

ANNEXURE I

Comments of TRAI on DOT's Views on the TRAJ's Recommendations on Introduction of Competition in NLD Communications

Para No.	Views of the Department of Telecom <i>(Ref: DOT's letter No. 10-5/99-BS-1/Vol.II, dt 11th April 2000)</i>	Comments of TRAI
Para 6	<p>SCOPE OF THE NLD SERVICE</p> <p>TRAJ has recommended that NLDO is required to provide the necessary digital capacity to carry long distance communications services including the domestic portion of international calls. This suggests that the subscriber has a choice of carrier for domestic portion of international calls. This, however, is technically not possible to implement. DOT is, therefore, of the view that this choice may be given only to the Access Providers, which will be in line with NTP 1999. Therefore, the words "including the domestic portion of international calls" appearing in this Para may need to be deleted to clarify the position. As per NTP 1999, subscribers do have a choice to select the NLDO for domestic long distance calls.</p> <p>This will also require suitable amendment in the existing AP's licences. Para 1.7.8.8 of the Basic Service Licence will need to be amended from "DOT-TAX to "DTS / NLDO-TAX".</p> <p>In addition to the above, DOT is of the view that the NLDO may not be permitted to offer bandwidth on lease to the "end user / consumer". Therefore, it is proposed that we may add words "excluding end in user / consumer" at the end of this Para, after the word "others".</p>	<p>It is the intention of the TRAJ that the subscriber should have the choice of the NLDO for the domestic long distance calls as well as the domestic leg of international calls. The benefit of introduction of competition in NLD service should be available to the consumers for the carriage of domestic leg of their international calls also.</p> <p>It has been stated by the DOT that the exercise of such a choice by the subscriber is not technically feasible. TRAJ is, however of the view that technically it is feasible to give this choice to the customer by suitable addition of carrier access code, till the opening of ILD market i.e. the year 2004. Thereafter, more sophisticated technical arrangements such as pre-selection of NLD, ILD by the customers could be introduced. TRAJ has suggested formation of a technical group to finalise these arrangements.</p> <p>As regards permitting NLDOs to offer bandwidth on lease to the end user, TRAJ has reconsidered the issue and now finds itself in agreement with the views expressed by the DOT in its letter dated 11th April 2000 on the subject.</p>

**Para 7
& 9**

SERVICE AREA OF OPERATION

While agreeing with the recommendations of the TRAI that the service area of operation for the NLDOs should be at the national level, the Government proposes that NLDOs should be allowed to carry only inter-circle traffic while the intra-circle traffic will be carried by the APs. This is in line with the definition of National Long Distance as given in NTP 1999.

The Basic Telephone Service Licensees should be allowed to continue carrying the intra-circle long distance traffic of their own subscribers only as per the provisions of the existing licence conditions.

Reasons

1. The existing Basic Telephone Service licence permits the licensees to carry long distance traffic of their own subscribers within the service area. In case NLDOs are permitted to carry the long distance traffic within a circle (Intra-circle traffic) also, this would adversely affect the viability of the existing Basic and Cellular Mobile Telephone Service Providers.
2. The associations of both Basic and Cellular Mobile Telephone Service Providers have requested that NLDOs should not be allowed to carry the intra-circle long distance traffic due to its adverse impact on the financial viability of their projects.
3. The FSPs, if allowed to carry the intra-circle long distance traffic of other FSPs, will not concentrate on building and expanding the subscriber base. They will, instead, concentrate only on the long distance traffic. The objective of NTP 1999 of increasing the tele-density will, therefore, not be achieved.
4. To implement this recommendation the existing licence conditions of Basic Telephone Service Licensees will need to be amended.
5. If this facility of carrying each other's long distance intra-circle traffic is allowed to the FSPs, as recommended by the

From the point of view of generating greater competition, in all the segments of the long distance market, the erstwhile TRAI had earlier recommended that NLDOs should be allowed carriage of intra-circle long distance traffic. There is, however, also considerable force in the stand that this permission to NLDOs could have adverse impact on the business case of the Basic and Cellular Mobile Telephone Service Providers. TRAI appreciates this and accordingly recommends that for the present, in order to avoid disruptive competition NLDOs should be restricted to inter-circle carriage and not allowed entry in the intra-circle carriage. It may as of now remain the exclusive domain of the Basic and Cellular Mobile Telephone Service Providers. However for long distance calls within the service area (intra-Circle), the user may be given full choice between the basic service providers (this would exclude the Cellular).

	<p>TRAI, the Cellular Operators will also raise a demand for the same. In fact they have already represented that in case this facility is permitted to the FSPs, the same may be extended to the cellular operators also.</p> <p>6. This will also lead to the technical complexities of multiple interconnects as well as lead to avoidable litigation by both Fixed and Cellular Service Providers.</p>	
<p>Para 10, 21 & 22</p>	<p><u>COMPETITION AND LICENCE FEE STRUCTURE (ENTRY FEE)</u></p> <p>It is proposed that we may have a pre determined competition of having four players (one DTS + three new operators) at the national level in the initial years.</p> <p>Entry Fee in the case of pre-determined competition should be through the process of open bidding which is transparent and undisputed mode of selection. In the open bidding the other bidders will be asked to match the amount of the highest bidder.</p> <p>Bids may be invited on the basis of entry fee quotation with a fixed pre-determined revenue share percentage. Further provision should be made for pre-qualification of bidders with greater transparency and adequate performance guarantee.</p> <p>Further opening of the market may be reviewed after four to five years when the market would have established.</p> <p><u>Reasons</u></p> <p>1. On analysis of the comments received from various organisations / individuals in response to the TRAI Consultation Paper, it is observed that DTS, majority of the industry associations and individuals had recommended a limited competition in the</p>	<p>On careful reconsideration of the issue in the light of the points made by the DOT, the TRAI is now of the view that it would be desirable to have a limited competition in the initial years and recommends accordingly. In this context, we would like to emphasise that a market structure which begins as or has the potential of converting itself into a duopoly would not create conditions for effective and significant competition. Since in our view such an environment of effective competition is essential for lowering of long distance call charges and for improvement in Quality of Service, the DOT's suggestion that there should be only four players in the market i.e. the incumbent (DTS) plus three new entrants gives rise to an apprehension in our minds that subsequent mergers/acquisitions may reduce this number to two, creating a duopoly. In the circumstances, we would recommend that NLD market may be opened to four new operators in addition to the incumbent i.e. the DTS. This would provide better safeguard against the emergence of a duopoly.</p> <p>We find ourselves in line with the DOT thinking that open bidding is possibly the most transparent mode of selection and it would be in the best interests of all to use this process for determining the licence fee to be charged from the service providers. We also</p>

first few years. The COAI, ABTO, CII, PGCIL, Railways etc had recommended limited competition for the time being with full and open competition coming after the consolidation as well as development of the market. After receiving the recommendations of TRAI, only the COAI have supported the TRAI proposal that there should be free and open competition.

2. TRAI has stated that, with the strict entry conditions proposed by them, there will not be more than 2 to 3 new operators in the long distance market. In their analysis, with a 15% market share, each operator gets a Return on Investment (ROI) in excess of 28% (Table A-29 of Consultation Paper of TRAI).

3. If the number of operators increases, the ROI will fall because of reduction in the market share for each.

4. It is difficult to understand as to how the number of entrants will be restricted to 3 or 4 with Rs.100 Crore non-refundable one-time entry fee and 5% annual revenue share. Informal discussions with industry representatives also revealed that the amount of Rs.100 crores as Entry Fee and Rs.400 crores as refundable amount shall not be a deterrent in restricting the number of entrants. With these entry conditions, the number of entrants are likely to be in the range of 8 to 10 or even more. With this number, the market share for each will be in the range of 5% to 6%. As per TRAI calculations, if the market share for each player is 5% to 6% then, even without any revenue share, the ROI will be negative. The calculations have shown that the Return on Investment is very sensitive to the market share of each player and not to the percentage of revenue share in the form of licence fee. Therefore, it is

agree that in the open bidding, the highest bidder's offer would need to be matched by the next three highest bidders.

The eligibility criteria for entering the competition for licence should be a pre-qualification, judged in a totally transparent manner taking into account inter-alia the intending entrants' financial and technical strength, experience in Telecom, proposed roll out-plan and the available guarantee(s) or their performance. TRAI is of the view that as a part of the pre-qualification requirements, entry fee of Rs.500 crore should be stipulated in the same manner as contained in its earlier recommendation. This fee would indicate long-term commitment of the entrants and also discourage non-serious entrants. However, while agreeing with the DOT that the selection should be by a process of open bidding, on a careful consideration of all issues involved, TRAI is of the view that the bids should be invited in respect of the percentage of revenue which a licensee would be prepared to share and not the entry fee which he would be required to pay as a one-time payment as suggested by the DOT. The advantage of bidding for the revenue to be shared is that the bidder will have to base his bids on his detailed business plan which in turn would necessarily have taken into account the expected pattern of market growth, his projected share therein and the various other critical factors which can impact return on investment. The concerned service provider, therefore, would not have any reason to seek concessions subsequently in regard to the payments due to the Licensor. Most importantly it would not be possible for him to plead inability to make such payments because the agreed pay-out would be only a certain percentage of the revenue received whatever be its total quantum.

essential that a reasonable market share should be ensured for each player to make their projects viable.

5. Therefore, open competition without any restrictions on the number of players in the beginning can lead to unviable projects.

6. The TRAI have clarified that the Network Roll out obligations of NLDOs have been envisaged in terms of Points of Presence (POPs) in the LDCA. This would oblige the NLDO to make arrangements for connection with all SDCA in view of its obligation to pick-up / deliver all traffic originating or terminating in the whole of the area covered by a POP.

7. In view of this clarification from TRAI, it is clear that the NLDOs will have to establish connectivity between LDCA and SDCA which will create technical difficulty for the DTS in providing large number of interconnection points for a large number of operators.

8. While open competition is based on fundamental tenet of the market economy which encourages entrepreneurs and investors to invest as much as they desire, and to test the market according to their best evaluation of the opportunities and there will be less hassle to administer the licences, it may, however, not help in eliminating non-serious players and limit their numbers as envisaged by the Authority in their recommendations.

9. This, on the other hand, may lead to unnecessary duplication and sub optimal utilisation of the national resources, increased network complexities and hence increased cost of service to the customers.

10. Further, all the operators may remain centered around high traffic and high yield routes, restricting the benefit of

Further, the process of bidding for revenue sharing would remove the element of arbitrariness which could be said to be involved in any arrangement for a share predetermined by the licensor. There can, however, be a possible apprehension of someone bidding beyond the means of his business which, in the best of circumstances could be seen as adding to the cost of service and if things go very wrong even leading to failure of the business. Both these apprehensions are not difficult to dispel. In so far as addition to the costs on account of a comparatively high bid for revenue sharing and a consequent higher service charge is concerned, experience has shown that in fact such bids ultimately result in reduction of prices. The willingness to pay a high share of the revenue is a clear indication of a business strategy based on high growth, large volumes, expected efficiency gains, likely cost reduction(s) on account of future technological improvements and intended minimisation of all future variable costs. Such a situation, driven by competition is most likely to result in reduced prices for the consumers. The operators will have to recoup their costs by popularising their services and attracting larger volumes of business. Spreading costs over a much larger group of users will improve efficiency and bring down prices.

In the very remote eventuality of the business failing to bear the burden of the bid (licence fee), clearly, the entrepreneur will have no choice but to lose his licence as well as capital.

In this context, while recommending bids for the percentage of the revenue to be shared TRAI is also keeping in view that since as per its recommendations there are going to be four

	<p>competition to a few areas in the country. The large and unlimited numbers may not help meeting society's needs.</p> <p>11. The free entry will also automatically mean free exit resulting in inefficiencies and considerable economic costs to the nation.</p> <p>12. Moreover, with free and open entry we may have to impose stringent performance parameters with penalties to regulate the entry of non-serious players, which may, however, become difficult to administer.</p> <p>13. The free and open competition will necessarily involve fixation of adhoc sum of one time entry fee, which is likely to be questioned at a later date by the audit or attract public criticism.</p>	<p>new entrants, three will be required to match the bid of the highest bidder. It is very unlikely that the three successful bidders following the highest bidder will also go beyond the business case and agree to share an unrealistically high percentage of revenue as the licence fee. The arrangement will, therefore, work satisfactorily if it is provided in the terms of the bid that should the process fail to throw up four entrants as desired, the licensing Authority would be free to examine the option of calling for re-bids. The key to success in this regard lies in proper structuring of the bid process and in the opinion of the TRAI, it would be desirable to adopt this mode of selection which appears to be the most transparent and beneficial to all concerned.</p>
Para 17	<p><u>INFRASTRUCTURE PROVIDERS</u></p> <p>While agreeing with the recommendations of TRAI, DOT proposes that, for Infrastructure Provider Category II also, we may impose a cap of 15% of the revenue as annual licence fee, inclusive of Universal Access Levy and other charges, since DOT has proposed a similar cap of 15% of the revenue as annual licence fee for NLDOs inclusive of Universal Access Levy towards meeting the Universal Service Obligation (USO) and other charges as may be determined by the competent authority. This is in keeping with the TRAI view in the last sentence of the recommendation in this Para.</p>	<p>The TRAI has reviewed the matter carefully. It is now of the view that that infrastructure providers of both the categories – I & II, cannot be deemed to be service providers in terms of Indian Telegraph Act 1885. In the circumstances, the TRAI would refrain from recommending any license fee applicable to them. The arrangement between these infrastructure providers and any telecom service provider will be a commercial one in which by bilateral negotiations a relationship of lessor and lessee and /or tenant and renter shall be established.</p>
Para 20	<p>The Government is already considering the amendment of the Indian Telegraph Act. In the amended Act, it is proposed to include the Infrastructure Providers in the definition of service providers. There may, therefore, be no need to amend the TRAI Act for this purpose.</p>	<p>In the light of the recommendation in Para 17 above, no amendment of the Indian Telegraph Act may be required. However, even if the Act is amended for this reason, the TRAI is still of the view that no license fee be levied from the infrastructure providers of both the categories – I & II.</p>

<p>Para 24 & 26</p>	<p>REVENUE SHARE</p> <p>It is proposed that we may prescribe a cap of 15% of the revenue as annual Licence Fee inclusive of the Universal Access Levy towards meeting the Universal Service Obligations and other charges as may be determined by the Competent Authority. Of this 15% cap, revenue share as licence fee may be kept as 10% of the Gross Revenue and a maximum of 5% contribution to the Universal Service Fund. This would mean that the cap would be a total of 15% of which the 5% component would be the contribution to the Universal Service Fund and would be variable. It would be appropriate if USO is decided beforehand.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The implication of the TRAI recommendation is that the quantum of Universal Access Levy and 'other charges' will not be known to the prospective licensees. 2. This element of uncertainty will make it difficult for the prospective licensees to assess the total committed costs for the licence and hence they may not be in a position to prepare their business plans accurately. 3. Moreover, the Differential Service Tax on NLD service will be difficult to administer due to technical limitation of the existing network for billing & charging. In addition, it will also create administrative problems of collection, reconciliation etc. and hence will not be implementable at present. 4. A study of the likely Return On Investment (ROI) to the NLDOs has been made on the basis of TRAI assumptions. It has been observed that the ROI is highly sensitive to the Capex invested in the network. With the declining costs and possibility of leasing of the transmission media, the ROI will improve further. Calculations with the incidence of 16% and 20% revenue share as Licence Fee results in ROI which are about 20%. This study includes analysis as per realistic cost 	<p>On review, the TRAI has already suggested that after a fixed entry fee for all NLD service providers, the license fee should be arrived at on the basis of competitive bidding in respect of percentage of revenue share. In order to avoid too low a bidding, the TRAI is of the opinion that there should be a prescribed floor, below which any bid may not be deemed acceptable. We would recommend the prescribed floor to be 7 % of the gross revenue comprising of 5 % towards Universal Service Fund and an additional 2 % or account of administrative costs and other charges. Bids will have to be for revenue sharing over the prescribed floor.</p>
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	parameters available with DOT. These show ROI of over 34% even with a Licence Fee of 20%. It can be, therefore, inferred that the incidence of 15% revenue share inclusive of Universal Access Levy and other charges as Licence Fee would still make the NLDO projects a financially viable proposition.	
Para 27 & 29	<p><u>REVENUE</u></p> <p>While agreeing with the recommendation of the TRAI in this Para, DOT proposes that the exclusion from the Gross Revenue accruing to the licensees should apply only to the charges payable to other service providers for carriage of calls, so as to avoid double counting, and to Service Tax, which is to be collected but not retained by the licensees. Any other item of expenditure and / or loss including the contribution towards Universal Access Levy or any other charge is not proposed to be excluded from the Gross Revenue. The views of DOT on the items to be included in the definition of Revenue have already been conveyed to TRAI vide letter no.15-11/99-LF dated 13.01.2000.</p>	Since in terms of the revised recommendations, the USO levy will be recovered as an integral part of the license fee, the recommendations made earlier in Para 29 will stand amended as much as under this approach only, the interconnection charges paid to other service provider and the taxes on the provision of the service would be reduced from the gross revenue.
Para 28	DOT proposes that the revenue for Category II Infrastructure Providers, for licence fee purposes, should be the Gross Revenue accruing to them from leasing of bandwidth as well as infrastructure, wherever applicable.	See comments under Para 17 above.
Para 31	<p>It is proposed that this Para may be replaced with the following, “Annual licence fee under the revenue sharing arrangement shall be paid in four quarterly instalments during the financial year. Each quarterly instalment shall be paid in advance within 15 days of the commencement of the first calendar month of that quarter. The year for the purpose of licence fee shall be the financial year ending 31st March <u>and the four quarters shall respectively end on 30th June, 30th Sept., 31st December and 31st March.</u> The licence fee for each quarter shall be paid provisionally by the licensee on self-</p>	The TRAI agrees to the suggestions of the DOT on the modalities of making payments.

	<p><u>certification and on the basis of the expected Gross Revenue accruing for the quarter. Final adjustment of licence fee for the financial year shall be made on or before 30th June of the following year based on the Gross Revenue figures duly certified by the Chartered Accountant engaged by the licensee for auditing the annual accounts of the licensee company under the provisions of Section 227 of the Companies Act, 1956.”</u></p>	
Para 32	<p>DOT proposes that the recommendation in this Para may be replaced as: “The Licensor may prescribe rules, accounting guidelines and formats to be used by the licensees for the maintenance of records, accounts, payment of quarterly instalments of licence fee and furnishing of periodic accounting statements etc., with a view to correctly ascertain the licence fees and to ensure their audit by the Comptroller and Auditor General of India.”</p>	<p>The task of prescribing rules, accounting guidelines and formats should be undertaken by the Licensor in consultation with the TRAI so that the modalities of Accounting Separation to be prescribed by the TRAI and other requirements in respect of regulatory reporting are duly provided for in the proposed accounting guidelines.</p> <p>With reference to the DOT's statement relating to "audit by the CAG", the TRAI wishes to clarify that the Comptroller and Auditor General of India would audit the accounts of the licensor, and not the private service providers.</p>
Para 34	<p>While agreeing with the recommendation of TRAI in this Para, it is proposed that the interest part of the clause may read as: “attract interest at a rate equal to the maximum Prime Lending Rate (PLR) of State Bank of India prevalent during the said stipulated period”.</p>	<p>This clause may be modified as under:</p> <p>“Any delay in payment of licence fee beyond the stipulated period will attract interest at a rate which will be 2% above the Prime Lending Rate (PLR) of State Bank of India prevalent during the period of default. If at any time more than one prime lending rates are prevalent, the highest of the PLRs will be applicable. The interest shall be compounded monthly at the rate(s) applicable during the period of default. A part of the month shall be reckoned as a full month for the purposes of calculation of interest.”</p>
Para 35	<p>DOT proposes that the recommendation in this Para may be replaced by the following: “While quarterly payments of licence fee are likely to be at variance with reference to the final liability based on the audited accounts, these payments should be as accurate as possible. Any</p>	<p>In the opinion of the TRAI a margin for miscalculation/ error of the order of only 5% as proposed by the DOT is very small and could occur in any estimated payment of the licence fee due. Provision for levy of penalty with such a low tolerance would lead to dissatisfaction and avoidable disputes. The</p>

	<p>understatement of interim quarterly payments beyond <u>five percent</u> of the final calculation may attract <u>a penalty not exceeding 150% (one hundred and fifty percent) of the amount of short payment.</u>”</p>	<p>20% margin for error as recommended by the TRAI earlier would appear to be far more realistic and TRAI would, therefore, like to reiterate its earlier recommendation. Proposed penalty of an amount upto 150% as against 100% as recommended by the TRAI earlier may, however, be stipulated.</p>
<p>Para 37</p>	<p>While agreeing with the recommendations of TRAI in this Para, it is proposed that for eligibility of the NLDO licence, the net worth of only those promoters may be counted, who have at least a 10% equity stake in the Joint Venture company with a further stipulation that there will be a lock-in of minimum of 3 years. The total net worth of all co-promoters of the Joint Venture may be kept as Rs.2500 crores as recommended by TRAI. Further, the foreign equity in the Joint Venture for NLDO should not exceed 49% at any stage with a stipulation that the control of the company shall remain in Indian hands. Further the DOT does not propose to add any clause relating to the experience in the Telecom sector. Therefore, point 37(f) may need to be deleted from the recommendations.</p> <p>- Reasons</p> <p>1. It is seen that the TRAI has neither recommended any minimum percentage of foreign equity in the Joint Venture company nor any minimum percentage of equity of either Indian or foreign promoters for eligibility of counting their net worth and experience. In the case of other Telecom Services, the foreign equity has been limited to 49% only.</p> <p>2. Moreover, in the case of Basic and Cellular licences, it was provided that the net worth and experience of only those foreign co-promoters will be counted who have at least a 10% equity stake in the Joint Venture. This was with a view to ensure that the foreign companies who participate in the joint venture should be serious enough to have an equity stake in the Joint Venture company for at least a period of 5 years.</p>	<p>We agree that the net worth of only those promoters may be counted who will have at least a 10 % equity stake in the Joint Venture (JV). DOT's proposal regarding limiting foreign participation in the JV does not emanate or follow from any recommendations made by the TRAI originally and we are therefore, not offering any comments in this regard at this stage.</p> <p>In regard to the experience of the J.V. partners in Telecom Services, it is our considered opinion that experience in the telecom sector is an essential selection criterion. In this connection it is, however, clarified that it is not the intention of the TRAI that every single member of the JV should have experience of the telecom sector. This requirement would be met as long as some of the constituents representing a reasonable part of the equity, say 30%, should also bring in their telecom experience as a service provider. This stipulation is aimed at ensuring infusion of the state-of-the-art technology and management techniques into the venture.</p>

<p>Para 39</p>	<p><u>OTHER TERMS AND CONDITIONS</u> The Licence Agreement is to be prepared by the licensor. While DOT will base its Licence Agreement on the draft model sent by TRAI, but the licensor will need the flexibility of making changes in the Licence Agreement according to the exigencies of the service requirement and keeping in view the TRAI Amendment Act 2000. Therefore, it is proposed that the Draft Licence Agreement referred in this para may not be taken as a part of the TRAI recommendations.</p>	<p>The draft model license agreement has been provided by way of a checklist of items which should generally be included in a license agreement. Subject to the above, the license agreement may be drawn up by the DOT taking into account the exigencies of the service. However there should be no difference in standard conditions contained in two licence agreements for the same service.</p>
<p>Para 40</p>	<p><u>NETWORK ROLL OUT PLAN</u> While agreeing with the recommendations of the TRAI, it is proposed that the clarifications issued by TRAI in their letter no.404 -1/98-Comm. dated 5.1.2000 (Para 3 of this letter) may be elaborated in this Para, to make things more clear without any ambiguity.</p>	<p>The position is fairly clear already.</p>
<p>Para 42, 43 & 44</p>	<p>DOT has proposed the procedure of open bidding for selection of the NLDOs (reference Paras 10, 21 & 22 in this Note) and since DOT proposes to exclude intra-circle traffic from the scope of NLDOs, TRAI may like to reconsider as to whether it will still be essential for the NLDOs to provide 80% of POPs in the first four years. Will the purpose of national coverage not be served by asking the NLDOs to provide one or two POPs each in all the circles? By making a suitable arrangement with the APs, the NLDO can pick up and terminate the traffic at his POP, which may be one or two in a circle.</p>	<p>Behind the recommendations of the TRAI, the intention is that within the first four years the NLDOs should pick up long distance traffic from at least 80% SDCAs of the country. The arrangement should be acceptable even if they do not establish network for 80% of the POPs' coverage but attain the desired level of coverage by picking up traffic from 80% SDCAs by having lesser number of POPs and by making suitable arrangement with the APs.</p>
<p>Para 46</p>	<p>Since DOT has proposed to exclude the intra-circle traffic from the scope of NLDO, the words "excluding intra-circle destinations" may be added after the words "for all destinations" appearing in this Para. Secondly, since revenue sharing arrangements are proposed to be made between the two operators themselves, it is proposed that the words "Revenue Sharing and" appearing in the last</p>	<p>We agree. The whole sentence is considered relevant and retainable as TRAI has a role in establishing principles of revenue sharing in a multi operator environment.</p>

	<p>sentence will need to be deleted from this Recommendation.</p>	
Para 47	<p>DOT feels that we may add at the end of this Para that the default traffic will be carried by the respective APs to avoid failure of traffic and consequent inconvenience to the customers.</p>	<p>We are not in agreement with this DOT's suggestion. All NLD/ AP operators including DTS will be allotted a carrier access code (CAC) in the interest of dialling parity as already recommended. In case of default i.e. absence of CAC, in the digits dialled by the subscriber, the call should be routed to a recorded announcement requesting the subscriber to prefix his destination code with the CAC of the chosen operator. In due course preselection will be introduced to achieve equal ease of access as already recommended.</p>
Para 49	<p>DOT has already constituted this group. The TRAI was requested to nominate one representative from their side. TRAI may nominate one officer of not below the rank of Joint Secretary, so that the Group constituted by the DOT can start the work in this regard.</p>	<p>This should normally be the regulator's concern. In our opinion, the group should be constituted under the aegis of the TRAI as already recommended in the interest of technical regulation as well as for provision of a level playing field. The TRAI has the necessary expertise and if required can draw upon experience and expertise of other agencies to complete the task. Thus while inputs from the group set up by the DOT would be most welcome, the TRAI considers it necessary to address this issue independently as a regulator.</p>
Para 51	<p>It is proposed that the suitable revenue sharing arrangements should be negotiated between Access Providers and NLD Service providers. As per the TRAI Act, TRAI is to regulate arrangement among service providers of sharing their revenue derived from providing telecommunication services. Hence, the DOT feels that this aspect may be clarified in this Para. The subscriber will have choice to select NLDO only for domestic inter-circle calls. Further, if any NLDO is providing any concession / incentive, the STD PCO operator must pass on the benefit to the consumer. This may also be clarified in this Para.</p>	<p>The TRAI is in agreement with the DOT subject to the clarification that the subscriber will have the choice to select NLDOs for inter-circle as well as for domestic leg of international calls.</p>

<p>Para 53</p>	<p>This recommendation is accepted subject to the technical feasibility. This aspect may need to be clarified by adding suitable words in this Para.</p>	<p>The recommendation is aimed at early upgradation of the signalling system to ensure generation of adequate call data records and efficient inter-carrier settlements under a multi-operator environment. Given a reasonable time for upgradation, it is, in the opinion of the TRAI, technically feasible and should be achieved.</p>
<p>Para 54 & 55</p>	<p>The recommendation of the TRAI and its implications have been analysed. NTP 1999 does not envisage the payment of any entry fee or licence fee for any of the existing services being provided by the DTS. It is only for the new service of Cellular Mobile Telephones, which was not being provided by the DTS earlier, that the NTP 1999 envisaged the payment of licence fee only by the DTS. It has been further stated in the NTP 1999, that because the DTS is the national service provider having immense rural and social obligations, the Government will reimburse full licence fee to the DTS. In view of this, DOT is of the view that DTS may not be subjected to payment of any entry fee and licence fee in the form of revenue share.</p> <p>Reasons</p> <p>The implication of TRAI recommendation is that the DTS, though already providing Long Distance Service, will have to pay entry fee as if a new licence is being issued to the DTS on one time entry fee basis. In addition, the DTS will be required to pay the licence fee in the form of revenue share at par with new entrants despite its existing costly and partly outdated network, its social and economic obligations in the form of providing service in all areas of the country without any economic viability considerations. In addition the DTS is presently having to look after the existing staff strength without having the right to dispense with their services to bring it at par with the private sector. It is further stated that it may not be technically possible to separate the accounts for National Long Distance</p>	<p>With the opening of the NLD market corporatisation and reorganisation of DTS is unavoidable. In the interest of providing level playing field for all service providers, it is also considered necessary that the corporatisation of DTS results in creation of two different corporations – one for local and short haul long distance calls (intra-circle), and the other for long haul (inter-circle) long distance calls. Such separation of DTS business activities is essential because a single corporation could give rise to opportunities and occasions for cross-subsiding between local and long distance services which will clearly militate against level playing by new entrants in these service areas. This was also the basis of earlier recommendation.</p> <p>As to the question of payment of license fee by the DTS, the TRAI is of the view that even though as an incumbent operator, the corporatised DTS entities may not be asked to pay the entry fee, they must submit to the revenue sharing like other service providers. In reiterating its recommendations the TRAI is conscious of the fact that whereas the DTS has some legacies of the past which could impact its profitability adversely, it also has strengths and advantages as an incumbent which are not available to the new entrants. The social obligations would be addressed through USF levy of which DTS in its role as the main provider of universal service would be the biggest beneficiary.</p>

	<p>segment immediately. In addition, with its legacy network, social and national obligations and the existing staff strength, the cost of providing long distance service to DTS will be much higher vis-a-vis the new entrants and the additional burden of payment of entry fee and the revenue share will further increase the cost of service and will hence put DTS at a competitively disadvantageous position. This will result in the denial of level playing field to the incumbent operator.</p>	
<p>Para 57</p>	<p>While agreeing with the recommendation in this Para, it is felt that TRAI may like to clarify that the choice to the subscriber is for the National Long Distance and hence word '<u>National</u>' may need to be added after the words "..... have the choice to <u>make</u>....." appearing in this para.</p> <p>Secondly, it may be difficult to calculate the cost for giving access to the NLDOs to the existing network. Since it is being proposed in para 59 that the interconnection between the two service providers is to be at mutually agreed terms and also to avoid any possibility of disputes arising on account of this provision, DOT proposes that last sentence starting with "NLD Service Provider" may not be required.</p>	<p>We agree with the spirit of the suggestion. However, we think the criteria will be spelled out more clearly if instead of the word 'National', we add the word "Inter-Circle" after the words "have the choice to make".</p> <p>The statement constitutes enunciation of an important principle, its retention is considered desirable.</p>
<p>Para 59</p>	<p>Since the interconnect agreements between the two service providers are subject to review and intervention by TRAI and also to avoid any future licensor - licensee disputes, DOT proposes, that the words starting with "following the principles....." upto the end may need to be deleted from the recommendations. It also needs to be added that set-up cost of Interconnection will be borne by the licensed NLDO in line with the existing practices.</p>	<p>In this paragraph, TRAI has laid down the principles of interconnection and we find no reason to delete the expression. These principles have also been enunciated in the interconnection regulations issued from time to time.</p>

Para 62	The licensor has already issued Gazette Notification for providing parity to the telecom service providers with DO T / DTS as per the Indian Telegraph Act in so far as ROW is concerned. The licensor cannot be expected to arrange the ROW or argue with the concerned authorities for reasonableness of the charges levied by them. Therefore, this recommendation needs to be deleted. The NLDOs have to arrange their ROW from the concerned authorities.	In this regard we would like to reiterate our earlier recommendation that every NLD Service Provider should have access to ROW on a non-discriminatory basis at par with DOT/DTS. The licensor does have an obligation to assist the licensee in getting such a treatment in case the latter experiences any difficulty/ bottlenecks in this regard at any level. If all such efforts fail, the Government may have to intervene in the interest of level playing field for all.
Para 63	The TRAI Amendment Act 2000 provides for the establishment of Telecom Dispute Settlement and Appellate Tribunal. The provision in the licence agreement will be made in terms of the TRAI Amendment Act, 2000. Therefore, this recommendation may now to be deleted.	We agree.

on Conditions of Entry for Long Distance Operators

Note of Dissent

By

Rakesh Mohan
(Member, TRAI)

Background

1. The New Telecom Policy 1999 (NTP 1999) lays out the broad policy framework guiding telecom policy in the next few years. The Prime Minister has also outlined the vision of making India in to a super power in Information Technology. I believe that we should base our approach on this vision and on the broad parameters laid out in NTP 1999.

2. In the preamble to the policy the Government asserts the importance of telecommunications for “rapid economic and social development of the country. It is critical not only for the development of the Information Technology industry, but also has widespread ramifications on the entire economy of the country.... Accordingly, it is of vital importance to the country that there be a comprehensive and forward looking telecommunications policy which creates an enabling framework for development of this industry”.

3. Among the objectives outlined in NTP 1999 are:

- ❖ Access to telecommunications is of utmost importance for achievement of the country’s social and economic goals. **Availability of affordable and effective communications for the citizens is at the core of the vision and goal of the telecom policy.** (Emphasis added).
- ❖ Create modern and efficient telecommunications infrastructure taking into account the convergence of IT, media, telecom, and consumer electronics and thereby propel India into an IT superpower.
- ❖ Transform in a time bound manner, the telecommunications sector to a greater competitive environment in both urban and rural areas providing equal opportunities and level playing field for all players.

4. My comments and suggestions are essentially based on the objective of providing affordable and effective means of communications for the citizens of the country within the framework of a competitive environment. As asserted by the NTP 1999 itself I believe that a competitive telecom framework is essential for the health of the Indian economy as a whole. Indian telecom is already behind in terms of both coverage and quality of comparable countries. Furthermore, with open trade, the competitiveness of a country’s industry and trade is crucially dependent on the quality and price of its infrastructure services. With the high cost of Indian energy, transportation services, airports, and ports, Indian business is already handicapped relative to its competitors. Thus it is even more important that we ensure that this disadvantage is removed as soon as possible in the area of telecommunications, where it is indeed possible to do so. Thus a key objective of licensing policy for new entrants in national long distance should be to keep prices of this service as low as possible and also provide for facilities based competition so that quality improves.

5. I have four areas of disagreement with the majority, but they are all interconnected:

A. Area of Service

6. The erstwhile TRAI had recommended that the area of service of the new National Long Distance Operators (NLDOs) should include both intra-circle long distance calls and inter circle calls. The new majority has now agreed with the Department of Telecommunications (DOT) that the new NLDOs should not be allowed intra-circle calls. **I would like to indicate my agreement with the recommendations of the erstwhile TRAI in this regard.**

7. The main argument against the inclusion of intra circle calls in the area of service is related to the provisions of the existing FSPs that had allowed for a duopoly along with the incumbent. It is argued that the introduction of intra circle competition will affect the economic viability of the FSPs. Whereas there is some weight in this argument it has to be seen in the context of the existing limitations on their operations where they are only allowed to carry the traffic of their own subscribers. The problem would be met substantially if this licence condition is changed and each FSP is allowed to carry others' traffic as well. That will do much to improve their economic viability. Furthermore, the FSPs will also have the opportunity to provide a larger set of other services over the next few years.

8. The main reason for recommending the inclusion of intra circle traffic is that if it is not allowed there will be little reason for the new NLDOs to provide for POPs at more than the minimum required to carry inter circle traffic. This will not encourage the provision of facilities based competition as envisaged. Moreover, according to the estimates made by the erstwhile TRAI (data provided in their explanatory memorandum), about 45 % of long distance traffic (in revenue terms) is accounted for by intra circle traffic. If there is no competition allowed in intra circle traffic in addition to the FSPs, it is likely that greater competition will bid down the inter circle tariffs more than the intra circle tariffs. Intra circle long distance revenue will then be even higher as a proportion of total revenue than is estimated now. Thus if intra circle traffic is not permitted in the area of coverage of new NLDOs the revenue potential of these new entrants will be curtailed severely and the emergence of effective new competition will be discouraged in both inter circle and intra circle traffic.

9. It is also to be noted that, at present, only 3 circles have competing FSPs, although licenses have been issued in 3 more circles. Thus, if new NLDOs are not allowed intra circle traffic there will be no competition for the incumbent in intra circle long distance calls for quite some time to come. Consequently, consumer choice will be curbed and nor will there be adequate downward pressure on tariffs.

10. It is the consideration of all these factors that has led me to suggest that the area of service coverage of the new NLDOs should include intra circle long distance traffic.

B. Degree of Competition

11. The erstwhile TRAI had recommended that there be no limit on the number of entrants; that licences should be issued to all those who qualify under certain specific entry criteria. The DOT has recommended that only three new NLDOs be licensed based on bidding for an entry fee. The new majority has agreed with the DOT on limited competition but has argued for 4 new NLDOs. This involves a bidding process which will inevitably lead to greater cost for the licensees and eventually the consumers. Our experience so far has been that bidding for licences leads to over bidding and all the attendant difficulties that then arise. **I would therefore, once again, like to indicate my agreement with the erstwhile TRAI that there be no limit to the number of entrants after**

specified pre-qualifying criteria are met.

12. The argument for limiting competition is based on the fear that there will be too many entrants. In that eventuality, it is feared, not only will there be wasteful duplicating investment but there will also be likelihood of sickness in the industry. It is also argued that there will be severe technical problems in providing for a multiplicity of interconnection arrangements in an open access framework. These fears are, however, unfounded. First, the pre qualification conditions, the entry fee requirements, the proposed roll out conditions, etc. are such that only a few national level operators can be expected to enter. Second, even if there is a larger number of licensees who qualify, it is highly unlikely that more than a few will actually be able to achieve roll out. It must be noted that subsequent to receiving a licence each licensee will have to raise adequate resources for investment on a national basis. It is unlikely that financial institutions, foreign or domestic, will fund a multiplicity of licensees. Only the most sound of the potential operators will be able to achieve financial closure. In this way it is market forces, technical prowess, and financial strength that will decide who the effective licensees are, rather than an administrative bidding procedure which only bids up costs. In fact, if the number of licensees is limited through a bidding procedure, the licence fees lead to a higher requirement for finances by the bidders. Consequently there will be even fewer financial closures, and hence only one or two actual entrants.

13. This has indeed been the general experience in many countries that have had effectively free entry. A review of the experience of other countries shows that only a few now restrict the number of long distance operators. In fact, in many countries the FSPs are permitted to also operate long distance and international traffic. Despite these relatively free entry provisions, there are seldom more than a handful of significant nation wide providers of facilities based long distance telephony. Thus it is difficult to find adequate arguments for limiting the number of licensees ex ante through a bidding procedure.

C. Revenue Sharing

14. The erstwhile TRAI had proposed that there be a fixed revenue sharing fee expressed as a proportion of specified revenues. The DOT had agreed with this but had specified a higher ceiling. The new majority has, however, recommended that bidding be done on revenue sharing and that this should be the basis of selection of the 4 new entrants. **I would like to propose that the revenue sharing proportion should be specified ex ante and then should be the same for all licensees including the incumbent.** The revenue sharing formula should have two components: one for the USO obligation, and the other to cover administrative (DOT), regulatory (TRAI), and R&D expenses. Whereas, I do not, at present, have any firm numbers to suggest, the indicative figures for USO could be about 5 % of revenues and for the other, about 1-2 %. These proportions can be arrived at more carefully and specified.

15. A review of experience of other countries shows that very few countries (e.g. Thailand) have gone in for substantial revenue sharing percentages. In most countries, the revenue share asked for is essentially for regulatory and administrative costs, which seldom account for more than 0.1 % of revenues. Entry fees for FSPs and long distance operators are usually negligible now. In fact many countries now maintain a free entry regime whereby new operators can enter at any time.

16. The core of my disagreement with the majority is in the bidding procedure proposed to select the new licensees. The country has already suffered delays in telecom development due to the licence fee imbroglio. It would be highly undesirable to enter another bidding war that results in over bidding and then places the development of the whole sector in jeopardy. The country simply cannot afford

such an eventuality. Any bidding for licence fee or for revenue sharing is bound to produce a result that raises the overall cost of providing the service that will eventually fall on the consumer. The majority has argued, strangely, that "...experience has shown that in fact such bids ultimately result in reduction of costs. The willingness to pay a high share of the revenue is a clear indication of a business strategy based on high growth, large volumes, expected efficiency gains, likely cost reductions on account of future technological improvements and intended minimisation of all future variable costs. Such a situation, driven by competition is most likely to result in reduced costs to consumers. The operators will have to recoup their costs by popularising their services and attracting larger volumes of business. Spreading costs over a much larger group of users will improve efficiency and hold down prices". The basic argument here is that higher costs incurred will lead to higher levels of efficiency. It is difficult to understand the logic of this argument. The only situation where such an argument may have some validity is in a complete monopoly situation. In that case the revenue share would essentially amount to the soaking up of the monopoly rents that would otherwise have accrued to the monopolist. But that is not the situation envisaged here where we would like to encourage competition. It is relevant to ask why a profit maximising operator will not do all these things to achieve the lowest costs possible in a competitive situation in the **absence** of a high revenue sharing formula. In fact, the argument **for** competition is that the new entrant will indeed adopt such a business strategy to bring down costs and benefit the consumer. The stringent roll-out conditions proposed (as addressed in (4) below) will provide enough inducement, in addition to competition, for each operator to maximise subscribers and revenues. The imposition of a high bid revenue sharing cost will simply add to the cost and put a minimum on the tariff that can be charged.

17. It should also be mentioned that, barring a few countries such as Thailand, revenue sharing proportions have been found to be very low, usually less than 1%, and, as already mentioned are usually levied mainly for recovering administrative and regulatory expenses. The European Commission has indeed recommended this course of action for its members. However, interest in licences by auction has been revived recently by the successful auction of the spectrum for 3G licences in the UK. It must also be noted that auction has been resorted to since access has to be rationed to a scarce commodity, i.e. the bandwidth spectrum. It must be noted, however, that this has been greeted by scepticism and criticism in many quarters: mainly grounded in the fear that the licence fees bid will raise costs and make business uncompetitive with countries which do not levy such fees. In fact, it is reported that Hong Kong is eschewing this option because of the fear that auction will lead to high costs. Similar fears have been expressed in the European Commission as well. It is difficult to find any experience where high auction bids have resulted in lower costs. Our experience with licence fees has been a sad one leading to immense delays slowing down the development of telecom in the country. It would therefore be inadvisable to go in for another round of bidding, even if it is for revenue sharing.

18. Given the current position of India, it is clear that we still have a long way to go toward reducing our telecom costs: thus any action which raises such costs is inadvisable in the national interest. That the government is interested in reducing infrastructure costs is indicated by the tax concessions provided by way of tax holidays to telecom operators, which will also include NLDOS. Thus it makes little sense to increase revenue share while such operators benefit from tax concessions! Finally, it should also be noted that the biggest loser in highly bid revenue shares will be the incumbent since he will also have to pay the same revenue share to the government. For the incumbent this will amount to losses of current revenues. This will not be in the interest of telecom development in the country since that will impair his ability to invest and to continue the impressive growth of telecom that has been demonstrated over the past decade. If new entrants are required to pay a revenue share through bidding it would also be unfair to exempt the incumbent from the same levy of revenue share fees.

19. If there is a revenue objective in levying high revenue share through a bidding process it would be more rational to levy service tax on telecom.

D. Rollout Plan

20. The erstwhile TRAI had proposed a stringent roll out plan, specifying cumulative percentages of national coverage in terms of points of presence on a phased basis. It was envisaged that each new entrant would have to provide points of presence in at least 80 % of LDCAs by the end of the 4th year. This was consistent with the proposal of allowing intra-circle coverage also by the new entrants. Now that the new majority has recommended against intra circle coverage, they have also altered the roll out condition to, “... Within the first four years the NLDO should pick up long distance traffic from at least 80 % of SDCAs in the country. The arrangement should be acceptable even if they do not establish network for 80 % SDCAs by having lesser number of POPs and by making suitable arrangement with the APs”. It is difficult to see how this can be administered and monitored. Consistent with my recommendation for inclusion of intra-circle calls in the scope of coverage, **I would like to agree with the original roll out recommendation of the erstwhile TRAI which is also easily monitored.** This will promote facilities based competition which is desirable for the development of telecom in the country.

Bidding Strategy

21. Whereas I have expressed the view that there is no need to limit the number of players ex-ante through a bidding procedure, I believe that, should it be deemed absolutely necessary to do so a better bidding procedure can be devised in a manner that there is no substantial increase in cost to subscribers. The current suggestion is that all entrants will have to pay an entry fee of Rs 500 crore, of which Rs 100 crore will be non-refundable. the rest will be refundable conditional on roll out.

If it were absolutely necessary to employ a bidding procedure, I would suggest the following two stage procedure:

- (i) In the first instance there be no bidding procedure and potential licensees be selected subject to the Rs 500 crore entry fee as envisaged (Rs. 100 crore - non refundable + Rs. 500 crore - Refundable) along with the other prequalification conditions.
- (ii) If after this procedure is undertaken the number of potential licensees exceeds 5, then bidding can be resorted to on the entry fee, with the proviso that the minimum would have to be Rs 500 crore, and that 20 % of the bid amount would have to be non refundable. The rest would be refundable on the same roll out basis as is currently envisaged for the Rs 400 crore. All the 5 licensees selected would have to pay the highest amount bid and if necessary through a re-bid.

22. This procedure would result in a selection procedure that is fair and transparent and would also not place an extra burden on potential subscribers, on the incumbent or by the new entrants, except for the carrying cost of the refundable bid amount. The main cost will be the non-refundable portion of the bid. The rest of the bid, being refundable will not place a heavy burden on the licensees or the their consumers, except for its carrying cost.

Conclusions

23. In conclusion, I would like to reiterate that at this point of telecom development in the country, our main objective should be to accelerate the roll out of telecom facilities at the lowest cost possible to consumers. The regulatory mechanism must not place conditions or devise procedures which end up in increasing costs to the telecom licensees and hence eventually the consumers. There is one other consideration worthy of mention. The fast paced developments in internet telephony that are now being reported suggest that, within a few years, long distance voice telephony could undergo cost reductions of as much as 90 % over the current levels. Although the NTP 1999 does not permit internet telephony at present, if conventional long distance services are made to be too expensive in comparison, consumers will find it too difficult to resist the temptation of shifting to internet telephony as it starts becoming technologically feasible. Thus it would be inadvisable to bid up revenue sharing costs for the purpose of licensing new operators for the long distance telephone market.

(Rakesh Mohan)
Member, TRAI

ANNEXURE III

Comments on the dissent note of Dr. Rakesh Mohan.

(Paras 6/ 20/ Group Tender Sub head A,B,C,D)

A. Area of Service (Comments on para 6,7,8,9 & 10)

As per the existing terms and conditions of the basic telephone service license, the licensee is obliged to provide telephone on demand in all urban and rural areas besides providing a fixed number of VPTs. As per NTP-99, the Basic Service Provider (BSP) is required to provide an affordable service, which in the present cost structure obliges him to charge a low rental. Such rent will remain below cost for a number of years to come. Local call volumes do not generate adequate revenue to make him financially viable and his financial viability is largely based on surpluses generated from providing long distance service in his area of operation. As such his financial viability is likely to be adversely affected in case NLD operators are allowed to make a dent in his market share. It may be noted in this connection that despite four rounds of tendering, only six licences have been issued, that too only for those Circles which are perceived as lucrative. In more than a dozen circles there are still no BSP operators. From the angle of teledensity and generation of long distance traffic, it will be advisable to provide encouragement and support to the basic service operators in order that they get all the business they are entitled to in terms of their existing licenses. Even in USA, the markets of the FSPs (Called LECs) is still largely protected under U.S. Telecom. Laws and no NLD (called IXC) can operate in their service area. In this connection it may be relevant to note that while a fairly robust, reliable and high capacity long distance network is already in existence, the access network is the weakest link in the telecommunication infrastructure of the country. The development of basic services is directly related to the achievement of teledensity targets set in the NTP-99. Fulfillment of these targets falls mainly within the areas of responsibility of the Basic Service Providers. It is through them only that the vision of an affordable basic telephone service in all rural and urban areas on demand can be actualised. It must be kept in view that unless the access network is developed, the full potential of the long distance network can not be exploited and adequate traffic cannot be generated to sustain the viability of the NLD Operators.

As regards changing the licence conditions to enable each BSP to carry the other's traffic, the same has already been recommended by the erstwhile TRAI and we are in agreement with such a recommendation. TRAI's recommendations mandates the NLD operator to provide a POP in 321 LDCAs by the end of 7 years. However, in the initial periods of four years, he may establish lesser number of POPs provided he covers 80% of SDCAs by suitable interconnect arrangements with the Basic Service Providers (BSPs). When we talk of facility-based competition, TRAI has already clarified in its earlier recommendations that our insistence has to be on the provision of long distance transmission systems such as optical fiber, digital microwave etc. by the operator himself and his not becoming a reseller of these facilities. As he aims at becoming a National Long Distance Carrier, the concerned NLDO will no doubt be required to establish these facilities and we do not intend to dilute the original recommendation in this regard. The study of intra and inter circle long distance traffic and revenue carried out by Tata Consultancy Service (TCS) which Shri Rakesh Mohan refers to, had not taken into account the latest changes in tariff. Due to a larger reduction of tariff in lower distance slabs and making of SDCA as a local area, revenue from the traffic carried by NLDs is likely to be about 70 % of total long distance revenue. In the light of the latest estimates of revenue likely to be available to the NLD operators, there is sufficient business case for a limited number of players. In case, therefore, we exclude the NLD operators from Intra-Circle long distance calls,

while there will be no serious adverse impact on their business case, there will be greater encouragement to BSPs to enter the basic service market. This needs to be done in the current context for it is mainly through them that the main objective of NTP i.e increase in teledensity from the present 2% to 15% by 2010 can be achieved. Such an increase in teledensity will also serve the objective of spreading the internet to the rural areas.

Although six BSP licenses have been issued, the service, having been started as yet in only three circles, is quite limited in so far as national coverage is concerned. The other three operators are yet to roll out networks in their respective circles to any significant extent. This has been achieved after four rounds of bidding. The conclusion that the slow progress is basically due to the stretched economic viability of BSPs is inescapable. By taking away their share of the intra-circle long distance traffic, we may weaken their business case irredeemably. Between NLD and the Basic Service (BSP) or Access Service, priority needs to be given to the latter to achieve the NTP objective of increasing the teledensity from the present 2 % to 15 % by 2010. In the final analysis, this approach will also help the NLD operator to reach greater number of subscribers. The 'bottleneck' in telecommunication facilities is always the local loop provided by the Basic Service Operator and removing it is in the best interests of all.

B DEGREE OF COMPETITION (Paras 11, 12, & 13)

International Telecom Union (ITU) has recently carried out a survey of 188 countries to find out the level of competition in various telecom services. It will be seen from the table (at Annexure IV) that out of 188 countries surveyed, 166 have either monopoly or duopoly market structure. Only 22 countries have legally opened the market for greater competition. It is understood that these countries have done so after trying first the duopoly or oligopoly type of market structure. It is understood that such a policy was adopted in most of the countries including U.K and Australia.

Unlimited entry is likely to fragment the market too much. In such a scenario, a majority of new entrants would not be able to survive, resulting in creation of economically unviable units. Besides, considering the scope of the NLD business and the economies of scale involved therein, one cannot afford to overlook the fact that too much replication of the infrastructure will result in sub-optimal utilisation of scarce national resources. Such replication and sub-optimal utilization will unavoidably push up the cost of service. We must also not lose sight of the fact that exit from the telecom market is a painful process because of very high sunk costs particularly in the long distance network. It is a point to ponder as to how correct is it to blame the bidding process for the difficulties which the basic and cellular operators found themselves facing because of their wrong assessment of the market. A large number of countries have adopted open and transparent bidding process for selecting a limited number of operators with success. The recently concluded bidding for third generation cellular licenses in UK is a very recent good example.

The view that the number of operators can be left to market forces is no doubt an acceptable proposition but as is well known, its applicability is limited by the existing level of the market's efficiency. In actual practice, therefore, where markets are still developing it can create a number of financial and legal complications. The fear that the license fee will boost costs and thereby tariff is not substantiated by factual data. In this connection, we would like to point out that the license fee when it is to be paid as a percentage of revenue constitutes a rather small percentage of the total cost of operation. The main reduction in cost / tariff will come from economic efficiency of operations due to technological innovations taking place, particularly in the NLD market such as introduction of Wave Division Multiplex and photonic Switching techniques. As the operator introduces these technologies, he will be able to offer a cost-effective service based on his efficiency gains as well as

productivity improvements. However, this is possible only if he is assured of a reasonable share of the market to justify his investment.

C. Revenue Share.

One of the most spectacular developments in teledensity has been achieved in China. Last year they added about 20 million telephones and this rate of growth is likely to be sustained in the next 2/ 3 years. It is relevant to note that this explosive growth has been possible by ensuring a smooth and managed transition from the monopoly status of the early 70s to a duopoly regime in the Basic and Long Distance markets. The Chinese Administration has opted for limited competition in the initial years, and it is understood that in China as high as 25% of the revenue is being shared by some of the service providers. The same is true of Thailand. This is a fair enough pointer that even a comparatively high percentage of revenue sharing, by itself, does not hamper the growth of telecommunication. Western models where the socio-economic scenario is quite different, may not always be the best for us and it is certainly worth while to look also at countries such as China and Thailand where prevailing conditions are closer to ours and place greater reliance on the model(s) adopted by them.

D Roll Out Plan

The dilution of our earlier recommendation in regard to establishment of lesser number of POPs is only for the first four years so that the operator is helped in the initial years of his roll out when the cash outflows are more than the inflows and break-even has not been achieved. Even with lesser number of POPs, if he is able to cover 80% of the SDCAs by entering into interconnect arrangements with the concerned Access Providers, the overall objective of national coverage is achieved. No difficulty in monitoring such an arrangement is envisaged. The licensor can conveniently arrange to check from each of the SDCAs whether a subscriber located in that area is able to get an NLD call by dialing the carrier access code of the operator. It is understood that such a technical check is commonly done by the Telecom Engineering Centre before the service is allowed to commence in a given service area.

E. CONCLUSION

The objective of providing telecom services at the lowest possible cost to the consumers is unexceptionable. The recommendations for bidding on the percentage of revenue to be shared is however not a device which will increase the service charge payable by the customer. Firstly, in the service provider's total cost, it will be a relatively small component and more importantly, in order to meet competition, he will work to reduce its impact on his service charge by increasing volumes of business and gains from efficiency and technology. Concern has been shown about the future of NLDOs after introduction of internet telephony. In the context of internet telephony, the protection of the long distance operator will lie in large volumes and efficiency gains. In any case, Internet telephony in India is still some time away and it is not quite practical to anticipate now the shape of the market as it will emerge after internet telephony is introduced in India commercially and starts offering competition to other service providers