Consultation Paper No. 12 /2006

Telecom Regulatory Authority of India

Consultation Paper
On
Admissibility of Revenue Share between Visiting Network and Terminating Network for Roaming Calls

New Delhi

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PREFACE

Roaming means the ability for a cellular subscriber to automatically make and receive voice & data calls and also to access other services while traveling outside the geographical coverage area of the home network, by using the visiting network.

International Roaming tariff are under forbearance and there is a ceiling on National Roaming tariff. Revenue sharing between Home network and visiting Network is normally decided by mutual agreement between service providers. The key issue in this paper is that in case of roaming whether the terminating network service provider should get only the prescribed termination charges or should there be any revenue share between the visiting network service provider and the terminating network service provider, in view of higher roaming charges. This consultation paper discusses various points related to this issue and seeks views of the various stakeholders including Service Providers, Consumers/Corporate users, Consumer Organizations and others interested in the subject.

The Authority invites written responses from all the stakeholders by closing hours of 30th June 2006. It would be appreciated if the response is accompanied with an electronic version of the text through E-Mail. For further clarification, Shri Sudhir Gupta, Advisor (Fixed Networks & Mobile Networks), TRAI may be contacted on telephone number **26106118** or e-mail sudhirgupta@trai.gov.in This paper is also available on TRAI's Web site www.trai.gov.in

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List of Abbreviations Used

S.No.	Abbreviation	Expansion
1	ADC	Access Deficit Charge
2	AGR	Adjusted Gross Revenue
3	BSNL	Bharat Sanchar Nigam Limited
4	COAI	Cellular Operators Association of India
5	DOT	Department of Telecommunication
6	ILDO	International Long Distance Operator
7	IUC	Interconnection Usage Charge
8	POI	Point of Interconnection
9	TDSAT	Telecom Dispute Settlement Appellate Tribunal
10	TRAI	Telecom Regulatory Authority of India
11	TTO	Telecommunication Tariff Order
12	USO	Universal Service Obligation

Chapter-I

Issues involved regarding Admissibility of Revenue Share between Visiting network and Terminating Network for roaming calls

1. Roaming means the ability for a cellular subscriber to automatically make and receive voice & data calls and also to access other services while traveling outside the geographical coverage area of the home network, by using the visiting network. It is national roaming when visiting network and the home network of the subscriber are in the same country and it is international roaming when visiting network and home network of the subscriber are in different countries.

2. Revenue sharing between Home network and visiting Network is normally decided by mutual agreement between service providers. Subscriber roaming in visiting network may originate calls which are to be terminated in different service provider's network i.e. terminating network.

3. Provisions in Telecommunication Tariff Order (TTO) regarding Roaming Charges are as follows:

   As per 18th amendment to TTO and subsequent clarification issued by TRAI on 14th May 2004 the ceiling tariffs for Regional/ National roaming airtime charges is Rs. 3.00 per minute + surcharge of 15% on Airtime component + Interconnection Usage Charges (IUC) i.e. Carriage + Termination+ Access Deficit Charge (ADC) for various distance slabs as provided in the IUC Regulation. However the charges for International roaming are under forbearance.

4. Provisions in IUC Regulation regarding Termination Charge:

   As per the IUC Regulation dated 29th October 2003 and subsequent amendments, TRAI has specified cost based termination charge of Rs. 0.30 per minutes, independent of the network from where the call is originating / terminating. Termination charge also does not depend on tariff charged by the operators.

5. Authority observed that the possibility of misuse of Point of Interconnections (POIs) by cellular operators exists if they handover incoming international calls as well as incoming inter circle calls as local call. To avoid such misuse of POI, TRAI issued “The Telecommunication Interconnection Usage Charges (Fifth Amendment) Regulation (7 of 2005)” on 11th April 2005, wherein all calls from national roaming subscriber were treated as long distance calls and all calls from International roaming subscribers were treated as incoming international calls for ADC purpose. In other words, ADC was made applicable on calls originated by National/ International roaming subscribers. In the said regulation also it was clearly mentioned that Consultation paper dated 17th March 2005 addressed issues like revenue share arrangements between terminating and visiting network. Subsequently Cellular Operators Association of India (COAI) and others challenged the abovementioned Regulation in Telecom Dispute Settlement Appellate Tribunal (TDSAT) vide Appeal No. 7 of 2005. Hon’ble TDSAT vide its order dated 21st September 2005, set aside this Regulation on the ground inter alia that the assessed amount of ADC, could be generated without including ADC generated from roaming calls. In the IUC Regulation dated 23rd February 2006, ADC regime has been shifted from per minute basis to percentage of revenue share basis (except for international calls), the issue of ADC on roaming calls is no longer valid.

6. The key issue in case of roaming is whether the terminating network service provider should get only the termination charges as prescribed by TRAI or should there be any revenue share between the visiting network service provider and the terminating network service provider.

7. This issue of revenue share on roaming charges for National and International roaming call was raised in Question 4.6 of TRAI's consultation paper on "Interconnection Usage Charge Review" dated 17th March 2005. In response to question 4.6 of the TRAI's Consultation paper, TRAI received various comments but most of the comments were in the context of revenue sharing between Home Network and Visiting Network and did not reflect the views regarding revenue sharing between Visiting Network and Terminating Network. Keeping in view these facts this issue was not addressed in IUC Regulation dated 23rd February 2006.

8. TRAI's endeavour is to bring out all the related points of the issue so that stakeholders can provide their views after examining the pros and cons of the issue. Some points related to the concept of Revenue sharing between Visiting and Terminating Network are as below:

(a) Points in favour of allowing Revenue sharing between Visiting and Terminating Network:

a. Roaming calls are premium in nature.

b. Roaming is a value added service. Revenue generated from this service needs to be shared between operators (Home Network, Visiting Network and Terminating Network service providers) on the basis of mutual agreements.

c. Mobile Service Providers (Visiting Network Service Provider) themselves are treating roaming calls differently from local calls in terms of charges. They are charging National roaming customers a higher charge and approximately Rs. 100/- per minute from international roaming subscribers, while the Terminating operator gets paid at the rate prescribed by TRAI for Termination i.e. Rs. 0.30 per minute..

d. The licences for cellular services are issued for specific service areas. The Interconnect Agreements are signed by Terminating Service Provider with Mobile service provider for the concerned service area. Roaming customers are from a different Service Area and are not covered by the general treatment provided in the Interconnect Agreements. If terminating service provider is ready to accept this traffic, it should get a share in higher profit from such calls along with normal termination charge.

e. In the interconnect agreement between some service providers, there is already provision of revenue share on the calls originated from the National roaming calls and International roaming subscribers.

(b) Points against the Revenue sharing between Visiting and Terminating Network:

(i) The interconnection prices are cost based and set by the Regulator. TRAI has already specified cost based termination charges of Rs 0.30 per minute. Termination charges prescribed by TRAI are cost based and independent of the tariff charged by the originating operator. Termination charge also does not depend on the network from where the call is originating. Since the termination network incur no additional cost for facilitating termination of calls from national/ international roamers, any case for additional IUC above the present cost based termination charge of Rs. 0.30 per minute would be difficult to justify based on economic principles.

(ii) The retail prices are a function of wholesale price and it is not vice versa. Higher interconnection price based on the fact that the retail prices provide a higher margin seemingly lacks logic.

(iii) In case revenue share arrangement for roaming calls is left to the mutual agreement to the service providers, there is a likelihood of the dominant operator exercising undue advantage through the negotiation process.

(iv) There may be a situation that no agreement is reached between the service providers for terminating the calls originated from roaming subscribers and the calls originated from roamers will not be completed.

(v) Permitting mutual negotiations for revenue share between Visiting and Terminating Network service provider, in case of roaming calls is similar to the permitting negotiations for higher termination charge for international incoming calls, which was not agreed to by Authority after detailed examination. The relevant para of IUC Regulation dated 23rd February 2006 are reproduced below:

> *" i) Termination Charge on incoming international long distance call.*
>
> *60. A proposition has been made by the access providers that they should be permitted to negotiate termination charges with the ILDOs. The Authority took account of all points made in favour and against allowing the access providers to negotiate the termination charges with the ILDOs.*

61. The Authority recalled the situation few years ago, where such negotiation was allowed and the uncertainty and dispute that was created in the market at that time. In this context, the Authority noted that the moment the negotiation process becomes a dispute, which is likely; the prevailing legal framework is such that the Authority will not be in a position to take steps to address the matter. This will imply lack of certainty and increased possibility of discord in the market, which possibility may get further enhanced as BSNL has already entered the market as an ILDO itself. Termination is a monopoly , therefore, an access provider may ask for a high termination charge which could lead to non-settlement of termination charges between access provider and ILDO. This would result in the call not being completed because the network would be broken.

62. For incoming calls, since the end user is specified by the number on which the call comes, the access provider effectively has a monopoly position. In such a situation, the Authority is of the view that there is a major likelihood of the dominant operator exercising undue advantage through the negotiation process. The Authority further noted that allowing negotiations would permit a reduction of the ADC charge on international calls, but the total arbitrage margin would still remain high due to an increase in the termination amount retained by the access provider. As explained earlier, the lower ADC on international charge would result in a correspondingly higher ADC charge for the domestic calls, making them more *expensive. The Authority also noted that BSNL was already being provided adequate funding for ADC and there was a USO regime in place for funding investment in rural and other net cost areas. Hence additional funding through negotiations would have certain adverse effects and would be over and above the amounts already being provided. In none of the countries termination rates are different between local, long distance and international long distance calls.*

63. The Authority then examined the argument that if mobile operators received higher termination charges from ILDOs, they would have greater incentive to curb the grey market traffic. The Authority recalled that under the DOT letter of 23rd June 2003, mobile operators had already been directed to monitor and take requisite measures, in co-ordination with DOT's Vigilance Department, to address the illegal international traffic. The above argument appeared to suggest that the mobile operators should be paid an incentive in order to follow the aforesaid Direction from DOT. This argument cannot be accepted by the Authority. In fact, as BSNL has strongly stated in a related context that monitoring and penalty are adequate for addressing grey traffic, such monitoring and penalty should also be effectively put in place for the mobile operators. Moreover, the Authority has examined the proposition further and it does not appear that the incentive so provided to mobile operators will effectively address grey traffic as such.

64. *In this background, allowing BSNL or any other access provider to negotiate termination charges with ILDOs would not be appropriate. The Authority foresees the reduction in the arbitrage margin along with better monitoring and vigilant action, to result in growth of international long distance calls through the legal channels."*

(vi) Permitting revenue share between visiting and terminating network service providers may distort the market and perhaps could lead to hike in roaming tariff to the end consumer.

Questions for Consultation:

1. In case of roaming calls, should Terminating Network Service Provider be allowed to get Revenue Share from Visiting Network Service Provider or Terminating Network Service Provider should get only the termination charges as prescribed by Regulator.

2. If the revenue share between Visiting and Terminating network service provider is allowed, whether it should be left for mutual negotiations between Visiting and Terminating Network service provider or the Regulator should prescribe Percentage of revenue share between Visiting and Terminating Network service providers? Please give justification.

3. Whether prescribing percentage of revenue share between Visiting and Terminating network by the Regulator should be different for National and International roaming calls? Please indicate the suggested values along with justification.

4. Instead of percentage of revenue share, could it be a fixed value decided through mutual discussion OR prescribed by Regulator? Please give reasons.

5. Since for National inter circle long distance calls, ADC is percentage of Adjusted Gross Revenue (AGR) and there is a ceiling for national roaming tariff, therefore should the revenue sharing arrangement be restricted only to international roaming subscribers?