

Ref: 1180/TRAI-G/ISPAI/12

April 19, 2012

Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan,
Jawaharlal Nehru Marg, (Old Minto Road)
New Delhi – 110 002.

Kind Attn Advisor (I & FN)

Subject: Consultation Paper [No. 08/2012 dt. 22 Mar'12] on Access Facilitation Charges and Co-location Charges at Cable Landing Stations

Dear Sir,

Current charges for access facilities at cable landing stations are unreasonably high and are not cost-based. Presently, access barriers in form of high charges for access to facilities at Cable Landing Station constrain the competitiveness of telecom operators and limit the growth of the market.

TRAI should establish these charges based on a transparent process which includes stakeholder consultation after the OCLS have filed the cost details. This will help TRAI to determine the charges. This will be similar to the exercise conducted while determining the prices in IPLC segment in 2005.

The present costing methodology also does not factor the reimbursements received by the OCLS from the consortium members to arrive at the CLS access charges. This needs to be considered and has certainly has the ability to reduce the charges significantly.

TRAI Regulation 2007 on "Access to Essential facilities at Cable Landing Stations" states:

"The Authority is of the view that adequate competition is not there at present in accessing international bandwidth. Therefore, to create effective competition in the sector, Cable Landing Station-Reference Interconnect Offer (CLS-RIO) needs to be mandated for the owner of all cable landing stations including those `would be commissioned in the future." TRAI also stated that it was "of the view that to have reasonable and fair charges, the need is to have such charges on cost oriented basis." Accordingly, the regulations provide that the AFC should be "determined on the basis of the cost of network elements involved in the provision of access and distributed over the complete capacity of the system."

Enclosed please find ISPAI response to the questions raised in the consultation paper. We trust you will find our submissions in order and will duly consider the same while finalizing and determining the charges.

Yours truly,

For **Internet Service Providers Association of India**

Puneet Tiwari
Director

Encl: As above

ISPAI Response to TRAI Consultation Paper on Access Facilitation Charges and Co-Location Charges at Cable Landing Stations (CLS)

Q1: Which of the following method of regulating Access Facilitation Charges and Co-location charges (AFC & CLC) should be used in India?

- (a) The prevalent method i.e. submission of AFC & CLC by owner of the cable landing station (OCLS) and approval by the TRAI after scrutiny
- (b) Submission of AFC & CLC by OCLS and approval by TRAI after consultation with other stakeholders
- (c) Fixing of cost based AFC & CLC by TRAI
- (d) Left for mutual negotiation between OCLS and the Indian International Telecommunication Entity (ITE)
- (e) Any other method, please elaborate in detail.

ISPAI believes that in order to regulate AFC and CLC charges, TRAI should adopt a method that would provide transparency and the opportunity for comment by other stakeholders, which is not available in the existing procedures for determining the AFC and CLC. TRAI should consult stakeholder after submission of charges, cost model etc by OCLS before determine the charges.

Q 2: In case AFC & CLC are regulated using method (a) or method (b) above, is there a need to issue guidelines containing algorithm and network elements to be considered for calculating AFC & CLC to the OCLSs? If yes, what should be these guidelines?

Same as above.

Q 3: In case, AFC & CLC are regulated using method (a), (b) or (c) above, please suggest the value of pre-tax WACC, method of depreciation and useful life of each network element? Please provide justification in support of your answer.

Value of the weighted cost of capital (WACC), should be subject to market conditions. For depreciation of assets, the most appropriate method is “straight-line method”, reflecting the economic (useful) life of the asset. Since the cost of setting up CLS is reimbursed under the consortium model, WACC and Depreciation should be arrived at after considering the amount reimbursed.

Q 4: Which cost heads/ network elements should be included/ excluded while calculating Access Facilitation and Co-location charges? Please enumerate the items with specific reasons.

Only those cost heads / network elements should be considered for determination of AFC& CLC, which are unavoidable and directly attributable to provide the AFC &CLC services.

Q5: What should be periodicity of revision of AFC & CLC? Support your view with reasons.

TRAI should review these charges once in two years with consultation with all stakeholders on the information submitted by OCLS.

Q 6: In case, cost based AFC & CLC are fixed by TRAI, which costing methodology should be applied to determine these charges? Please support your view with a fully developed cost model along with methodology, calculation sheets and justification thereof.

TRAI should use the internationally generally accepted Long Run Incremental Cost (LRIC) methodology.

Q 7: Whether Access Facilitation charges and O&M charges should be dependent on capacity (i.e. STM-1, STM-4 or STM-16) activated? Support your view with reasons.

The charges should be cost based and not capacity based.

Q 8: If Access Facilitation charges and O&M charges are fixed on the basis of capacity activated;

(a) Should the charges be linearly proportionate to the capacity activated;
or

(b) Should the interface capacity as provided by the submarine cable system at the cable landing station be charged as a base charge while higher or lower bandwidth be charged as the base charge plus charges for multiplexing/ de-multiplexing?

As stated in the Q 7 above, access facilitation charges should be cost based and not capacity based.

Q 9: Whether there is a need to fix Access Facilitation charges for all types of submarine cables? If no, which kind of submarine cables may be exempted and why?

The scope of the present regulation should equally applicable to all types of submarine cables.

Q 10: Is there a need to introduce any new provision or to modify/delete any of the clauses of the 'International Telecommunication Access to Essential Facilities Consultation Paper on Access Facilitation Charges and Co-location Charges at Cable Landing Stations at Cable Landing Stations Regulation 2007', in order to facilitate access to essential facilities at cable landing station?

No Comments

We would like to summarize that :

1. Access facilitation charges, co-location charges should be determined based on principles of non-discrimination, fair and transparent manner.
2. Access facility charges of Cable Landing Stations (CLS) in India should be aligned with similar competitive telecom market in other countries.
3. Periodic consultation with the relevant stake holders shall be held regularly to review the status both on National & International basis.
