

TELECOM WATCHDOG

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Date: September 24, 2019

Mr Sunil Kumar Singhal
Advisor (BB)
Telecom Regulatory Authority of India
New Delhi

Sub: Response to Consultation Paper on Review of Interconnection Usage Charges dated September 18, 2019

Sir

We are Delhi based NGO working in the field of telecom sector since 1997 for protecting the interest of the consumers. We have successfully represented the cause of the consumers before various forums including DoT, Trai, TDSAT, Parliamentary Standing Committees, Delhi High Court, Bombay High Court, Uttarakhand High Court, Supreme Court. We were very proud of you that all of your actions ever since you took over as Chairman Trai were aimed at protecting consumer interest and sectoral growth with two exceptions:-

- (i) Implementation of new tariff structure for broadcasting services. This has made the TV viewing expensive. However, of late, you have realized your mistake and are now trying to correct it through a fresh Consultation Paper (CP).
- (ii) Your sudden u-turn on implementation of Bill And Keep (BAK) regime effective from January 1, 2020. Your new CP on BAK is a shock for all the consumers who had been hoping that with the rollout of BAK even Mobile-to-Mobile (M2M) calls will become cheaper from New Year 2020. This has been explained in detail below:

A. Status of upgradation to 4G/LTE by incumbents

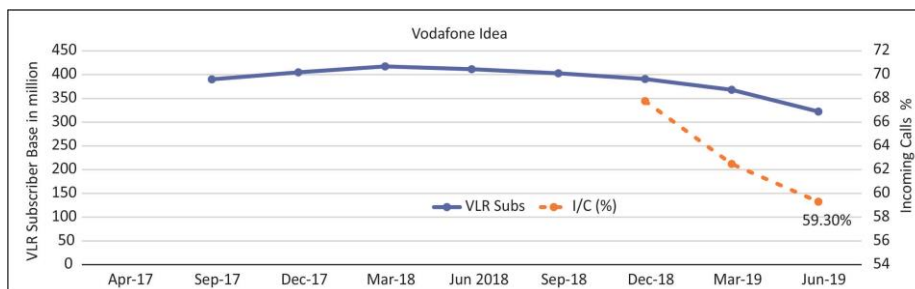
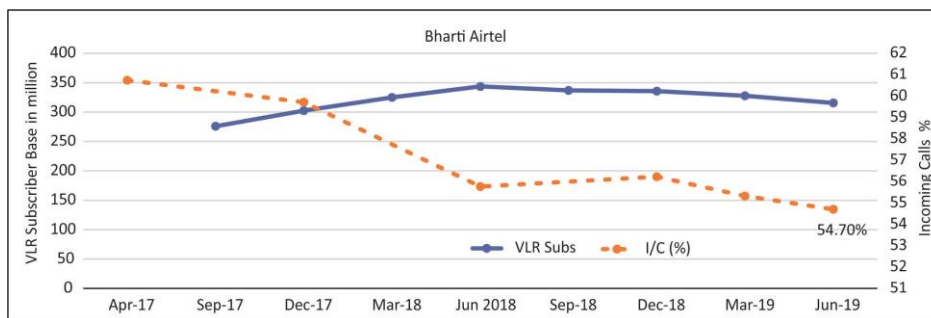
A1. You have stated in your CP that the incumbents (Vodafone-Idea and Bharti Airtel) could not match their 4G/LTE network growth with the new player Reliance Jio. As a result, 2G/3G networks are still being used for making/receiving voice calls using the legacy switch-networks, and therefore BAK needs to be deferred. In other word, you have proposed to reward the incumbents for their slow adoption of the latest technology and penalize the consumers.

A2. We have analysed the adoption of technology by the incumbents. We found that in the last two years while Airtel has added more 4G eNode-B (236%) while Voda-Idea added just (63%) as shown in the following table: -

Technology deployments in last 8 quarters									
Description	2017		2018				2019		Growth
	Sep	Dec	Mar	June	Sep	Dec	Mar	June	
Tech	Technology wise eNodes								
2G	661,625	635,078	548,905	523,681	528,035	510,154	479,091	479,777	-27.5%
3G	360,380	373,910	349,726	350,842	359,544	367,792	344,817	343,793	-4.6%
4G	591,048	677,259	761,503	872,693	973,422	1,058,335	1,163,414	1,255,179	112.4%
Telcos	Operator wise eNode-B installed								
Airtel	97,130	129,165	167,336	186,485	215,006	242,604	291,410	326,744	236.4%
Voda-Idea	108,098	125,541	141,892	152,020	166,956	168,735	167,761	175,881	62.7%
Rel-Jio	381,141	417,882	447,616	534,188	591,460	645,758	700,136	746,147	95.8%
Total	586,369	672,588	756,844	872,693	973,422	1,057,097	1,159,307	1,248,772	113.0%

A3. From the CP, we also noticed that the mismatch of off-net call is very less (4.7%) in the case of Airtel compared to Vodafone-Idea (9.3%) as shown in the following table: -

Offnet Incoming & Offnet Outgoing MoU (In %)												
Telcos	2017				2018				2019			
	April		Dec		Jun		Dec		Mar		June	
	I/C	O/G	I/C	O/G	I/C	O/G	I/C	O/G	I/C	O/G	I/C	O/G
Airtel	60.74	39.26	59.71	40.29	55.77	44.23	56.23	43.77	55.32	44.68	54.70	45.30
Vod-Idea	60.37	39.63	62.08	37.92	62.74	37.26	67.78	32.22	62.48	37.52	59.30	40.70
Rel-Jio	8.73	91.27	14.43	85.57	22.44	77.56	28.57	71.43	32.27	67.73	35.75	64.25



A4. Therefore, it can be safely concluded that Reliance-Jio's traffic w.r.t. Bharti Airtel has more or less matched, but the mismatch with Voda-Idea continues (though narrowing down), and that is because Voda-Idea is lagging behind in the rollout of 4G network. Therefore, the consumers cannot be penalized for their sluggishness.

B. DCC decision on technology choice

B1. An issue whether to install 2G/3G, or 2G+4G, or 4G technology was considered by the Digital Communications Commission (DCC) in its meeting held on September 19, 2019. The relevant part of the DCC note is reproduced below: -

2.11 Subsequently, as per direction of Secretary (T), a committee of DDG (Special Project) USOF, DDG (AS), DDG (DS) and AA (F), USOF held a meeting on 05.08.2019 regarding technology to be adopted for uncovered of remote and difficult areas. The committee noted that:

- *2G mobile services is not relevant in the present scenario as TSPs are now providing mostly 4G.*
- *4G technology offers high speed data connectivity and voice.*
- *Demand from customers is increasingly data centric.*
- *There will be saving in cost / subsidy if 4G technology is opted.*
- *Affordable 4G handsets are available.*

Based on above deliberations, the committee has recommended that new USOF tenders for mobile connectivity to uncovered villages may be based on the latest contemporary technology which can deliver high speed data service along with voice. The committee has further recommended to implement 4G technology for the provision of mobile telecom services in uncovered villages.

B2. After considering all the facts, the DCC decided to adopt for 4G technology for all future procurements by USOF. It is pertinent to point out that there too, the incumbents unsuccessfully tried to push for old technology for their own benefits grossly compromising consumer interest, which was rejected by the DCC.

C. BAK is Trai's policy decision announced in 2011

C1. Trai in its latest CP has stated that though the imbalance of off-net outgoing/incoming voice calls is narrowing down, but still more calls are being originated from Reliance Jio to incumbents (Vodafone-Idea and Bharti Airtel) and therefore Trai has proposed to defer the implementation of BAK.

C2. In this regard, we state that it is a widely acknowledged fact that a new telephone / mobile number will always have fewer incoming calls compared to an old or very old number. Therefore, the off-net outgoing/incoming voice calls can never be 50:50 especially with respect to a new player. This is because a new operator offering attractive tariff will always have to face imbalance till it reaches a comparable subscriber base, which may take a few years. Therefore, there should not be a regulatory precondition that unless traffic exactly matches, the BAK regime cannot be implemented. If such a precondition is stipulated, then BAK will always have to be deferred with the entry of a new telco.

C3. It is submitted that BAK was to be implemented way back from April 1, 2014 irrespective of whether a new player (Reliance-Jio) comes or does not (in Sep 2016). On February 4, 2011, the Supreme Court had directed Trai to submit a report on the IUC framework by October 31, 2011 and also directed the operators to submit data to Trai in order to enable Trai to complete the exercise. Trai under its then chairman Late Mr JS Sarma, after a comprehensive review and multi-stage consultation with the telecom operators, completed the exercise of calculating termination charge using various methods and filed its report dated October 29, 2011 before the Supreme Court vide an affidavit dated October 31, 2011. The report contained different level of MTC under different methodologies and its result is summarised in the following table: -

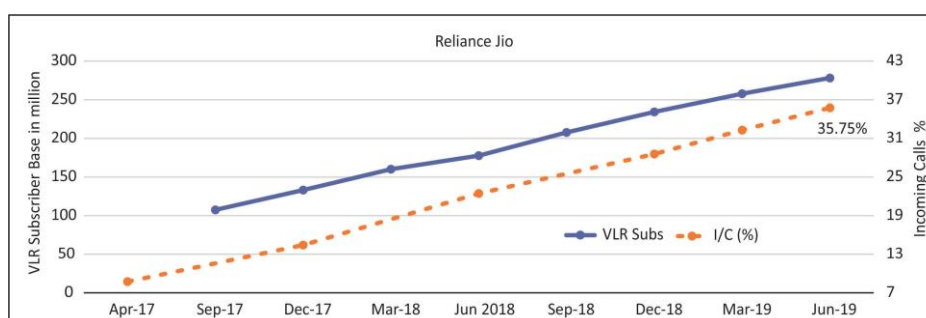
MTC in 2012 (Rs per min)	
LRIC	0.13
LRIC+	0.15
Pure-LRIC	0.10

C4. The above report also had a separate Chapter (No.VII) on Bill And Keep (BAK). The Analysis & Conclusion was given under Chapter VIII. Trai had concluded that MTC would be 10 paisa per minute from the year 2012 with progressive reduction and finally converging to zero Termination Charge (ie Bill And Keep) from April 1, 2014. Trai had also told all the telecom operators to adjust their business plans and network accordingly.

C5. It may be noted that in 2010, there were a number of new operators. There was no 4G network at that time. Therefore, when Trai took the decision in 2011 to implement BAK from 2014, it had no linkages whatsoever with asymmetric / symmetric traffic. So, Trai

cannot keep changing its position on such policy issues. BAK cannot be postponed in this manner simply because a new operators has come-in.

C6. In a competitive environment, the traffic imbalance will always remain. The same is true in this case too. When Rel-Jio started its services, it just had less than 10 per cent incoming calls. Over a period of time, its subscriber base has grown and the incoming calls have also increased to about 35.75 per cent. The relationship between number of subscribers and percentage of incoming calls are shown in the following graphs:



D. In 2017, Trai said BAK can remove asymmetry

D1. Trai in its regulation of September 19, 2017 had listed out the reasons for traffic asymmetry as levying of MTC and retail tariff and had said that the BAK regime is must to remove this asymmetry. In this regard, the relevant paras of Trai's regulation of September 19, 2017 is reproduced below: -

Traffic Asymmetry

58. *One argument is BAK does not lead to optimal outcomes where traffic flows between operators is asymmetric. Traffic balance can be expected if termination rates and retail prices, notably the relative on-net and off-net prices, are approximately set to theoretically optimal levels. This is because individuals' propensity to call each other, if undistorted by artificial price differentials, would be unlikely to vary between networks in a way that would lead to traffic imbalance. In fact, the pricing method itself can influence whether or not traffic is in balance. The asymmetry in traffic in a healthy competitive environment will always exist to some extent.*

59. *In fact, BAK will be a catalyst for traffic symmetry. It gives TSPs appropriate incentives to serve their customers efficiently and brings market discipline to competition. The cost methodology based IUC system implies that TSPs recover network costs from competing TSPs through IUC charges. This system confers monopoly power on the called party's TSP with respect to call termination without providing any incentive for reducing its costs through efficient operations and adoption of low cost technologies. This monopoly status also leads to disparity in on-net and off-net tariffs thus creating an unnecessary tariff asymmetry. While this monopoly power enabled TSPs to charge above-cost rates, BAK's dependence on customer payments discourages a TSP from charging high rates to its subscribers because they could, in turn, seek lower prices from competing TSPs. This leads to a situation where no TSP can charge above cost thus bringing in tariff symmetry. This tariff symmetry stops the arbitrage in onnet and off-net tariffs, leading to a symmetry of traffic. Evidently, the demand for cost-based IUC till there is traffic symmetry is a vicious circle. Only by removing the cost based IUC, this vicious circle can be broken.*

D2. Therefore, at this stage, Trai cannot take a different stand and give entirely opposite logics to defer its decision to implement BAK.

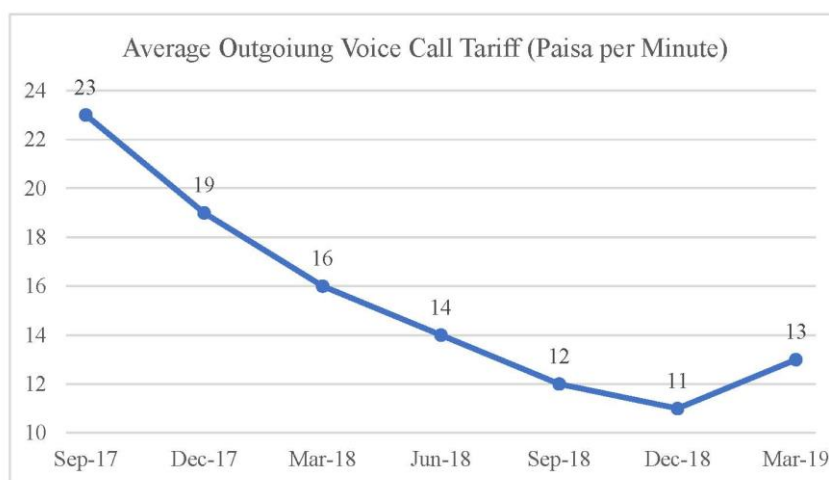
E. Have incumbent telcos recovered their 2G/3G investments?

E1. When Trai decided to put fixed line network under BAK regime for F2F, F2M, and M2F calls, the only consideration was that BSNL/MTNL (major fixed line operators) had already recovered their costs of their legacy networks. There was no consideration of traffic imbalance or even payment of opex for terminating off-net calls into fixed line networks.

E2. Similarly, even in M2M case too, Trai knows that incumbents have long back recovered their investments from 2G/3G networks. Therefore, there is no point in continuing to pay them anything extra through MTC.

F. Effect on tariff of lowering of MTC

F1. In 2017, when Trai lowered the MTC to 6 paisa per minute, it led to innovative tariff structure by the telcos for the consumers. One of the very significant developments has been the introduction of flat rate charging by the service providers in different plans. This gave ample options to the subscribers in choosing the tariff plans. Further, the average outgo per minute, which was at 0.23 per minute, at the end of September 2017, has come down to 0.13 per minute, at the end of March 2019 as shown below: -



F2. Therefore, it can be safely assumed that moving from MTC regime to BAK regime for M2M calls also, will give enough leverage to telcos to innovate their tariff plans for the benefit of consumers, which will lead to a healthy competition instead of a new entrant subsidizing the operations of the incumbents.

G. Switchover to smartphone is gradual?

G1. Trai at para 2.16 has stated that though the proportion of 4G capable smartphones and feature-phones has continuously increased but the change is gradual and is likely to take some more time before most of the subscribers would start using 4G capable devices.

G2. This is not true. The moment the telcos upgrade their network to 4G technology, the consumers will switchover to smartphones. Everyone, whether in rural areas or urban/city area, poor or rich or middleclass family, want to use data, whether for communications with their family or using government services. The incumbents are sitting over prime 4G spectrum which has remained grossly underutilized, especially for Voda-Idea, as shown below: -

4G Spectrum Holding (in MHz)							
TSP	800 FDD	900 FDD	1800 FDD	2100 FDD	2300 TDD	2500 TDD	Total (2xFDD+TDD)
Voda-Idea	0	124.80	298.65	195	30	370	1,636.90
Airtel	0	116.40	268.05	125	570	0	1,588.90
RJIL	107.50	0	146.40	0	600	0	1,107.80

H. Impact on investments on regulatory flip-flop

H1. Trai in its September 2017 Regulation had clearly notified the date of moving to BAK regime wef January 1, 2020. It had also noted that it would carry out mid-term review, but that was for bringing BAK regime closer (prepone).

H2. Based on this, many companies, Indian/Foreign, would have planned their investments assuming that from January 1, 2020 they will not have to pay the incumbents and they can compete with them without any entry-barrier. But, such regulatory flip-flop scare away prospective investors. These investments are important for the country as the Hon'ble Prime Minister Mr Narendra Modi has given a call for achieving \$5 trillion economy by 2025.

Prayers

In view of the above, you are requested to immediately withdraw the above Consultation Paper and implement BAK regime wef January 1, 2020.

Thanking you

Yours sincerely

For Telecom Watchdog


Vikram Mittal
(Secretary)