



## **Association of Unified Telecom Service Providers of India**

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AUSPI/12/2012/078

8<sup>th</sup> June 2012

Dr. Rahul Khullar,  
Chairman,  
Telecom Regulatory Authority of India,  
Mahanagar Door Sanchar Bhawan,  
Jawaharlal Nehru Marg,  
New Delhi

**Sub: AUSPI's Response to TRAI Consultation Paper No. 10/2012 on Review of the Telecommunication Interconnection (Port Charges)**

Dear Sir,

AUSPI welcomes the opportunity given by the Authority to the stakeholders for responding to the various issued involved in the TRAI Consultation Paper No. 10/2012 on Review of the Telecommunication Interconnection (Port Charges).

We have following observations and suggestions for reviewing the Telecommunication Interconnection (Port Charges).

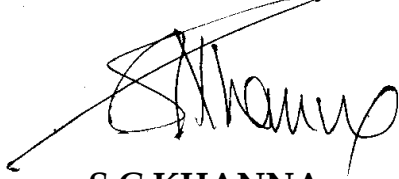
- a. As per the TDSAT Order, the TRAI should consider the contention in Appeal No 2 of 2008 regarding port charges on the basis of outgoing traffic.**

- b. The regulation on Port charges may be made valid for 3 years with a sun set clause for no charges from 3<sup>rd</sup> year i.e. from 2014 onwards, due to balancing of traffic.**

AUSPI's Response to the aforesaid consultation paper of TRAI is enclosed for your consideration.

Thanking you,

Yours faithfully,



**S.C.KHANNA  
SECRETARY GENERAL**

Copy to:

- 1. Shri R. Ashok, Member, TRAI**
- 2. Shri R. K Arnold, Member, TRAI**
- 3. Shri Rajeev Agrawal, Secretary, TRAI**
- 4. Shri Arvind Kumar, Advisor ( I & FN), TRAI**

**AUSPI'S RESPONSE TO TRAI CONSULTATION PAPER NO.10/2012**  
**ON REVIEW OF TELECOMMUNICATION (PORT CHARGES)**

**Introduction - Review of Port Charges**

1. At present port charges are being exclusively borne by interconnection seeker even though interconnection provider also uses the same facility for its outgoing traffic. Therefore, **as per the causation principle both interconnection parties should bear cost based on usage.**

**TRAI also agrees with the principle of port charges on the basis of usage as is evident in the Reference Interconnect Offer. The relevant provisions are given below:**

*"12.3.2 Two years after the initial interconnection is established, the issue as to who bears the cost of additional resources required shall be negotiated between service providers. The general principle followed in these negotiations should bear the incremental costs incurred for the additional ports required for meeting the QoS standards relating to its outgoing traffic to the other party."*

2. The issue of port charges to be based on usage was raised before the TDSAT in Appeal No 2 of 2008 between AUSPI Vs TRAI. The TDSAT in its judgment dated 24th May, 2010 decided that TRAI shall consider the contentions rose in this appeal in its review future exercise. The relevant portion of the judgment is reproduced below:

*"We, furthermore, are of the opinion that there cannot be any doubt or dispute that the TRAI in its future exercise subject to the observations made hereinbefore may take into consideration, the contentions raised in this appeal upon following the usual procedure."*

3. TRAI is perhaps not reviewing the payability based on usage as the TDSAT judgment in the matter of BSNL Vs TRAI dated 27.4.2005 on Reference Interconnect Offer directed that the cost of augmentation

and interconnection were to be borne by the interconnection seeker in line with the license terms of the Basic Service License.

4. **Subsequently in the year 2003, a new licence namely the Unified Access Service License has been introduced which is applicable now. In this UAS License there is no provision that the payment of interconnection facility will be made only by the interconnection seeker. The UASL license provides that the interconnection between the two service providers will be as per their mutual discussions and agreements which are subject to the directions issued by the TRAI from time to time. The relevant provisions from UASL is reproduced below:**

*“27.2, the charges for accessing other networks for inter-network calls shall be based on mutual agreements between the service providers conforming to the Orders/Regulations/Guidelines issued by the TRAI from time to time.*

*27.3 The network resources including the cost of upgrading/ modifying interconnecting networks to meet the service requirements of the LICENSEE will be mutually negotiated keeping in view the orders and regulations issued by the TRAI from time to time”.*

5. TDSAT in its judgment in Appeal No 2 of 2008 between AUSPI Vs TRAI has explained that the TRAI jurisdiction to decide payability on the basis of usage for port charges is limited to Basic License and there is no prohibition in the case of UASL. The relevant portion of the judgment is reproduced below:

*“...We say so because in the event the TRAI finds it feasible to determine different port charges, one in respect of the BSO licenses and the other in respect of UASL licenses, it may do so as judgement of this Tribunal dated 19.03.2007 is confined to the BSO license alone.*

*The jurisdiction of TRAI may be limited, if at all, so far as it involves the change of the terms and conditions of the licenses. However, there can not be any doubt or dispute that in respect of UASL licenses; there being no prohibition, the TRAI's jurisdiction in this behalf is not limited.”*

6. As port charges for Cellular Networks and Basic Services have been separated, it is appropriate time to migrate port charges for Cellular networks connectivity to be payable on the basis of usage. TDSAT has already clarified that there is no prohibition with TRAI to decide port charges for UASL on the basis of usage. TRAI can consider merging port charges for Cellular service with IUC to implement port charges on the basis of usage.

### **TRAI PROPOSAL FOR CONSULTATION**

Keeping in view the current CAPEX costs on an E1 port in GMSC and TAX exchanges, it is proposed that the ceiling of annual port charges, as specified in The Telecommunication Interconnection (Port Charges) Regulation, 2001 may be revised as per the following table:

**Proposed Revised Ceiling of Annual Port Charges for MSC and Tandem / TAX exchanges**

<b>SNo.</b>	<b>Type of Switch</b>	<b>Port Charges (Ceiling of Rs. Per port)</b>
<b>1</b>	<b>MSC</b>	<b>4,000/-</b>
<b>2</b>	<b>Tandem / TAX Exchange</b>	<b>10,000/-</b>

### **AUSPI'S COMMENTS / RESPONSE**

#### **MSC Port Charges**

- As per the TDSAT judgment in Appeal No 2 of 2008 between AUSPI Vs TRAI, the Authority should consider the contention in the AUSPI appeal with regard to usage based port charges.
- TDSAT has held that if feasible, Basic and Cellular Services can have separate port charges. It is within TRAI Jurisdiction to decide port charges for Cellular Service UASL on the basis of usage.

- TRAI should merge port charges for Cellular services on the basis of usage and merge it with IUC.

#### **Basic Service Port Charges for TAX/Tandem**

- BSNL has AXE and NGN switches besides OCB switches in the network for providing connectivity at TAX/tandem.
- The cost of AXE and NGN is nearly same as MSC switches.
- TRAI should consider weighted average cost of AXE, NGN and OCB switches.
- It is expected that OCB and AXE/NGN switches are used in the same ratio.

Considering the above, the weighted average cost of TAX/Tandem is only Rs 32000/- and therefore the port charges should be around Rs. 6500/- and not Rs 10000/- per E1.

Further, we request the authority that the port charges should be on Bill and Keep Basis after 2014.

#### **AUSPI's suggestions**

- TRAI should consider contention in the Appeal No 2 of 2008 regarding port charges to be based on usage outgoing traffic
- TRAI may consider immediate implementation of usage based port charges for UASL.
- Usage based port charges for Basic services may be considered when there is clarity on TRAI Jurisdiction after RIO case is decided by the Supreme Court.
- Starting 2014, port charges should be based on Bill and Keep when Traffic is going to be balanced.

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