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Shri Manish Sinha
Advisor (F&EA)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg, (Old Minto Road),
New Delhi – 110 002

Subject: Consultation Paper [No. 01/2014 dated March 24, 2014] on Review of Tariff for Domestic Leased Circuits

Ref.: Press Release No. 19/2014 dated April 11, 2014

Dear Sir,

This is with reference to the captioned Consultation Paper [No. 01/2014] released by Hon'ble Authority on March 24, 2014.

AT&T Global Network Services India Private Limited ("AT&T") would like to respectfully submit its comments on the captioned consultation (enclosed as **Annexure – I**).

We trust you will find our submissions in order.

Thanking you,

Respectfully submitted,
for **AT&T Global Network Services India Private Limited**



Naveen Tandon
Authorised Signatory

Encl.: As above

**Comments of AT&T: TRAI Consultation Paper on
Review of Tariff for Domestic Leased Circuits, March 24, 2014**

Introduction and Summary

AT&T Global Network Services India Private Limited (“AT&T”) respectfully submits these comments on the TRAI Consultation Paper on review of Tariff for Domestic Leased Circuits, issued on March 24, 2014 (the “Consultation Paper”).

AT&T is a wholly-owned subsidiary of AT&T Inc., which, through its affiliates, operates one of the world’s most advanced global backbone networks, provides services to virtually every country and territory in the world, and 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 is licensed to provide National Long Distance (NLD), International Long Distance (ILD) and Internet Service Provider (ISP) services in India and began providing these services in 2007 and 2009 respectively.

AT&T welcomes the opportunity to comment on the issues raised by the Consultation Paper concerning the tariffs for domestic leased circuits (DLCs). As described by the Consultation Paper, the provision of DLCs has become more competitive on many routes as the result of the liberalized licensing policies of the Government of India and the regulatory measures adopted by the Hon’ble Authority, including the DLC tariffs. To expand the benefits of competition, the Consultation Paper properly emphasizes the objectives of stimulating customer demand and providing incentives for further investment by operators.¹ Consistent with these important objectives, AT&T’s comments highlight the following issues.

¹ Consultation Paper, Sect. 1.12.



First, while the DLC tariffs have benefited competition in NLD market, the Hon'ble Authority would harm rather than assist the competitive process by extending the DLC tariffs to cover virtual private networks (VPNs), including VPNs provided through Multi Protocol Label Switching (VPN-MPLS). (See response to Question 11.) Unlike the market for DLCs before they were placed under tariff in 1999, the market for VPN services is highly competitive and the prices for these services closely reflect this competition. There is therefore no need to tariff VPN services in order to stimulate customer demand for these services. Indeed, requiring tariffs not only would place unnecessary compliance burdens on operators but also would likely reduce the attractiveness and utility of VPN services, by limiting the ability of operators to offer the customized VPN services that the customers for these services frequently require to operate their businesses.

Second, the Hon'ble Authority should consider reviewing measures aimed at removing major barriers to greater competition in the sale of DLCs by reviewing opening up the DLC resale to further enhance competition and capacity utilization. (See response to Question 14.) As stated in the Government's National Telecom Policy 2012, to benefit consumers by increasing competition, it is necessary to "facilitate resale at the service level."²

Third, the Hon'ble Authority should consider reviewing the matter relating to removal the unfair disadvantage to operators providing services to customers using DLCs and other bandwidth leased from other operators that is caused by the current license fee structure. (See response to Question 14.)

² National Telecom Policy 2012, June 13, 2012, Sect. 3.8.



As the result of this fee structure, operators using leased bandwidth pay duplicative license fees for this capacity – once when they lease the capacity from the facilities-based operators (which includes the license fee in the lease price), and again when they sell services to customers using this leased capacity. In contrast, operators providing services over their owned capacity pay the license fee only once on this capacity. To remove this unfair cost disadvantage, the Hon'ble Authority should allow operators leasing bandwidth from other operators for resale to deduct the cost of this bandwidth from their revenues used to calculate the license fee.

AT&T responds to the questions raised by the Consultation Paper as follows:

Comments on Issues for Consultation

Q1: Should TRAI continue to use the bottom-up fully allocated cost method for computation of cost-based ceiling tariffs for point-to-point DLCs (P2P-DLCs)?

Q3: In case your response to the Q1 is in the negative, what should be the alternative approach for determining tariffs for P2P-DLCs of various bandwidth capacities? Please support your view with a detailed methodology along with supporting data and assumptions, if any.

Response to Questions 1 & 3:

The Hon'ble Authority has previously noted that "in most mature markets, regulators fix prices based on Forward Looking Long Run Incremental Costs (FLLRIC)."³ In light of the further development of a competitive telecom marketplace in India since the last review of DLC tariffs, the Hon'ble Authority should give further consideration to using the internationally generally accepted LRIC methodology to establish tariffs for leased line services.

³ TRA Notification, Apr. 21, 2005, Annex A, Sect. 4.5.



The U.S. Federal Communications Commission, for example, has stated that “[m]ost economists generally agree that competitive markets, over the long run, tend to force prices toward incremental costs. In dynamic, competitive markets, firms take action based not on embedded costs, but on the relationship between market-determined prices and forward-looking costs.”⁴ Additionally, “[f]or services . . . that share some joint and common costs, incremental costs would include a reasonable contribution to forward-looking joint and common costs.”⁵ Prices based on LRIC methodology will therefore reflect the price levels that prevail in a competitive marketplace. By requiring the use of this methodology, the Hon’ble Authority would ensure that domestic leased circuits were priced at competitive levels, which would further enhance competition in the NLD market.

Q4: In your opinion, what are the bandwidth capacities of P2P-DLCs for which ceiling tariffs need to be prescribed?

Response to Question 4:

The DLC ceiling tariffs should continue to apply to capacities up to the STM-1 (155 Mbps) level.

Q5: In your opinion, is there a need for prescribing separate ceiling tariffs for local lead and trunk segment?

Response to Question 5:

We do not believe separate tariffs are necessary.

⁴ U.S. Federal Communications Commission, *International Settlement Rates*, 12 FCC Rcd. 19806, para. 129 (1997).

⁵ *Id.*

Q6: In your opinion, is there a need for prescribing separate ceiling tariffs for remote and hilly areas?

Response to Question 6:

We do not believe separate tariffs are necessary for remote and hilly areas. The Hon'ble Authority should seek to encourage additional competition and infrastructure build out in these areas by also reviewing opening up the DLC resale to enhance competition to remove restrictions on the sale of DLCs leased from other operators and by working with local authorities to simplify right of way (RoW) policies.

Q8: In your opinion, is the distance interval of 5 km still relevant for prescribing distance-based ceiling tariffs for P2P-DLCs?

Response to Question 7:

The current distance intervals should be maintained.

Q11: Should VPNs such as MPLS-VPNs also be brought under tariff regulations for DLC?

Response to Question 11:

There is no reason to extend the DLC tariffs to cover virtual private networks (VPNs), including VPNs provided through Multi Protocol Label Switching (VPN-MPLS). VPNs are not private leased circuits, but are merely services that provide the same function as private leased circuits, by using a "tunnel" to transport a customer's traffic in a secure manner over public network infrastructure.⁶ Neither this similarity in functions, nor the increasing usage of these services by business customers, justifies requiring tariffs on VPN services.

⁶ Consultation Paper, Sects. 2.5-2.6.



The Hon'ble Authority required tariffs for DLCs because it found that competition was not effective in reducing high DLC prices.⁷ Unlike the market for DLCs in 1999 and 2005, however, the market for VPN services is highly competitive. More than 20 operators provide these services, and VPN prices closely reflect this competition. It is therefore not necessary to require tariffs on VPN services in order to meet the objective stated in Section 1.12 of the Consultation Paper of stimulating customer demand.

Indeed, rather than benefit customers, requiring tariffs would harm the customers of VPN services, by limiting the ability of operators to offer the flexible and customized VPN services that these customers frequently require to operate their businesses. As noted by the Consultation Paper, for example, MPLS-VPN is "a fast-emerging choice among retail customers owing to the fact that it is [] more cost-effective, scalable and allows provision of service level agreements (SLAs), class of service (CoS) bandwidth on demand etc."⁸ The likely result of requiring tariffs for VPN services would be that operators would be forced to keep major business customers waiting while they sought regulatory approval for customized VPN services required by these customers that were different from the services described in the tariffs. By reducing operator's ability to offer the flexible, customized services that are frequently most attractive to customers, tariffing requirements would likely reduce demand for these services, contrary to the objectives of this consultation. Tariffs also are unnecessary for VPNs because operators provide VPNs to their customers by using DLCs that are already covered by the DLC tariffs. Indeed, the large majority of the costs of VPNs are for tariffed DLCs.

⁷ See TRA Notification, Apr. 21, 2005, Annex A, Sects. 1.1-1.6.

⁸ Consultation Paper, Sect. 3.13.

Requiring tariffs for VPN services would therefore serve no useful purpose and would unnecessarily burden both operators and their customers. To avoid these burdens, as well as to properly serve the objectives stated by the Consultation Paper of stimulating customer demand and providing incentives for further investment by operators, the Hon'ble Authority should continue the current treatment of these services.⁹

Q14: Is there any other relevant issue related to tariff for DLCs which the Authority should keep in mind while carrying out the present review exercise?

Response to Question 14:

The Hon'ble Authority should encourage increased competition in the NLD market and reduced prices that would further stimulate customer demand by undertaking two important reforms.

First, the Hon'ble Authority should consider reviewing opening up the DLC resale to further enhance competition and capacity utilization. The review should consider allowing NLDOs to resell capacity purchased from other operators by removing all restrictions on the resale of DLCs used for data services to serve end customers, with or without the requirement of any value addition. The experience of many countries has demonstrated that removing restrictions on resale encourages the more efficient use of facilities, increases competition, and reduces end-user prices.

⁹ *Id.*



Allowing the unrestricted resale of DLCs would provide the same benefits to customers and operators in India, including on the routes and areas where there is still low competition. As stated in the Government's National Telecom Policy 2012, to benefit consumers by increasing competition, it is necessary to "facilitate resale at the service level."¹⁰

Second, the Hon'ble Authority should encourage increased competition in the NLD market that would further reduce end-user prices by changing the current license fee regime to remove the duplicative license fees paid by NLD operators providing services to customers using DLCs and other bandwidth leased from other operators. The current license fee is levied on revenues from all sales at both the wholesale and retail levels, with no deductions for the costs of leased capacity used to provide services. As a result, NLD operators that use DLCs and other bandwidth leased from other operators must pay the licensee fee for this bandwidth twice – once when they lease the bandwidth from the other operator (as part of the cost of the lease), and again when they resell this bandwidth as part of their service to the final customer.

This "stacking" of license fees increases end-user prices and harms competition in the NLD market. NLD operators that provide service to customers using leased capacity, and therefore pay double license fees for this capacity, are at a significant disadvantage in competing against operators that provide services over their own capacity and therefore pay license fees for their capacity only once.¹¹

¹⁰ National Telecom Policy 2012, June 13, 2012, Sect. 3.8.

¹¹ The Consultation Paper notes (Sect. 2.24), for example, that vertically integrated NLDOs that own their own long distance transmission infrastructure and also "generally do not have to depend upon other ASPs for provision of local leads" have about 80% share of the DLC market in India. These NLDOs derive a significant cost advantage from the duplicative 10% license fee paid by other NLDOs that must lease and resell trunk and local lead circuits.



To remedy this situation, the Hon'ble Authority should consider reviewing this matter and recommend allowing operators to deduct the full cost of capacity that is leased from other operators and used to provide service from the revenue upon which the license fee is levied.

To illustrate the problem further, based on the current license for of 8% of revenues, an operator that sells services using leased bandwidth to an end-user for 100 Rs., and pays a lease fee of 80 Rs. for the leased bandwidth to the facilities-based operator leasing the bandwidth, currently pays license fees of 14.4 Rs. – comprising 8 Rs. for the license fee on the services sold to the end-user, and 6.4 Rs for the license fee payable by the facilities-based operator leasing the bandwidth, which passes through this fee to the leasing operator. However, a facilities-based operator using its owned bandwidth for services sold to an end-user customer for 100 Rs. pays only the license fee of 8 Rs. on this sale. (As already noted, any license fees incurred on leasing revenues are passed through to the leasing operators.)

By allowing the operator using leased bandwidth to deduct the cost of this bandwidth from the revenues used to calculate the fee, the operator would pay a license fee of 8 Rs. – comprising 1.6 Rs. on the revenues for the services sold to the end-user minus the cost of the leased bandwidth, and 6.4 Rs for the license fee payable by the facilities-based operator leasing the bandwidth. This solution would level the playing field so that operators providing services over leased and owned capacity would pay the same fees.

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AT&T would be pleased to answer any questions on these issues.

Respectfully submitted,
for **AT&T Global Network Services India Private Limited**

Naveen Tandon
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Authorised Signatory

April 25, 2014