

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 19th August, 2014

File No. 409-21/2013-NSL-I.----- In exercise of the powers conferred upon it under section 36, read with sub-clauses (ii),(iii) and (iv) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

**THE INTERNATIONAL CALLING CARD SERVICES (ACCESS
CHARGES) REGULATIONS, 2014
(No. 11 of 2014)**

CHAPTER-I

PRELIMINARY

1. Short title, extent and commencement.-- (1) These regulations may be called the International Calling Card Services (Access Charges) Regulations, 2014.

(2) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions. --In these regulations, unless the context otherwise requires,-

(a) "Access Service Providers" means a licensee authorized to provide access service under a licence granted under section 4 of the Indian Telegraph Act 1885 (13 of 1885) and includes Bharat Sanchar Nigam Limited and Mahanagar Telephone Nigam Limited.

(b) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

- (c) “Authority” means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Act;
- (d) “access charge” means the charge payable by the International Long Distance Operator to the Access Service Provider for providing international long distance voice service, through calling card, to the subscriber of the Access Service Provider;
- (e) all other words and expressions used in these regulations but not defined, and defined in the Act and the rules and other regulations made thereunder, shall have the meanings respectively assigned to them in the Act or the rules or other regulations, as the case may be.

CHAPTER II

OBLIGATION OF THE INTERNATIONAL LONG DISTANCE OPERATOR AND THE ACCESS SERVICE PROVIDER

- 3. Obligation of the International Long Distance Operator...** Every International Long Distance Operator, who intends to provide international long distance voice service through Calling Card, shall request, in writing, all the Access Service Providers to enter into interconnection agreements in accordance with the provision of the regulations made by the Authority and the terms and conditions of its licence agreement;

Provided that in case of those Access Service Providers who start access service after the commencement of these regulations, the International Long Distance Operator shall enter into interconnection agreement with such Access Service Provider within sixty days of the start of the access service by the Access Service Provider.

- 4. Obligation of Access Service Provider –** (1) On receipt of request under regulation 3, Access Service Provider shall, within thirty days from the date of receipt of request, enter into interconnection agreement with the International Long Distance Operator.

(2) The arrangement entered into between the International Long Distance Operator and the Access Service Provider under sub-regulation (1) shall come into force not later than thirty days from the date of entering into such agreement.

(3) No Access Service Provider shall, directly or indirectly, deny its consumers the international long distance voice services, through calling card, offered by the International Long Distance Operators.

(4) Every Access Service Provider shall hand over to the International Long Distance Operators, the international long distance voice call, originated by its consumer using calling card, at the location of Level-I TAX of the service area:

Provided that if International Long Distance Operator does not have its presence at the location of Level-I TAX in a service area, it shall be the responsibility of such International Long Distance Operator to make necessary arrangement to take the call from the location of such Level-I TAX of the service area.

CHAPTER III

ACCESS CHARGE

- 5. Access charge payable by the International Long Distance Operator to the Access Service Provider** – (1) The International Long Distance Operator, providing international long distance voice service through calling card to the consumers of the Access Service Provider, shall pay access charge specified in Schedule to these regulations or as may be mutually agreed between the International Long Distance Operator and the Access Service Provider.

CHAPTER IV
MISCELLANEOUS

6. Reporting requirement regarding calling card services --

(1) Every International Long Distance Operator shall, on quarterly basis, report to the Authority –

- (a) the type of calling card marketed by it;
- (b) the total number of each type of calling card sold;
- (c) the total number of the international long distance voice minutes, country-wise, generated through calling card and rate per minute charged from the consumer for such calls, country-wise; and
- (d) total amount of access charge paid to the Access Service Provider.

(2) Every Access Service Provider shall, on quarterly basis, report to the Authority, the per minute access charge and total amount of access charge received by it from each International Long Distance Operator, separately.

(3) The quarterly report, referred to in sub-regulation (1) and sub-regulation (2), shall be submitted to the Authority within thirty days of the end of the previous quarter.

SCHEDULE {See regulation 5(1)}

ACCESS CHARGES

Access charges to be paid by International Long Distance Operator to Access Service Provider for international long distance voice calls through calling card	
Access charges (in Rs. per minute) Wireline Services	Access charges (in Rs. per minute) Wireless Services
1.20	0.40

Sudhir Gupta
Secretary

Note. -----The Explanatory Memorandum explains the objects and reasons of the 'International Calling Card Services (Access Charges) Regulations, 2014'.

**EXPLANATORY MEMORANDUM TO
'INTERNATIONAL CALLING CARD SERVICES (ACCESS CHARGES)
REGULATIONS, 2014 (11 of 2014)'**

A. Background

1. For the purpose of access service licenses (fixed line and cellular), the country has been divided into 22 License Service Areas (LSA), which are mostly co-terminus with State boundaries, with certain exceptions. The intra-LSA traffic, including the long distance calls originating and terminating within the boundaries of the LSA can be carried by Access Service Providers themselves. However, this traffic can also be carried by a National Long Distance Operator (NLDO) by mutual agreement with the originating service provider. For carriage of inter-LSA traffic - traffic originating in one LSA and terminating in another LSA - calls have to be routed through an NLDO.

2. International Long Distance (ILD) traffic from fixed and mobile networks is routed either through the network of an NLDO or directly to the International Long Distance Operators (ILDO) gateways for onward transmission to international networks. However, in situations where the Point of Presence (POP) of an ILDO and the switch of the Access Service Provider (GMSC/ Transit Switch) are located at the same station of Level -I TAX, the Access Service Provider cannot refuse to handover the calls to ILDO directly. The relevant Licensing condition of the UASL/ILD/USL (6.3) license is as follows. A similar condition is there in UASL license (Clause 26.5) and ILD License (Clause 17.1):

'International Long Distance traffic should be routed through network of NLD service providers, to the ILD service provider's gateways for onward transmission to international networks subject to fulfillment of any Guidelines/ Orders/ Directions/ Regulation issued from time to time by LICENSOR/ TRAI. However, the Licensee shall not refuse to interconnect with the ILD Service licensee directly in situations where POP of ILD service

licensee and Switches of Licensee's (GMSC/ Transit Switch) are located at the same station of Level-I TAX.'

3. In the currently prevailing regime, a customer does not have the option to choose the long distance carrier. This lack of choice potentially reduces consumer welfare since the Access Service Providers are able to charge high retail tariffs for long distance calls. It is the Access Service Provider which chooses the NLDO/ILDO, or uses its affiliate company holding NLDO/ ILDO licence, to whom the call is handed over for further carriage. In either case, the customer is locked-in to the access service provider and is deprived of the benefits of potential low prices that could accrue from competition in the long distance services market. Since most Access Service Providers are integrated players with NLD and ILD licenses also, effectively, there is no competition for long distance calls as far as subscribers are concerned. The Authority finds that there exists the potential to further create effective competition in the NLD/ILD tariffs offered to subscribers by providing a choice to subscribers to select their long distance carrier using calling cards. On the basis of data furnished by ILDO and tariffs offered by one mobile service provider, the following examples reflect the high margins accruing to access providers, a part of which could have passed on to consumers, had they the liberty of accessing the ILDO directly, through calling cards:

A. Call from India to USA

Tariff offered to the consumers by the Access Service Provider	Rs. 8 per minute
Charges collected by ILDO from Access Service Provider for carriage to and termination in USA	Rs. 0.65 Per minute
Margin available to Access Service Provider	Rs. 7.35 per minute

B. Call from India to Thailand

Tariff offered to the consumers by the Access Service Provider	Rs. 10 per minute
Charges collected by ILDO from Access Service Provider for carriage to and termination in Thailand	Rs. 1.60 Per minute
Margin available to Access Service Provider	Rs. 8.40 per minute

In both these examples, if the ILDO was permitted to offer tariff directly to consumers through calling card services, and further, if the Access Service Providers was mandated to charge not more than Rs X per minute as cost-based access charges to the ILDO, then the tariffs offered to the consumers for international long distance calls would fall to (a) Rs (X+0.65) from Rs 8 per minute for USA, and (ii) Rs (X+1.60) from Rs 10 per minute for Thailand. The reduction in per minute charges would represent the increase in consumer welfare due to introduction of competition.

4. In 2001-2002, the Government opened the national/international long distance sector by awarding licences to private players. Prior to that only the Department of Telecommunications (DoT) was authorized to carry long distance calls. To enhance competition in the long distance sector, the Government requested TRAI in August, 2000 to issue the necessary regulation regarding Carrier Pre-Selection/Carrier Access Code (CPS/CAC), so that a subscriber has the facility to choose the NLDO by performing dynamic selection of an NLDO. After detailed deliberations, in 2001-2002, the Authority recommended Carrier Identification Codes for various NLDOs and issued a Direction on 24 July 2002 to all TSPs including NLDOs/ILDOs to implement carrier selection in the respective networks in phases.

5. The aforementioned direction could not be implemented due to various reasons including, *inter-alia*, a relaxation given by DoT for a period of 12 months to BSNL for the implementation of call-by-call selection or pre-selection in its network. Subsequently, MTNL estimated Rs. 732 crores as the setup costs for implementing this proposal and requested the Authority to intervene for payment of setup cost by the NLDO/ILDO. A Committee was also formed by DoT to determine the cost required for up-gradation in BSNL's network to be able to introduce carrier selection. This Committee estimated an amount of Rs.1968 crores as the cost of upgradation. This cost was to be shared by NLDO/ILDO. However, no NLDO/ILDO was willing to share this cost.

6. Some of the other difficulties raised by the TSPs at that time were:
 - (i) The number of pre-selected carriers have implications on upgradation cost.
 - (ii) The majority of mobile users were prepaid users. Their billing was controlled by Access Service Providers for all types of calls i.e. local/NLD/ILD. However, in the scenario of Carrier Access Code/ Carrier Pre Selection, where billing is done by NLD/ILD, it was difficult to ascertain the operator who would control the call to ensure that a call in process is terminated when the balance in customers account is reduced to nil. Even in case the billing is done by the Access Service Provider , the charging matrix in the IN platform has to be revised each time a new NLDO/ILDO is added or a particular NLDO/ILDO changes its tariff plan.
 - (iii) If an NLDO does not have presence in a particular SDCA, it would be difficult to ensure the completion of the call.
 - (iv) STD/PCO pulse (16 KHz) has to be changed every time if the tariff for a particular NLDO changes for a particular SDCA.
 - (v) Difficulty in the implementation of carrier selection in the case of a roaming subscriber.

7. In May 2008, the Authority revisited the issue of Carrier Selection, and issued a Consultation Paper (CP) seeking comments from various stakeholders. A majority of TSPs were of the opinion that the traditional method of Carrier Selection was no longer relevant because of high implementation cost, poor cost-benefit outlook and technical and operational issues involved in its implementation. They were of the opinion that implementation of Carrier Selection through calling cards is a good option for both consumers and service providers. They argued that the prime purpose of providing choice of Long Distance Operators and any consequential financial benefit to the consumer could also be achieved, without the accompanying problems, by allowing NLDOs and ILDOs to issue calling cards.
8. Considering the comments of the stakeholders, the Authority sent its recommendations on “Provision of Calling Cards by Long Distance Operators” to the DoT on 20.8.2008. The Authority recommended that license conditions of the NLDO and ILDO may be amended to allow them to have direct access to consumers, through calling cards, for provision of national and international voice telephony services, respectively. Along with these recommendations, the Authority also carried out an amendment to the Direction dated 24th July, 2002, to the effect that Carrier Selection may not be implemented in the form proposed in that Direction.
9. The DoT accepted the recommendations of the Authority and carried out the necessary amendments in NLD and ILD Licenses as proposed by the Authority. However, no agreement was entered into between TSPs for facilitating use of calling cards by subscribers.

10. The Authority observed that as per the Intelligent Network Services in Multi Operator Multi Service Scenario Regulations, 2006 (13 of 2006), a service provider is required to enter into an arrangement/agreement with other service providers within 90 days of the issue of the regulations for IN services which also include Calling Card Service by the IN Service Provider. However, there was no specific time-frame in the regulations for service providers who became eligible to provide IN services after the date of issue of the regulations.
11. An amendment to the IN regulations was therefore considered necessary, so that a TSP could enter into agreements with all other TSPs who were already providing IN based services or would start IN based services at a later date in a time-bound manner. Accordingly, the Authority issued 'Intelligent Network Services in Multi Operator and Multi Network Scenario (Amendment) Regulations, 2012 (17 of 2012)' on 18.09.2012. These regulations mandate that all eligible TSPs providing IN services shall enter into interconnection agreements with all Access Service Providers on such commercial and technical arrangements or agreements, as may be mutually agreed between them, and the same shall be entered into within ninety days from the date of commencement of the regulations.
12. As per the regulations, in case a TSP fails to enter into agreements or arrangements within the stipulated time, it has to intimate the Authority within fifteen days of such failure with complete details thereof, and after examining such failure and details furnished by the TSP, the Authority would specify the interconnection arrangement, in accordance with sub-regulation (8) of regulation 10 of the IN Regulations.

B. Implementation of Intelligent Network Regulations for Calling Cards

13. On 28.12.2012, TRAI asked all the NLDO/ILDOs for the status of compliance of the said regulations. It was observed that most TSPs had not entered into agreements for calling cards and there were large variations in the rates at which some TSPs had entered into interconnection agreements to provide long distance calling card service. Some of the larger service providers had entered into an agreement with an access charge of Re. 1/min for STD and Rs. 5/min for ISD calls. On the other hand, some other service providers had entered into an agreement with an access charge of Re. 0.20/min for both STD and ISD calling cards. Representations were also received in TRAI alleging cartelization by major operators by seeking higher access charges than prevailing tariffs for calling card services from smaller players. In this regard, meetings with various TSPs were also held in May-June 2013.
14. During the meetings, when asked what the justification in arriving at these access charges was, one integrated large TSP responded that these were commercially negotiated. According to it, the calling card services are not a case of interconnection and it regards these services as if another operator is accessing its network. On the principle used to arrive at these access charges, it mentioned that these are on the basis of retail minus. Another large TSP was of the view that the issue of revenue share should be left for mutual negotiation between the TSPs. Regarding access charges offered for ISD calls, it explained that the average revenue realization from ISD calls is about Rs. 8.50 per minute out of which about Rs. 2.50 per minute goes to the foreign operator towards terminating the call in the destination country, Rs. 1.00 can be assumed towards carriage of call and remaining Rs. 5.00/minute is retained by the Access Service Provider. According to the Access Service Provider, the cost of carrying an ISD call should be distributed in proportion to the investment made by the operators.

Since the Access Service Provider is doing the major work of setting infrastructure and acquiring customers etc., it contributes about 90% of the investment; therefore it deserves to get the revenue share from the sale of calling cards in the same proportion. Regarding rates offered for STD calling cards, the TSP informed that the basis for offering Re. 1/- is that one of the PSUs charges 78 paise as origination charge for toll-free services. The Authority has dealt with costs incurred by Access Providers in the section on Costing Methodology that follows.

15. These Access Service Providers further argued that as per the licence agreement of NLDO/ILDO, the origination services will remain with the Access Service Provider and NLDO/ILDO is entitled only to provide carriage. According to them, if the origination charge is treated as similar to termination charge or the origination sold to NLD/ILD is termed as access charge then it would be tantamount to unbundling which is not the intention of the license and nor was this ever discussed.
16. These Access Service Providers urged that the origination charges for Calling Card services should not be regulated. They also mentioned that even if the Authority proposes to prescribe these charges, it should be done on retail minus basis. Further, according to them, in case the Authority decides to prescribe origination charges for calling cards, there should be a relook at the whole regime of Calling Party Pays (CPP) and Mobile Termination Charges (MTC).
17. Another Access Service Provider, who also offered Re. 1/- per minute for STD and Rs. 5/- per minute for ISD to others, was of the view that the market dynamics were different at the time the calling card was visualized earlier. Now the customer has a choice. If an NLDO can offer a better rate, as many of them are also Access Service Providers in many States, the customer can change

the operator through number portability. The Access Service Provider was not willing to provide any justification for the price of Re. 1/- fixed at this stage. However, according to it, they had fixed the initial cost for STD call as Re. 1/- and after gradually looking at the volume etc. it might reduce the rate.

18. Some TSPs requested the Authority to intervene and fix the rates for the benefit of everyone. One TSP submitted that they feel threatened by big operators and the agreements were signed without their understanding of rates and how the same were arrived at by the larger operators. Another small TSP also submitted that they have to enter into a number of other agreements with these large TSPs for providing telecom services. Therefore, they have no choice but to accept the rates offered by these operators.
19. One of the TSPs also submitted that in the case of a calling card, a subscriber would dial '1800 xxxx xxx' and the Access Service Provider would transparently pass this call to Service Switching Point (SSP) of the NLDO and would not be aware whether the subscriber has made an STD call or ISD call. Therefore, in its opinion, there was no point in having different access charges for STD and ISD calls. Moreover, if originating access charges for STD and ISD calls were different, integrated NLDO/ ILDO which is generally the case will have to provide two '1800' numbers, one for STD calls and another for ISD calls. This issue has now become irrelevant as the Authority has decided to prescribe access charges for only ILD calling cards as explained in the subsequent paragraphs.
20. During the discussions, some TSPs also submitted that there was no need to prescribe originating access charges for NLD calls as there is no business case for calling cards in India as tariffs for NLD calls are already quite low. STD tariffs are part of 'headline

tariffs' offered by the service provider and the subscriber makes a considered choice when selecting a tariff plan. The subscriber also has the choice of number portability in case a service provider does not offer attractive tariffs. However, there was a need to have a calling card for ILD calls as subscribers are locked-in once they choose a tariff plan. Since ILDOs cannot directly offer tariffs to a subscriber, they are not able to get the benefit of competition in the ILD segment.

21. The Authority reviewed the position of interconnect agreements entered into by that time and the various submissions provided during the meetings. It was observed that even after the lapse of considerable time and repeated follow-up, most TSPs had not entered into agreements for calling cards till date. Therefore, it was of the opinion that there is no option except to take the present position as a failure of mutual negotiation between service providers and to invoke clause 10 (8) of the Intelligent Network Service in Multi Operator Multi Service Scenario Regulations 2006 (13 of 2006) which is reproduced below:

“In case any Basic Operator, Cellular Mobile Service Provider or Unified Access Service Provider fails to enter into agreements or arrangements within the stipulated time, they shall intimate within fifteen days of such failure to the Authority with complete details thereof and after examining such failure and details furnished by the service providers, the Authority shall specify the interconnection arrangement.”

22. The Authority also noted that the main constraint in not entering into mutual agreements is the quantum of access charges to be paid to the originating access provider by the NLDO and ILDO. Therefore, the Authority decided to initiate a consultation process for specifying the access charges to be paid to the originating Access Service Provider by the NLDO/ILDO who is providing a calling card service.

23. To sum up: To provide the facility to subscribers to choose the NLDO/ILDO for their STD/ISD calls and enhance consumer welfare, TRAI issued a Direction on carrier selection to all TSPs on 24 July 2002. The Direction could not be implemented due to various reasons including the very high cost estimated for upgradation of the BSNL and MTNL networks. The Authority revisited this in 2008; TSPs again raised various technical and operational issues for implementing carrier selection in their network. The TSPs submitted that the primary objective of providing choice of NLDO/ILDO could be achieved by allowing NLDOs/ILDOs to issue calling cards. Accordingly, the Authority sent its recommendation to the Government for amendment in NLD/ILD Licenses. In 2010, NLDO/ILDO licences were amended to allow them to issue calling cards directly to consumers. Necessary amendments were also made in the Intelligent Network Services Regulations to facilitate time-bound agreements between Access Service Providers and NLDO/ILDOs. TSPs have been given sufficient time to enter into mutually negotiated rates; however many TSPs have still not entered into agreements. In short, even after 14 years since the first Direction was issued to TSPs to provide facility to consumers to choose their NLDO/ILDO, consumers still do not have the choice of selecting their NLDO/ILDO for making STD/ISD calls and take advantage of competition in the NLD/ILD sector. The Authority noted that at each stage in the process, TSPs have tried to dodge the introduction of competition; their stance has shifted every time the issue has been taken up. The net result is that greater choice to consumers for making long distance calls has been successfully averted. At the time carrier selection was mandated in 2002, TSPs adverted to high network upgradation costs and other issues; when in 2008 the Authority revisited the issue of carrier selection, the TSPs came up with the argument that because of high implementation cost, and technical and operational issues, it would be in the interest of both service providers and consumers

to implement carrier selection through calling cards; when the Intelligent Network Regulations were amended in 2012 to facilitate interconnect agreements so that consumer gets choice of NLDO/ ILDO, TSPs dragged their feet and no consensus could be achieved; some Access Providers offered unrealistic access charges to ILDOs making the entire process a non-starter. In view of the above, the Authority decided to initiate a consultation process on the issue of fixing access charges. Even at this late stage, TSPs are resorting to dilatory tactics to stymie the process once again.

C. The Consultation Process

24. A Consultation Paper (CP) was issued on 14.11.2013. The CP described in detail the background information and discussed all inter-related issues including: (i) whether the access charges to be paid by NLDOs/ ILDOs to access provider for calling cards should be prescribed both for NLD and ILD calls or for ILD calls only; (ii) whether such access charges should be the same for mobile and fixed line and for NLD and ILD calls; (iii) the method to be applied for prescribing the charge; (iv) issues regarding usage of calling cards when a subscriber is roaming; (v) prevalent regulatory practices in other countries; and (vi) any other relevant information related to subject.

25. The Authority has taken into account various comments of the stakeholders provided in writing during the consultation process, or conveyed in the meetings held in TRAI or during the Open House Discussion held on 12 February 2014. The Authority has also used other inputs like balance sheets, annual reports, accounting separation reports etc., to which it has access and analyzed the matter in detail. In the following paragraphs, all issues raised in the CP have been examined after taking into account the comments of the stakeholders.

26. There was no consensus amongst stakeholders on prescribing access charges for calling cards. Some of the service providers were of the view that there is no need to prescribe access charges either for NLD or ILD calls. These service providers were of the view that prescribing access charge would lead to interference with existing forbearance on origination charges and unbundling of access network and thus would adversely impact the investment made by operators. Therefore, in their opinion, these charges should not be regulated and should be based on mutual agreement. However, one of the service providers in this category has also submitted that in any case there is no justification for NLD charge and access charges should be confined to ILD calling card only.
27. Some service providers were of the view that access charges should be prescribed for both NLD and ILD calls as some of the Access Service Providers are asking for very high access charges which makes calling card business non starter.
28. The Authority does not agree with the first category of service providers viz., those who are in favour of not prescribing access charges. The Authority noted that after so many years of liberalization of the telecommunications sector in India, the subscriber is still locked in to the Access Service Provider, for the NLDO/ILDO to whom the call is handed over for further carriage. As already noted in paragraph 3 above, as most Access Service Providers are integrated players with NLD and ILD licenses also, effectively, there is no competition for long distance calls as far as subscribers are concerned. The Authority finds that there exists the potential to further create effective competition in the NLD/ILD tariffs offered to subscribers by providing a choice to subscribers to select their long distance carrier using calling cards. This view is also consistent with the overwhelming opinion of stakeholders at the time the Direction of the Authority on carrier selection was

kept in abeyance and Recommendations were made to the Government on calling card services in 2008 (see paragraph 8 above).

29. As regards the view of not prescribing charges and leaving them to mutual agreement, the Authority noted that ample opportunities had been provided to the service providers to enter into mutual agreements. However, the service providers were unable to enter into mutual agreements. The main constraint in not entering into mutual agreements is the quantum of access charges to be paid to the originating access provider by the NLDO and ILDO.
30. As regards the view of TSPs that the calling card service is not a case of interconnection and it regards the service as if another operator is accessing its network. The Authority finds that this submission is not tenable as the amendment to the licence agreement itself provides that the ILDO may access the subscribers directly, only for the provision of International Long Distance voice service through calling cards. In effect, the ILDO is not directly accessing the subscriber, but it is the subscriber who is using the network of his Access Service Provider to access the ILDO while making the international call.
31. One view expressed by a stakeholder was that prescribing access charges will lead to interference with the existing forbearance on origination charges, unbundling of access network and adverse impact on the investment made by operators. This view is erroneous since the Authority is not disturbing the origination charges. The origination charges will still be under forbearance. The Authority is only prescribing the access charges which an ILDO will pay to the Access Service Provider for allowing its customer to access the ILDO's network using calling cards. Therefore, the above submission of the Access Service Providers is not tenable as the Access Service Provider can continue to offer

tariffs for all types of services (including ILD) to their subscribers. The origination charges for all services offered by the Access Service Provider will still remain under forbearance.

32. The Authority has further examined other views submitted by stakeholders and the present tariff trends offered by various service providers. It has been noted that NLD tariffs are becoming ‘headline tariffs’ and consumers are getting competitive tariffs for making NLD calls. The Authority has also noted that there are many tariff plans in which tariffs for local calls and NLD calls are not different. It was further observed that it is also very difficult for the consumer to distinguish between intra-service area and NLD calls as there is no definitive pattern in mobile number series to distinguish between intra-service area and NLD calls. This would be further blurred when national mobile number portability is implemented. **Taking all the above into account, the Authority is of the opinion that, at present, there is no need to prescribe access charges for NLD calling cards.**
33. The ILD outgoing and incoming minutes were examined and it was observed that there is a considerable decline in the ILD outgoing minutes. Further, the ratio of incoming calls to outgoing calls has increased from three times to sixteen times over the last 7 years. The following table, which was also given in the CP shows the year-wise incoming and outgoing ILD minutes.

Table- 1
Year wise ILD Minutes (in Millions)

Year	Incoming Minutes	Outgoing Minutes	Total Minutes
2005-06	7,728	2,320	10,048
2006-07	10,757	3,528	14,285
2007-08	15,100	5,027	20,127
2008-09	21,418	6,905	28,323
2009-10	34,412	5,512	39,925
2010-11	49,145	4,711	53,856
2011-12	62,825	4,841	67,666
2012-13	76,354	4,633	80,987

34. Why has there been such a drastic decline¹ in outgoing traffic minutes despite a huge increase in mobile subscribers in the country? With the availability of certain applications using which one can make long distance voice calls through the internet, there may be some shift of ILD minutes from telecom networks to such applications. However, the impact of such applications would be on both incoming and outgoing traffic. The prevalence of high tariffs for ILD calls in the country is one of the major factors which has contributed to distort the ratio of outgoing calls to incoming calls. Access Service Providers retain a huge margin in ILD calls after necessary payment to ILDO for the carriage of calls to the foreign destination. This huge margin was also admitted to by various Access Service Providers during the meetings; however, they tried to justify this high margin in the name of proportionate investment made by them compared to the ILDO.
35. In this backdrop, the Authority is of the opinion that there exists a need to prescribe access charges, so as to facilitate introduction of calling cards for ILD calls so that consumers have a real choice by picking an ILD carrier which offers the most competitive tariff for ILD calls on a certain route. Irrespective of the customer's Access Service Provider, the customer should be able to choose the ILD carrier by opting for the calling card of the carrier offering the best tariffs.

D. Costing Methodology:

36. In response to the CP, some service providers submitted that the Authority should not deviate from its existing practice of prescribing cost-based charges on the work done principle. One service provider has submitted that it should be on retail minus method. Another service provider submitted that it should be

¹ There has been an absolute fall from 6905 million minutes in 2008-09 to 4633 million in 2012-13. In terms of share of traffic outgoing minutes has fallen from 24.4% in 2008-09 to 5.7% in 2012-13.

prescribed considering prevailing tariffs available in market and recommended Rs. 0.50/min for NLD and Rs. 2/min for ILD. One other service provider suggested that accounting separation data may be used for prescribing access charges.

37. All the comments and suggestions made by the stakeholders have been carefully considered. The Authority is of the view that if the retail minus approach is adopted for prescribing access charges, it would not lead to any positive outcome as the tariff for ILD calls will remain at the present level, and it would become a non-starter for ILD calling cards and consumers will continue to be deprived of the benefits of competition in the ILD sector.
38. The Authority is of the view that access charges to be paid by the calling card service providers to the access service providers for calling card services should be based broadly on the principle of work done by the access service provider. This requires estimation of the associated costs so that the access provider is not burdened with under-recovery of costs while at the same time ensuring that the end-user does not bear costs unrelated to access.
39. In view of the above, the following methodology has been used for calculation of access cost to be paid by the calling card service providers to the access service providers for calling card services:
 - a) Fully Allocated Costing methodology has been followed.
 - b) Data from Accounting Separation Reports² for 2012-13 related to revenue, associated costs and related capital investment of products under wireless and wireline service (i.e. rental/activation/recharge fees, calls, SMS, data, interconnection etc.) and information from other reports/returns submitted by TSPs have been used in the costing exercise.

² Submitted by TSPs in compliance to 'The Reporting System on Accounting System Regulations, 2012 (7 of 2012).

- c) In the access cost computation, only costs incurred on voice related heads (rental, calls, roaming, interconnection) have been considered. Costs incurred on non-voice related products such as messages, data etc., have not been included in the computation.
- d) The computation proceeds on the general principle that the work done in the network is the same for outgoing and incoming minutes, i.e. the cost per minute is the same whether the network is utilized for generating an incoming or outgoing minute. However, sales and marketing costs – that are incurred for acquisition and retention of subscribers – have been assumed to have no nexus with incoming calls and have been fully allocated to outgoing calls. All other costs have been apportioned to incoming minutes and outgoing minutes proportionately.
- e) The estimation of costs associated with the product ‘rental/ activation/ recharge fees (postpaid)’ has proceeded on the basis that rental or activation charges and recharge fees are paid by the postpaid segment to retain connectivity to the network for a specified period while in the prepaid segment they mainly represent the value of different kinds of vouchers in lieu of free call minutes, reduced tariff, etc. Thus, there is a case for disregarding costs associated with the postpaid rental product since the present exercise is intended to yield the per minute cost of access by calling card service providers as a form of compensation for the amount of work done for such origination by access service providers. This is particularly salient in the case of wireline networks where the overwhelming majority of subscribers fall in the postpaid segment (against about only 4% in the wireless segment), the cost of the postpaid rental product would greatly inflate the

cost per minute of access³ because of the huge legacy costs associated with the wireline network as well as the leapfrogging achieved by the history of rapid rollout of the wireless network that did not permit economies of scale or scope to fructify in the wireline network. The deduction of the cost of postpaid rental is thus consistent with the reckoning of this as a sunk cost that may not be sought to be recovered from call revenues. As such, the costs associated with the postpaid rental product have not been included in the calculations.

- f) Sum of costs allocated to outgoing minutes (i.e. sales and marketing costs and proportionate share in other remaining costs) and return on capital employed (ROCE) @15% has been divided by outgoing minutes to derive the cost per outgoing minute which is denoted below:

$$\text{Cost per outgoing minute} = \frac{\mathbf{X_1 + X_2 + X_3}}{\mathbf{OG_M}}$$

Where

X₁ represents sales and marketing costs (fully allocated to outgoing minutes);

X₂ is the share in all other costs (proportionate to outgoing minutes);

X₃ is return on capital employed @ 15% (proportionate to outgoing minutes) and;

OG_M represents total outgoing minutes.

- g) License fee (8%) and SUC (5%) for wireless service and License fee (8%) for wireline service have been loaded on the cost per outgoing minute so derived to compute the access cost per minute to be paid by the calling card service provider to the access service providers as under:

$$\text{Access Cost per minute} = \frac{\text{Cost per outgoing minute} \times 100}{(100 - \text{LF rate} - \text{SUC rate}^*)}$$

* where applicable

³ The cost allocated to the postpaid rental product in wireline and wireless services is about 44% and 30% of the total cost respectively.

- h) Based on the above methodology, the access charge per minute comes to about 35 paise in wireless service and about 104 paise in wireline service as shown in following Table 2:

Table- 2

(Rs. in crore)

ACCESS COST (INDUSTRY)		
Particulars	Wireless	Wireline
(A) Cost:	46035	6220
(i) Sales & Marketing Cost [^]	12581	250
(ii) All other costs*	33454	5970
(B) Capital Employed *	57873	12343
(C) Return on Capital Employed (RoCE) @ 15%	8681	1851
(D) Total Access Cost including RoCE(A+C)	54716	8071
(E) Outgoing Minutes of Usage (in crore)	178490	8433
Access Cost per Outgoing Minute (in paise)		
(F) Access Cost including RoCE(D/E)	31	96
Access Cost per minute after loading LF(8%) & SUC(5%)#	35	104
[^] fully allocated to outgoing minutes * Proportionate share of outgoing minutes in relevant cost. In wireless, share of outgoing minutes in total minutes is 49% and in wireline 56%. # wherever applicable.		

- i) There is a substantial difference in access cost per minute in wireless service and wireline service due to the differences in costs of operation, legacy network, etc. Note that the wireline segment is basically dominated by two PSUs (BSNL and MTNL) which have 77% of subscribers (in March 2014) but have 87% share of cost⁴. The depreciation and employees

⁴ Even if only private wireline service providers are considered, the access cost per minute is still about 55 paise, much higher than the cost for wireless access.

cost of these two PSUs is about 61% of their total cost of wireline whereas in case of private TSPs it is about 42%. Further wireline subscribers as well as revenue are consistently declining whereas costs are to be incurred for running, maintaining and upgrading the fixed line network, leading to heavy underutilization of network. The Capital Employed Turnover Ratio⁵ (Revenue/Capital Employed) is 66% in wireless service whereas in wireline service it is only 25%.

40. The Authority is of the view that it would be reasonable to fix the access charges at 40 paise per minute for wireless and at 120 paise per minute for wireline after giving a mark-up of about 15 % on the access costs derived above.

41. To summarize, the issue of providing choice of ILDO to consumers has been festering since 2002 when the Direction on carrier selection was first issued. Thereafter, as detailed above, the TSPs took the plea in 2008 that calling cards would be a more appropriate solution for providing greater consumer choice. Accordingly, amendments were made in the licence conditions on the recommendations of the Authority to allow NLDO/ILDOs to issue calling cards. The Authority has given sufficient time to TSPs to negotiate access charges among themselves to provide choice of ILDOs to consumers so that consumers can get competitive rates for making their ISD calls. However, a number of TSPs were not able to arrive at a mutually negotiated access charge. Therefore, the Authority after following due consultation process has prescribed the access charges through this Regulation. The Authority is of the view that this Regulation is necessary to protect consumer interest and enhance consumer welfare.

⁵ Represents revenue generated from per unit of capital employed.

42. The prescribed access charges would be the default option in all cases where negotiations between Access Service Provider and ILDO are not successful. While the Access Service Provider and ILDO would be free to enter into mutually agreed access charges, the access charges prescribed in this Regulation would be applicable where no agreements are entered into, now or in the future. However, all the agreements need to be entered into within the time frame prescribed in the various provisions of this Regulation.