COAI

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Re: TRAI Consultation Paper on Interconnection Usage Charges (IUC)

Dear Sir,

This is with reference to the TRAI Consultation Paper on the Interconnection Usage Charges (IUC) issued on 19th November 2014.

In this regard, please find enclosed COAI's submission to the said consultation paper as **Annexure – 1.**

We believe that our submission will merit your kind consideration.

Kind regards,

Sincerely yours,

Rajan S. Mathews

Rajan S. Mathews
Director General

Encl: as above

CC : Dr. Rahul Khullar, Chairman
: Shri. R.K. Arnold, Member, TRAI
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COAI Response to TRAI Consultation Paper
on
Interconnection Usage Charges (IUC)

A. Mobile Termination Charge (MTC) and Fixed Termination Charge (FTC):

Q1: Which of the following approaches would be the most appropriate for Mobile Termination Charge and Fixed Termination Charge:
(i) Cost oriented or cost based;
(ii) Bill and Keep
Please provide justification in support of your response.

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Q2: In case cost-oriented or cost-based approach is used for determining Mobile Termination Charge and Fixed Termination Charge, is there a need to give a glide path towards Bill and Keep and what will be the appropriate time frame to migrate to Bill and Keep regime?

COAI Comments:

1) **Cost based approach :** COAI has always held the view that Interconnect charges should be determined on cost based and work done principle. Interconnection usage charges should be arrived at by using a robust cost based model, which includes all costs and justifies investment for expansion of service.

2) The Hon'ble TDSAT in its judgement dated 29th September 2010 in Appeal no. 4 of 2006 (Batch matter), also held the view that IUC should be cost based:

   "…..various components of IUC namely, Origination charge, carriage charge and termination charge must be held to be the established principle of cost based determination therefore"

   "Its (TRAI) jurisdiction being limited to determine the charges on cost based and work done principle, could not have granted any subsidy far less artificial cross-subsidy."

   We respectfully submit that in line with the observations of Hon'ble TDSAT, the Authority should follow a cost based approach.

3) Within the realms of a cost based approach as held by the Hon'ble TDSAT, the cost model adopted by the Authority should take into account all the internationally accepted cost elements which are taken into consideration while preparing a cost based model for determination of termination charges.

4) In fact, the accuracy of the model itself depends on the cost elements which are taken into consideration. In case some cost elements which ought to be included are not taken into consideration, the model can give inaccurate results, which may lead to distortions in the market and also be a disincentive for investment.

5) While adopting the cost based approach, the following cost items should be taken into account from Performa A of ASR:

Sl. No	Particulars	Cost to be considered for termination cost
Opex		
1)	Pass through Charges (IUC)	No
2)	Employee Cost	Yes
3)	Administration Cost	Yes
4)	Sales & Marketing	Yes
5)	Maintenance charges	Yes
6)	Government Charges (LF+ SUC)	Yes
7)	Network Operating Cost	Yes
8)	Other operating Costs-	Yes
9)	Other Costs- Loss on sale of fixed assets (net)	No
Finance Charges (Excluding Interest on Loans)		Yes
Capex		
1)	Depreciation/Amortization (Spectrum)	Yes
Return on Capital Employed (should adequately cover WACC Rate)		Yes

6) **<u>Bill & Keep:</u>** Further, with respect to the approach of Bill & Keep, we would like to make following submissions:

a) IUC is required because of different amount of work done by different operators due to imbalance in traffic. We are of the view that the imbalance of the traffic is bound to exist in diverse customer environment where different offerings are customised by operators. Hence, the Bill & Keep approach cannot be prescribed in such environment.

b) Further, prescribing Bill & Keep will compel the operators not to invest in telecom & network infrastructure, since the operators will not be adequately compensated for the resources utilised in its network.

c) Also, as highlighted above, Hon'ble TDSAT has clearly directed that IUC/MTC should be cost based and include all costs – capex, opex and depreciation.

Q3: Which method of depreciation for the network elements should be used and what should be the average life of various network elements?

COAI Comments:

1) For the purpose of calculating depreciation, the Authority should take into consideration the average useful life of the asset based on information provided by operators. The useful life is the period of time at the end of which the economic value of the asset is equal to zero.

2) The average life of network assets varies from 7 to 10 years and the life of IT equipment is approximately 3 years.

3) We believe that in case of FAC approach, a simple average approach of 10 years may be followed for tangible assets and for intangible assets, it may be averaged across the right of use. For spectrum, it should be over the period of right to use spectrum, i.e. 20 years

Q4: Should TRAI continue with a pre-tax WACC of 15% as used in framing other regulations, tariff orders, and regulatory exercises? If not, please state what pre-tax WACC would be appropriate for the present exercise, along with justification and computations.

COAI Comments:

1) The industry is going through difficult times and is facing financial stress. The operators are finding it difficult to raise funds as the financial institutions are shying away from the industry due to existing high exposure to the sector. This has resulted in increased cost of capital for the operators. WACC also depends on the capital structure of the company. **Given the different capital structure of various operators WACC may vary from 15% to 20%.**

Q5: In case a cost-oriented or cost-based approach is used for prescribing Mobile Termination Charge and Fixed Termination Charge, which method would be the most appropriate for estimating these costs?

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Q6: In case your response to the Q5 is fully allocated cost (FAC) method, would it be appropriate to calculate IUC using historical cost data submitted by the service providers in Accounting Separation Reports (ASRs), Annual Reports/published documents or other reports submitted to TRAI?

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Q7: In the FAC method, what items/nature of OPEX should be considered as relevant for the termination cost? Please provide justification in support of your opinion.

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Q8: Should CAPEX be included in calculating termination cost? If yes, what items of fixed assets from the ASRs ought to be considered relevant for termination cost? How

should costs incurred by service providers for acquiring usage rights for spectrum be treated?

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Q9: Would it be appropriate to take an average life of 10 years for all network elements without any salvage value for the purpose of depreciation in the FAC method? If not, please suggest an alternative method keeping in view the categorization of network elements prescribed in Accounting Separation Regulations, 2012, along with justification.

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Q10: Is there any need to adjust costs associated (as reported in ASRs) with products other than voice calls, for the purpose of computing termination cost using the FAC method? If yes, please suggest the appropriate cost driver along with justification.

COAI Comments:

I. Majority View:

1) Recommended Methodology:

1.1) COAI recommends and supports the adoption of **an Accounting Separation Reports (ASR) based FAC model** that also takesinto account future spectrum cost to be paid by the operators, for the determination of the termination charge. This is especially important in today's environment where auditability of the methodology would be of prime consideration.

1.2) **Reasons for adopting ASR based FAC model:** We would like to highlight following reasons for adopting the said model:

a) Easily auditable by financial reports:

i) The ASR-based FAC approach has the significant advantage since the Authority already has the data from all operators in the same format.

ii) Further, we firmly believe that any source of data other than ASR would not be appropriate /suitable to determine the IUC cost as ASR data is audited, authenticated and easily available.

iii) ASR-based FAC model provides for full reconciliation with cost allocation and audited financial reports.

iv) The allocation method used in the ASR-based FAC model also ensures that all cost and traffic allocations can be traced back to independently verifiable sources, thus, making it most rigorous with respect to reconciliation with financial reports.

b) Promote further growth and investment: We would like to submit that the most pertinent policy concern in India is the need for further investment in new technologies and increasing the availability of services to rural India. This costing methodology reflects the actual cost base of operators in India and ensures that costs are recovered so as to ensure continual investment in expansion of service.

2) Cost Items:

As highlighted by us in our response to question 1, we request the authority to consider following cost items for determination of termination charge using ASR based FAC model:

Sl. No	Particulars	Cost to be considered for termination cost
Opex		
1)	Pass through Charges (IUC)	No
2)	Employee Cost	Yes
3)	Administration Cost	Yes
4)	Sales & Marketing	Yes
5)	Maintenance charges	Yes
6)	Government Charges (LF+ SUC)	Yes
7)	Network Operating Cost	Yes
8)	Other operating Costs-	Yes
9)	Other Costs- Loss on sale of fixed assets (net)	No
Finance Charges (Excluding Interest on Loans)		Yes
Capex		
1)	Depreciation/Amortization (Spectrum)	Yes
Return on Capital Employed (should adequately cover WACC Rate)		Yes

Other Costs: **Port Charges, Media Charges and Co-location Charges are the CAPEX Cost associated with the IUC**. While taking the CAPEX cost in the termination charge, there is also a need to review and mandate that no extra charges are paid on account of the port charges, media charges and the co-location charges as the costs accruing to the same would have already been subsumed in the Interconnection Usage Charges determined by the Authority.

II. Minority View:

1) One of our member i.e. M/s Aircel recommends that Full cost allocated based methodology should be used to determine termination charge but, by excluding the CAPEX and also by further deducting VAS revenues from the OPEX. CAPEX especially spectrum is procured by operators considering their own business case and tariffs/products to be offered to their customers. It would not be proper to burden the termination charge with such CAPEX costs.

2) One of our member operators i.e. M/s Telewings, while agreeing to the cost based approach is of the view that the Pure LRIC /Avoidable Cost approach should be adopted for determining the termination charge. The cost elements which are directly attributable

towards termination of call in other network should be accounted for towards calculation of MTC.

3) Further, two of our member operator i.e. M/s Reliance Jio and M/s Videocon, are of the view that a Bill & Keep approach should be adopted.

Key Submission:

a) **Methodology recommended:** ASR based FAC model, including future spectrum cost to the operators

b) **Following cost items to be considered by Authority:**

   i) Include all elements of **OPEX.**

   ii) **Capital costs (CAPEX)** including Depreciation & Amortization for spectrum costs.

   iii) **WACC** to be taken into consideration.

   iv) Other costs such as **Port Charges, Media Charges and Colocation Charges should be taken into account while calculating MTC**

Q11: Do you agree with the methodologies explained for various variants of LRIC, including the detailed description of computation of the termination cost using LRIC model in the Annexure? If not, please give your answer with justification.

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Q12: In case it is decided to go for an LRIC model for determining termination cost, which is the most suitable variant of LRIC for the telecom service sector in the country in the present circumstances and why?
(i) LRIC
(ii) LRIC+
(iii) Pure LRIC

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Q13: In case your response to the Q12 is LRIC+, what are the common costs that should be considered for computation of termination costs?

COAI Comments:

1) Please refer to our answers to Questions 5 to 10 above.

Q14: In case there is a significant difference in the mobile termination cost and fixed termination cost, will it be appropriate to prescribe different mobile termination charge and fixed termination charge?

COAI Comments:

1) We are of the view that there should be common MTC & FTC prescribed by TRAI.

B. International Settlement and Termination Charge

Q15: The Authority has already prescribed access charges to facilitate the introduction of calling cards. Is there any other issue which needs to be addressed so that the consumer gets the most competitive tariff for ISD calls?

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Q16: Do you feel that the Authority's intervention is necessary in the matter of International Settlement Rates? If so, what should be the basis to determine International Settlement Rates?

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Q17: Is there a need to fix a floor for international carriage charge for incoming international traffic or prescribe some revenue share between access service provider and the ILDO to safeguard the interest of ILDOs?

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Q18: What is the most appropriate level for International Termination Charge? Should it be uniform or should it depend on the originating country/region? Please provide full justification for your answer.

COAI Comments:

1) **The termination charge for Incoming ILD calls to India is amongst the lowest in the world.**

   a) In the table below, we compare the India international termination rate to that prevailing in the countries that together account for more than 50% of the outbound international calls from India.

   Termination rates (TR) for international incoming calls in various countries:

	US$ per min	INR per min
India	0.0064	0.40
Pakistan	0.0885	5.47
US	0.01	0.62
Australia	0.055	3.40
Nepal	0.095	5.87

	US$ per min	INR per min
Oman	0.21	12.98
Qatar	0.15	9.27
UAE	0.13	8.04
Germany	0.0251	1.55
UK	0.0151	0.93

b) The termination rates charged to India by the UAE have increased from Rs.6.18 to Rs.8.04 during the period 2009 to 2012.

2) <u>Imbalance between the Incoming and the Outgoing minutes</u>

a) The number of international incoming minutes to India is estimated to be ~68 billion per annum, with outbound close to about 4.5 billion minutes per annum. The blended termination rate paid by Indian operators is around Rs 3.50/min for outgoing international calls compared with the 40 p/min termination rate received by them on international incoming calls. The difference in the marginal cost of calling, in part, explains the 15:1 imbalance in international calling.

b) Hence, we would like to submit that there is need to bridge the gap between the blended termination rate paid by Indian operators for outgoing international calls and termination rate received by them on international incoming calls.

c) Further, as is evident from the above, the Indian operators' cost towards termination charges is much higher in comparison to the revenue earned by them in the form of termination charges paid by foreign operators. This has resulted in:

- The Indian customer subsidizing the calling costs for international operators
- Adverse impact on profitability of Indian telecom operators
- A lost opportunity to earn higher foreign exchange by the country

The international callers abroad predominantly have a much higher paying capacity (per capita GDP) than consumers in India. It has led to Indian subscribers and telecom operators being treated in an inequitable and unfair manner while also creating disequilibrium in the Balance of Payments for India.

d) Since growth in Indian termination traffic has displaced the origination traffic by 15 times, it has reduced the negotiation power of Indian operators to cut down the cost with the operators of various countries.

e) **We are of the view that the increased termination rates will help to reduce the pricing arbitrage currently existing in favour of foreign operators which has built up over the years and thus, reduce the tariffs of the ILD calls.**

3) **<u>Increase in Foreign Exchange inflows:</u>** The increase in termination rates will help India to earn valuable foreign exchange, which currently is skewed against India by the imposition of these artificial trade barriers by international regulators in their home countries. Assuming that there is no reduction in inbound traffic volume in India post termination charge increase, the foreign exchange earning opportunity could be as high as about Rs. 41 bn per annum, if the current Termination rates are conservatively increased to Rs 1/min.

4) **<u>Uniform Charge:</u>** Further, we would like to submit that the International Termination Charge should be uniform and should not depend on the originating country/region.

Key Submission:

a) In order to bridge the gap between the blended termination rate paid by Indian operators for outgoing international calls and termination rate received by them on international incoming calls, as a first step, **we recommend that the ILD termination charge to be increased from 40 paise per minute to Rs. 1.00 per minute in the near term.**

b) This will help enhance foreign exchange earnings of India.

c) The charge should be **uniform across geographies**.

C. Domestic Carriage Charge

Q19: What should be the methodology for determining the domestic carriage charge? Is there a need to specify separate carriage charges for some specific geographic regions? If yes, on what basis should such geographic regions be identified? How should the carriage charges be determined separately for such geographic regions?

COAI Comments:

1) At the outset, we would like to submit that there is adequate competition in this segment and the charges prevailing in the market for the domestic carriage are well within the ceiling of 65 paisa prescribed by the Authority.

2) Further, while service providers face tremendous challenge and high cost structure in expanding the service to remote and hilly areas, there is no need for introduction asymmetric carriage charge as this would lead to subjective or interpretative issues.

3) The fact that carrying the calls to rural and far flung areas requires additional cost must be recognized by the Authority. Thus, a uniform carriage charge, which takes all costs into account, should be prescribed by TRAI.

4) Also, we are of the view that Authority needs to continue with **uniform carriage charges ceiling**. It is also highlighted that a ceiling of 65 paise is high enough to compensate for provision of services in remote/ hilly areas as the NLD operators then charges higher rates for other routes. Since, the carriage rates on all other routes are comparably lower; the high cost of carriage to the hilly/remote areas gets compensated.

5) Thus, we are of the view that there is no need for an introduction of an asymmetric carriage charge based on the geography **and request the Authority to continue with uniform carriage charges ceiling of 65 paisa.**

Key Submission:

a) Given the prevailing competition in the market and the fact that rates are already below the ceiling, **the Authority should continue with uniform carriage charges ceiling of 65 paisa.**

D. TAX Transit Charge

Q20: Is there a need to regulate the TAX transit charges or should this be left to mutual negotiations? In the event, the transit charge is to be regulated, please provide complete data and methodology to calculate TAX transit charges.

COAI Comments:

1) There may be case wherein a new entrant may not be in a position to establish direct interconnection in one go with all service providers and therefore, there may be a need to allow transit connectivity in the interim. It must, however, be emphasized that such facility **should be time bound and should be cost based** so that the burden of the transit charge does not get transferred in the form of higher tariff to the consumers.

2) In this context, it may be noted that the Authority's direction dated 7th June, 2005, provides that in order to ensure compliance of terms and conditions of license and effective interconnection between service providers and to protect consumer interest, all service providers to provide Interconnection on the request of the interconnection seeker within 90 days of the applicable payments made by the interconnection seeker. The above direction of the Authority may be kept in mind whilst deciding on the time bound provision of TAX transit facilities by service providers.

3) In this regard, it is also pertinent to note that wherever BSNL is not able to provide POI/ direct connectivity to operators at its Cellone MSC, BSNL is asking the operators to transit the calls through L1 TAX.

4) It may also be pointed that the Hon'ble TDSAT, in its judgment dated May 3, 2005, has directed that NO transit charges can be levied by BSNL if the MSCs of both BSNL CellOne and Private CMSOs are connected to the same BSNL switch.

5) Therefore, it should be amply clarified by the authority, that a TAX transit charge should be permitted only if such transit is at the requirement of the operator, and should not be used as a mechanism for unjustified enrichment by BSNL.

6) In light of the above, we would like to submit that:

    a) Transit charge should not be levied in case of inability of BSNL to provide connectivity at its Cellone MSC.

    b) Further, to ensure parity, private operators should also be allowed to provide the transit services inclusive of transit and termination to BSNL's network. This will bring competition between BSNL and other NLD/Access Provider by providing a free choice to the originating operator to either use BSNL L-I TAX or alternatively choose other operator's facility to terminate the call on BSNL Mobile/ Fixed network.

    c) Transit Charge should only be applicable if the services are used only due to the reasons solely attributable to the private service provider and should be strictly cost-based.

Key Submission:

a) The Tax Transit charge **should not be levied** in case of inability of BSNL to provide connectivity at its Cellone MSC**.**

b) Tax Transit Charge should only be applicable if the services are used only due to the reasons solely attributable to the private service provider and **should be strictly cost-based**

E. Transit Carriage Charge

Q21: How can the cost of providing transit carriage be segregated from the cost data in the ASR? Please provide a method and costing details to separately calculate this charge.

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Q22: If the costs of all relevant network elements are taken into account in the calculation of the fixed line termination charge, is there any further justification to have a separate transit carriage charge? Please give reasons for your answer.

COAI Comments:

1) We first submit that once an operator has indicated the point at which it will accept a call terminating on its network; it can only recover a termination charge. There should be no concept of a “carriage charge” after the call has been handed over for termination.

2) Against this background we submit that BSNL does not provide direct POIs at SDCA and has declared Level-2 TAX as the only point of termination for intra-circle calls from mobile to Fixed line of BSNL

3) Therefore, intra circle mobile calls made to BSNL Fixed Line subscribers are mandatory required to be handed over by Access Providers /CMSPs at Level-2 TAX which is the declared termination point, from where it is carried by BSNL to SDCA in which the subscriber is located. BSNL has an exclusive monopoly on this carriage, thus making it a de-facto termination charge. At present, intra circle mobile calls made to BSNL Fixed Line subscribers are handed over by Access Providers /CMSPs at Level 2 TAX, from where it is carried by BSNL to SDCA in which the subscriber is located. BSNL has an exclusive monopoly on this carriage, thus making it a de facto termination charge

4) Although the licenses on the NLD operators have been amended to permit them to carry intra circle long distance calls *with mutual agreement with originating service provider* and access providers are allowed to enter into agreements with NLDOs for carrying intra circle calls, the private cellular operators have not yet been able to take advantage of this facility and are forced to continue to hand over their traffic to BSNL at Level-II TAX on account of BSNL’s monopoly behavior as explained above.

5) Consequently, the private operators have to pay a transit carriage charge of 15 paise per minute for the same even though the private NLDOs are willing to carry the same at a fraction of the price.

6) It is submitted that there is a need to increase competition in this segment as the same would lead to lower cost for access providers and hence, more affordable tariffs for consumers.

7) The Authority may either ensure increased competition in this segment by :

- Directing BSNL to provide connectivity at all terminating points/ SDCAs, failing which Level 2 will be treated as the handover point for termination

- Allow the access providers to use private NLDOs for their intra circle long distance calls for termination at SDCA

8) In either of the two scenarios, transit carriage charge is not justified and should be abolished as in the former scenario, only the termination charge should be payable to BSNL whilst in the latter, the competition in the NLD segment will ensure competitive charges.

Key Submission:

a) In light of the reasons cited in our response, we submit that **the transit carriage charge should be abolished.**

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