Comments on TRAI Consultation Paper

On

Review of the Telecommunication Interconnection (Port Charges)

RCOM Comments: Consultation Paper on "Review of the Telecommunication Interconnection (Port Charges)"

1. Reliance Communications Ltd (RCOM) welcomes the opportunity to comment on the TRAI Consultation Paper on 'Review of Port Charges".

TRAI's Main Proposals

2. TRAI's main proposals on Port Charges are as under:

- Port charges to continue to be payable by the interconnection seeker to the interconnection provider.

- The review of the port charges to be limited to align the port charges with the prevalent costs of the relevant equipment. **TRAI not to align the port charges on the basis of usage by respective interconnecting parties.**

- There shall be separate port charges for Mobile Operators and Basic Service Operators i.e. separate port charges for connectivity at GMSC/ MSC and Tandem/ Trunk Automatic Exchanges.

- The New Port Charges (TAX) shall be as under:

S. No.	Type of Switch	Port Charges (Ceiling of Rs. Per Port)
1	MSC	4,000
2	Tandem / TAX Exchange	10,000

RCOM Comments on TRAI's proposals

3. At present port charges are being exclusively borne by interconnection seeker even though interconnection provider also uses the same facility for its outgoing traffic. Therefore, **as per the causation principle both interconnection parties should bear cost based on usage**.

- **TRAI also agrees with the principle of port charges on the basis of usage as is evident** in the Reference Interconnect Offer. The relevant provisions are given below:

"12.3.2 Two years after the initial interconnection is established, ***the issue as to who bears the cost of additional resources required shall be negotiated between service providers. The general principle followed in these negotiations should bear the incremental costs incurred for the additional ports required for meeting the QoS standards relating to its outgoing traffic to the other party.****"*

- The issue of port charges to be based on usage was raised before the TDSAT in Appeal No 2 of 2008 between AUSPI Vs TRAI. The TDSAT in its judgment dated 24th May, 2010 decided that **TRAI shall consider the contentions raised in this appeal in its review future exercise**. The relevant portion of the judgment is reproduced below:

  "We, furthermore, are of the opinion that ***there cannot be any doubt or dispute that the TRAI in its future exercise subject to the observations made hereinbefore may take into consideration, the contentions raised in this appeal upon following the usual procedure****."*

- TRAI is perhaps not reviewing the payability based on usage as the TDSAT judgment in the matter of BSNL Vs TRAI dated 27.4.2005 on Reference Interconnect Offer directed that the cost of augmentation and interconnection were to be borne by the interconnection seeker in line with the license terms of the Basic Service License.

- Subsequently in the year 2003, a new licence namely the Unified Access Service License has been introduced which is applicable now. **In this UAS License there is no provision that the payment of interconnection facility will be made only by the interconnection seeker.** The UASL license provides that the interconnection between the two service providers will be as per their mutual discussions and agreements which are **subject to the directions issued by the TRAI from time to time.** The relevant provisions from UASL is reproduced below:

  "27.2, the charges for accessing other networks for inter-network calls shall be based on mutual agreements between the service providers conforming to the Orders/ Regulations/ Guidelines issued by the TRAI from time to time.

  27.3 The network resources including the cost of upgrading/ modifying interconnecting networks to meet the service requirements of the LICENSEE will be mutually negotiated keeping in view the orders and regulations issued by the TRAI from time to time"."

- TDSAT in its judgment in Appeal No 2 of 2008 between AUSPI Vs TRAI has explained that the TRAI jurisdiction to decide payability on the basis of usage for port charges is limited to Basic License and there is no prohibition in the case of UASL. The relevant portion of the judgment is reproduced below:

  "…We say so because in the event the ***TRAI finds it feasible to determine different port charges, one in respect of the BSO licenses and the other in respect of UASL licenses, it may do so as judgement of this Tribunal dated 19.03.2007 is confined to the BSO license alone****.*

  The jurisdiction of TRAI may be limited, if at all, so far as it involves the change of the terms and conditions of the licenses. However, there can not be any doubt or dispute that ***in respect of UASL licenses; there being no prohibition, the TRAI's jurisdiction*** *in this behalf is not limited."*

- TRAI has now proposed separate port charges for Basic and Cellular Services. The port charge for MSC is proposed at Rs 4000 per E1 and for Tandem/TAX exchanges it is Rs 10000 per E1.

- As port charges for Cellular Networks and Basic Services are different, it is appropriate time to migrate port charges for Cellular networks connectivity to be payable on the basis of usage. TDSAT has already clarified that there is no prohibition with TRAI to decide port charges for UASL on the basis of usage. TRAI can consider to merge port charges for Cellular service with IUC to implement port charges on the basis of usage.

Conclusion

- **As per the TDSAT judgment in Appeal No 2 of 2008 between AUSPI Vs TRAI, the Authority should consider the contention in the AUSPI appeal with regard to usage based port charges.**

- **TDSAT has held that if feasible Basic and Cellular Services can have separate port charges. It is within TRAI Jurisdiction to decide port charges for Cellular Service UASL on the basis of usage.**

- **TRAI should merge port charges for Cellular services on the basis of usage and merge it with IUC.**

RCOM's comments on specific Issues for Consultation

The stakeholders are requested to send their comments on the cost data and costing methodology used for estimating the port charges in this consultation paper. The stakeholders may also send their comments on the period for which these charges should remain operative.

MSC Port Charges

- RCOM does not support the payment of port charges by interconnection seeker for interconnectivity with UASL/CMTS operator
- Port Charges should be based on Usage and to give it effect TRAI should merge port charges with the termination charges.
- Port charges should be based on bill and keeps basis effective 2014 when IUC regime shall also be based on Bill and Keep basis.

Tandem/TAX Port Charges

- The Authority has not correctly estimated port charges for Tandem/TAX exchanges.
- The BSNL is using AXE and NGNs beside OCB for interconnectivity at TAX/Tandem.
- The port related cost should be weighted average of OCB & AXE exchanges. BSNL is using OCB, AXE and NGN switches. The OCB and AXE/NGN switched are almost in 50:50 ratio at TAX/TANDEM. Therefore Authority should take cost mix of OCB & AXE exchanges.
- **The weighted average cost of OCB & AXE is around Rs. 32806 and based on this the port charges should be Rs. 6586.** ***(Please See Annexure 1 for Details)***

Validity of Charges

- **Charges should be valid for three years.**
- In case BSNL migrates Basic Service License to Unified License regime or RIO cases is decided and there is more clarity on TRAI jurisdiction then TRAI may consider to review the port charges before expiry of 3 years.

RELIANCE

Annexure 1

The both OCB & AXE are being used for provisioning of TAX POI with the ratio of 50:50, then the average port charges comes to Rs. 6586.

Calculation of Port Charges by Considering 10 yrs depreciation as provided by BSNL and taking OCB & AXE per EI CAPEX in 50:50 ratio										
Item	**Year-1**	**Year-2**	**Year-3**	**Year-4**	**Year-5**	**Year-6**	**Year-7**	**Year-8**	**Year-9**	**Year-10**
CAPEX cost of an E1 port (Rs.) = Gross Block	32,806									
Depreciation @ 10% per annum based on straight line method of depreciation (Rs.)=10% of Gross Block	3,281	3,281	3,281	3,281	3,281	3,281	3,281	3,281	3,281	3,281
Reasonable Return (Pre-tax weighted average cost of capital) @15% on Net Block (Rs.)	4,921	4,429	3,937	3,445	2,953	2,460	1,968	1,476	984	492
CAPEX Recovery (Rs.)= Depreciation + Reasonable Return	8,202	7,709	7,217	6,725	6,233	5,741	5,249	4,757	4,265	3,773
Overhead @10% on CAPEX Recovery (Rs.) =10% of CAPEX Recovery	820	771	722	673	623	574	525	476	426	377
Cost per E1 (Rs.) = CAPEX Recovery + Overhead	9,022	8,480	7,939	7,398	6,856	6,315	5,774	5,233	4,691	4,150
Average annual cost (averaged over ten years) (Rs.)	**6,586**									

Note:-

The CAPEX cost of an E1 Port of Rs. 32806 is derived by taking the average E1 Port for TAX (Rs. 46430) and E1 Port for GMSC (Rs. 19182) as per TRAI.