



To,

Advisor (BB&PA), TRAI  
Telecom Regulatory Authority of India,  
Mahanagar Doorsanchar Bhawan,  
Jawahar Lal Nehru Marg,  
(Old Minto Road), New Delhi-110002

Kind attention: Shri S.K. Singhal Advisor (BB&PA)

No. Regln/1-4/2011-13/6462 Dated: 16-05-2018

Sir,

Sub: - BSNL's comments on TRAI "the draft Telecommunication Interconnection (Amendment) Regulations, 2018"

Kindly refer to the TRAI's "the draft Telecommunication Interconnection (Amendment) Regulations, 2018".

BSNL welcomes the move by TRAI to acknowledge the difficulties being faced by incumbent operators and has proposed amendments that may alleviate the difficulties and may also protect the interest of incumbent operators.

However, BSNL stands by its submission made to the Authority vide its comments to TRAI Consultation Paper on 'Review of Regulatory Framework for Interconnection'.

Further, BSNL shall like to refer to Article 14 (1. EQUALITY RIGHTS (ARTICLES 14 - 18)) of the Constitution of India reads as under:

*"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."*

*"The said Article is clearly in two parts - while it commands the State not to deny to any person 'equality before law', it also commands the State not to deny the 'equal protection of the laws'. Equality before law prohibits discrimination. It is a negative concept. The concept of 'equal protection of the laws' requires the State to give special treatment to persons in different situations in order to establish equality amongst all. It is positive in character. **Therefore, the necessary corollary to this would be that equals would be treated equally, whilst un-equals would have to be treated unequally**"*

Accordingly, it is humble submission of BSNL that it should not be treated at par with private TSPs/ TSPs who are not placed equal to BSNL in terms of its organization, network and status. It may be noted that BSNL's expenditure in operation and maintenance of exchanges/ POIs at its premises spread over all the SDCA's (over 2500) as per existing license conditions/ regulations, cannot be compared with other TSPs who mostly operate from one location in the LSA. This is besides the various social, economical and political obligations of BSNL.

The Para wise reply to draft Telecommunication Interconnection (Amendment) Regulations, 2018 is here as under:

para	Amendment regulation	BSNL Response
1	(1) These regulations may be called the Telecommunication Interconnection (Amendment) Regulations, 2018 ( of 2018).	No comments;

	(2) They shall come into effect from the .....	
2	<p>In regulation 6 of the Telecommunication Interconnection Regulations, 2018 (1 of 2018) (hereinafter referred to as the principal regulations), after sub-regulation (3) the following proviso shall be inserted, namely:-</p> <p>"Provided that the port charges and infrastructure charges for all ports provided before the 1st February, 2018 shall continue to be payable as per the terms and conditions which were applicable to them before the 1st February, 2018."</p>	<p>The proposed direction on Port charges and infrastructure charges is welcome. In additions, the Authority is requested that the proposed amendment should also include such TSPs who have been issued fresh UL upon expiry of their old access service licences and are continuing with their interconnectivity (there has been no discontinuation of services) with other TSPs without renewing their interconnect agreement so far.</p> <p>Notwithstanding, the Authority is also requested that as per the terms and conditions of interconnect agreement already signed by BSNL, augmentation of Ports is the responsibility of the other TSP only; hence, BSNL should not be asked to pay for augmentation of Ports which might also have bearing on various ongoing Court cases (W.P. (C) 1338 of 2014 before Hon'ble High Court of Delhi and CA No. 5253 of 2010 before Hon'ble Supreme Court of India) on Port Charges.</p>
3	<p>For regulation 8 of the principal regulations, the following regulation shall be substituted:</p> <p><b>Request for augmentation of POIs ---</b></p> <p>(1) Each service provider shall provide its forecast of busy hour outgoing traffic for each POI, at intervals of every six months, to the interconnecting service provider and the first such forecast shall be provided within sixty days of the commencement of "The Telecom Interconnection (Amendment) Regulations, 2018" and thereafter on the 1st April and 1st October every year.</p> <p>(2) A service provider may request the other service provider for additional ports at a POI, if the projected utilization of the capacity of such POI, calculated in the manner as contained in schedule II to these regulations, at the end of sixty days from the date of placing the request, is likely to be more than eighty-five percent and such projected utilization of the capacity of POI shall be determined on the basis of the daily traffic for the preceding sixty days at the POI during busy hour:</p>	<p>(1) May be accepted.</p> <p>(2) BSNL would request that Regulations on separate Ports/ E1s for incoming and outgoing traffic is implemented only when both the parties are willing; otherwise, the existing arrangement of both way traffic on E1s should continue.</p>

	<p>Provided that the service provider shall request for such number of additional ports which is likely to bring the utilization of the capacity of such POI, at the end of sixty days from the date of making request, to less than seventy-five percent.</p>	
4	<p>In regulation 9 of the principal regulations,</p> <p>(a) in sub-regulation (1), for the words "five working days", the words "seven working days" shall be substituted;</p> <p>(b) in sub-regulation (2), for the words "three working days", the words "five working days" shall be substituted;</p> <p>(c) in sub-regulation (3), for the words "five working days", wherever occurring, the words "ten working days" shall be substituted;</p> <p>(d) in sub-regulation (4), for the words "three working days", the words "ten working days" shall be substituted;</p> <p>(e) in sub-regulation (5), for the words "five working days", the words "ten working days" shall be substituted;</p>	<p>BSNL requests that the total time frame for provisioning of ports should be at least 70 days for initial interconnection and at least 60 days for augmentation.</p>
5	<p>After schedule I to the principal regulations, the following schedule shall be inserted, namely:-</p> <p><b>"Schedule II</b></p> <p>For given number of channels of POI, its capacity for 0.5% Grade of Service shall be deduced from the Erlang B table. The sample calculation for augmentation of ports of POI is indicated below:</p> <p>Considering that Service Provider A has, for its outgoing traffic, existing POI of 600 channels with the Service Provider B, then as per the Erlang B table, the capacity of such POI at 0.5% Grade of Service shall be 562.3 Erlang. Now when the projected outgoing traffic of Service Provider A, at the end of sixty days from today, would be more than 477.95 Erlang (i.e. 85% of the POI capacity), it may request the Service Provider B for augmentation of the POI capacity by such number of ports which takes it to more than 637.27 Erlang (i.e. <math>477.95/0.75</math>). As per Erlang B table, this would imply augmentation of ports at such POI by approximately 77 channels."</p>	<p>No Comments</p>

In additions to above, there are other issues of importance also which needs urgent consideration of the Authority. BSNL would like to emphasize that to ensure proper and uniform interconnectivity between TSPs, the interest of all stake holders needs to be protected. From BSNL perspective major contention on interconnectivity between BSNL and other TSPs involve the following issues:

1. Port Charge.
2. Bank Guarantee.
3. Utilization of Ports.
4. Infrastructure Charges.
5. Documentation at the time of signing Interconnection Agreement.

1. **Port Charge:** The underlying principle behind Port charges Regulations has been recovery of all costs. However, costs vary from one network to another and from one service provider to another. An incumbent TSP due to large network establishment conforming to license conditions/regulations of its time always has higher costs associated with provisioning of its ports as compared to new TSPs who enjoys low costs with new technologies and lesser establishments. A new TSP saves greatly by very less expenditure on maintenance and operation of large network establishments that has been associated with large and incumbent entity i.e. BSNL But Port charges prescribed by TRAI itself is not differential. It is uniform for all TSP. The present Port charges is of Rs 4000/- and Rs 10,000/- and BSNL is at loss since the same is much less as compared to actual cost being incurred by BSNL for provisioning of such Ports. If the present Regulations is implemented, BSNL which is already getting less amount against Port charges, its loss will be compounded it will have to pay for new Ports. On the contrary, other TSPs who may have much less cost associated with Port, which may well be below Rs 4000/- and Rs 10,000/- will stand to gain at the cost of BSNL adding to their revenue.

Accordingly, it is requested that before the aforesaid Regulations i.e. "The Telecommunication Interconnection Regulations, 2018 (1 of 2018)" is made to come into force effectively, the Port Charges Regulations be amended to make Port charges differential i.e. a TSP whose Port charge costing is more should get more compared to other TSP whose port charge costing is less. This may ensure Article 14 of the Constitution of India to BSNL.

2. **Bank Guarantee:** The very purpose of Bank Guarantee being realized by BSNL is to ensure that no financial loss occurs to BSNL and Government of India on account of non-payment of interconnection charges, including IUC, Port Charges, Infra Charges, etc by other TSPs. In case of BSNL which is a Central PSU, the receivables by other TSPs are always safe as BSNL is a PSU whose 100% share lies with the Government of India; however, BSNL needs to secure its receivables from other private TSPs. BSNL is bound to make payments to other TSPs since it is a Government of India PSU – it cannot deny legitimate claims of other service providers; however, BSNL cannot realize outstandings from other TSPs who don't pay up and close their business/ merge with other entities, etc. Due to non-availability of adequate amount of BG BSNL in the past has failed to realize outstandings and even now finding it difficult to realize its outstandings due to non-availability of BG when other service providers are not making payments. BSNL is making payments since it is a Government of India undertaking and cannot escape; however, in absence of BG BSNL cannot realize its dues if the TSP does not pay citing no money, merger with other TSP, closure of services etc. Disconnection of POIs for non-payment is not always viable since it causes customer discomfort and at the same time it may not always result in realization of all outstandings, especially in cases where the TSP has closed its business. DoT vide its letter in 2009 has specifically advised BSNL to secure adequate BG from other entities and also revise the same from time to time.

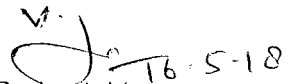
TRAI has linked BG only with IUC. It is humbly requested that suitable amendments with regard to BG may also be issued and separate BG for port and infrastructure charges be also made part of the interconnection Regulations. Further BSNL being a Central Government PSU under administrative control of DoT be exempted from providing BG to other TSPs.

3. **Utilization of Ports:** BSNL understands that having Separate Ports/ E1s for incoming and outgoing traffic is never safe in consideration of traffic and quality of service to customers – as it always leaves space for mischief makers to affect quality of service of the other TSP, BSNL has always opposed it. As already stated above, BSNL shall request the Authority to kindly re-consider our submission in this regard – minimum to the extent that Regulations on separate Ports/ E1s for incoming and outgoing traffic are implemented only when both the parties are willing; otherwise, the existing arrangement of both way traffic on E1s should continue.

4. **Infrastructure Charges:** Point of Interconnection (POI) is a point where the two networks meet. On either side of the POI lies the Switch/ PoP of the connecting parties. POIs can be located anywhere. And there is expenditure in operation and maintenance of the POIs which includes expenditure on electricity, ac, security and manning, in additions to land/ room charges where the POI is situated. If POIs are placed at some third locations both the parties are liable to pay for upkeep, operation and maintenance of the POIs. However, POIs are situated in the premises of the incumbent operator. Hence infrastructure charges are charged by incumbent operator and these charges are payable by other TSPs to incumbent operator in whose premises the POIs is located.

5. **Documentation at the time of signing Interconnection Agreement:** BSNL is a Central Government PSU and as such requires documentation at par with any other Government Organization before entering into an agreement. The same is more so required as the interconnect agreements are also commercial in nature and BSNL needs to protect its interests. It is important to ascertain the credentials of the 'seeker' before entering into interconnect agreement. As such BSNL shall request the Authority to consider the submission of BSNL made through its comments to TRAI Consultation Paper on 'Review of Regulatory Framework for Interconnection' and issue instructions/ directions accordingly.

Your's sincerely

  
Ved Prakash Verma  
AGM (RegIn-II)