

## COAI Response to TRAI Consultation Note on IUC

### Introduction

At the outset, COAI would like to commend the Authority on the introduction of the IUC regime, as we believe that this is a historical step in India's telecom reforms process.

In the IUC regime, the Authority has undertaken a detailed cost unbundling exercise and has prescribed certain spot values for the costs of origination carriage and termination of calls for different networks. The Authority has also extended a degree of flexibility to the operators by providing that the IUC charges can be set with a range of  $\pm 10\%$  of the spot rates prescribed by the Authority.

COAI would like to therefore submit that the tariffs approved by the Authority must be consistent with the IUC regime introduced by TRAI. Any approach that is contrary to this principle would render the entire IUC exercise meaningless.

### Section I

In Section I, the Authority has identified the following tariff related principles enunciated by it in Telecommunications Tariff Order 1999 :

- Tariff should be non-discriminatory
- Tariff should achieve the main objectives of consumer protection
- Tariff should ensure network expansion
- Tariff should ensure viability of the industry

COAI is in full agreement with the above principles. In addition to the above, COAI would like to submit the following tariff principles for the consideration of the Authority :

#### **A. TRAI Tariffs must be Cost Based**

- i. The principle of cost based tariffs have been enunciated by TRAI in their press release on tariff packages. Unless this is ensured, the objectives of network expansion and industry viability enunciated by the authority will not be met and consumer interest would be harmed in the long term.

#### **B. TRAI Tariffs must be internally consistent.**

- i. Tariff packaging should be consistent with the IUC regime. IUC regime specifies origination, carriage & termination charges to be levied for different types of calls. TRAI tariffs must therefore deal with the basic elements of any call or service. For example, a long distance call is composed of origination, carriage and termination. Any tariff, which is below the sum of these three elements, will not be in compliance with the IUC regime.

- ii. The retail tariff should be equal to or higher than the sum of IUC charges payable for Origination, Carriage and Termination (OCT) of a call. It can vary only to the extent of  $\pm 10\%$  of the IUC values specified in the Regulation. Any tariffs less than  $-10\%$  of this IUC value would be below cost and predatory in nature. If the Authority approves any such lower tariffs, the IUC regulation would become meaningless.

**C. TRAI Tariffs must be Transparent & Non-discriminatory.**

- i. Tariffs should be transparent & non-discriminatory. The principle laid down is that the tariffs should not be anti-competitive i.e. be designed in a manner that stifles / eliminates competition and thus endanger the viability of the industry in the long run. COAI submits that any tariff, which is designed and offered by an operator, which is less than IUC regulation, would obviously affect competition and orderly growth of the telecom industry.
- ii. IUC has to be paid by all telecom service providers to one another for terminating calls on one another's networks. It is reiterated that this IUC costs should be included in all retail tariffs to ensure that no company could offer predatory prices or have discriminatory network interconnection deals.
- iii. To ensure transparency & non-discrimination, TRAI must require all companies to file component-wise tariffs so that the Regulator can ensure that other operators, who wish to access only a part of the company's services can do so in a non-discriminatory fashion. This will enable for example, long distance services of a licensed NLD operator, who is active in the access and termination markets, to be accessed by other operators who may only be active in say, the access market.
- iv. The billing of end users vs. billing for interconnecting operators can be different This unbundling or component wise pricing need not necessarily be billed to end consumers in the same unbundled fashion. The operators could be within their rights to offer to their consumers, bills that are easy to read and do not confuse the uninitiated consumer. But, accounts for other interconnecting operators need to be transparently unbundled.
- v. It is the norm rather than the exception that interconnecting operators have widely different negotiating power. COAI believes that the negotiating Power mismatch can be addressed by mandating unbundling. The unbundling discussed above, if mandated by TRAI, will go a long way to provide comfort to those operators whose lack of market power would leave them at the mercy of larger / integrated players with greater financial or marketing muscle who are in a position to indulge in anti-competitive practices by only offering composite rates for their services. We have seen examples of this recently when extremely cheap long distance service offered by some private operators seem to be inaccessible by competing access providers.
- vi. The above principle should apply both for peak and off-peak tariff. However, a Service Provider may fix a lower off-peak tariff in Consultation with the other Service Providers involved in end-to-end completion of a call subject to the

concerned operators mutually agreeing to accept the lower IUC charges payable for Origination-Carriage-Termination (OCT). In case of lower off-peak tariff, Service Provider who files the tariff should be asked to indicate the agreed lower share of IUC between the service providers before the tariff is approved.

## Section II

- i. At present the NLD tariffs are required to be set and filed by the NLDO whereas the call charges are collected by the originating Access Providers. COAI believes that till the Carrier Access Code (CAC) is implemented and the choice is available to the customer for call-by-call selection of the NLDO, the NLD tariff should be set by the Access Providers instead of the NLDO.
- ii. Further, TRAI while approving any NLD tariff must ensure that it satisfies / complies with all the principles enunciated above – i.e. the tariff is in compliance with IUC, it is transparent and non-discriminatory and it is not anti-competitive.
- iii. COAI submits that in the past TRAI has approved tariff plans, which do not satisfy one or more of the above criteria.
- iv. TRAI has approved the tariff announced by BSNL vide Memo No. 3 – 8/2003 – R & C dated 11.04.2003. BSNL has also intimated IUC charges for use of BSNL network vide Memo No. 208-15/2003-Regln dated 24.04.2003 and 28.04.2003. BSNL has intimated that the following charges are payable by BSO to BSNL in Rs. per minute based on differential ADC for the following inter circle calls.

a.	BSO to Fixed Inter Circle STD upto 50 Km	Rs. 0.35
b.	BSO to Fixed Inter Circle STD >50 Km upto 200 Km	Rs. 1.45
c.	BSO to Fixed Inter Circle STD > 200 Km upto 500Km	Rs. 2.50
d.	BSO to Fixed Inter Circle STD > 500 Km	Rs. 3.60

- v. BSNL will receive charges for carriage and termination including ADC based on IUC. BSNL is an integrated operator and provides 97% of the fixed phones in the country. BSNL will stand to gain in termination charges even though BSNL may recover less origination charges from STD calls made by BSNL subscriber to fixed subscribers of BSO.
- vi. The BSNL tariffs for Basic to Basic inter circle call is given in Annexure A. It will be seen that with differential ADC a STD call for >500 Km as per IUC

should cost Rs.6.10 and not Rs.5.10 as mentioned in TRAI consultation note Annexure I. Once BSNL has adopted differential ADC for all calls the discussion should be on Rs.6.10 and not on Rs. 5.10. There is no need for any solution on **an interim basis** as the IUC regime has been implemented by all operators as decided by the TRAI.

### Section III

Coming specifically to the issue of BSNL's NLD tariffs which has been raised by the Authority, we have the following comments to make :

- i. At the outset, we submit that the calculations which have been given by TRAI in Annexure I for inter-network calls are based on the uniform ADC, but BSNL is actually implementing these calls on the basis of differential ADC. The principle of uniform ADC is being applied by BSNL only to intra-network calls.
- ii. This anomaly must be corrected as it is against the basic principles enunciated by TRAI in its Press Release for tariff packages. COAI strongly believes that the above principle of non-discrimination must be strictly enforced and whatever charges are applicable for intra network calls must be equally & non-discriminately available for inter-network calls.
- iii. As mentioned earlier, COAI is strongly of the view that all tariffs must be IUC compliant – i.e. any tariff permitted by the Authority must be equal to or higher than the sum of the costs of origination, carriage and termination specified by the Authority.
- iv. It may be pertinent to mention that in the IUC Regulations, the IUC charges were prescribed after considering various aspects and the amount of ADC was calculated based on certain assumptions such as
  - Adjustment in pulse rates
  - Increase in rentals for commercial categories
  - Reduction in free calls, etc
- v. However, the incumbent operator has chosen voluntarily to refrain from adopting the above tariff measures prescribed by TRAI and has announced its own tariff packages, which are below IUC-specified limits. The operator was not forced to announce such tariffs. The Regulator cannot therefore be asked to suggest means of compensating the said operator for these below cost IUC packages / rates. Under these circumstances the question of compensation / readjustment of any such loss between different categories such as origination, carriage and termination does not arise.
- vi. We once again reiterate that the principles of tariffs must be in compliance with the IUC regime and the benchmark values for origination, carriage and termination must be implemented / enforced. The best remedy therefore lies in revising the STD tariff for distance greater than 500 Kms from Rs.4.80 to Rs.6.10 in peak hours. This will make the industry viable and will prevent anti-competitive tariffs.

- vii. Since the IUC regulation is a result of an exhaustive exercise, which has implications on several other issues, it is difficult and impractical to carry out a limited consultation on an isolated issue in a piecemeal manner without considering all related issues. Until such a comprehensive exercise is undertaken to consider all aspects which have already been placed before the Authority, it would be desirable that the Authority's own principles that tariffs must be IUC compliant be respected in the interim.

**Conclusion:**

- i. TRAI should only permit tariffs if they are equal to or higher than the sum of three elements of IUC charges (Origination, Carriage & Termination of a call). The variation in IUC spot values to be within  $\pm 10\%$  of the IUC value as specified in the Regulation.
- ii. Tariffs should be transparent & non-discriminatory and should not be anti-competitive. To ensure transparency & non-discrimination, TRAI must require all companies to file component-wise tariffs so that the Regulator can ensure that other operators, who wish to access only a part of the company's services can do so in a non-discriminatory fashion.
- iii. The below IUC tariffs have been voluntarily offered by the incumbent. The Regulator cannot be asked to suggest means of compensating the said operator for these below cost IUC packages / rates.