No.:110/TRAI/2016-17/ACTO
Dated 17th October 2016

Shri Arvind Kumar
Advisor (NSL)
Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi-110002

Subject: ACTO's response Consultation Paper (78/2016) on Review of Interconnection Usage Charges

Dear Sir,

ACTO is pleased to submit its comments on TRAI Consultation Paper (78/2016) on Review of Interconnection Usage Charges.

We hope that our comments (enclosed as Annexure - I) will merit consideration of the Hon'ble Authority.

Thanking you,
Respectfully submitted

Yours sincerely,

Tapan K. Patra
Director

Encl: As above

Annexure -I

ACTO's Response to TRAI Consultation Paper
on
Review Interconnection Usage Charges (IUC)

Q1: In view of the recent technological developments in the telecommunication services sector, which of the following approaches is appropriate for prescribing domestic termination charge (viz. mobile termination charge and fixed termination charge) for maximization of consumer welfare (i.e. adequate choice, affordable tariff and good quality of service), adoption of more efficient technologies and overall growth of the telecommunication services sector in the country?

(i) Cost oriented or cost based termination charges; or

(ii) Bill and Keep (BAK)?

Please provide justification in support of your response.

And

Q2: In case your response to the Q1 is 'Cost oriented or cost based termination charges', which of the following methods is appropriate for estimating mobile termination cost?

(i) LRIC+

(ii) LRIC

(iii) Pure LRIC

(iv)Any other method (please specify)

Please provide justification in support of your response.

ACTO's Response:

We believe that under the present charging regime i.e. Calling Party Pays (CPP), only cost oriented or cost based approach can be implemented. Therefore, it is submitted that domestic termination charges should be determined on cost based and work done principle.

We appreciate that competition and India's current regulatory framework have combined to foster an environment of low termination rates for voice traffic in India, which is one of the lowest in the world. The TRAI's regular review of the market has led to cost-oriented reduction in termination rates that benefit consumers and India's broader economy by enabling communications costs to reflect reasonable rates while also enabling carriers to recoup their costs associated with providing access to the terminating network. We encourage India to continue with this regulatory approach that has made communications affordable for nearly one billion Indian consumers in record time, and which has proven to be successful elsewhere.

Q3: In view of the fact that the estimates of mobile termination cost using LRIC method and LRIC+ method yielded nearly the same results in year 2011 (as filed in the Hon'ble Supreme Court on 29.10.2011) and in year 2015 (as estimated for the Telecommunication Interconnection Usage Charges (Eleventh Amendment)Regulations, 2015 dated 23.02.2016), would it be appropriate to put to use the estimates of mobile termination cost arrived in the exercises of year 2011 and year2015 in the present exercise?

And

Q4: If your response to the Q3 is in the negative, whether there is a requirement of running the various LRIC methods afresh using the information on subscriber, usage and network

ACTO's Response:

1. Since costing models (2011 and 2014) are not available in public domain, therefore, we are not in position to offer our comments.

2. However, we note that cost structure of the industry has changed substantially due change in customer behaviors, changein Relevant cost and change in business models etc., therefore, the same cost or cost models cannot be considered for present termination exercise.

3. In view of above observations, it may be concluded that the previous both models cannot be used for present domestic termination exercise.

Q5: In what manner, the prescription of fixed termination charge as well as the mobile termination charge from wire-line networks as 'zero' through the Telecommunication Interconnection Usage Charges (Eleventh Amendment) Regulations, 2015 is likely to impact the growth of the Indian telecommunication services sector as a whole? Please support your viewpoint with justifications.

ACTO's Response:

1. It is submitted that the prescription of termination charge should be cost based and work done approach. We have not observed any growth in the wire line segment due to ZERO termination charge. In fact, it is against the TRAI's own costing approach and regulation i.e. The Telecommunication Interconnection (Charges and Revenue Sharing) Regulation 2001.

2. It is important to mention that we have not come across the world that any ITU member state has prescribed 'ZERO Termination Rate' for fixed line network whereas in the case of mobile network there is a termination rate under CPP regime. Therefore, we suggest that both termination rates should be cost based and work done approach.

Q6: Whether termination charges between different networks (e.g. fixed-line network and wireless network) should be symmetric?

ACTO's Response:

1. It is submitted that Termination charges should be determined on cost based and work done principle. We believe that the termination charges should be the same for substitutable services.

Q7: Which approach should be used for prescribing International Termination Charge in the country? Should it be kept uniform for all terminating networks?

ACTO's Response:

1. We believe that the present differential pricing approach for international termination calls is reasonable if compared with other jurisdictions ILD pricing approach.

2. We are of the view that the ILD termination charge should be on uniform for all terminating networks in India and it will avoid any kind of potential disputes because of the types of networks i.e. Wireless, Wireline and Internet etc.

   We too have noticed increases in international termination rates in several foreign markets and share concern that some are unreasonably high and not cost-oriented considering the prevailing global competition in the communications sector. We would encourage the TRAI to engage with those countries' regulatory bodies to share its concerns over the imbalance in their respective termination rates. In addition to highlighting the economic, commercial and social benefits that accrue to countries with lower cost communications, India could also consider raising some of the international trade obligations related to termination rates as they exist in the WTO's General Agreement on Trade in Services

(GATS)[1]. The United States government has also taken note of the increase in termination rates in some markets and included it in an annual report on foreign trade practices[2]. Should such an approach fail, and if the TRAI is inclined to take action that would effectively increase international termination rates in India, it must reflect carefully on the impact of such a rate hike on India's broader economic goals of promoting investment and innovation broadly. Even though sending traffic to certain markets may cost more than Indian operators pay for outgoing international traffic, India should carefully weigh the overarching benefits to investment and commerce of continuing to enable cost-oriented termination rates in India.

Should, after weighing the numerous factors, the TRAI decide to increase international termination rates, it should take into account the reciprocal rate being charged by foreign countries to terminate Indian voice traffic. While in a few cases the foreign rate will be significantly higher than that charged in India, in many cases other countries will have rates on par or even lower than what India currently charges. In order to ensure an even-handed approach that does not damage commercial relationships with countries where termination rates are low, India could consider reciprocal arrangements that would effectively match termination rates with markets where termination rates are unreasonably high, while leaving rates untouched arrangements with markets where rates are reasonable. In the United States, for example, the Federal Communications Commission has over time to fostered lower termination rates while introducing more flexibility for companies to commercially negotiate settlement agreements as competition has increased.

Q8: Whether, in your opinion, in the present regulatory regime in the country, the standalone ILDOs are not able to provide effective competition owing to the presence of integrated service providers (having both ILDO and access service licenses) and, therefore, there are apprehensions regarding sustainability of the stand-alone ILDOs in the long-run?

And

Q9: If your response to the Q8 is in the affirmative, which of the following approach should be used as a counter-measure?

(i) Prescription of revenue share between Indian ILDO and access provider in the International Termination Charge; or

(ii) Prescription of a floor for international settlement rate (levied by ILDO upon the foreign carrier) for international incoming calls; or

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[1] See: General Agreement on Trade in Services, Annex on Telecommunications, paragraph 5(a) at: https://www.wto.org/english/docs_e/legal_e/26-gats.pdf

[2] See Office of the U.S. Trade Representative's *2016 National Trade Estimate Report* at https://ustr.gov/sites/default/files/2016-NTE-Report-FINAL.pdf

(iii) Any other approach (please specify)

Please provide justification in support of your response.

ACTO's Response:

1. We note that TRAI has not provided any kind of market/regulatory analysis which may demonstrate that the standalone ILDOs are facing regulatory challenges /disadvantages because of the present regulatory regime in the country. Therefore, we are of the opinion that there is no apprehension regarding sustainability of the stand-alone ILDOs in the long run.
2. We do not suggest any regulatory intervention for revenue share between access provider and ILDOs in view of high competition in both the categories and thus it best be left to be decided by market forces on mutual agreement basis.

Q10: Is there any other relevant issue which should be considered in the present consultation on the review of Interconnection Usage Charges?

No Specific comments

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