TRAI seeks views of stakeholders on setting floor price for settlement in India of International Long distance minutes.

One section of the service providers has represented to TRAI for intervention in setting floor price for settlement in India of international long distance minutes originating from the Middle East without disturbing the local termination charges. A copy of the representation received is enclosed.

Written comments on the enclosed letter are invited from the stakeholders. The stakeholders may furnish the same to Principal Advisor(I&FN), TRAI by 19th November, 2010. The comments may preferably be sent by email at dafn@trai.gov.in or in case of any difficulty, these may be sent at trai.gov@gmail.com. The fax numbers of TRAI are 011-23220209 and 23230056. Comments will be posted on TRAI's website on receipt.

25th August 2010

Dr. J.S. Sarma
Chairman
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg,
New Delhi-110 002

Sub: Set floor price of 13 cents per minutes for settlement in India of international long distance minutes originating from the Middle East.

Dear Sir,

The TRAI's international telecommunications policies, including its policies of abolition of ADC and putting carriage charge for ILD calls including international settlement under forbearance have played an important role in reducing foreign termination cost. Consumers have benefited significantly from these reductions in the form of lower ILD call tariffs on many routes and now call to USA and Canada can be made almost at local call rates.

2. TRAI's policy of forbearance truly reflects the existing liberalized Indian international telecommunications market and should continue. However, the Authority's focus is required in the international telecommunications market such as unilateral increase in termination rates, where monopoly market power or even the government has prevented competition from taking hold. In these specific international routes the Authority should ensure that enforcement mechanisms are in place to address anticompetitive practices.

3. The recent attempt by Middle East monopoly operators to unilaterally push settlement rates paid by Indian ILDOs is a case in point. Effective 1st April 2009. **Du and Etisalat increased their international call settlement charges from 10 cents per minute to 13 cents per minute.** This unilateral increase in termination rate is a clear abuse of monopoly.

4. India and Middle East international voice traffic is mainly led by the Persons of Indian Origin settled in the Middle East. Total voice traffic between India and Middle East traffic is around 10 billion minutes per annum. India-in traffic from Middle East is 8.5 billion and India-out traffic to the Middle East is around 2.2 billion minutes. **The India out traffic settlement cost is set by aggressive competition amongst Indian telecos whereas settlement cost in the Middle East cost is set by the monopoly telco in each country.** The Middle East charges weighted average 13 cents per minute against a competitive rate of only 1.2 cents charged by Indian ILDOs for in-traffic from Middle East countries.

5. The following are main drawbacks of hugely differential settlement cost between Middle East countries and India:

(i) <u>Revenue loss to India Inc</u>: India loses Rs 825 cr revenue to Middle East due to monopoly pricing by the Middle East carriers;

Origination	Termination	Traffic (million minutes)	Settlement revenue (Rs Crores)	Average Settlement cost per minute Rs/ min	US Cents
Middle East	India	8,500	475	0.56	1.2
India	Middle East	2,200	1,300	5.91	1.3
Total		10,700	1,775	1.66	3.6

Source: Industry estimate

(ii) <u>Revenue loss to GoI (revenue share)</u>: GoI earns only Rs 30 cr from Inbound settlement cost whereas it could earn upto Rs 300 cr per annum;

(iii) <u>Disproportionate traffic</u>: Due to higher settlement cost the cost of calling to Middle East is higher in India. As a result, Inbound traffic (from the Middle East) is almost 4X outbound traffic;

(iv) <u>Loss of Forex</u>: India Inc. has to settle the settlement in US Dollars as a result there is forex loss of US$ 180 million (Rs 825 crores) due to differential settlement cost;

(v) <u>Security threat</u>: As Inbound calling into India is artificially amplified (due to lower settlement cost), there is increased security threat since such inbound calls may not be subject to rigorous monitoring as outbound international calls.

6. Given the obvious anti-competitive impact that excessive termination rates have on consumers and competition in the ILD market, the Authority is requested to take immediate steps to address the problem by specify reciprocal settlement rates of 13 cents for Middle East. The Authority should not leave it to the market forces alone to address excessive international mobile termination rates because of abuse of monopoly position. If left unchecked, excessive international settlement rates will undermine the significant success achieved in other competitive routes like USA and Canada and Indian consumer will be ultimate loser. In addition India is losing valuable FOREX of Rs 850 crores because of abuse of monopoly by Middle East Operators.

7. Even in a more liberalized environment including USA, regulators have put safeguards in place against abuse of foreign market power. Higher termination rates are anticompetitive and threaten to erode the effective competition that has taken place on most international routes. There are number of examples of regulatory intervention as in one of the case Federal Communications Commission (FCC) fixed the cap for settlement

with VSNL of India in March 2002 to 23 Cents per minute as the fair settlement charge in view of arbitrary increase of the India settlement charges by erstwhile VSNL. A copy of FCC order dated March 11, 2002 is attached as Annexure I.

8. Another example of FCC intervention is in the case of Philippine carriers who disrupted circuits on the U.S.-Philippine route of those carriers that did not agree to the increase in settlement rate demanded by the Philippine carriers. FCC issued an order in response to petitions filed by U.S. carriers, requiring all U.S. carriers providing facilities based services to suspend payments to the Philippine carriers for terminating services until those carriers restored U.S. carriers' circuits. FCC also ordered removing the Philippines from the Commission's list of International Settlement Rate routes. Cases such as these demonstrate that intervention of Regulator is imminent when monopoly foreign operators abuse their position.

Request

In view of the above, we request TRAI to

(i) intervene and set floor price of 13 cents per minute for settlement in India of international long distance minutes originating from the Middle East without disturbing the local termination charges;

(ii) Give us an opportunity to present this case before the Authority.

Thanking you,

Yours faithfully,

Sd/-