

TELECOM REGULATORY AUTHORITY OF INDIA

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TRAI To Begin Consultation On Various Issues Raised With Respect to the Interconnection Usage Charge (IUC) Regime and On Certain Principles For Tariff Packages

1. Background

Through a consultation process, the Authority announced in January 2003 a new tariff regime and an Interconnection Usage Charge (IUC) regime to be implemented from 1st April 2003. After addressing, together with the operators, the technical issues involved in implementing the IUC regime, the Authority has implemented the new tariff and IUC regime from 1st May this year. In the process of its interaction with the industry as well as in comments received from various stakeholders, a number of concerns have been raised about certain features of both the IUC regime as well as the tariff packages that are provided in the market, and the factors which make it difficult to sustain competition over time in a manner that all access services have similar opportunities of growth. One such matter, i.e. the long distance tariffs being below the IUC due to a need for the fixed line operator to meet competition from cellular mobile, has been the subject of a short consultation note (dated 30th April 2003) to evolve an interim solution prior to a more comprehensive assessment and policy decision in this regard.

While the tariffs are examined, the Authority has allowed the market to function subject to the Regulator indicating the main principles to be respected with regard to the tariff packages (TRAI's letter dated 30th April 2003, and Press Release No. 05/2003 dated 30th April 2003). It is for this reason that the Authority has emphasised both in its letters to service providers and in its previous Press Releases, that the tariffs must be non-discriminatory, non-predatory and IUC consistent.

The Authority had asked service provider to notify by 3rd April 2003 their tariffs to be implemented under the new regime but these were filed late and in large bunches. Virtually all the tariff packages notified were for fixed line service, whose tariffs are not subject to forbearance. The Authority examined 188 tariff packages received for fixed line service and intervened in 64 packages, allowing 124 packages to be implemented. For tariffs subject to forbearance, e.g. cellular mobile and call charges for wireless in local loop (WLL-M), the Authority has allowed the introduction of such tariffs in the market during May, subject to their being reported to the Authority for its examination and if required, even intervention. This process envisages a self-assessment by the operators themselves to ensure that the tariffs meet the above-mentioned principles emphasised by the Authority.

The Authority has received 131 tariff packages for cellular mobile and 72 tariff packages for WLL-M. In some cases, the Authority has intervened to ensure that the relevant principles are met. However, an examination of all the packages will take time, not only because of the large number of tariff packages received but also because a number of service providers are re-filing their tariffs within a few days of having reported their initial packages, and because the diversity among the various tariff schemes requires steps to standardize them so as to apply consistent criteria of evaluation to all of them.

The submissions and comments by service providers and others on tariffs and IUC indicate a need to again clarify the content of its principles. Further, the Authority is of the view that there is a need to address the issue of the number of tariff packages that may be allowed to be provided by each service provider, the manner in which the customer should be informed about the actual charge that is paid for a call, and a number of points relating to the IUC regime require an urgent review. More detail on these aspects is given in the section below.

2. More detail on the various issues

A number of people have expressed concern about the large number of tariff packages provided in the market and the frequency with which they are altered. Such flexibility is necessary for responding to competition, but a plethora of packages may also be confusing to the customer, in particular if the changes are very frequent. Currently a maximum of 25 tariff packages per service provider are allowed, but the Authority would like to consider this matter again.

Likewise, the Authority has noted that the service providers do not always properly announce the tariffs or inform the customers of the actual charge that they have to pay for calls; this is usually the case when lump sum charges or advance payments are taken from customers, which implies that charges in addition to those explicitly specified as call charge are actually paid by the customer. **The fact that in effect the call charges are higher than those being informed to the customer has been pointed out to the Authority also by a number of service providers themselves when the Authority has questioned their tariff packages through correspondence and individual meetings.** The Authority would shortly bring out Guidelines on the manner in which the tariffs should be announced by the operators so that consumers may evaluate the tariff packages with ease.

Regarding the IUC regime, a major concern that has emerged is that since the access deficit charge is loaded only on the fixed line tariffs, the other services could be, and are, priced lower especially in the long distance segment thereby placing the fixed services at a disadvantage with regard to the long distance sector. This is also made possible by the fact that while the fixed line charge is restricted to a relatively lower level for local and short distance calls, these other services have the possibility of charging much higher tariffs for the corresponding

calls. With such a restriction imposed on fixed line for social policy reasons, there is an aggregate access deficit (i.e. excess of costs over revenues from rental and local calls) of about one-third of the annual revenue of the telecom sector. The IUC regime envisages the recovery of this amount from long distance calls involving fixed operators. Earlier, the surplus available in the long distance tariffs would have compensated for such a deficit. However, during the past two years the tariffs for distances above 50 kms. have seen a decline ranging from about 50% to 90% and the surplus available has been severely eroded. The competitive pressure from cellular mobile and even WLL-M (i.e. services which are in a position to charge higher "local" call charges and thus charge lower long distance tariffs) continues and this implies that the actual tariffs in the market would be lower than those required to recover the substantial access deficit that arises for the fixed line service. Operators and others have pointed out that not only this makes it difficult for the fixed line service to recover its access deficit, but also makes it difficult for the independent or stand-alone Basic Service Operators and National Long Distance Operators to recover costs. Thus an argument has been made to re-examine the sustainability of the IUC regime taking account of these likelihoods.

A number of other points have also been made for reviewing the IUC regime including, for example, that the IUC charge to be paid for WLL-M within an SDCA and for inter-SDCA calls need to be made consistent, the charge for call carriage does not provide reasonable return to a stand-alone Long Distance Operator, the access deficit charge under the IUC regime for international calls will encourage growth of grey market in these calls, charge for transit of a call has not been specified, the estimated cost of access deficit may need to be reviewed, the incumbent needs to be treated differently from the new entrants because of the legacy nature of the former's network, and that clarity should be provided for IUC applicable to calls from cellular mobile to cellular mobile and calls from WLL-M to WLL-M.

Considering the points mentioned above, the Authority has decided as follows.

3. Decisions of the Authority

- (a) The Authority has decided to review the IUC regime to address the various points raised with respect to that regime. This would require a period of about three months through consultations. In case further data is needed to re-assess access deficit charge, this period could be higher. In the interim period, the present IUC regime will continue to prevail. The background paper for these consultations would be issued by 15th May 2003.

The Authority has also noted the comments that the market situation is likely to change substantially both because of the introduction of the calling party pays regime, as well as the introduction of IUC consistent tariffs and the system of origination, carriage and termination charges

encompassed in the framework of the IUC regime. The impact of these developments will also have to be examined in the context of the consultation process. This process will also need to consider the sustainability of any IUC regime in providing the necessary revenues to recover the access deficit.

- (b) In view of all these impacts, the fact that the IUC regime would itself be subject of review, and the large number of tariff packages that require examination, the Authority has decided that it would allow for a longer period the service providers to implement tariff packages after the service providers have themselves conducted a self-check regarding the consistency of those tariffs with the relevant regulatory principles. This period would extend such flexibility provided initially for one-month to a period of three months.
- (c) The self-check is important because the Authority has noted a large number of tariff packages with similar distortions. Since a large number of fixed service tariffs have already been approved by the Authority, this flexibility would be effectively available largely to the tariffs subject to forbearance.
- (d) With regard to the relevant regulatory principles, the Authority would like to clarify that:
 - IUC consistency of tariffs implies that the service provider should be able to meet the IUC expenses on a weighted average basis. The relevant weighted average should be of the service segment concerned. For example, if we consider a WLL-M tariff package, the weighted average tariffs for the service should be adequate to meet the weighted average IUC expenses for that service.
 - The tariffs should be non-discriminatory i.e. different tariffs should not be charged for calls within the network and outside it when the call are to the same service. For example, if a call is from a fixed line subscribers, the tariff should be the same for a call to another fixed line irrespective of whose fixed line subscriber receives the call. Similarly, tariff for a call to cellular mobile should be the same irrespective of which service provider owns that subscriber.
 - The issue of non-predation is linked to the ability to pay the IUC expenses while covering own costs.
- (e) The Authority is also going to examine in the consultation process, the issue of how many tariff plans should be allowed for each service provider.
- (f) In its consultations, the Authority would also look at the desirability of withdrawing forbearance that is presently given to the tariffs for cellular mobile and WLL-M.

- (g) The Authority has already asked service providers to give a clear indication of the actual amount paid by the subscriber for calls made within the free call allowance and outside it. Generally, in a number of tariff packages with lump sum payments in addition to call charge, the actual amount of call charge is more than the amount that is specified for the customer's information. The Authority will prescribe the manner in which such tariffs should be announced so that there is transparency about the actual call charge paid by the customer.