kong: Under US\$100 (annual)

Philippines: Under US\$1,000 (one-time)

Singapore: Under US\$ 3,000 (annual)

In concluding on this point, APCC wishes to emphasize its belief that the Reseller program can substantially increase the competition in the marketplace but only if it is not burdened so as to disadvantage the Reseller in comparison to the facilities-based entities. APCC respectfully suggests that double taxation must be avoided and that the Indian marketplace will be best served by avoiding a large annual license fee on Resellers. Either condition will substantially discourage would-be market entrants.

M/s Organge Business Services

As suggested earlier (Q.4), this should not entail a license fee, or a low license fee. The fee should be limited to the administration cost.

M/s Sify

Considering International practices, most regulators have opted for a fixed amount payable as annual license fee. In Singapore, the licensee fee is \$5000 per year for a SBO licensee while in Hong Kong the same is \$750 per year. Looking at the small quantum of licensee fee, it is evident that the license fee only serves to recover the administrative costs of the licensor and the regulator of the respective countries.

There are several factors that we feel should be considered while determining the annual license fee in the Indian context. As rightly pointed out in the instant consultation paper, the resellers may be permitted to lease wholesale capacities from licensed service providers who are already paying licensee fee as percentage of their gross revenue. Imposing license fee again on the resellers will only add on to the total cost of the service to the end user.

Further, since we do not have any prior experience with reselling in the context of India, the validation of business cases will need more time. Under such circumstances, we are not in position to estimate the revenue generating potential of the resale market. Therefore, imposing a minimum fixed amount payable as annual license may not be logical. We feel that a small percentage of AGR, not exceeding 2% may be determined as annual license fee.

M/s Reliance Communications

As far as license fee is concerned there should be a level playing field between facility based operators and resellers of IPLC. The license fee should be similar to what ILDOs are required to pay.

There should be a minimum amount of licence fee irrespective of AGR to cover the administrative cost for the license say Rupees Twenty Five Lacs or AGR based licence fee whichever is higher.

The revenue earned by ILDOs from the sale of bandwidth to the resellers should be considered as pass through revenue, as they would be paying the license on revenue earned from the sale of IPLC.

M/s AT &T Global Network

As described above, resellers should be authorized to engage in the resale of all facilities and services required to provide IPLCs on an end-to-end basis, including international circuits, cable station connection and backhaul services, and domestic local and long distance circuits to the customer premise. TRAI should establish a consistent methodology to ensure that the 6 percent AGR license fee is charged only once, by the final licensee selling a service to an end user, whether that final party is an ILD/NLD licensee or a reseller licensee. If a party can demonstrate that certain revenue is derived from the wholesale provision of service to another licensee, that revenue should be exempt from AGR calculation. This would avoid multiple taxation, and would foster a competitively neutral environment for retail services.

M/s VSNL

USO levy and administrative charge are the major factors that should be taken into account while determining the license fee.

Considering the above two factors, we suggest that the level of license fee should be 6 % (including USO levy of 5 % and nominal administrative charge of 1 %) of AGR of the Reseller in line with the licence fee payable by ILDOs. The cost of IPLC procured by Reseller from ILDO can be deducted from gross revenue of Reseller to arrive at AGR.

We are of the view that no minimum amount of license fee irrespective of AGR needs to be specified

M/s BT Global Service

BT submits that any fee regime should have as its goal a fee structure with rates set at a level where the fees only cover the costs of running the licensing and regulatory regime.

At the very least, resellers should not be subject to the 6% revenue share currently imposed on ILDOs as the Resellers will be providing IPLC services after procuring the bandwidth in bulk from the ILDOs who are already paying 6% Revenue Share. As rightly captured in para 3.3 of the consultation paper this will lead to double loading of the same charge which may further increase the price to be paid by the End Users and make the International Bandwidth procured through Resellers more costly. The TRAI may wish to consider that the Revenue Share could be removed from the Revenue generated by the ILDO while providing the IPLCs on a wholesale basis to a Reseller treating such revenue as pass through, as inter operator charges similar to IUC, so that Annual Licence Fees is levied only once while providing the service to end users.

M/s HCL

As the Reseller will sell, only the service products, which he purchased from the authorized service provider, and earn a nominal revenue as a difference between bulk /wholesale rate and retail rate, do not require licensing and hence should pay no license fee. Mere registration of such Reseller should do. In many countries, the Resellers do not require licensing and hence pay no licence fee (ref. TRAI's consultation Paper No. 18/2006).

M/s Tata Teleservice Ltd.

USO levy and administrative charge are the major factors that should be taken into account while determining the license fee. Considering the above two factors, we suggest that the level of license fee should be 6 % (including USO levy of 5 % and nominal administrative charge of 1 %) of AGR of the Reseller in line with the licence fee payable by ILDOs. The cost of IPLC procured by Reseller from ILDO can be deducted from gross revenue of Reseller to arrive at AGR. We are of the view that no minimum amount of license fee irrespective of AGR needs to be specified.

Shri P.K.Basak, (Dir. & Sr. Advisor)

It should depend on a) what discount levels are available in bulk buying? b) Is discounting subject to price regulation or free market forces? c) Is the bandwidth being leased in Submarine cables or Satellites (usually higher prices) d) Is the business mainly in half-circuits or otherwise? d) How long is the period of license e) How critical is bandwidth supply to telecom business? f) How costly is the bandwidth resource comparatively?

Total License fees for the Resellers may be purposely fixed lower at 2-3 % of AGR. After 1-2 years of exemption the USO contribution is to be paid in principle, but the total upper limit should not exceed 6% of the AGR (same as the ILDOs). As in current telecom practice the norm should continue to remain as revenue sharing - not any specified amount.

Some of the supporting reasons are: a) Lower License fees should encourage many parties to participate especially when the recent policy changes in NLD/ILD did not bring about the desired effects till date. b) It is likely to intensify the level of competition at an accelerated pace. c) Resellers had been held back for almost 5 years though the major telcos of India have now acquired huge assets in the global links. Resellers should therefore have an easier entry to optimize & maximize the capacities as available. d) New licensees will still continue to face serious existing bottlenecks in setting up the business e) In case FBOs / VARs are allowed in future, the concept of two tier license fees with slightly higher %-age may then be for the VARs. when approved.

Q.6 Whether Licensing /Registration of Resellers should be at National Level or for specific service areas i.e. circle or service area wise? Give reasons.

M/s BSNL

IPLC does not have a mass market like telephone service. Provision of service will also involve leasing of National Long Distance Bandwidth from the CLS to the POP of the reseller in a circle service area requiring the reseller to cross the boundary of the circle which will go against the license provisions if the resellers licence is limited to a particular circle. Secondly, for viable business, it is necessary that resellers are permitted to operate at the National level. Accordingly, licence has to be at the National Level.

M/s Bharti

Since, the Licence for ILDOs is issued at the National Level, the Licensing / Registration for the Reseller should also be permitted for the National Level only.

M/s BPL

The Licensing/Registration of Resellers should be for the whole country and not limited to any single circle or service area. This is necessary on account of IPLC business being primarily confined to a limited number of locations across the country.

COAI

- a. The Licensing/Registration of Resellers should be for the whole country and not limited to any single circle or service area.

M/s Pacific Internet

Licensing should be based on the capability of the Reseller. Whether he has the ability to sell and deliver services effectively on a national or regional basis. Customers should be protected.

M/s Reach (Ltd.)

Licensing/Registration of resellers should be set at the national level. In the context of reselling services to customers with geographically disbursed locations, REACH considers that there are no benefits in limiting licences to specific service or geographic areas.

REACH further notes that local registration could increase the regulator's administrative cost.

M/s Asia-Pacific Carriers' Coalition

APCC sees no benefit to Indian customers, existing ILD's/Indran-licensed service providers, APCC members, potential Indian registered Resellers by registering Resellers on a local basis. As noted above, the Reseller program is not about infrastructure or facilities, or any other factor that would suggest any benefit to local administration of the program. The program is all about convenience for the Indian and International (MNCs, Investors) Customer and encouraging market competition for IPLC services. Local registration would decrease convenience for the all Customers (because many potential Resellers may choose only to register in one or a few localities), and it would decrease market efficiency because a Customer could choose only among the pool of Resellers that happened to be registered in the relevant location.

APCC is firmly of the view that registration of Resellers should be done at the national level.

M/s Organge Business Services

We suggest that the license for reselling should in any case be National in scope.

M/s Sify

We feel the licensing regime for resellers should be as simple as possible. Therefore, we recommend a national level license for resellers so that a single license would permit them to offer services nationally. However, the regulator may think of imposing light obligations like before commencing service in a particular circle, the licensee should duly inform the regulator with a list of clients and details of the purpose for which the leased circuits are intended to be used.

M/s Reliance Communications

The licensing / Registration of Resellers should be at National Level. This is to ensure that Resellers do not confine themselves to only metros and the benefit of competition is available to all the consumers in the country.

M/s AT &T Global Network

All licensing for resellers should be at the national level. The predominant international practice is for the provision of international services to be licensed on a national basis, and requirements for local licensing would add significant administrative burdens that would increase reseller costs, limit competition and reduce the benefits of resale for users in India.

M/s VSNL

Resellers are to obtain IPLC from ILDOs and then resell the same to the end customers. Since the ILDOs are licensed on an all India basis/national level basis, the licence for resellers should also be at the national level only. Resellers can have smaller players as their channel partners through a suitable clause providing for agent of a reseller in the licence. Thus we are of the view that resellers should be licensed on an all India basis. Additionally, this would also limit the entry of non-serious players in the security sensitive international bandwidth market.

M/s BT Global Service

A Reseller should be registered at the national level without need for any geographical demarcation. This is consistent with the ILD licence. Also as there is a trend towards unification in all segments of telecom services, Resellers jurisdiction should also be Nationwide to avoid any unnecessary paper work, administrative efforts etc.

M/s HCL

Resellers will not only promote effective competition but also will help to achieve the public interest, goal of economically efficient competitively priced high quality communication services to consumers & business. To have better/tuff competition entry for new entrants / small players, including NLDOs, should be encouraged, by way of imposing minimum limitations on them and registration of Resellers should be on circle and National level.

M/s Tata Teleservice Ltd.

Resellers are to obtain IPLC from ILDOs and then resell the same to the end customers. Since the ILDOs are licensed on an all India basis/national level basis, the licence for resellers should also be at the national level only. Resellers can have smaller players as their channel partners through a suitable clause providing for agent of a reseller in the licence. Thus we are of the view that resellers should be licensed on an all India basis. Additionally, this would also limit the entry of non-serious players in the security sensitive international bandwidth market.

Shri P.K.Basak, (Dir. & Sr. Advisor)

First it should only be License - not Registration since Resellers deal with bandwidth capacity which like spectrum is finite, limited & created at high capital costs. Also unlike IP-I infrastructure providers, Resellers are wholly in service business - even sometimes involving end users; more positive reasons for licensing.

IPLC reselling is an offshoot of the ILD business. It should therefore be at the national level. Other reasons are: a) UASL is itself the first step towards the Unified License Regime that will ultimately be the Single License for all services in One India. The trend is becoming clear. b) Telecom is a Connectivity & Convergence business without geographical borders to which Circle-wise fragmentation does not now fit in anymore. c) Today most of the service operators make high level plans for Pan India - not limited to Regions or Zones or circles. d) Certain services like Bandwidth on Demand, Bandwidth Trading etc could not be effectively provided sticking to only circle limits.

Q.7 What should be the period of Reseller Licence/ Registration? Give reasons.

M/s BSNL

There is no reason why the licence period should not be the same as that for an ILDO.

M/s Bharti

As the Reseller will offer same services as ILDOs, the period of Reseller Licence / Registration should be same as for ILDOs.

M/s BPL

The validity of the Reseller Licence/Registration should be at least for a period of 10 years so that the customers have the confidence that the reseller will be able to provide the service over a long period. The registration should be extendable for a further period of 5 years at a time.

COAI

- a. As the Reseller will offer same services as ILDOs, the period of Reseller License / Registration should be same as for ILDOs.
- b. Thus, the validity of the Reseller Licence/Registration should be for a period of 20 years, extendable for a further period of 5 years at a time.

M/s Pacific Internet

We recommend a two year renewable license. The terms for renewal, termination or exit have to be explicitly defined. It helps weed out non-performers and non-serious players. The process for renewal should be made simple.

M/s Reach (Ltd.)

The duration of the resale licence should be sufficient to allow the licensee to gain a foothold in the market and develop a full and informed assessment of opportunities for it to expand its subscriber base and/or services. To that end, we would suggest that a longer licence term is appropriate. REACH submits that a licence term of 15 years would be appropriate and in keeping with the existing provisions for ISP licences.

M/s Asia-Pacific Carriers' Coalition

The APCC suggests a multi-year renewable Reseller registration to provide ease of entry and exit of Resellers. TRAI may wish to adopt durations similar to those in place with regard to other authorizations in the retail telecom marketplace in India; ISP's for example, currently enjoy 15 years. The APCC also suggest that if a Reseller desires to exit the marketplace, that such exit be subject to regulations ensuring that their existing services are properly to be migrated by their vendor to other Resellers or an ILD.

Additionally, it is also in the interest of any prospective Customer be properly notified through a communication program informing of any impending services shut-down/discontinuation.

M/s Organge Business Services

Although it is difficult to make proposals on this, we feel that the period for license duration should be about 5 years.

This is either too long nor too short. It encourages potential investors to make investment commitments for a 5 –year horizon but ensures the regulatory conditions do not become binding in the fast changing telecom environment in the country. It will allow for a solid period of time to develop a resale business in this segment, but if the period is too long new developments, realities in the marketplace may have surpassed, overtaken in segment area that license covers. One year is too short, 10 years too long, therefore the pragmatic median of 5 years.

M/s Sify

Considering International examples, we see that the period for reseller licenses is restricted to a short duration, usually between one to three years. For example, in Singapore, a SBO license has an initial validity of three years while in Hong Kong, the validity is just one year.

Therefore, we suggest the validity of the reseller license to be 3 years extendible by 3 years at a time, subject to satisfactory compliance of all the license conditions.

M/s Reliance Communications

The period of Reseller Licence / Registration should be for five years. The renewal should be automatic based on the application filed by the Reseller. This is to ensure that the Resellers are using the licence for providing the services and not keeping the licence idle as has been the case with ISP licensees.

M/s AT &T Global Network

Resellers should be authorized to provide service for a minimum period of ten years to minimize administrative costs and should be allowed to discontinue services within this period subject to the approval of TRAI and the provision of appropriate notification periods for customers.

M/s VSNL

As an ILD license is valid for 20 years, license period of a Reseller should also be for 20 years. Given that some of the existing ILD licenses have a remaining validity period of only about 15 years, appropriate adjustments would need to be made in the resellers' licenses (since a Reseller can only exist when an ILDO exists). However since this is the first time reselling is being permitted in the Indian market, therefore, there is no precedent or experience of behaviour of resellers.

M/s BT Global Service

Like any other Telecom Licensees/Registration including those for Value Added Services, the period of Reseller Licence/ Authorisation should also be approximately 20 years which is the normal tenure of a telecom licence in India. In any case the government as a licensor have power to Revoke/Cancel/Suspend such permission in the event of any fault/ non compliance by the service provider.

M/s HCL

Registration should be issued on non-exclusive basis for a period of 10 years, extendable by 5 years at one time. because most of the Resellers will be non-facility based operators & will not be having their own infrastructure and thus will not require long period to built up their network/business. The serious players will get further extension based on their performance & the non-serious players may leave the field, with out getting further extension with out waiting for a long period..

M/s Tata Teleservice Ltd.

As an ILD license is valid for 20 years, license period of a Reseller should also be for 20 years. Given that some of the existing ILD licenses have a remaining validity period of only about 15 years, appropriate adjustments would need to be made in the resellers' licenses (since a Reseller can only exist when an ILDO exists). However since this is the first time reselling is being permitted in the Indian market, therefore, there is no precedent or experience of behaviour of resellers.

Shri P.K.Basak, (Dir. & Sr. Advisor)

Resellers could have a renewable license for 10 years. It should then help in negotiating long term bulk contracts.

Q.8 (a) Should there be any rollout obligations for Resellers? If yes, justify with reasons and suggest appropriate criteria.

M/s BSNL

Keeping in view the objectives enunciated in the Consultation Paper for bringing in the resellers in IPLC market, it is necessary that some rollout obligations are prescribed, failing which all the resellers will tend to concentrate only in the lucrative geographical areas. It is felt that the resellers should be asked to set up their POPs in at least 10 circles within a period of one year from the date of grant of licence. The minimum POP capacity i.e. the connectivity from the CLS to the POP of the reseller, has to be 34 Mbps / DS3.

M/s Bharti

- a. Reseller should be a minimum facility based operator. The basic infrastructure, like demuxing equipment, interconnect arrangement, alarm & fault management system, security monitoring etc, should be owned and deployed by them to enable buying large wholesale capacities and selling in smaller capacities as seamless end-to-end service. This is important in ensuring delivery of a high level of QoS to their customers.
- b. The reseller should be able to monitor the traffic and usage patterns such that any misuse or attempt to misuse can be detected and curbed.

M/s BPL

There should be no roll out obligations for the Resellers as otherwise there would be no difference between the Reseller and the ILDO who has very nominal role out obligations under the present ILD licence.

COAI

- a. As there is no network infrastructure being set up / created by the reseller, there should be no roll out obligations prescribed for the Resellers.

M/s Pacific Internet

No, there should not be any roll-out obligations.

M/s Reach (Ltd.)

REACH respectfully submits that it is inappropriate to impose rollout obligations on resellers. Resellers are non-facilities based competitors and it would be directly contradictory to that status to require resellers to roll-out facilities to cover particular geographical areas.

As discussed in the Consultation Paper, the role of resellers is to enhance competition in the market by delivering innovative offerings to end users. Imposing capex

obligations on resellers would increase their investment risk, discouraging market entry and inhibiting the economic efficiencies passed to end users by resellers, including limiting the speed and flexibility at which resellers can customize packages to efficiently serve the retail market.

REACH recognizes that the development of India's national network infrastructure and a vigorous IPLC services market are both important to the growth of the telecommunications market and the wider Indian economy. The wholesale price paid by resellers for IPLCs ultimately helps fund this goal by contributing to the AGR of the infrastructure services provider. REACH submits it is inappropriate to require a "double contribution" from resellers by imposing roll-out obligations on them.

M/s Asia-Pacific Carriers' Coalition

The registered Resellers principal role is to facilitate competition within the services market, not develop infrastructure or facilities. The APCC is of the view that there should not be any network rollout obligations imposed on Resellers, as there would be no appreciable benefit to Customers or the marketplace.

M/s Organge Business Services

No

M/s Sify

We feel there should not be any roll-out obligations for resellers. At this time, there is hardly any rollout obligations for other licensees and the roll out obligations for some licensees are being done away with. Therefore, imposing any roll out obligation for resellers would not be just.

Imposing certain amount of performance bank guarantee does not arise if no roll out obligation is imposed on resellers.

M/s Reliance Communications

The Reseller should be mandated to have atleast one point of presence in the country. This is necessary to ensure that all the capacities acquired for resale are connected to this point of presence rather than resale through paper transaction.

M/s AT &T Global Network

Resellers should not be subject to roll-out requirements, which are inconsistent with operations on a non-facilities based model.

M/s VSNL

Yes, there should be a roll out obligation for resellers. In case of ILDOs the roll out obligation is to have at least one switch in India along with installation of security related monitoring equipment.

A reseller would be buying IPLC in bulk from the capacity owning ILDOs and then reselling it in smaller denominations to the end customers from its own PoPs. A reseller would therefore need to have equipment for demultiplexing the wholesale bandwidth into smaller denominations by installing suitable equipment at a number of places wherever it buys the bulk bandwidth. The reseller would also be responsible for the end to end QoS to the end-customer in cases of IPLC sold by it and would need to monitor the international bandwidth, national bandwidth and the local bandwidth for that purpose by installing an appropriate network operating center (NOC). Since the reseller would be providing the service to the end customers on a -retail basis, it would be responsible for the security aspects as well as monitoring of the links sold by it and would be required to install security monitoring equipment in that respect. The roll out obligations of a reseller should therefore mandate suitable equipment for these purposes. The commencement of the service of a reseller should therefore also be preceded by clearances from designated security agencies in respect of monitoring equipment installed by them.

Thus the roll out obligation for a reseller would include creation of minimum one PoP from where it would sell its service after demultiplexing the bandwidth. The PoP would also provide for Network Operation Center (NOC) equipment as well as equipment for security monitoring.

M/s BT Global Service

As the introduction of Resellers is basically a mechanism for optimum utilization of the infrastructure any kind of rollout obligation on them is not justified. The Resellers will be procuring their resources in wholesale from ILDOs who would have complied with the necessary rollout obligations and imposition of same on the Resellers will not serve any additional purpose . Therefore no such requirements should be imposed on the Resellers.

M/s HCL

NO. Rollout obligation should not be there for Resellers of IPLC, because they will not be required to built up their own network/infrastructure, but he will provide international bandwidth to the end users, on demand, by way of buying the same from the ILDOs.

M/s Tata Teleservice Ltd.

Yes, there should be a roll out obligation for resellers. In case of ILDOs the roll out obligation is to have at least one switch in India along with installation of security related monitoring equipment.

A reseller would therefore need to have equipment for demultiplexing the wholesale bandwidth into smaller denominations by installing suitable equipment at a number of places wherever it buys the bulk bandwidth. The reseller would also be responsible for the end to end QoS to the end-customer in cases of IPLC sold by it and would need to monitor the international bandwidth, national bandwidth and the local bandwidth for that purpose by installing an appropriate network operating center (NOC). Since the reseller would be providing the service to the end customers on a -retail basis, it would be responsible for the security aspects as well as monitoring of the links sold by it and

would be required to install security monitoring equipment in that respect. The roll out obligations of a reseller should therefore mandate suitable equipment for these purposes. The commencement of the service of a reseller should therefore also be preceded by clearances from designated security agencies in respect of monitoring equipment installed by them.

Thus the roll out obligation for a reseller would include creation of minimum one PoP from where it would sell its service after demultiplexing the bandwidth. The PoP would also provide for Network Operation Center (NOC) equipment as well as equipment for security monitoring.

Shri P.K.Basak, (Dir. & Sr. Advisor)

A simple Reseller (i.e. SBO) may not have any Roll Out obligations. However it should furnish PBG for the initial years (say 3 yrs) to ensure that it starts the service within the first year & performs satisfactorily in compliance with all the license conditions. If the licensee fails to start or does not continue operations within the initial 3 years (like the unfortunate experience with many ISPs) it may lose proportionate amounts under the PBG conditions. Performance has to be the cornerstone in all licenses.

Another suggestion: all licensees that fail to take off will appear in the negative list. This may adversely affect their future applications, if any. The purpose is to attract only the serious & committed applicants.

(b) Should there be a performance bank guarantee for the Resellers? If yes, suggest the amount and modalities.

M/s BSNL

There has to be a performance Bank Guarantee. The amount of Bank Guarantee could be same as applicable for the ILDOs and also with similar conditions.

M/s Bharti

In continuation to our response to Question Nos. (2) and (4), the Reseller should also be subject to similar PBG as being done in the case of ILDOs.

M/s BPL

There should be no performance bank guarantee as there would be no roll out obligation. However, licensor may prescribe financial bank guarantee of maximum of Rs. 50 lacs in order to ensure payment of the prescribed revenue share (6% of AGR) as license fee

COAI

- a. As there would be no roll out obligations, there is no requirement for a performance bank guarantee for resellers.

M/s Pacific Internet

As the reseller is selling a product of the ILDs, any commercial surety has to be preferable applied by the ILD. It is assumed that the ILDs will carry out due diligence and audit the resellers before they are allowed to resell their products. This will protect the interest of the ILDs and the customers.

M/s Reach (Ltd.)

Several developed markets – including Hong Kong, Singapore, UK and Australia – do not impose performance bank guarantees on resellers, and REACH respectfully submits that India adopt a similar approach. Assuming that, as proposed in this submission, no rollout obligations are imposed on resellers and the licensing fee regime is low, it should be unnecessary to demand security for the purpose of enforcing licence terms and conditions. Termination of the licence should be sufficient to encourage compliance.

REACH further submits that a “performance bank guarantee” would be an unnecessary barrier to entry and counter-productive to the goal of maximising competitive entry into the market by resellers. REACH believes that the level of investment required to establish a business entity in India to supply resale service provides sufficient capital to satisfy any government or customer claims that may be made in the event of a breach of obligations by a reseller.

M/s Asia-Pacific Carriers' Coalition

The APCC suggests that ILDs should be allowed to impose commercially-negotiated security requirements on Resellers, should the ILD feel that need. This will protect the ILDs and also the Customers by ensuring that the registered Reseller is financially sound. Global Telecom Resellers are unlikely to pose any risk of insolvency, or any material inconvenience to the Customer in terms of sudden cessation of service. The ILDs have processes and mechanisms to evaluate other Resellers and would be able to impose reasonable security requirements. It is worth noting that the ILDs and potential global telecom Resellers often have long-standing and quite stable financial arrangements that have worked well in practice for decades. APCC is of the view that requiring TRAI/DOT to administer such a program would be complex and costly, and would not represent any tangible benefit to the Indian Customer.

M/s Organge Business Services

Yes

M/s Sify

We feel there should not be any roll-out obligations for resellers. At this time, there is hardly any rollout obligations for other licensees and the roll out obligations for some licensees are being done away with. Therefore, imposing any roll out obligation for resellers would not be just.

Imposing certain amount of performance bank guarantee does not arise if no roll out obligation is imposed on resellers.

M/s Reliance Communications

The performance bank guarantee for Reseller should not be more than five crores and should be revised in line with ILD licence guidelines.

M/s AT &T Global Network

It would be extremely difficult for any regulator to establish a standard financial guarantee that would address the wide variety of potential resale arrangements without being more burdensome than necessary in many instances and thus unreasonably restricting market entry. Any necessary financial security requirements should be addressed on a commercial basis through negotiations between resellers and licensed ILD and NLD operators.

M/s VSNL

Yes; there should be a performance bank guarantee of Rs 2.5 crores (equal to proposed entry fee) to ensure fulfillment of delivery / offering date of service.

M/s BT Global Service

As no rollout obligations are recommended for the Resellers, any performance Bank Guarantee from them is not warranted. Such provision will unnecessarily result in increasing the operational cost of Resellers and raising barriers to entry. At the most, as a

surety for fulfilment of the terms and conditions of the Resale Permission/Licence some nominal Bank Guarantee as imposed in case of ISPs may be considered.

M/s HCL

For having better performance, there should be performance bank guarantee of a suitable/lower amount.

M/s Tata Teleservice Ltd.

Yes; there should be a performance bank guarantee of Rs 2.5 crores
(equal to proposed entry fee) to ensure fulfillment of delivery / offering date of service.

Shri P.K.Basak, (Dir. & Sr. Advisor)

A simple Reseller (i.e. SBO) may not have any Roll Out obligations. However it should furnish PBG for the initial years (say 3 yrs) to ensure that it starts the service within the first year & performs satisfactorily in compliance with all the license conditions. If the licensee fails to start or does not continue operations within the initial 3 years (like the unfortunate experience with many ISPs) it may lose proportionate amounts under the PBG conditions. Performance has to be the cornerstone in all licenses.

Another suggestion: all licensees that fail to take off will appear in the negative list. This may adversely affect their future applications, if any. The purpose is to attract only the serious & committed applicants.

Q.9 List out security conditions that are required to be imposed on Resellers?

M/s BSNL

Some of the important issues are as follows:

- i) The reseller should be squarely responsible for utilization for IPLC as per the law of land and rules prescribed there for by the licensor to any other licence operators.
- ii) The request for interception from security agencies should be placed directly with the reseller who in turn will pass on the same to the concerned ILDO. Detailed procedures and obligations in this regard are to be prescribed.
- iii) The reseller should be responsible to provide timely and advanced information about utilization of the bandwidth to the concerned ILDOs so that interception arrangements, as per the requirement of security agencies, can be made by the ILDO.
- iv) If the reseller provides a type of service / protocol for which the concerned ILDO does not have the capability for interception in the LIM equipment, the cost of such up gradation of the LIM equipment will have to be borne by the reseller.

M/s Bharti

- a. Resellers also should be subject to similar security conditions and obligations that are applicable for ILDOs. This is important as Reseller would offer capacities at lower capacities and will be the only ones having information about their own customers. Hence the responsibility of ensuring compliance to the legal provisions by their customers can only be handled by them. This would require establishment of monitoring facilities by them also, as this is in the interest of national security.
- b. The reseller to be responsible for security monitoring and deploying the required infrastructure, as technically possible, for the end-to-end service in order to track and diagnose and reported or suspected security breach. In case of any breach, the reseller has to own responsibility and indemnify the ILDO who has sold him bulk capacity.
- c. The reseller can commence commercial service only after obtaining the required security clearance.
- d. ILDO performs network centric monitoring at wholesale level. Reseller needs to undertake and conduct customer centric monitoring. This is proposed based on the observation that for an ILDO to trace a customer related security would equivalent to finding a needle in the hay stack. Since, presently, there are deliberations on the issue of Remote Access, the applicability of the same in the context of Reseller should also be provided.

In the larger interests of the Country's security, we strongly feel that opinion should be sought from MOD, MHA and other relevant bodies also.

M/s BPL

The Resellers will be only de-multiplexing the bandwidth and selling in smaller segments, it should not be necessary for them to provide the monitoring facilities which may require huge investments. The monitoring facilities provided by the ILDO selling the bulk bandwidth to the reseller should be able to serve this purpose. However, resellers must fulfil all requirements of customer verification and other security stipulations from time to time. Having said that the licensor will reserve the right to invoke any monitoring at the reseller facility should a need arise due to security reasons.

COAI

- a. Resellers should be subject to similar security conditions and obligations that are applicable for ILDOs. This is important as Resellers would be the only ones having information about their own customers and hence the responsibility of ensuring compliance with legal provisions by their customers can only be handled by them.
- b. It is suggested that Resellers may be required to :
 - establish monitoring facilities
 - set up security monitoring facilities by deploying the required infrastructure for the end-to-end service in order to track and diagnose and reported or suspected security breach.
 - to undertake and conduct customer centric monitoring
 - be subject to the same conditions on remote access as would be applicable to ILDOs.
- c. It is also suggested that resellers be permitted to commence commercial service only after obtaining the required security clearances.

M/s Pacific Internet

ILDOs as per their license obligations are required to install suitable monitoring equipment to monitor international links. Resellers will not be providing facilities or infrastructure and they will be reselling services and billing for the same.

As a reseller is only a SBO, we suggest that security conditions should not be imposed on them. But, a reseller should co-operate with security agencies and should also extend scrutiny of the customer database as and when demanded by the agencies. The ISP model of sharing database can be adopted here.

M/s Reach (Ltd.)

REACH understands that national security is of vital importance. We respectfully submit that it would be more effective to continue addressing this issue through ILDOs and NDLOs than through resellers, as REACH would expect that resellers will only have limited network investment (if any) and therefore would not be in a position (economically or technologically) to install surveillance facilities or assist with monitoring activities. To the extent that resellers would be in a position to install monitoring equipment, REACH agrees that this would be an unnecessary duplication.

In respect of collecting user information, REACH is unsure of the extent to which resellers would be expected to be involved in this security measure, but submits all resellers should have an obligation to co-operate with relevant authorities in regards to national security and law enforcement. To this end, resellers may be required to maintain records of those non-users to whom it provides services, their address and the addresses at which services are provided. This information may be made available to activities on request.

“Monitoring of reseller’s traffic should be possible using existing ILDO facilities at the cable landing station. The ILDO’s compliance costs of installing and maintaining these facilities will presumably be passed on to the reseller by the ILDO as part of the wholesale price for the relevant services acquired at the cable landing station”.

M/s Asia-Pacific Carriers' Coalition

ILDOS are required under their **ILD** license obligations to install suitable monitoring equipment to monitor international links. Registered Resellers will not be providing facilities or infrastructure; rather, under the Reseller registration, they will be facilitating contracting and invoicing on both the supply and Customer side. Accordingly, such a Reseller would not be in the same position as facilities-based licensees to assist with Security needs of the Indian government. APCC respectfully suggests that the proper place for such security requirements is with the ILDs, NLDs, and other facilities / infrastructure providers, as is required under the existing issued licenses.

While the APCC is of the view that Resellers should not have a role in implementing security facilities, APCC is of the view that a registered Reseller should have the basic obligation of any Indian business of the duty to co-operate with the relevant authorities in relation to national security and law enforcement investigations. APCC also would be open to a quarterly basic data reporting requirement similar to that required of Indian ISPs, as follows, modeled on the relevant portions of the current requirements placed on ILDs:

- I. The Reseller would provide a list of his subscribers, to authorized security agencies directly as well as to TRAI which would be updated at quarterly intervals. Additions and deletions in this list would be reported on a monthly basis.
- II. Identification of customers' corporate identity in the service contract would be a pre-requisite before providing the service.

M/s Organge Business Services

The reseller must be responsible for setting up equipment that provides the security agencies with the ability to monitor traffic. The reseller should also be responsible for protection of privacy of communication and ensure that unauthorized interception of messages does not take place. The reseller should not provision services in areas within the country that have been declared as security sensitive areas.

M/s Sify

Resellers will essentially lease capacities from existing NLDOs/ILDOS in India on whom strict security compliance is already imposed. Further, all traffic from the reseller’s clients will flow though the existing International gateways where we believe, elaborate

security monitoring mechanisms are already in place. Therefore putting elaborate security conditions on resellers does not make logical sense.

However, some obligations should be put on resellers by way of appropriate license clause, including but not limited to the following:

- Reporting to the licensor and/or regulator, details of all leased circuit subscribers, bandwidth leased and the services for which the leased line is being used.
- Informing the regulator, in writing, at least one month prior to starting of service in a new circle.
- In association with the licensed service providers from whom a reseller is leasing wholesale capacity, the reseller must ensure that the leased line is being used for legitimate purposes.
- Resellers must submit details of all equipments they have deployed for provisioning of services to the licensor and regulator. Any changes to the equipment setup also need to be notified within a predetermined time frame.

M/s Reliance Communications

The security conditions applicable on ILDOs should be imposed on Resellers. The Reseller should be subject to the same penalty provision as ILDOs for violation of any security conditions.

M/s AT &T Global Network

Resellers are reasonably subject to security requirements with respect to activities and information that are within their control, but should not be subject to network monitoring requirements. ILD operators are required to install monitoring equipment at Layer 1 of their network by virtue of their control over and operation of network facilities. Requiring resellers to install monitoring equipment would not only represent unnecessary duplication, as noted by the Consultation Paper (p. 17), but would also be infeasible because resellers neither operate nor control network transmission facilities.

M/s VSNL

The observation in the Consultation Paper that ILDOs have already installed security monitoring equipment and hence insisting the same to the Resellers will be an unnecessary and avoidable duplication of infrastructure does not appear to be correct particularly in view of the fact that Access Providers, NLDOs and ILDOs have all been mandated with the security monitoring equipment requirements despite of the fact that monitoring at the last mile itself in Access Provider's network would have been sufficient by the same logic.

We have reservations to the above observation in the Consultation Paper and submit that compliance to security conditions in respect of the customers of a Reseller should not be mandated on the ILDO but be with the reseller. If the argument of duplication of security monitoring related equipment were to be accepted, then it should apply equally to all NLDOs and ILDOs as well; the entire security related monitoring can be done in a centralized manner from the access providers' last mile network. In such a case, the security monitoring related equipment would not need to be installed by ILDOs and

NLDOs. Since the Government has taken a conscious decision to mandate security related conditions to all Licensees irrespective of duplication due to vital national security related interest, it is felt that the resellers should also be obliged to agree with the similar security related conditions as are applicable to the ILDOs.

The Reseller should be fully responsible to comply with the security conditions in respect of its users.

M/s BT Global Service

BT is concerned that excessive security requirements could act as a barrier to entry into the telecoms market in India and any conditions should be kept to the minimal level required. Generally the Reseller will be procuring the International Bandwidth from the ILDO who is already governed by strict security conditions under the existing licence conditions. To avoid any duplication of efforts and monitoring facilities these security conditions are not required to be imposed on the Resellers. Only to the extent that Resellers are the only party able to provide necessary security information (i.e. where ILDOs do not have the information) should they be required to do so and they should be required to do so only where absolutely necessary to address legitimate security concerns.

M/s HCL

As the Govt. have already mandated security conditions for ILDOs through ILD Licence & ILDOs are fully responsible to comply with the security conditions imposed on them through the licence sufficient arrangement/ measures are taken at the end of ILDOs there will perhaps be no need for further monitoring at the level of Resellers, because Resellers will sell the infrastructure of ILDOs, only. However the Reseller should be responsible for the genuineness & bonafidity of the end user.

M/s Tata Teleservice Ltd.

The Authority has mentioned that Resellers may not need to be mandated with the requirement of installing any monitoring equipment to comply with the security condition and imposing the responsibility of providing information regarding any user on the ILDO who has already installed such equipment.

We submit that compliance to security conditions in respect of the customers of a Reseller should not be mandated on the ILDO but be with the reseller. If the argument of duplication of security monitoring related equipment were to be accepted, then it should apply equally to all NLDOs and ILDOs as well; the entire security related monitoring can be done in a centralized manner from the access providers' last mile network. In such a case, the security monitoring related equipment would not need to be installed by ILDOs and NLDOs. Since the Government has taken a conscious decision to mandate security related conditions to all Licensees irrespective of duplication due to vital national security related interest, it is felt that the resellers should also be obliged to agree with the similar security related conditions as are applicable to the ILDOs. The Reseller should be fully responsible to comply with the security conditions in respect of its users

Shri P.K.Basak, (Dir. & Sr. Advisor)

ILD business is highly sensitive. It raises critical security issues as well. Suggest:

1. Indian Resellers will only be allowed to contract bulk capacity from licensed ILDOs - locally & abroad.
2. Resellers will have legal agreements to access Cable Landing Stations (or Satellite Gateways) as required on non-discriminatory basis.
3. Resellers will ensure that all aspects of commercial negotiations are duly concluded in accordance with the Indian Laws & Regulations. This must at least be for the upstream half-circuits.
4. IPLC capacity will only be offered to customers who are duly verified, have legally valid entities & fully entitled to such services.
5. Resellers will be responsible for the authenticity & genuine addresses, traceability etc of their users.
6. Resellers will also be responsible for all the consequences if they are found to provide any 'illegal' services or arrange to carry 'illegal traffic' from grey operators.
7. Resellers will make available User Info to the authorized security agencies on demand.
8. Resellers will disclose the type of services in detail to their respective ILDOs/Lessors.
9. Resellers may be required to install & provide additional facilities (based on their service types) for licensing, interception & monitoring by the authorized security agencies. Licensees are to bear the costs, if any.
10. Remote access to the equipments of Resellers, if any, will not be allowed outside the country. In exceptional situation specific permission may be obtained from the licensor / competent authority.
11. No technical details on any networking, equipments etc are to be sent abroad.
12. Any services near national borders & in sensitive areas (duly notified as disturbed areas / districts) should preferably be approved by the competent agencies.
13. No backhaul within the country will be allowed via overseas routing.

Q.10 Should the Resellers be allowed to access the end user through an arrangement with the Access Providers/ NLD service providers for accessing the end user for providing IPLC? Please comment with justification and reasoning.

M/s BSNL

Resellers should not be allowed to access the end user directly as is also the case for ILDOs. The customer, as per the existing regime, should continue to approach the Access Providers / NLDOs with whom the resellers will have arrangements for extending the bandwidth on end-to-end basis. If this is not followed, it will impinge upon the rights of the NLDO / Access Provider. Secondly, it will save the customer from the possible cartelization among the resellers and the NLDOs / Access Providers. It will also restrict the subscriber from exercising free choice of National Operators.

M/s Bharti

In the present licensed regime, the access to the end customers is allowed through the Access Providers only. The same view has also been reiterated in the recent Regulation on IN Connectivity. Thus, we feel that the access to the end customer should continue to be allowed through the Access Providers only.

M/s BPL

Yes, the Reseller should be allowed unfettered access to the end user through the networks of the Access Providers/NLDOs. It should be made mandatory for NLDOs/Access Providers to provide the Domestic Leased Circuits up to end user premises on reasonable terms, which should not be worse than the conditions applicable to their own customers. The resellers should also be permitted to provide their own last mile connectivity through any cable/wireless media at their own discretion, should there be such a need.

COAI

- a. In the present licensed regime, access to end customers is permitted only through the Access Providers only and it is for this right that high license fees have been paid by the access providers.
- b. This position has also been reiterated in the recent Regulation on IN Connectivity.
- c. It is thus submitted that in the case of resellers too, access to the end customer should continue to be allowed only through the Access Providers.

M/s Pacific Internet

The reseller should be allowed access to the end-customer. This is to enable them build effective long term customer relationship, carry customer satisfaction surveys and to engage the customer with attractive business propositions.

M/s Reach (Ltd.)

REACH agrees with section 2.8.2 of the Consultation Paper which considers reseller access to the end user to be a pre-requisite to effective competition in the IPLC market.

REACH notes that end user access can be achieved by local line resale as part of a bundled IPLC wholesale service. REACH submits that, reseller access to the end-user by some means is necessary to ensure that all resellers are able to provide services to end users and to deter anti-competitive behaviour by the facilities operators.

REACH believes that access to the end user is critical to providing end users with the end-to-end service required. REACH submits that it unnecessarily complicates retail services and inconveniences the client if the reseller is unable to provide an end-to-end IPLC service in one bill to the client.

“Monitoring of reseller’s traffic should be possible using existing ILDO facilities at the cable landing station. The ILDO’s compliance costs of installing and maintaining these facilities will presumably be passed on to the reseller by the ILDO as part of the wholesale price for the relevant services acquired at the cable landing station”.

REACH also submits that access to the end user, while necessary, is not sufficient to ensure a fully competitive IPLC market in India. REACH submits that India’s particular regulatory and economic conditions have historically limited the deployment of alternative network facilities. This has consolidated the market position of existing operators and REACH submits that it is appropriate to India’s current state of market development that a general obligation now be imposed requiring facilities operators to provide resellers with alternative access to the necessary IPLC inputs via any appropriately licensed operator that has direct or indirect access licence rights to:

- (a) cable landing stations for landed capacity acquired by reseller;
- (b) cross-connection at the submarine cable landing station;
- (c) backhaul services; and
- (d) other network components that may be required to condition an end-to-end IPLC service.

Regulated terms and conditions or guidance may only be required in India in the event that, absent appropriate wholesale price offerings, an operator has a position of dominance in respect of these wholesale inputs and where there is no alternative facilities licensee with access to these components. REACH’s proposals regarding the pricing of these components are discussed in more detail in response to Consultation Question 12.

¹ *This would allow resellers to enter into relationships with international capacity providers independent of the ILDOs and facilitate price competition.*

M/s Asia-Pacific Carriers' Coalition

APCC supports TRAI's view that Reseller's access to end-user Customers is vital to create effective competition for IPLC services. A denial of Reseller access to the end-

user Customer will allow an Access Service Provider to engage in anti-competitive price squeeze activities to detriment of the Reseller.

Perhaps just as important, APCC is of the view that the Reseller program should be focused on the convenience of the Indian and International (MNCs, Investors) Customer. And that means, in the view of APCC, that a customer should be able to turn to the Reseller as a 'one-stop-shop' for the customer's IPLC Service needs, end-to-end. That convenience will be utterly frustrated if the Indian Customer has to deal with multiple suppliers for the various segments of the IPLC service.

Resellers also should have the flexibility to work with different network element suppliers to encourage creative product offerings and enhance competition and market efficiencies: A reseller should have the option to buy a full suite of wholesale services from ILD/NLD and local access providers, or mix and match services from all three.

M/s Organge Business Services

Yes, The reseller should be allowed end user access. It is a pre-requisite for the license conditions as any hindrance in last mile access could promote an anti-competitive behavior of the entities owning access and domestic bandwidth (As recommended by TRAI in the paper).

In addition local access providers should be able to provide end user connectivity at a standard, regulated, price as this will ensure healthy competition.

M/s Sify

The whole purpose of introducing resellers will be negated if they are not allowed to access the end user. As already pointed out in our response to the first question, resellers must have the provision of entering into agreement with existing licensees such as ISP/UASL/CMSP/NLDO for using the later's access network for end to end service delivery.

Additionally, appropriate license clause(s) of the existing licensees may be amended to provide mandatory access of the last mile to the resellers. The objective should be to ease the access of resellers which otherwise may be a major deterrent to the success of resellers.

M/s Reliance Communications

Reseller should be permitted to access the end user premises through agreement with access providers / NLD service providers only for the purpose of providing end-to-end IPLC.

M/s AT &T Global Network

Resellers will require direct access to end users in order to compete effectively in the Indian retail market. As described above, resellers should be able to resell all facilities and services required to provide IPLCs on an end-to-end basis, including international circuits, cable station connection and backhaul services, and domestic local and long distance circuits to the customer premise. As the Consultation Paper describes (p. 11),

resellers could be significantly disadvantaged if they are required to access end users through arrangements with access providers and/or NLD operators.

M/s VSNL

Yes; the Resellers should be allowed to access the end users through an arrangement with the Access Providers / NLD Service Providers for providing IPLC and in fact this should be a mandated requirement to facilitate provision of IPLC services on end to end basis by the Resellers.

International practice suggests that before the introduction of resale in the international bandwidth market, the unbundling or mandatory resale of local loop as well as national bandwidth has been done to remove bottlenecks which are bound to come in the way of resellers providing end to end service to the end user. Without the critical input of local loop / access being provided, the step of licensing of resellers in the international bandwidth market is unlikely to bring the desired result of effective competition in the IPLC market segment.

Thus, according to us, mandating the unbundling of local loop and provision of national bandwidth on a non-discriminatory basis by dominant carriers / last mile service providers is a prerequisite for effective introduction of Resellers in the IPLC market segment.

M/s BT Global Service

For providing their service the Resellers have to access the End User and need to "Build or Buy" the end link (last mile) from the Wholesalers (ILDO) POP to the customer location, as this will not be provided by ILDOs. Generally the domestic link including the last mile is provided by the access providers/ NLD service provider on lease. As far as Reseller is concerned, both the options of building its own last mile or taking it on lease from access providers/ NLDO should be available for the success of Reseller programme and to encourage investment. Initially, for faster implementation of Reselling programme it will be necessary that the Access provider/NLDO are mandated to provide the last mile linkage (end links) to the Reseller on wholesale price, as would be the case for the IPLC segment from ILDOs. This is a must to make Reselling scheme implementable, viable and successful (the suggested wholesale price mechanism is detailed as a response to question 12).

M/s HCL

Yes to facilitate Resellers to access the end users they may be allowed to enter into an arrangement / Service Level Agreement (SLA) with the Access Providers / NLDOs for provisioning of IPLC, in order to avoid any undue hindrance /delay by the Access Providers / NLDOs, in provisioning of the IPLC.

Consumer Care Society

Resellers must be allowed to access the end users through the arrangement suggested by TRAI. The reason is the end user will have only point coordination and this

eliminates his present day problems where different segments are provided by different operators for operations, billing, maintenance etc.

M/s Tata Teleservice Ltd.

Yes; the Resellers should be allowed to access the end users through an arrangement with the Access Providers / NLD Service Providers for providing IPLC and in fact this should be a mandated requirement to facilitate provision of IPLC services on end to end basis by the Resellers.

International practice suggests that before the introduction of resale in the international bandwidth market, the unbundling or mandatory resale of local loop as well as national bandwidth has been done to remove bottlenecks which are bound to come in the way of resellers providing end to end service to the end user. Without the critical input of local loop / access being provided, the step of licensing of resellers in the international bandwidth market is unlikely to bring the desired result of effective competition in the IPLC market segment.

Thus, mandating the unbundling of local loop and provision of national bandwidth on a non-discriminatory basis by dominant carriers / last mile service providers is a prerequisite for effective introduction of Resellers in the IPLC market segment.

Shri P.K.Basak, (Dir. & Sr. Advisor)

In a liberalized regime the Resellers should be given all opportunities to access their service-specific potential customers - directly or indirectly - so that they can progressively develop better business models & drive up the competition as well. With the recent notification allowing NLDOs to access end-users, it's time that the Resellers are at least allowed to reach understanding with the Access Providers / NLDOs wherever required.

In Indian context the major foursome ILDOs (BSNL, Reliance, Tata & Bharti) are all integrated players in almost all the services. Resellers may find it more expedient to negotiate deals in such situations. And this step will be the right one in the right direction towards the Single License all over India!

With the introduction of Carrier Access Code (CAC) in future the end users will get more choice. MVNOs riding on others' networks will add still greater choice to various customer segments. Premier Numbering schemes, if allowed, will in due course popularize ILD services with end users. IPLC Resellers should therefore be allowed to target the end users now, not later.

Q.11 What should be the other terms & conditions for Resellers? Please list and comment with reasoning.

M/s BSNL

Some of the salient conditions are as given below: -

1. It should be mandatory for the reseller to establish connectivity with the NLDO/Access Provider who wishes to do so. Suitable clauses to enforce this condition shall have to be framed in the Licence.
2. First three POPs, one each in three different circles should be operational within a period of 6 months from the date of grant of licence.
3. Reseller should establish at least one customer Help Desk before the launch of any of its POPs.
4. The reseller has to publish its rates on regular basis at least once in a quarter on his website. Tariff reporting requirements should also be applicable to the resellers.
5. The resellers should have an elaborate consumer grievance redressal mechanism which should be publically available.
6. The reseller should file its equity structure to the licensor on yearly basis to ensure compliance to the eligibility conditions.
7. For enabling availability of infrastructure and cost data of the reseller, it may be made mandatory for the resellers to provide information regarding the POP established in India and abroad and International/ Domestic bandwidth leased with price structure to the regulator / licensor on prescribed intervals. This will help the regulator in assessing reasonableness of tariffs etc. whenever required and also the market conditions.

M/s Bharti

- a. Basically Resellers have to ensure that the customer gets full service and QoS. This requires for Equipment and Systems for Service Delivery, Service Assurance and service performance management. For this they have to invest in infrastructure and NOC facilities. Also, their capability for long term sustenance is necessary to safeguard customer interest and this can be ensured only by fixating minimum financial strength of promoters.
- b. In this regard, we request that the Hon'ble Authority should enumerate draft terms and conditions so that we can study the same and give our comments.

M/s BPL

In case Reseller obtains its own spectrum for last mile connectivity, he must pay spectrum charges as applicable from time to time. He should lease capacity in standard units like E1, DS3, STM, Wave Lengths etc.

COAI

- a. The key requirement for resellers is to ensure that the customer gets full service and QoS and for this, it is required that the reseller put in place suitable equipment and systems for service delivery, service assurance and service performance management.

- b. Also, in order to safeguard customer interest, it is important to ensure the long term sustainability of the reseller.
- c. The above can be ensured by putting in place suitable minimum criteria with regard to the financial strength of the proposed reseller.
- d. As regards the terms and conditions for resellers, it is submitted that the Authority may lay down draft terms and conditions for resellers and seek the comments of all stakeholders on the same.

M/s Pacific Internet

The market should define the prices, but, it will be helpful to the resellers if the authority were to fix the upper band price. This is to bring in uniformity at the entry level and bring some transparency about the price at which a reseller can enter the market.

M/s Reach (Ltd.)

REACH submits that consistent with the “light-handed” approach identified in the Consultation Paper, reseller regulation should avoid imposing special restrictions or limitations on reseller activities.

REACH notes that, as resellers will acquire their services wholesale from ILDOs and NLDOs, regulatory restrictions imposed on ILDOs and NLDOs will effectively be “passed through” to resellers. Imposing additional restrictions on resellers will place them at a disadvantage compared with the ILDOs with whom they will be competing on the IPLC market.

M/s Asia-Pacific Carriers' Coalition

APCC is of the view that the Customer-facing terms and conditions ought to be flexible so as to allow a Customer to negotiate the end-to-end service in a single, comprehensive but simple contract document. If Indian authorities were to place requirements on those terms and conditions they will be at odds with commercial practices on the distant end in at least some locations, given that the distant end of an IPLC can be literally anywhere on Earth.

Furthermore, the Reseller is obliged by commercial and contract liability constraints to comport his Customer-facing contract consistently with the supply side Reseller-to-ILD/NLD contracts. To the extent that TRAI/DOT needs to dictate service conditions, it is most easily and properly done at the ILD/NLD level. The registered Reseller will be obliged, APCC assumes, to comply with relevant Indian telecommunications regulations. APCC respectfully submits that TRAI/DOT requirements for customer terms and conditions imposed through the ILD/NLD supply side, in combination with a general requirement on the Resellers to comport with Indian law and regulation adequately addresses the situation, particularly given that the Reseller will be supplying neither infrastructure nor telecommunications facilities in India. APCC believes this is consistent with TRAI's suggestion in Section 2.6 of the Consultation Paper that it would exercise a 'light hand' in regulating Resellers.

M/s Organge Business Services

Please see the EU Authorization Directive.

M/s Sify

No comments.

M/s Reliance Communications

The other terms and conditions for Reseller should be similar to the ones which are applicable to ILD operators except those which are specifically related to voice traffic.

M/s AT &T Global Network

To provide users in India with the flexibility to obtain IPLC arrangements in accordance with their different requirements, and to allow such arrangements to be negotiated on an end to end basis to multiple countries under the different terms and conditions that might apply on different routes, TRAI should not prescribe terms and conditions for resale arrangements with customers. Resellers not possessing market power should be subject to a general requirement to comply with Indian law and regulation but also should be allowed to negotiate customer arrangements on a commercial basis.

M/s VSNL

The other terms and conditions for a Reseller license would relate to delivery of services, start of service, interconnection conditions with the ILDOs, other general terms and conditions of the license.

We would request that before the detailed terms and conditions of the Reseller's license are recommended, if deemed fit, TRAI may take opinion of the stakeholders through a limited consultation.

Some the other terms and conditions of the Resellers would be the following:

- Time to be allowed to deliver / provide service to its users from the effective date of licence.
- Liquidated damage in case of non-fulfillment of delivery date of service.
- Terms and Conditions for interconnection between Resellers PoP and ILDOs/NLDOs/Access Providers.
- Terms and conditions regarding establishment of PoP and other technical infrastructure/facilities.

M/s BT Global Service

Resellers should be lightly regulated with minimal regulatory burdens as any excessive regulation may act as an impediment to the development of competition through the Reseller route.

M/s HCL

No comment.

M/s Tata Teleservice Ltd.

The other terms and conditions for a Reseller license would relate to delivery of services, start of service, interconnection conditions with the ILDOs, other general terms and conditions of the license.

We would request that before the detailed terms and conditions of the Reseller's license are recommended, if deemed fit, TRAI may take opinion of the stakeholders through a limited consultation.

Some the other terms and conditions of the Resellers would be the following:

- Time to be allowed to deliver / provide service to its users from the effective date of licence.
- Liquidated damage in case of non-fulfillment of delivery date of service.
- Terms and Conditions for interconnection between Resellers PoP and ILDOs/NLDOs/Access Providers.
- Terms and conditions regarding establishment of PoP and other technical infrastructure/facilities.

Shri P.K.Basak, (Dir. & Sr. Advisor)

All key terms & conditions for ILD services should apply to Resellers as well though possibly in less stringent manner. The reason for relaxation is because the Resellers work in partnerships with ILDOs who act as the first level checkpoints. Liberal terms of license will also facilitate entry of new Resellers.

UASL licenses allow sharing of Passive Infrastructure & even switch & other network resources under certain conditions. New Reseller licensees may be allowed to share some of the network elements under commercial arrangements in future.

Resellers should be able to negotiate freely surplus capacity in satellite bandwidth, if any, for licensed applications in IPLC from ISPs with International Gateways & other sources.

The performance parameters & QoS specifications should be same or similar to those for ILDOs. However new standards may need to be prepared for new services.

All ILDOs should be mandated to offer bulk capacity, if available, to Resellers under reasonable commercial terms & conditions without any discrimination whatsoever.

Some steps may specially be considered for ILDOs to develop & position the wholesale business. TRAI has already recommended International Infrastructure Providers (IIP) to be allowed to terminate at the Cable Landing Stations & offer capacities to ILDOs. This should be duly notified with proper guidelines & amendments to licenses. Otherwise Resellers will not get capacity & rest of the supply chain.

Q.12 Should the Authority fix the price at which Resellers purchase IPLC wholesale capacity from the ILDOs? If yes, what should be the basis of that? If not, why?

M/s BSNL

The pricing of International Bandwidth is very complex as it depends upon various factors like capacity utilization, destination, ownership of the cable system, prices quoted by the other International carriers for the half circuits, level of protection available to the bandwidth, Degree of SLA offered, cross connect rates at various CLSs on the route etc. The reseller may purchase bandwidth from the ILDO with various combinations of above variables which will have impact on the pricing. Hence, it does not appear feasible to appropriately prescribe ceiling on tariff / pricing of the bandwidth to be provided by the ILDO.

As long as there is a scarcity of international bandwidth, in the context already stated in the foregone paras, associated with the deliverable quality of service, the impact of the variables stated above will be quite significant. However, as and when there is an excess capacity in the market, turning it into a buyers market, the impact of variables will gradually become negligible. Only at such state, regulation of the bandwidth price for resellers will be possible and will have the desired effect in the market.

Therefore, it is felt that the concept of reselling should be introduced only after there is sufficient proof of excess bandwidth in the market without which the implementation of reselling policy may not actually take off.

M/s Bharti

Resellers should be mandated to procure capacities in denomination of STM 4 or STM 16 and sell in smaller capacities, viz. in denominations of E1s and sub E1s, etc to maintain the wholesale-retail balance. This wholesale procurement price should be determined by the market forces and there is no need for a separate price for resellers. Further, the arrangement / agreement between the ILDOs and the Reseller should be based on the mutually agreed terms and conditions only.

M/s BPL

TRAI may fix cost based ceiling prices for the standard units at which the ILDOs should provide wholesale bandwidth of different capacities to the Resellers. This is one of the pre-requisites for the success of introducing reselling in IPLC segment. In addition the authority may like to fix ceilings for any equipment required to be installed at the CLS or the ILDO premises.

COAI

- a. This wholesale procurement price for IPLC should be determined by market forces, subject to an overall ceiling prescribed by the Authority

M/s Pacific Internet

The market should define the prices, but, it will be helpful to the resellers if the authority were to fix the upper band price. This is to bring in uniformity at the entry level and bring some transparency about the price at which a reseller can enter the market.

M/s Reach (Ltd.)

As a general principle, REACH does not believe the TRAI should fix prices in a competitive market. Despite best efforts, it is extremely difficult for regulators (anywhere in the world) to keep pace with price and package developments in the market. TRAI setting a retail price for IPLC services may in fact inhibit the competitive process and create market distortions.

However, given the dominant operator's existing market power and with the historical regulatory and economic restrictions on alternative network deployment in India, in order to promote the development of a vigorously competitive IPLC market in India TRAI may consider assessing retail and wholesale prices for a dominant operator providing the necessary wholesale inputs for IPLCs or in a position to engage in anti-competitive pricing behaviour such as IPLC price squeezes.

As discussed in our 2005 Submission, REACH submits that a bottom-up cost-based approach would be the most appropriate basis for assessing wholesale IPLC price for the dominant operator. However, REACH also acknowledges that cost-based pricing models are time-consuming to prepare and often highly controversial.

REACH submits that the reseller regime should not be delayed while these issues are debated and determined. REACH proposes a three stage approach in India:

- (a) immediate introduction of the reseller regime with close monitoring to identify predatory retail pricing behaviour by ILDOs or anti-competitive pricing behaviour in the wholesale input market;
- (b) implementation of an "initial pricing principle" based on international benchmarks for wholesale IPLCs in comparable countries. This should ensure that resellers have access to the required wholesale inputs at a competitive price while a cost model is prepared; and
- (c) a final cost-oriented wholesale price model. We have discussed in previous submissions to the TRAI why a retail-minus approach would be unsuitable in this context as a final pricing principle for the dominant operator in India and would be pleased to revisit these comments with the TRAI if required.

Even after the implementation of a final cost-oriented pricing principle, regulatory vigilance and intervention will also be needed to prevent discriminatory or predatory pricing practices by the dominant operator.

M/s Asia-Pacific Carriers' Coalition

The APCC is of the view that pricing by non-dominant ILDOs is best determined by the market forces of supply and demand. Competitive markets forces typically result in lower prices for wholesale services, a result of both volume and term commitments. APCC

urges the Authority to follow the practice of regulators in most liberalized markets and to rely on the dynamics of the marketplace to govern IPLC pricing and service provision by non-dominant ILDOs. It is widely agreed that price and service regulation of operators that do not possess market power is unnecessary and also harms competition in the market by limiting the ability of these operators to compete effectively with incumbents. Regulatory requirements for the wholesale provision and pricing of IPLC capacity should be applied only where the Authority finds that the ILDO has market power in the relevant geographic and product market.

But above all else, APCC is of the view that a rapid introduction of the Reseller program will be of greatest benefit to the Indian marketplace. The resale regulation should not have to wait till wholesale price regulation is in place. APCC suggests that TRAI consider a phased approach: an immediate introduction of the Reseller program, coupled with a periodic study of wholesale pricing behavior by dominant ILDOs and other operators found to have market power seeking input from all market participants. Should anti-competitive behavior by dominant ILDOs and other operators found to have market power, such as exclusionary practices (including refusal to supply), predatory prices, or vertical price squeezes, arise, TRAI could impose appropriate controls on those operators.

M/s Organge Business Services

As the ILDO space is starting to show some competitive pricing, the prices for Resellers should be left to market forces and not determined by the regulator. It will also promote interests from ILDO operators to support the current TRAI proposals.

M/s Sify

The Authority must ensure that tariffs of wholesale capacities are publicized regularly and indiscriminately by ILDOs. Further, the Authority must undertake an annual review of International leased circuit tariffs to determine and ensure that the tariffs are strictly cost based.

It is prudent to mention that most regulators including IDA in Singapore, as pointed out earlier, undertakes the exercise to determine cost based prices every year. A similar exercise must be taken up by the Authority at the earliest and ceiling tariffs for IPLCs needs to be determined afresh based on the cost data available with the Authority.

M/s Reliance Communications

RCL contends that the development of IPLC resellers should be left to the operation of market forces. The arrangements for the provision of capacity by ILDOs to potential resellers should be left solely to commercial negotiations. We see no justification for regulatory intervention even in circumstances where commercial negotiations fail. A regulatory intervention to set whole sale prices could be considered only where there is market failure and to the extent necessary to remedy that market failure. Such process should follow a detailed consultation wherein methodology for setting up wholesale prices is clearly brought out.

M/s AT &T Global Network

As described above, any IPLC wholesale obligations imposed on new entrant ILDO and NLD operators would obstruct the development of sustainable telecom competition in

India by reducing these non-dominant operators' incentives to build new network facilities. To encourage facilities-based market entry and expansion, TRAI should not require non-dominant ILD and NLD operators to make available IPLCs and other facilities for resale, and also should not prescribe any wholesale rate regulation for these operators. TRAI instead should follow the predominant international practice and apply requirements for the mandatory provision of IPLCs on a wholesale basis and wholesale rate regulation only to ILD and NLD operators found to possess market power.

It is in any event unnecessary for TRAI to require new entrant ILD and NLD operators to provide facilities for resale or at regulated wholesale rates, because market forces will ensure that these entities will operate on a competitive basis. Since new entrant ILD and NLD operators have no market power, they have no ability to raise price above competitive levels or to engage in price discrimination. Therefore, TRAI should apply the approach followed by regulators in most liberalized markets of not imposing *ex ante* regulation of price or supply by non-dominant operators and of relying on the dynamics of the competitive marketplace to ensure that non-dominant operators provide services at reasonable rates.

M/s VSNL

The current structure of the Indian ILDO market is already more competitive than that which existed in many countries at the time when resale competition was introduced in those countries. Indian customers are assured both of reliability of supply and a rapid increase of competition for the retail market with the entry of new ILDOs and the introduction of resellers. The TRAI has already set tariff ceilings for the retail market bringing down IPLC prices substantially. We are of the view that market forces should be allowed to determine reasonable tariff levels for the Resellers and customers. Commercial agreements between the Resellers and ILDOs should be left to market forces.

M/s BT Global Service

Given the extremely weak competitive environment for IPLCs originating and terminating in India (with incumbent holding two-third of the relevant market) and the well recognised access issues pertaining to Cable Landing Stations, it is extremely important that the TRAI applies stringent regulatory restrictions on the charges that dominant ILDOs can apply to these services and the sub-elements thereof. Without stringent regulation on such charges, dominant facility based ILDOs would be able to gain excessive margins (margins it would not have been able to gain had it been a fully competitive market) and/or foreclose downstream and secondary markets (where market entry is dependant upon the ability to sell IPLCs). Such an outcome would be very detrimental to the growth of the Indian telecommunications industry and the plethora of other multinational companies and Indian companies with a multinational presence who depend upon being able to source their telecommunications needs from efficient, competitive and reliable telecommunications companies in order to compete in an ever competitive global market place.

Specifically, BT recommends that the most effective approach to encourage investment and competition in the market would be to regulate the end to end IPLCs provided by dominant operators on a Retail (minus) and non discriminatory basis. An effective and

transparent price squeeze test must also be adopted. Furthermore, the sub elements of the IPLC must be mandated on a cost based (Long Run Incremental Cost - LRIC) and non discriminatory basis. Only by the TRAI mandating dominant operators to make available IPLCs at regulated charges and opening up true competition in the backhaul and cable landing station markets can the true bottlenecks in the IPLC market can be resolved.

a. Retail (minus) end to end IPLCs

In order to allow the new entrants the ability to make commercially reasoned 'build / buy' decisions, BT would recommend that full end to end IPLCs should be made available on Retail (minus) charges by dominant operators. Retail (minus) pricing requires that the wholesale price of dominant carriers is based on the dominant carriers' retail price less a declared margin (the "minus"). This allows the reseller to charge a price which will enable it to recover its costs while at the same time, compete on pricing with the dominant operator(s). These Retail (minus) charges should be set at a level which allows a reasonably efficient operator to compete with dominant operators, be supported by a margin squeeze test, and be transparent and supported by published Accounting Separation.

b) *LRIC - sub elements of IPLCs*

Unfortunately, a Retail Minus price on end to end IPLCs would not prevent dominant ILDOs from making excessive profits for the IPLC services (unless the competitive bottlenecks in country are removed, and hence a competitive wholesale market existed) and as such it could still result in a price for IPLCs which would not generate a positive macro economic outcome for India. Therefore, a Retail (minus) pricing approach, on its own, given the competitive constraints for wholesale telecommunications services in India, is believed to be insufficient by BT on its own to remedy the real competitive problems in the IPLC segment.

In order to address this concern, BT proposes to the TRAI that the prices charge by dominant operators for the sub-elements of IPLCs (i.e. access to Cable Landing Stations, Backhaul from CLS to Access Node and end Link/ Access services) should be set at Long Run incremental cost (LRIC) (which replicates the level of charges a truly competitive market would have applied) in order to prevent excessive profits by dominant ILDOs.

BT has a long tradition of calculating LRIC based and Retail Minus charges and has significant expertise on Accounting Separation and would be delighted to share our experiences with the Authority, if so desired.

A UK perspective of IPLC regulation

In the following paragraphs, BT has set out its experience in the UK as an example of how a regulatory pricing regime can be implemented successfully to promote competition.

Competition in the IPLC market in the UK is now fierce. However, historically, BT and Mercury Communications Limited (now: Cable & Wireless), held a duopoly in the international facilities market. Oftel (now Ofcom), sought to 'encourage diversity in ownership and provision of international facilities in order to promote competition in the provision of international capacity', thereby applying regulatory remedies to further real competition in IPLCs and its constituent parts.

In order to make the transition from a duopoly to a competitive environment. British Telecommunications pic was subject to detailed price controls for Wholesale IPLCs in the UK. Condition 13 of BT's old UK licence, mandated BT to make available Wholesale (interconnection) services including IPLCs to qualifying operators. IPLCs were required to be made available at cost based charges which were verified and determined by Oftel.¹

By the time that Oftel/Ofcom conducted the Wholesale IDD market review (which included the Wholesale IPLC market)² in 2003 they determined the market was in fact competition. A portion of their findings is set out below:

International backhaul is a high capacity inland circuit that is required by wholesale providers to link a cable landing station to a provider's

For an historical account of BT's regulatory position in the IPLC market, please see the provided link: http://www.ofcom.org.uk/static/archive/oftel/publications/1995_98/pricing/iplc.htm² Oftel traditionally assessed BT's market position in the Wholesale IPLC market contemporaneously with Wholesale IDD

existing national network. Prior to December 1996, only CWC and BT supplied backhaul services in the UK. Presently any provider can use elements of their existing network to provide backhaul. Additionally many providers have networks that pass within relatively short distances of cable landing stations. This has resulted in increasing competition in the provision of backhaul services and a distinct market for this service has developed.

There are now numerous providers of international backhaul services in the UK in competition with BT and C&W (including WorldCom, Energis, ntl, Telia and Surf Telecoms). The increased competition in the supply of backhaul services has resulted in significant price reductions. The evidence available to Oftel shows that BT charges its backhaul services keenly and there is no evidence that providers experience any difficulties in obtaining backhaul services

The Director does not consider that network access to international backhaul acts as a barrier to entry in relation to the provision of wholesale international services because the backhaul from the DISC will generally be provided as part of the overall wholesale international service. Access to backhaul facilities is only relevant to those wholesale providers with wholesale international facilities of their own.³

To provide a full end to end IPLC, being able to procure competitive and non discriminatory access services, thus connecting the end customer, is crucial. For these network elements, BT has a long tradition of providing non discriminatory and price regulated access products from BT Wholesale. This service portfolio is now further extended by the services offered by Open

reach; these access See http://www.ofcom.org.uk/static/archive/oftel/piublications/eu_directives/2003/idd0803.pd services are offered on wholly *equal* terms to BTs internal and external operators.

Effect of UK IPLC and related regulation

As can be noted, Oftel's early regulation of the IPLC, International Facilities and Access markets has created an extremely competitive wholesale/retail IPLC market in the UK. New entrant operators were early on given the right environment to make commercially reasoned 'build / buy' decisions. During the time BT was regulated for these services, numerous operators built out competing backhaul networks and built or purchased access to Cable Landing Stations. The current level of competition in the IPLC market was thereby driven by the removal of market entry obstacles and stringent regulation of those network components, at that time, which were required by prospective competitors.

Due to the stringent and successful regulation of these network components, Ofcom has since removed regulation on IPLCs as well as International Facilities Backhaul and refrained from regulating Cable Landing Stations.

BTs proposal on wholesale pricing

Only by removing competitive bottlenecks (by granting these on competitive and non discriminatory terms based on published and transparent LRIC based pricing) will new entrant operators be able to compete with dominant ILDOs in the long term. Secondly, until genuine wholesale competition in the IPLC market has emerged, facility based ILDOs should remain regulated for IPLCs on a Retail (minus) price basis. Only regulatory remedies of this nature can stimulate competition and crucially drive the competitiveness of Indian businesses.

M/s HCL

"Retail minus concept" should be implemented.

M/s Tata Teleservice Ltd.

The current structure of the Indian ILDO market is already more competitive than that which existed in many countries at the time when resale competition was introduced in those countries. Indian customers are assured both of reliability of supply and a rapid increase of competition for the retail market with the entry of new ILDOs and the introduction of resellers. The TRAI has already set tariff ceilings for the retail market bringing down IPLC prices substantially. We are of the view that market forces should be allowed to determine reasonable tariff levels for the Resellers and customers. Commercial agreements between the Resellers and ILDOs should be left to market forces.

Shri P.K.Basak, (Dir. & Sr. Advisor)

TRAI has already set the ceiling prices for the leased circuits. The Authority may consider an indicative range of discounts that will be applicable to the Resellers.

Subject to detailed study the discount should be 12-15% & more on volumes. This should be a clear margin to model the business.

The range of discounts may be linked to volume slabs. The amount of discounts may also differ for the types of services.

To keep a close watch on the competition, pricing etc, each transaction of Resellers along with its pricing details (as concluded) has to be filed with the Authority. Each ILDO should also file the pricing information in advance & maintain the same for at least 3 months in the market. Like the early days in Mobile services, a close monitoring is required initially until the competitive market forces enable to set the price points.

TRAI used the methodology of Fully Attributable Historical Costs to determine the IPLC rates. However the Authority also noted in its earlier paper that the international practice was to use LRIC costing. At this stage perhaps Future Looking LRIC (FL-LRIC) may be seriously considered to work out revised tariffs, indicative discounts etc.

With the Indian ILDOs taking up global connectivity on large scales nowadays, Resellers may further explore & extend the business scope to Full Circuits. The latter pricing should in principle be comparatively more competitive than two half-circuits separately leased out on same or different carriers.

Price aspects should comprehensively include monthly rental, yearly lease, installation, upgrading / downgrading, relocation (within premises or outside), prepaid (6-12 months / more than a year), long standing use, non-use periods, downtime rebate etc.

To avoid all possible controversies in pricing, TRAI may further consider engaging experienced consultant(s) on a very short term basis to make use of the latest international data, practice & methodology. In the wake of opening up the IIP, CLS etc the pricing thus determined will have profound impact here in India & abroad.

General Comments

M/s BSNL

- 1.1 ILD Sector was opened for competition in the year 2002 and since then only three new serious players have come in the market namely M/s Bharti, M/s Reliance and BSNL. Only recently, some companies have shown intentions to join the ILD sector.
- 1.2 Despite a lapse of about 5 years, development of new infrastructure has been very sluggish basically due to the high cost involved with risk in the investments and uncertain market conditions. This can also be related to the overall economic growth in the country and its degree of uniformity across the segments of the society.
- 1.3 The economic growth, as we see today, has generated certain kinds of businesses like Internet, Broadband, BPO, KPO etc. These are bulk consumers of bandwidth but still their number is limited.
- 1.4 Other users of International Bandwidth are corporate, mostly software export companies and the Indian Offices of the MNCs or their affiliates.
- 1.5 This consumer base is very small compared to the design capacities of the cable systems. Due to this, the operational capacity of the cable systems are much less leading to high costs per unit bandwidth.
- 1.6 In spite of this, new cables are coming up, though slowly. These investments are based on the high expectations on the growth of broadband, BPO industry and Software industry as well as to improve quality of service by providing protection paths from India, which are currently not available to the end customers.
- 1.7 Keeping in view the high capital and operating costs and comparatively low demand, the tariff structure has to be such that the operators keep enough margin to recover their costs in a reasonable period of time which is limited by the life span of cable system.
- 1.8 It has also been generally noted that the concept of resale can be made successful in the matured / developed markets where the operational capacities have outgrown the demand whereby the resellers provide various types of value additions and create new markets. This allows the owners as well as the reseller to benefit from the small margins with high volumes.
- 1.9 In India, the situation is not the same. Though capacities available are more than the demand, the addressable market is limited. Indian market will take time for reaching a status of matured / developed market as it will depend on the expansion of the economy. Till now telecom has been the fastest growing sector for the economy and unless the economic growth catches up with this

growth, telecom growth itself will start following the economic growth or will more or less flattened.

1.10 The declared retail price of bandwidth by an ILDO may not be the actual operative price of that operator due to competition and various other factors involved in provision of bandwidth including the SLAs which are specific to the customers. Therefore, the competition between the owner of bandwidth and reseller based on the proposed regulatory regime of procurement of the bandwidth by the reseller below the declared detailed price of the ILDO may not be effective. Secondly, due to bigger financial strength of the owner, possibility that ILDO will bring down the offered price to the customer below that offered by the reseller cannot be ruled out in a limited market. Thus, there are all the chances of the resellers being thrown out of the market. This does not benefit anybody.

1.11 Further, because of reduced margins, caused by the competition between the ILDOs and resellers, the operators will have little incentives to create new infrastructure which is also essential for them to sustain and be competitive in the world market. The International carriers do not want to remain limited to their own country as it is noted that more and more such large carriers are establishing worldwide infrastructure of cables and POPs. Similar philosophy will also have to be followed by the Indian carriers, for which they have to stand on their own feet by establishing their own infrastructure to begin with.

2. Regulation of resale market through ceiling of wholesale tariff of the bandwidth owners will be very difficult or almost impossible for the following reasons.

2.1 The rates of bandwidth are dependent on the destinations, types of cables used enroute, number of landing stations crossed, availability of restoration paths, life of the cables, equity ownership of the ILDO in the cable systems etc. Most of these factors are beyond the national boundaries.

2.2 The reseller may like to procure bandwidth with chosen combinations of these variables.

2.3 Service level agreements of various types are also possible which will have impact on the bandwidth price.

3. Competition in the IPLC segment in any case has to be increased. But for this, other pending issues have to be addressed which are already in the knowledge of the Authority. One of the most critical issues is prohibitive cross connect charges imposed by Cable Landing Station owners in India for extension of bandwidth to the national segment. Arbitrariness in the Cross Connect charges has to be stopped immediately through the intervention of the Authority. Another critical issue that deserves immediate attention of the Authority is the access to the Cable Landing Station so that it does not remain a bottleneck.

4. Once, these issues are resolved, the strangulated International Bandwidth market will ease out and the artificiality in the bandwidth pricing would go away in a short time and market will become more competitive without affecting capability of the

operators to undertake new investments. Thus, this approach would be more beneficial than the approach of introducing the concept of resellers in the IPLC market.

In summary, we would like to mention that Indian market is still not matured enough for introduction of concept of resellers of International Bandwidth. If this concept is introduced at this stage, it will harm the momentum of investments being made by the operators in the cables and the country will be deprived of much needed infrastructure to be competitive in the world market. In turn this will give an opportunity to foreign carriers to dominate the Indian market in the absence of infrastructure muscle of the Indian operators. It is strongly recommended that the introduction of the concept of the resellers may be deferred at least for a period of 5 years as by that time the already announced cable systems will be in place and would have established further relationship with other cable systems to the advantage of the nation. It will also be necessary to resolve the outstanding issues especially cross connect charges and access to the CLSs.

M/s BPL

We have carefully gone through the various issues raised in the above mentioned consultation paper. In our opinion it is time that resale of all segments of telecom services is permitted. In order to do that all regulatory and licensing hurdles should be removed so as to bring the licensing regime for telecom services in India at par with developed countries like USA, UK etc. This action amongst many others taken by the authority will enable the consumers to have the benefits of enhanced competition as well as many innovative ideas which would be implemented by the resellers. We, therefore, whole heartedly support the introduction of resale in IPLC segment.

2. For the successful implementation of resale in IPLC, it would be necessary to mandate that ILDOs would provide international bandwidth to the Resellers at wholesale rates, which are lower than their own retail price, and the NLDOs/Access providers will provide national/local leased circuits for extending the IPLC up to the customer's premises. In addition, the resellers should also be allowed access to the Cable Landing Stations (CLS). Today, due to historical reasons, the CLS is automatically linked to ILDO license. In future there could be independent CLS offering band width to ILDOs or resellers. The resellers should also be permitted to provide their own last mile connectivity wherever considered necessary/economical by them. Unless these pre-requisites (access to CLS on one side and last mile connectivity on the other side) are fulfilled, the introduction of resale in IPLC segment will not improve the competition in this segment and customer will continue to be dependent on a few integrated players.

3. The entry and the regulatory conditions for the Resellers must be simpler than the full-fledged ILDOs so as to enable the smaller players to enter this segment and compete with bigger players. With the entry fee for ILD licence already reduced to Rs. 2.5 crores and roll out obligations virtually removed, most of the new licensees for ILD are likely to concentrate on the IPLC segment. With infrastructure sharing and access to CLS being permitted, most of the new ILDOs are likely to lease the international bandwidth from international carriers like Flag, Sea-Me-We etc. Therefore, such players will be virtually acting as Resellers.

4. While Resellers will be generally non facility based, they must be permitted to have some of their own essential infrastructure like billing system, last mile connectivity etc. wherever considered necessary by them.
5. The resellers are niche players providing managed services to closed user groups, mostly non-switched services. The success of resellers will lie in easy connectivity both in the long mile and last mile.

In the light of the above we are giving below our inputs for the various issues listed in Chapter 5 of the Consultation Paper.

M/s Reach (Ltd.)

Reach Ltd. (**REACH**) welcomes the TRAI's decision to recommend the introduction of resale in the IPLC segment in India and is grateful for the opportunity to respond to the TRAI's Consultation Paper on *Resale in International Private Leased Circuits (IPLC) Segment* of 22 December 2006 (**Consultation Paper**).

As with our previous response of July 2005 to the TRAI's Consultation Paper on *Measures to Promote Competition in International Private Leased Circuits (IPLC) in India* (**REACH July 2005 Submission**), our comments here are made on behalf of our subsidiary, Reach Network India Private Limited, an internet service provider licensed in India to provide a range of Internet services.

Summary

As recognised in the Consultation Paper, international experience has demonstrated that resale leads to increased competition and market growth without any additional cost to the economy. REACH supports the TRAI's findings in the Consultation Paper that the introduction of IPLC Resale in India will align the country with the increasingly sophisticated IPLC international market and benefit the overall Indian economy.

While REACH generally agrees with the approach outlined in the Consultation Paper, REACH believes great care must be taken to establish a licensing regime which optimises, rather than stifles, the benefits of IPLC resale. This requires a licensing regime which is non-restrictive, provides for low fees and adequate and appropriate access to components necessary for end-to-end IPLC resale, and backed by sufficient regulatory enforcement powers.

Competitive Benefits from Resale

REACH submits that international comparison demonstrates there remains considerable scope for resale of IPLC to deliver competitive benefits to India consumers. While following the implementation of new TRAI mandated IPLC price caps on VSNL in 2005 IPLC prices in India declined, these prices then steadied in early 2006, flattened and, in some cases, subsequently increased. However, notwithstanding the Indian IPLC price reductions experienced as a result of the price cap revisions, the prices of IPLCs in India still remain significantly above prices in more liberalised telecommunications markets and well above IPLC prices in China - against whom India is frequently compared.

To demonstrate, based on information available from TeleGeography and using Singapore as an approximately comparable distance from India, China and Hong Kong, REACH has prepared a cost comparison of full circuit monthly IPLC charges to Singapore from India, China and Hong Kong for the first quarter of 2006 and the three months to the end of November 2006. As many of these circuits will be on the same submarine cable systems, albeit on different segments, the cost bases for these circuits should be approximately similar.

From Table 1 it can be seen that despite declines in Indian IPLC prices, these prices are still two to three times greater than the prices of equivalent circuits from China to Singapore, and three to over seven times higher than the prices for similar capacity circuits from Hong Kong to Singapore.

**Table 1: India and China Full Circuits to Singapore
Average TeleGeography Monthly Lease Prices**

	<u>Jan – Mar 2006</u>			<u>Sept – Nov 2006</u>		
	<u>Average Price</u>			<u>Average Price</u>		
<u>From</u>	<u>E1</u>	<u>DS3</u>	<u>STM1</u>	<u>E1</u>	<u>DS3</u>	<u>STM1</u>
	US\$	US\$	US\$	US\$	US\$	US\$
Mumbai	6,228	53,676	-	5,384	43,397	-
Chennai	6,883	51,484	-	6,256	44,764	-
Shanghai	3,841	23,228	59,782	2,910	21,707	58,000
Hong Kong	1,660	7,217	15,139	1,585	6,942	14,466

Source: REACH analysis based on information in TeleGeography's "Wholesale Bandwidth Pricing Database", Primetrica Inc. See Attachment A.

Note 1: TeleGeography's "Wholesale Bandwidth Pricing Database Service" is a market-based source for long-haul capacity pricing information, updated monthly with neutral new market-based price quotes from the world's major carriers.

By way of further comparison, Table 2 sets out average IP Transit prices per Mbps based on DS-3 capacity circuits (which are also a reflection of overall circuit pricing regardless of a circuit's final application) in Asia, Eastern Europe and South America for the second quarter of 2006. India has by far the highest price per Mbps across these economies – many of whom are considered to be India's peers – by factors of three to forty times.

**Table 2: Asia, Eastern Europe and South America
Average IP Transit Prices per DS-3 Based Mbps in Q2 2006**

----- In US\$ -----

<u>Beijing</u>	<u>Hong Kong</u>	<u>Kuala Lumpur</u>	<u>Manila</u>	<u>Mumbai</u>	<u>Seoul</u>	<u>Singapore</u>
108	109	446	338	1,215	129	245
<u>Sydney</u>	<u>Taipei</u>	<u>Tokyo</u>	<u>Bratislava</u>	<u>Budapest</u>	<u>Moscow</u>	<u>Prague</u>

448	220	131	30	43	200	40
<u>Warsaw</u>	<u>Buenos Aires</u>	<u>Rio de Janeiro</u>	<u>Santiago</u>	<u>Sao Paulo</u>		
42	196	192	223	192		

TeleGeography's "Bandwidth Pricing Report", May 2006. Primetrica Inc.

Source: TeleGeography's "Global Internet Geography 2007", Primetrica Inc.

Note 2: Information restricted to DS-3 based Mbps prices for Q2 2006 as the only capacity and period for which Mumbai data available.

While, once they commence operations, the newly licensed International Long Distance Operators (**ILDOS**) will make a positive and essential impact on IPLC pricing in India, the potential for standalone IPLC resellers should not be underestimated. Such resellers could likely range from international organisations who will address IPLC pricing through the commoditisation of capacity to smaller specialist resellers catering to niche markets – both as inputs to, say, ISPs and end users. One particular characteristic of resellers is that, where the regulatory regime does not inhibit them, their introduction has an immediate effect on pricing, service quality, and business and consumer choice.

M/s Analysys Consulting Pvt Ltd

Executive summary

(i) The Telecom Regulatory Authority of India (TRAI) has become concerned about the competitiveness of the market for international private leased circuits (IPLC) in India and has therefore initiated a consultation process with the aim of promoting competition in the IPLC market, wishing to facilitate availability of international bandwidth at an affordable price for new service providers and end users. The Consultation Paper, which was issued by the TRAI at the start of the process, reviewed the Indian scenario and developments in other countries. Specific concerns raised included:

- the pricing and provisioning of IPLCs
- the difficulties customers were reporting in obtaining restorable services
- issues relating to access to cable landing stations (CLSs) for submarine cables
- the possible introduction of reselling of IPLCs.

(ii) Almost all of the stakeholders who responded to the TRAI Consultation Paper agreed that there was a need for action in order to improve the competitiveness of the Indian IPLC market. There was strong support for the introduction of regulations to guarantee non-discriminatory access for all international long distance operators (ILDO) to submarine CLSs and almost equal support for the introduction of a new call of service providers, who would be allowed to resale IPLC services. Two stakeholders took a strong contrary view; VSNL and Bharti both argued that the market was becoming competitive, that access to CLSs was a matter for mutual agreement among ILDOs, that IPLC price reductions were occurring and that the difficulties of restoration

would be overcome as new cables were ready for service. Both they and Reliance strongly opposed the introduction of resale.

(iii) Analysys Consulting Ltd was appointed to provide advice to TRAI on these issues and was asked to focus particularly upon the issues of access to CLSs and the possible introduction of resale, taking account of the current situation in the Indian market, the experiences in specific other markets and the objective of improving the competitiveness of the Indian IPLC market. The initial analysis of the Indian market confirmed the concerns expressed by the TRAI Consultation Paper and the majority of the stakeholders who had responded to that paper. It found that prices were high by world standards and two players dominated the market, VSNL, with 75% of the market share and Bharti with 17% of the market share. Reliance were experiencing continuing difficulties in gaining access to the FLAG cable and to any other affordable submarine capacity. During the time Analysys was carrying out this study, VSNL announced significant price reductions – these should bring benefits to customers but will also increase the dominance of the current market by the two main players.

(iv) The two main issues – access to landing stations and the introduction of resale – were both found to have possible obstacles in Clause 2 of the ILDO licence:

Clause 2.2 (a) “Resellers are not permitted”

Clause 2.2(b) “Equal access to bottleneck facilities for international bandwidth owned by national and international bandwidth providers shall be permitted for a period of five years from the date of issue of the guidelines for grant of licence for ILD service or three years from the date of issue of first licence for ILD service, whichever is earlier, on the terms and conditions to be mutually agreed”.

The first sentence is a quite unequivocal statement not permitting resellers in any part of the ILDO market; the second makes access to bottleneck facilities, such as CLSs may be, subject to mutual agreement and to a sunset clause, whose time limit has expired.

(v) The review of other countries has demonstrated that in several countries the regulator has determined that competition for international services, and particularly for IPLC and related advanced services, requires regulation of the access to submarine cables through the CLSs. This will be a matter of interconnection between two or more Indian ILDOs, since the landing station is owned and operated by an Indian ILDO, not by the international entity providing the undersea segment, and therefore falls within the remit of TRAI. The basis for such action is the judgement that a CLS remains a “bottleneck” or “essential” facility to the essential capacity input to IPLC and other services which are enabled in the modern market only through submarine cables for a country such as India – and that this is valid for the life of the submarine cable. If an Indian ILDO is willing to reach a commercial agreement with an international submarine cable owner to purchase capacity on that cable, then that ILDO should have the right to non-discriminatory access to that capacity through the CLS, which is the only economical and timely means by which access can be provided. The experience to date in India, and other countries, means that these conditions will need to become regulated obligations, not only for VSNL, but for all CLS owners.

(vi) The three major components of access which require regulation are:

- backhaul to the CLS
- co-location at the CLS

- cross-connection to the submarine cable within the CLS.

The obligations to provide these on non-discriminatory terms and on a just and reasonable basis should not have a time limit, other than the life of the cable; a possible initial framework for the terms and conditions, including a basis for costing of the services, is included in this report and its schedules.

(viii) TRAI's Consultation Paper also raised the possibility of there being some value in requiring submarine cable entities landing in India to register with the Indian telecommunications authorities. Analysys is doubtful of the value of this, especially since all such entities take great care to require observation of national regulations in their agreements and operations and are already, as required, landing the cable through a licensed ILDO. However, we do believe that there could be some value to potential ILDO users of the cables if the ILDO operating the CLS for that cable were required to make public the way in which those other users are able to buy capacity on the cable in question.

(ix) The regulations on CLS access should assist the resolution of remaining issues on the FLAG cable and, by reducing the barrier to entry, may encourage new entry to the market. The open nature of the SMW4 cable, combined with these regulations, and the introduction of the Falcon cable, should extend the choices available to ILDOs considerably – and hence for their customers only. The introduction of resale would clearly increase choice and reduce prices further, but the ILDO licence conditions mean that the government would need to be persuaded of the expedience of this in the public interest, and it would clearly be strongly opposed by the existing ILDO licensees. Moreover, the introduction of resale simultaneously with the ILDO changes would make the entry of new ILDOs much less likely and reduce the possibility of further investment in new cables.

(x) The detailed consideration of the possible introduction of resale concludes that it would be best to make it clear that the possible introduction of resale of IPLCs is now on the future agenda of the TRAI and the government as part of a wider consideration of the market structure and the role of resale in general. This policy announcement could be timed to be part of a package which includes the CLS regulations and possible reductions in the revenue share required from ILDOs, which should stimulate competition and reduce prices to customers. A two year period for this to work through would give time for the new cables and other investments to yield benefits, especially if the possibility of yet more competition in the future has been clearly identified in the current ILDO companies.

Detailed comments of M/s Analysis Consultant Pvt. Ltd. are available at <http://www.trai.gov.in/Introduction.pdf>

M/s Asia-Pacific Carriers' Coalition

1. The Asia-Pacific Carriers' Coalition (APCC) welcomes the opportunity to respond to the Telecom Regulatory Authority of India's (TRAI) consultation in relation to Resale in International Private Leased circuit (IPLC) segment, paper18/2006 (Consultation).

2. The APCC is an industry association of global and regional telecommunications carriers operating in Asia Pacific, formed to work with governments, National Regulatory Authorities (NRA's) and consumers in promoting open market policies and best practice regulatory frameworks throughout the region that will support competition and encourage new and efficient investment in telecommunications markets.
3. APCC welcomes the recent developments in the telecommunications market in India, in particular, the change in the restrictions on foreign shareholdings for both national long distance (NLD) licensees and international long distance (ILD) licensees as set out in the guidelines issued by the DoT on 14 December 2005 (Guidelines).
4. Experience in liberalizing markets has shown that the provision of International Private Leased circuit (IPLC) (in particular local access circuits) in a timely, non-discriminatory and cost-oriented manner is a key element in the development of effective competition in markets where competition is not well-established. The provision of reasonable wholesale access to the incumbent's IPLC's is critical to the development of a wide range of services in India and will assist India in establishing and maintaining a competitive and attractive market for investors in both the telecommunications and other associated markets.
5. The Consultation highlights a number of substantial issues in relation to the IPLC market in India. Please note that, given the timeframe available to respond to the Consultation, this response is not comprehensive. APCC would welcome the opportunity to discuss the issues further with TRAI.

M/s Sify

At the outset, we appreciate the proactive approach taken by your good office in initiating the consultation process for Resale in International Private Leased Segment. Sustaining the positive growth of the ICT sector needs serious thought on International bandwidth pricing which forms the most important ingredient for delivery of end-to-end services to end users. We thankfully acknowledge the earlier efforts taken by your good office in bringing down the IPLC prices. Admittedly, liberalization of the International long distance segment, started late in India as compared to our other developing counterparts. Allowing private participation in the ILD segment from March, 2002 was a landmark decision in itself though competition remained limited by way of limited number of private players joining the league. Competition in essential facilities remained all the more limited as the only cable landing station was under the control of the incumbent at that time. The situation today is somewhat positive as at least one private ILDO has its own cable landing station.

We consider authority's recommendations dated 16th December to be equally important and enabling wherein not only the entry barriers were significantly eased but also decision on allowing resale was expressed. We cannot agree more with the Authority's views that absence of proper clause in the ILDO license for mandating non-discriminatory access to essential facilities at cable landing stations was stunting competition. In this regard, we welcome Authority's recommendation on mandating the same by suitably amending Clause 2.2 (b) of the ILD license agreement. The lowering of the entry fee and the annual license fee to 6% resulted in many private players acquiring the NLD and / or ILD license. It will only be prudent to point out that many of the new entrants have migrated to NLD/ILD regime for the continuance of their VPN services which has been brought under the purview of NLD/ILD license. Therefore,

even though the mere numbers of players have increased, the benefits of increased competition by way of lower International bandwidth prices are yet to be realized.

The limited competition have not resulted in substantial lowering of International bandwidth prices which remain significantly more compared to similar capacities in other countries. At this time, when limited competition is not able bring down IPLC prices immediately, the Authority may provide some relief to users of International bandwidth by an immediate tariff fixation exercise. The last tariff fixation for IPLC happened way back on 11th March, 2005. The annual review exercise is long overdue and we eagerly look forward for expeditious action from the Authority in this regard.

The year 2007 is being touted as the year of broadband and we all are contributing our humble effort to achieve the ambitious broadband targets that was set forth in the Broadband Policy, 2004. Under these pressing circumstances, the need for cheap and easily accessible International bandwidth cannot be expressed with appropriate intensity. Here, we welcome the decision to allow resellers who will hopefully spur competition and bring about lower prices. Merely allowing resellers will solve limited purpose unless proper regulatory mechanisms are put in place that will enable resellers, access to essential facilities and also raw bandwidth as wholesale prices that needs to be non-discriminatory and transparently publicized.

As rightly pointed out in the instant consultation paper, the International capacities in India are largely concentrated in the hands on only three players including the incumbent ILDO. It becomes necessary to take precautionary measures so that player(s) with significant installed capacity and market share may not be able to exhibit any anti-competitive practices. Considering some International practices, we wish that the Authority may identify players with significant market power and implement appropriate regulation to check anti-competitive measures such as:

- **Pricing Abuses**

- **Predatory pricing:** The dominant player may reduce price as a result of excess supply, which in some markets drive out some less efficient participants.
- **Vertical Price squeezes:** Eliminating vertical price squeezes becomes all the more important at this time when resellers are being introduced. Since, resellers will be non facility based operators who will depend heavily on infrastructure based operators for raw bandwidth as inputs for their services, such price squeezes will make them financially unviable.
- **Cross subsidization:** Since most infrastructure based operators will also be interested in addressing a part of the retail market themselves; they may ward off competition by reducing retail prices by cross-subsidizing with other more profitable services.
- **Discrimination:** A Dominant Licensee may control inputs that, as a practical matter, other Licensees must use in order to provide “downstream” services. These inputs include infrastructure, systems, services, or information. A Dominant Licensee can unreasonably restrict competition in the downstream

market by providing access to these inputs to its downstream Affiliate on discriminatory prices, terms and conditions.

- **Other conducts that may constitute as abuse of dominant position**
 - Refusal to supply essential facilities and services to resellers.
 - Anti competitive discounts

2. International experience

We would like to reinstate that allowing resale in the International bandwidth market is a crucial decision, one which will significantly change the business landscape of the existing players. Therefore it becomes important to take *ex ante* precautionary measures to protect the interest of existing players while at the same time facilitating the entry of new players as resellers. We feel a closer look at the regulatory approach taken in some countries where reselling has been allowed will enable the Authority to take a more informed decision. Therefore, before responding to the specific questions raised in the instant consultation paper, we would like to throw some light on the regulations in some selected countries where reselling of International capacities have been allowed.

Singapore: IDA

Singapore is a striking example where the regulator IDA, has not only allowed resale in the early stages of the liberalization process but have also created an enabling environment for the resellers. Reselling of leased circuits was allowed from as early as February 1997. At that time reselling was allowed only if resellers leased wholesale capacities from the incumbent, Singtel. Subsequently, the sector was completely liberalized in 2000. At present, two types of licenses are available after the telecom sector was fully liberalized in 2000 as pointed out in the instant consultation paper viz. a **Facility Based Operator License** and a **Service Based Operator License**. We are not elaborating the license conditions of these two licenses since the same is already mentioned in the consultation paper. Rather, we would like to highlight some other regulatory measures taken by IDA to create an enabling environment for resellers. As pointed out earlier, there is no point in introducing resellers unless mandatory conditions are imposed on infrastructure providers to provide essential facilities and raw bandwidth on wholesale prices and conditions to resellers. Hence, regulatory intervention becomes all the more important to prevent anti-competitive practices by infrastructure providers having SMP (Significant Market Power).

A closer look at the licensing regime of Singapore will reveal that IDA, the regulator, initially classifies all licensees as **dominant** or **non dominant**. A licensee is classified as a dominant licensee when:

(a) it is licensed to operate facilities used for the provision of telecommunication services in Singapore that are sufficiently costly or difficult to replicate such that requiring new entrants to do so would create a significant barrier to rapid and successful entry into the telecommunication market in Singapore by an efficient competitor; or

(b) It has the ability to exercise Significant Market Power in any market in which it provides telecommunication services pursuant to its license.

Whereas, a licensee shall be classified as non-dominant if the above conditions cannot be established. This initial classification enables IDA to exert differential regulatory pressure within the same class of license. For example, if two operators having different market shares are holding the SBO license, but one classified as dominant while the other as non dominant, both will have different set of obligations in spite of the fact that both are holding the same type of license.

Further to the initial classification, IDA has enforced a strict code enforcing differential regulatory obligation through **“THE CODE OF PRACTICE FOR COMPETITION IN THE PROVISION OF TELECOMMUNICATION SERVICES 2005”** available at http://www.ida.gov.sg/doc/Policies%20and%20Regulation/Policies_and_Regulation_Level3/TCC/TCC_2005.pdf. This comprehensive code was enforced by IDA in 2005 and is an all encompassing document that specifies the duties and obligations of licensed service providers operating in Singapore. The code specifically and very clearly mandates different conditions for dominant and non-dominant licensees. The relevant extract (Clause 4.2.2.2) that specifies the conditions on dominant licensees from this document, is being reproduced below:

“4.2.2.2 Duty to Allow Resale of End User Telecommunication Services

- (a) A Dominant Licensee must allow any Licensee to purchase any telecommunication service that the Dominant Licensee makes available to End Users, on the same prices, terms and conditions that the Dominant Licensee makes such service available to End Users. The Dominant Licensee may not prevent the Licensee from reselling the service to other Licensees or End Users, and using the service as an input for its provision of telecommunication services to other Licensees or End Users.**
- (i) A Dominant Licensee may comply with this obligation by filing tariffs for End User telecommunication services that do not expressly restrict resale and use as an input (or eliminating any restriction on resale and use as an input contained in its existing tariffs for End User telecommunication services).**
- (ii) Where an effective tariff for an End User telecommunication service restricts resale or use as an input, upon request by a Licensee, the Dominant Licensee must, within a reasonable time period, file a tariff that allows the Licensee to purchase the service on the same (or, at the request of the Licensee seeking to acquire the service, on substantially equivalent) prices, terms and conditions as End Users for the purpose of resale or use as an input.**
- (b) A Dominant Licensee must not require a Licensee that uses its End User telecommunication services as an input into other services to disclose that it is using the Dominant Licensee’s telecommunication services.”**

Hong Kong - OFTA

Hong Kong is another developing economy where liberalization of telecommunication market has taken a much faster pace than most of its developing counterparts, yet witnessed rapid growth. Reselling of International capacities has been implemented as **International Simple Resale (ISR)**. OFTA, the telecom regulator of Hong Kong on 23rd April 1996, concluded that International Simple Resale of International Private Leased Circuits is outside the exclusivities of the incumbent, HKT, in a statement **“Interpretation of the Exclusivities of Hong Kong Telecom International Limited [(HKT)]”**. An agreement on basic telecommunications services was concluded on 15 February 1997 as part of the General Agreement of Trade in Services (GATS) under the auspices of the World Trade Organisation (WTO). Under this agreement which came into effect on 1 January 1998, the Government of the Hong Kong Special Administrative Region opened up the market for ISR for data services.

Details of the service based operator license in Hong Kong

Period of Validity - The license shall be valid for one year and shall expire on the first day of the month next following the month in which it was issued and in the year next following the year in which it was issued. Subject to the discretion of the Authority, the license may be renewed for a period of one year at a time.

License Fee

1. A fee of (a) \$90,000 where Class 1 services are provided by the licensee during the validity period of the license; or
(b) \$25,000 where Class 1 services are not provided by the licensee during the validity period of the license shall be payable on the issue or renewal of the license.
2. A fee of \$7 for each subscriber number in the Numbering Plan of Hong Kong within numbering blocks allocated by the Authority to the licensee (net of those numbers subsequently ported out from the licensee's system) and for each number in the Numbering Plan of Hong Kong ported in to the licensee's system) shall be payable on the issue or renewal of the license.

Our views on the various issues raised in the CP are:

M/s AT &T Global Network

AT&T Global Network Services India Private Limited. ("AT&T India YO) and AT&T Inc. on behalf of its affiliates (collectively, "AT&T") respectfully submit these comments on the Consultation Paper on Resale in International Private Leased Circuits (IPLC) Segment, released by TRAI on December 22, 2006. AT&T India received licenses to provide National Long Distance (NLD), International Long Distance (ILD) and Internet Service Provider (ISP) services in India in late 2006 and expects to begin providing these services in the Indian market early in 2007. Additionally, AT&T, through its affiliates, is a leading U.S. provider of international private line and other business and consumer communications services on the U.S.-India route.

AT&T India's entry to the Indian market follows India's decision to stimulate greater investment and new entry in telecommunications by raising permissible foreign investment levels to 74 percent and reducing the license fee and annual revenue share for ILD operators. These pro-competitive initiatives by the Indian government will

provide significant benefits to Indian consumers and businesses and encourage broad growth in India's economy.

The Benefits of Competition: India has long recognized that "provision of world class telecommunications infrastructure and information is the key to rapid economic and social development of the country" and is "critical not only for the development of the Information Technology industry, but also has widespread ramifications on the entire economy of the country." India's draft National Telecom Policy 2005-06 also emphasizes that the telecom sector is a "key driver" of the economy that can "[p]ropel India into the forefront among the global economic superpowers with high quality and cost-effective telecom infrastructure and service support." Similarly, the World Bank has found that "enterprises using [information and communications [The New Telecom Policy 1999, Sect. 1.1.] technology] more intensively are more productive, grow faster, invest more, and are more profitable² . ,

It is also broadly accepted that pro-competitive, open market telecom policies best encourage the rapid growth of information and communication services in all countries by stimulating increased private sector investment, greater efficiencies and innovation and reducing user prices. The World Bank notes that "[c]ompetitive markets grow faster, lower costs, facilitate innovation, and respond better to users' needs" and that "[t]he first step in extending services is to let the market work."

The Need for Resale: The Indian government's decision to authorize the resale of international private leased circuits with effect from February 2007 is an important further step in the liberalization of international telecommunications services in India that will encourage greater competition and market growth in this critical sector. India currently prohibits non-ILD operators from engaging in the resale of international private leased circuits through Clause 2.2(a) of the ILD license, which states that [r]esellers are not permitted.,⁴ The removal of this restriction will provide significant new entry opportunities to benefit both suppliers and users in India by promoting the development of new and innovative services, more efficient facilities usage, increased user choice and lower prices.

2 World Bank, Information and Communications for Development 2006: Global Trends and Policies, at 60-62 (based on surveys of 20,000 companies in 56 low and middle income countries). The World Bank reports there has been a broad consensus for several years "among policymakers worldwide that information and communication provide key inputs for economic development, contribute to global integration while helping to retain the identity of traditional societies, and enhance the effectiveness, efficiency, and transparency of the public sector." Id. at 42.) Id. at 43. 4 Consultation Paper at 9.3

As TRAI describes in the Consultation Paper (p. 8), resale provides "an important entry strategy for many new entrants, especially in the short term when they are building their own facilities." The experience of many countries demonstrates that the elimination of restrictions on resale competition plays an important role in promoting competition in former monopoly telecommunications markets. Resale allows new entrants to focus scarce resources where they are most efficient, and to create user value by arbitraging volume discounts and other pricing differentials in services offered by incumbent facilities-based carriers or by developing innovative marketing approaches, alternative rate structures and other new service features.

As TRAI describes (p. 13), resale is "an effective entry vehicle for new entrants that may initially lack the required capital to building up their own facility," fosters the provision of "innovative services such as new billing terms and alternative innovative tariff packages," and promotes "the public interest goal of economically efficient, competitively priced, high quality communication services to consumers and businesses." TRAI also emphasizes in the Consultation Paper (p. 13) that resale offers potential benefits to facilities-based carriers by stimulating increased usage of network facilities and providing new wholesale revenue opportunities. In other countries, many of the world's largest international telecommunications carriers obtain a significant portion of their revenues from the provision of facilities and services to other carriers on a wholesale basis.

Since resale services are limited by the features and functions of underlying carrier networks, reliance on resale is not itself sufficient to ensure a competitive market. But while long term sustainable telecommunications competition requires the development of competing facilities-based networks, the authorization of resale plays an important complementary role in stimulating competitive market forces, particularly in the early stages of market liberalization, by encouraging additional market entry, new service offerings and lower prices and by increasing consumer demand for new and innovative services.

Terms and Conditions for IPLC Resale: The Consultation Paper requests comment on the terms and conditions that should apply to the resale of international private leased circuits in India, and AT&T urges TRAI to encourage broad resale market entry by following the predominant international practice of requiring the minimum license fees and qualification requirements for this mode of supply. However, TRAI also should seek to ensure that telecom competition in India will be sustainable in the long term by maintaining incentives for market entry by new ILD and NLD operators and investment in new networks and network maintenance.

In this regard, AT&T is concerned that new entrant ILD and NLD operators, all of which lack market power, should not be mandated to provide wholesale facilities or services to other carriers or be subject to wholesale rate regulation. While the Consultation Paper indicates (p. 11) that "existing ILDOs" should be "mandated by regulations to provide IPLCs wholesale probably from POP to POP," it is likely that the imposition of any such obligation on new entrant ILD and NLD operators would reduce these operators' incentives to build out new network facilities, reduce incentives for market entry by new ILD and NLD operators, and obstruct the development of sustainable telecom competition in India. Instead, in accordance with the predominant international practice, TRAI should apply any requirements for the mandatory provision of IPLCs on a wholesale basis, and for any wholesale rate regulation of those services, *only* to ILD and NLD operators found to possess market power.

M/s VSNL

VSNL has always been in support of the measures to increase the competitiveness in the telecom services sector and welcomes the present initiative taken by TRAI to stimulate further competition in the IPLC market.

We would also like to draw your attention to the fact that substantial fillip to the competition was imparted upon liberalization of the long distance licenses in December, 2005 by DoT. The ILDO license is now available with easy entry conditions, without need for high Capex associated with facility based operators as the roll out obligations have been significantly diluted and no requirement to build international bandwidth infrastructure. Thus the ILD license has itself become a minimum facility based license. As a result of this liberalization, there are about ten ILD Licensees who have been licensed to provide ILD services. The introduction of Resellers would, therefore, be a further step in that direction and would compliment the efforts of other minimum facility based ILDOs who have been recently licensed.

M/s BT Global Service

BT will like to express their appreciation to the DOT, for accepting the introduction of Resale in IPLC segment, and to the TRAI for allowing BT the opportunity to provide input into the consultation. This is a very timely initiative which is a significant step in bringing Indian telecoms regulation in line with international best practices.

BT has significant plans to setup various facilities in the country pertaining to international telecom services and hopes to provide a valuable contribution to this debate based on our experience and expertise in other parts of the world. At the outset BT would raised that the introduction of resale only in the IPLC segment may not deliver the expected result without applicability of the same in all the segments of end to end international connectivity including IPLC, domestic lease circuits and end links (last mile access). In absence of these the end users may have to contract with more than one service provider and also may pay higher prices for a Pan-India service because of inflated access (local lead) prices. Therefore, there is a need for wholesale services to be made available to Resellers in all the segments including downstream connectivity (local access) for a truly national end to end offering by a single provider.

In order to contribute to the wider debate on resale of the various elements, we have attached, as "Appendix A" a paper prepared by Ovum entitled "*Business to Business Communications - Understanding the Ladder of Investment*" which looks at the Ladder of Investment in Telecoms, particularly as it relates to the Business to Business Market. The paper stresses that the following "ladder rungs" on the Ladder of Investment are required in order to develop a truly competitive market where alternative operators can compete with incumbent carrier:

- third party leased lines, short and long, including substitute technologies to traditional leased lines such as Ethernet. Short leased lines to serve offices in concentrated locations close to the ANO's [Alternative Network Operator's] network infrastructure, longer lines to serve sites in less concentrated locations
- third party leased lines to serve international sites
- Unbundled Local Loops (DLL) where this is an economically viable access methodology
- bitstream access to serve small sites (eg retail outlets) in provincial locations
- bitstream access to connect employees to the corporate network via a secure IP-VPN (shared access where DLL is a viable option)

The paper concludes that if any of the ladder rungs are not available to alternative operators then this may result in the customer having no choice but to take service from the SMP [Significant Market Power] Operator (see page 12-13 of the report). BT would welcome the opportunity to discuss these matters in more detail at any time.

BT will like to offer the following comments on the various issues raised in the consultation paper for the consideration of TRAI:

Consumer Care Society

The publishing of the CP on this topic has come at a very appropriate time. We are sure this will give a large push to the demand and for IPLCs and the resulting competitively priced IPLCs will bring a win win situation all round.

TRAI deserves congratulations.

General: There should only be a light touch regulatory regime in relation to Resale of IPLC and where it is not needed to regulate best leave it to the market place. The exceptions are like the security aspects.

Chapter 5, Q.10: Resellers must be allowed to access the end users through the arrangement suggested by TRAI. The reason is the end user will have only point coordination and this eliminates his present day problems where different segments are provided by different operators for operations, billing, maintenance etc

We have no particular views on other Questions

Shri Khadda.G.Iyer (Seth GG Colaboration Tele-communication pvt ltd co.)

1. The Bandwidth prices need to come down further and the enforcing of the same has to be done stringently by the regulator. -- this resale of bandwidth may make the prices go up from a consumer perspective.

2. The telcos are known to charge differential pricing for the end-end and the half circuits based on their route availability and bandwidth usage, the same has to be regulated.-- - given the resale of the IPLC's differential rates will be applicable based on various factors like routes, switchover facilities, bandwidth overbooking etc, countering mechanism for the same is required.

3. SLA parameters like jitter, throughput have to be closely monitored and ensured..... in a resale scenario the end consumer may suffer as no one will take the responsibility directly, the local half circuit partner will blame the international half and vice versa for the degrading SLAs.

4. Govt backed TSP's must maintain the competition in the indian markets and ensure that even for the resale of the IPLC there are

plenty of options available to the end customer either by having their own direct fibre routes or complete tie ups with Tier 1 Carriers internationally.

5. Regulator has to ensure that the spike in the IPLC pricing does not happen owing to the monopoly in the international circuits, now that all the international players like vodafone, BT, Verizon etc who are applying for the NLD in Indian telecom context.

