TELEWINGS COMMUNICATIONS SERVICES PRIVATE LIMITED
A-38, KAILASH COLONY, NEW DELHI-110048

09 December 2013

Shri Arvind Kumar, Advisor (NSL)
Telecom Regulatory Authority of India
Mahanagar Doosanchar Bhawan
Jawahar Lal Nehru Marg (Old Minto Road)
New Delhi 110002

Subject: Response to Consultation Paper on 'Revenue Sharing Arrangements for Calling Card Services' (No 10/2013) dated 14.11.2013

Reference: Our response to your office letter No. 409-16/2012-NSL-I dated 05.09.2012
Our response dated 15.12.2010 to TRAI consultation paper No 15/2010

Dear Sir,

Please find enclosed our response to the Consultation Paper subjected above. We hope that the Authority will find our response useful and consider our inputs while formulating the recommendation on the subject.

This is for your information and records please.

Thanking you,

Yours sincerely,
For **Telewings Communications Services Private Limited**

(Pankaj Sharma)
Sr. Vice President and
Head Regulatory

Uninor response to TRAI consultation paper on 'Revenue Sharing Arrangements for Calling Card Services' (No 10/2013) dated 14.11.2013

1. Preamble

We welcome the invitation to give comments on the above subject which is of major importance to the principle of consumer welfare and efficient utilization of NLD and ILD network capabilities. We have consistently made the point that consumer welfare is achieved through a careful balance between regulations and a competitive environment. In our brief response we submit an alternate to the attempts at regulating the retail tariff and yet suggest ways to offer lower tariffs to the customers.

2. Background

In **Nov 2006**, the TRAI brought out the IN Regulation mandating all IN service providers to interconnect with all access providers based on mutually agreed commercial and technical arrangements.

The provision of virtual calling card (VCC) was introduced by DOT through license amendment in **Aug 2009** solely for the purposes of voice services. The ILD operator was restricted from other IN services and provision of VAS, SMS and MMS through this calling card was also not permitted.

TRAI conducted a consultation on Revenue share for IN services in **Nov 2010** and in response we had submitted a forward looking approach with our model for different type of IN services including VCC (copy enclosed); however no recommendations have been issued in this regard by TRAI.

Near about the same time in **Oct 2010** TRAI issued the draft amendment to the principal regulation and sought comments from industry. While submitting their response most of the service providers had challenged the regulation itself, others had requested TRAI to issue a draft IN interconnection agreement. This request is pending consideration of TRAI.

The Authority brought about an amendment to the IN Regulation in **Sept 2012** and specified timelines for entering into interconnect agreements for those IN service providers who became eligible after commencement of the principal regulation.

However, till date the principal regulation and its amendment are a non-starter, this should put our thought process at work at finding an alternate approach.

3. Paradigm shift since 2006

The rates for STD calls have fallen steadily and presently the local and STD rates are of the order of 1 p/sec or Rs 0.6 per minute. The advent of VOIP calls have rationalised the retail ISD rates. Further, ISD packs are available in the market wherein discounted ISD rates are available for customers. For instance, under an ISD pack the rates for USA and Canada are 2p/sec and 3p/sec for UK. The Authority's contention that *"Competition forces them to expand into hitherto unserved markets"* is unfounded as the STD rates are low on margins and volumes are high. While the ISD rates are being checked by competition amongst service providers on one side and competition from free VOIP services on the other side. Thus there is enough competition in the retail segment.

Though there remains further scope of retail tariff rationalization especially in the ILD.

3. Wholesale intervention – retail benefits

There exists a skew in incoming v/s outgoing ILD minutes as per Table-1 of the consultation and this should be addressed by making available the wholesale ILD minutes to all service providers big or small at a reasonable rate. The integrated service providers should be treated as individually having Access, NLD and ILD licensees. **The ILD Service providers having standalone SMP position in the NLD / ILD segment should be imposed with regulatory obligations to offer wholesale NLD / ILD minutes to all service providers including new entrants.** Volume based discounts may be offered on a non-discriminatory basis. This itself will usher competition amongst all access providers to reduce their present ILD margins of Rs 3 to 4 per min (ref: Further Analysis). The fall in retail tariff is the most likely fallout.

For stimulating competition in the retail, regulator have a principle obligation to ensure availability of healthy competitive wholesale products.

4. Multi/ Dual SIM

The mobile industry is moving towards OMPD (one person, multiple devices) era, giving rise to multi SIM culture. The choice of better local/STD rates from operator 1 can be clubbed with cheaper ISD rates from operator 2 using a dual SIM handset available at affordable prices. The customer threshold in choosing both these options simultaneously is the nominal cost of an additional SIM.

5. MNP

Today, the customer is well informed and has the choice of service provider offering better ISD tariff by paying a nominal prescribed porting fees.

6. We feel there is a sufficient competition in the **retail market place**. Earlier Authority had abandoned the implementation of carrier selection after due consultation. We feel that after due consultation the Authority may come to a conclusion that the introduction of VCC may not be the only solution. It would be wrong to believe that mandatorily enforcing virtual calling card will bring significant competition, leading to investments and consumer good. A study conducted by OFCOM on the international calling cards shows there are quality of service issues and mis-selling associated with calling cards leading to customer dissatisfaction. Please refer below web link for complete details.

   http://consumers.ofcom.org.uk/2011/01/ofcom-opens-international-calling-card-probe/

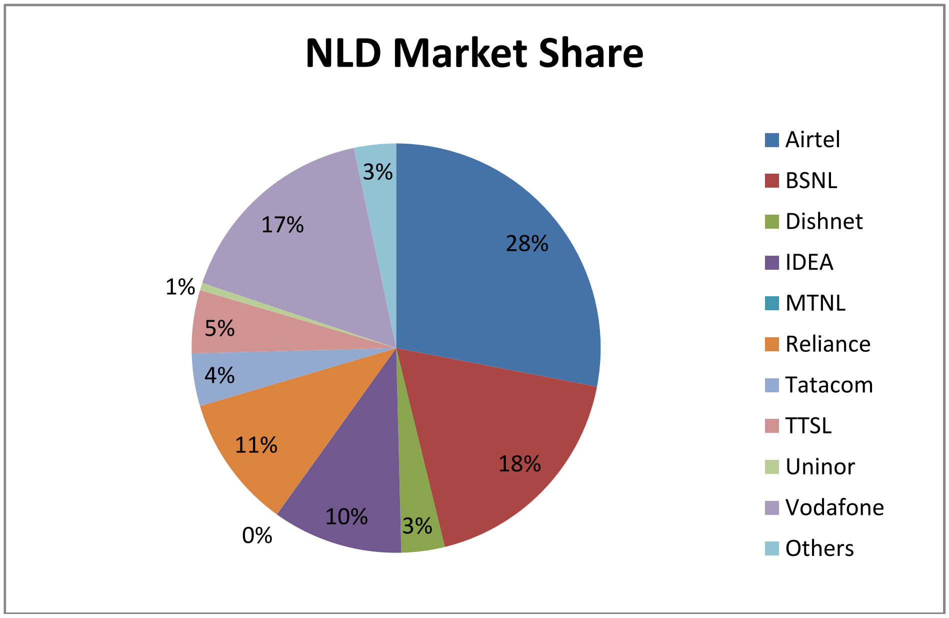
   http://www.acma.gov.au/Industry/Telco/Reconnecting-the-customer/TCP-code/calling-card-companies-warned

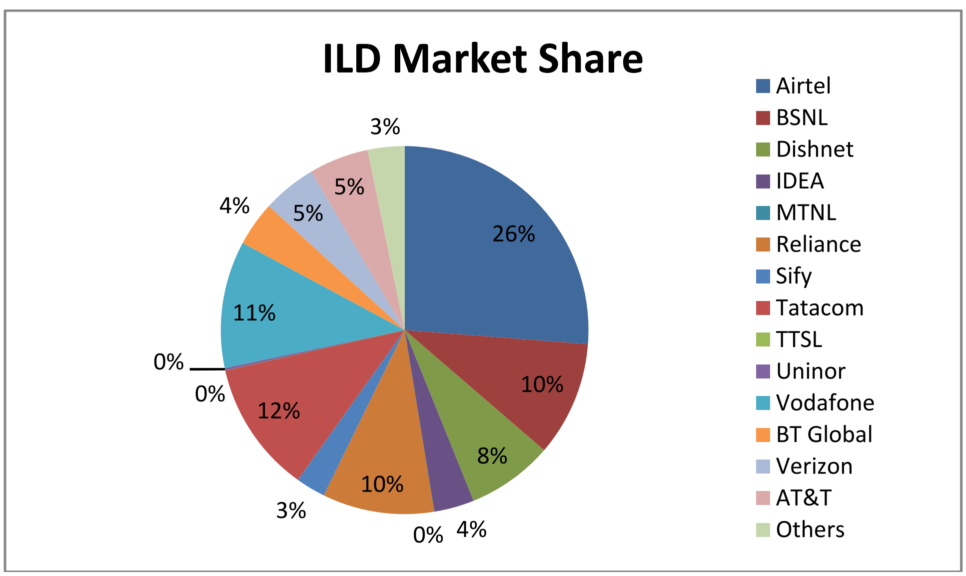
7. The uptake of VCC in the ILD segment may find little traction amongst urban as well as rural segments. The target urban customers prefer VOIP over VCC and the target rural customers may find the dialling of toll free number followed by an access code and password a cumbersome procedure.

8. The alternate to VCC would be to liberate the wholesale tariffs, so that the Access providers can offer competitive rates to the retail customers.

9. We feel that competition will be subserved by bringing a level playing field at the **wholesale NLD and ILD carriage level**. This can be brought about by introducing the Service category wise significant market power ('SMP'). Regulatory obligations should be imposed in terms of publishing the IN interconnect agreements, carriage rates and non-discriminatory volume based discounts to address the competition concerns identified arising out of that SMP. These NLD and ILD service providers typically reflect their high and stable market shares and create large entry barriers to new entrants.

10. The NLD and ILD services is a separate license and a separate authorisation under the Unified License, hence they should be independently categorised as significant market power ('SMP'). As depicted in below charts of market share, 63% of NLD market and 69% of ILD market is controlled by 3 NLDO and 5 ILDO licensees respectively and they are able to influence the market like a Significant Market Power (SMP).





Source: TRAI financial data as on QE June (2013-14)

11. In light of the above, we would like to submit that regulatory oversight and intervention in the inter-operator wholesale market is of much greater importance for the sector than only selective retail interventions by regulating the access charges.

UNINOR response to the issues under consideration

Q1. Whether the access charges to be paid by NLDOs/ ILDOs to access provider for calling cards should be prescribed both for NLD and ILD calls or for ILD calls only?

And
Q2. As the work done by the Access Provider is the same for NLD and ILD calls, should the originating access charges for NLD and ILD calls be the same or different?

UNINOR:

We have explained our views in detail in the previous section.

The specific answers to 1 & 2 are as follows:

(a) Prescribing access charges or in other words retail intervention by regulator is not a welcome step.

(b) Regulatory oversight and if need be intervention at the wholesale NLD and ILD carriage charges by the regulator may bring about the same effect, while maintain the principle of forbearance in retails tariffs.

(c) Obligating regulatory obligations for **service category wise Significant Market Powers** as these are individual licensees.

(d) A premium may prevail in the ILD segment, but will be naturally countered by advent of technology (internet telephony and proliferation of smart phones).

(e) End result of customer welfare is met while the principle of forbearance stays by adoption of the alternate approach of regulating wholesale NLD and ILD carriage.

Q3. What method should be applied for prescribing originating access charge to the Access Provider? Please provide all details including data and calculation sheets, if any.

UNINOR:

As stated in the earlier section, we propose that an alternate approach of **making available wholesale NLD and ILD minutes at reasonable rates** from well entrenched NLDO and ILDO should be prescribed, so that this query may be naturally put to rest.

Q4. Whether the access charges should be same for mobile and fixed line?

UNINOR:

Access charges may be same for both Fixed and Mobile originating calls since the revenues are destination based rather than origination.

Q5. What are the issues that need to be addressed to ensure calling cards are also used when a subscriber is roaming?

UNINOR:

a. Agreements should be between the Home Network Operator, Roaming Network Operator & VCC Operator.
b. Revenue Share between the above three Operators
c. Ideally this should be same as accessing a FPH while roaming, however the existing interconnect agreements signed with BSNL in this regard will be prohibitive in nature.
d. There should be separate Trunk Group for NLD and ILD calling cards since the access service provider will not be able to differentiate between both the categories.
e. VCC operator should ensure that applicable tariff is being informed to the customer prior to availing this service in a transparent manner.

Q6. What are the prevalent regulatory practices in other countries regarding access charges in case of calling cards?

UNINOR:

The calling cards have not taken off quite well in most of the economies, rather according to an evaluation by OFCOM the international calling card service providers were found mis-selling and flouting QOS norms, a few areas of concern were:

- Terms and Condition were not easily available and when available were complex
- Performance of cards was not good as the advertised minutes were less than the actual minutes
- Calls were disconnected early without cut-offs being initiated by either party making/ receiving the call
- 10% of newly purchased cards could not be activated
- There were large variations within cards sold by different companies
- Information provided by customer service was at variance to the published Terms and Conditions

The study arrived at the following conclusion:

"

Overall

The variation in costs within brands compared to indirect access methods, the discrepancies between advertised, activated and actual minutes and the complexity of the T&Cs mean that understanding which card will offer the best deal is almost impossible for consumers to determine.

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Uninor

Consultation Paper

On

Revenue Sharing Arrangement for Intelligent Network Services

15 Dec 2010

The issue of Universal Access to the IN services, by every mobile subscriber irrespective of the hosting network IN platform, has been hanging since long; and agreements could not be concluded amongst operators for want of clarity and regulatory enforcements. In the meantime the mobile industry is moving towards OMPD (one person, multiple devices) era, giving rise to multi SIM culture. Industry needs to change its mindset and collaborate to provide seamless services to meet diverse customer needs. In that respect this Consultation Paper is very timely and welcome.

The Authority may kindly note that the line of approach UNINOR is suggesting is at variance to the COAI response of attempting to preserve status quo ante.

The TRAI attempts since 2006 in broad basing the usage of IN platforms by making them accessible to the subscribers of all networks irrespective of who is hosting the IN service, has not yielded any satisfactory results except to the extent of pushing through FPH services. FPH is only 1 out of 9 IN services listed in the TEC-GR.

Hence, the issue of a multi-service, multi-network environment as envisaged in the Regulation of 2006 have not been satisfactorily addressed. Therefore there is a need to look at the enforcement aspects of the Regulation more closely.

Question wise comments of Uninor are as follows –

1. Assuming that the first preference in deciding revenue share among service providers involved in IN calls would be to mutual negotiations, what would be the most suitable method in case mutual negotiations fail to conclude within the stipulated time frame:

(a) A predetermined percentage of revenue share out of the total accruals to the service providers involved in completion of IN calls.

(b) Fixed origination, termination, carriage and other charges like usage of IN platform.

We fully support the concept of industry efforts of arriving at suitable revenue share arrangements under mutual negotiations. However, in case mutual negotiations fail to conclude within the stipulated timeframe; in that event the parties must enter into an agreement at the TRAI determined settlement terms. (as contained in Authorities' Regulation of Nov 2006 – Para 16 (xi) of explanatory notes and as acknowledged by TRAI in its present Consultation Paper).

Mandating the interconnection of IN platforms in 90 days time frame can be to the customer advantage only if agreements amongst the operators are signed with implementable terms of revenue sharing. Therefore TRAI must intervene to fix **the floor rates and floor percentages** for revenue sharing amongst different network resources / efforts in the IN call completion. **The end objective being that every type of IN service should be accessible by every mobile subscriber in LSA at a non-discriminatory rate.**

In the IN call maturity process, the following constituents are involved:

A Originating network of the originating operator
Carriage network of NLD operator
Termination network of the terminating operator
IN services platform usage

B Content provider, IN service host and customer owner

Today an IN platform is owned by almost every network operator. In future there could be even IN service providers having their own hosting facilities, provided Regulation explicitly permits it.

The cost elements of components of the call flow mentioned at (A) above are all independent of tariffs and type of IN call and therefore should be fixed by TRAI which inter-alia include on cost basis IN call setup charges, carriage charge, termination charge and IN hosting charge.

Over and above the aforementioned costs (to be shared amongst 4 components to the call maturity), the balance amount is to be shared amongst the IN services host and the customer owner on percentage revenue sharing arrangement, again as a floor price to be fixed by TRAI, in a way that both the parties are reasonably incentivized to make maximal use of the services and contribute to IN service business promotion and development.

In case of non-agreements, the seeker can either sign the agreement with the floor rates OR can enter into a separate agreement and become content host. In any case he has to ensure service to its customers.

In case of any premium rate or value added service, the content host and the content developer should be at liberty to negotiate the terms of a **NON-EXCLUSIVE** agreement and fix the customer tariffs depending upon the actual or perceived value of the contents.

Therefore the specific answers to (a) & (b) could be as follows:

(a). Costs for origination, termination, carriage and IN platform usage are static. Therefore TRAI should regulate as **floor fixed usage charges** as they are doing in respect of IUC charges.

(b). TRAI determined **floor percentages of revenue share** out of the total accruals minus the fixed usage charges should be distributed amongst IN services host and customer owner. These elements are dynamic in nature being linked to IP rights, creativity, promotional efforts and also vary in time frames and as per business volumes.

(c). In the case of premium rate or any other value added service, content developer is free to enter into commercial agreement with any or all TSPs for extension of his VAS to the end customers, ensuring, customers across the board pay non-discriminatory rates for that service.

2. Should TRAI only prescribe charges for virtual calling card and free phone services or for other IN based services as well?

Each of the 9 type of IN services presently listed in the TEC GR can be broken down into various constituents of the call flow. These constituents can be further clubbed under **Fixed Usage Charge namely A** (4 constituents) and **Percentage Revenue Share namely B** (3 constituents). This shall form the basis of suggested fixed usage charge for network elements and percentage revenue share for content, hosting and customer ownership.

The 9 type of IN services has been further rearranged based on who pays whom, to facilitate illustrations.

Sl. No.	**IN Service**	**Paying Party**	**Originating N/w**	**Carriage N/w**	**Terminating N/w**	**IN service platform**		**Content developer**	**IN Content hosting**	**Customer owner**
			A (Fixed Usage Charge)					**B (Percentage Revenue Share)**		
1	Freephone (National)	Called	Yes	Yes	Yes	Yes				Yes
2	Tele-voting (not chargeable to caller)	Called	Yes	Yes	Yes	Yes		Yes	Yes	Yes
3	Universal Access (Local)	Calling	Yes		Yes	Yes				Yes
4	Virtual Private Networks (VPN)	Group ID	Yes	Yes	Yes	Yes				Yes
5	Tele-voting (Chargeable to caller)	Calling	Yes	Yes	Yes	Yes		Yes	Yes	Yes
6	Premium Rate	Calling	Yes	Yes	Yes	Yes		Yes	Yes	Yes
7	Prepaid calling (VCC, ACC, CCC)	Card	Yes	Yes	Yes	Yes				Yes
8	Universal Access (Long Distance)	Calling & Called	Yes	Yes	Yes	Yes				Yes
9	Universal Personal Telecommunication	Calling & Called	Yes	Yes	Yes	Yes				Yes

Further it will be seen that the revenues arising of all the services listed at Sl No 1, 3, 4, 7, 8, and 9 are to be shared amongst 5 constituents irrespective of who provide those; and the revenues arising of all the services listed at Sl No 2, 5 and 6 are to be shared amongst 7 constituents irrespective of who provide those.

It is envisaged that in cases at Sl No 2, 5 and 6 the content host fixes the IN service charge for the end customer and may share with other entities in the chain. This will ensure uniform customer experience.

4 illustrations below will further clarify the above approach.

ILLUSTRATION -- 1

Uninor

IN Service	Paying Party	Originating N/w	Carriage N/w	Terminating N/w	IN service platform		Content developer	IN Content hosting	Customer owner
		A1	A2	A3	A4		B1	B2	B3
Freephone (National)	Called	Yes	Yes	Yes	Yes				Yes
Tele-voting (not chargeable to caller)	Called	Yes	Yes	Yes	Yes		Yes	Yes	Yes

Customer pays to Originating network : 0:00
IN customer pays to Terminating Network : **A1** + A2 + A3 + A4 + B1 + B2 + **B3**
Originating n/w receives from Terminating network : **A1 + B3**

In the case of Freephone, the Freephone service belongs to the IN platform of the terminating network and the call is picked up in the originating service area. Threfore, while called party receives the payment as per the tariff set by him, presently he is required to pay Rs 0.52 to the originating network which covers the cost of network elements at his end and premium for customer ownership.

For Tele-voting (not chargeable to caller) the process is same as Freephone but the premium for customer ownership is not fixed by TRAI, and therefore the present agreements do not cover.

ILLUSTRATION -- 2

IN Service	Paying Party	Originating N/w	Carriage N/w	Terminating N/w	IN service platform		Content developer	IN Content hosting	Customer owner
		A1	A2	A3	A4		B1	B2	B3
Universal Access (Local)	Calling	Yes		Yes	Yes				Yes
Virtual Private Networks (VPN)	Group ID	Yes	Yes	Yes	Yes				Yes
Tele-voting (Chargeable to caller)	Calling	Yes	Yes	Yes	Yes		Yes	Yes	Yes
Premium Rate	Calling	Yes	Yes	Yes	Yes		Yes	Yes	Yes

Customer pays to Originating network : **A1** + A2 + A3 + A4 + B1 + B2 + **B3** = Total
IN customer pays to Terminating Network : 0:00
Originating n/w pays to Terminating n/w : Total – (**A1 + B3**)

The services are hosted on the IN platform of the terminating network and he fixes the tariff and asks the originating network to collect from the customer on his behalf. The originating network retains the origination charge and the premium for customer ownership and passes on the balance to the IN service provider who inturn distributes to the carrier and the content developer. The basis of sharing has been proposed in the response and actual values need to be worked out by TRAI appointed expert group.

ILLUSTRATION -- 3

IN Service	Paying Party	Originating N/w	Carriage N/w	Terminating N/w	IN service platform		Content developer	IN Content hosting	Customer owner
		A1	A2	A3	A4		B1	B2	B3
Prepaid calling (VCC, ACC, CCC)	Card	Yes	Yes	Yes	Yes				Yes

Customer pays to Originating network : 0:00
IN customer pays to Terminating Network : 0:00
Customer pays through the card : A1 + A2 + A3 + A4 + B3
Originating n/w receives from Terminating network : **A1 + B3**

In this case tariff is fixed by IN service provider (who could be NLDO or ILDO) and collected through pre-paid card. The originating network only facilitates the call through and is paid by NLDO / ILDO. Presently cost of using network elements of originating network is recognized (equal to termination charge), but premium for the customer ownership is not finalized with the result this service is not taking off.

ILLUSTRATION -- 4

IN Service	Paying Party	Originating N/w	Carriage N/w	Terminating N/w	IN service platform		Content developer	IN Content hosting	Customer owner
		A1	A2	A3	A4		B1	B2	B3
Universal Access (Long Distance)	Calling & Called	Yes	Yes	Yes	Yes				Yes
Universal Personal Telecommunication	Calling & Called	Yes	Yes	Yes	Yes				Yes

Customer pays to Originating network : **A1**
IN customer pays to Terminating Network : A2 + A3 + A4 + B3
Originating n/w receives from Terminating network : **B3**
The service is hosted by terminating network and the tariff is fixed by him. The charges for origination are collected from the calling party and the premium for customer ownership is collected from the called party.

NOTE : In the illustration above in all the 4 cases following emerge

a. IN service platform is always used of the terminating network.
b. The IN services platform owner enters into a commercial agreement with the content developer, fixes the tariff and hosts the service.
c. Originating network gets paid only for usage of its network elements and customer ownership premium **(A1 + B3).**

From the illustration above one may conclude that one who host the IN services is the provider and others are seekers. Basically the revenue share in case to case basis is between the **customer ownership premium** and **content hosting premium**, the subscriber tariff having being fixed in accordance to the perceived value of the contents. Therefore the perceived value and the **revenue share** should be left to the market forces with a fall back **floor percentages** to be fixed by TRAI.

3. If the revenue share option is considered better then what should be the share of each interconnecting operator? Please support your answer with detailed explanation and calculations. AND

4. If fixed interconnection usage charges are considered better for IN services then what methodology should be followed to estimate these charges?

3&4 : The suggested approach assumes that, for successful completion of any type of IN call, apart from interconnection of fixed network elements of TSPs, the other elements depending upon the specificity of a service are also involved such as content development, content hosting and customer ownership. Compensation for the last 2 elements should be determined on the floor percentage revenue share basis in proportion to the perceived importance and efforts needed in each case. While compensation for 4 elements which are mostly common in every category of IN call and involves only usage of network elements, a fixed usage charge should be prescribed by TRAI.

In case the above approach is acceptable to the Authority, an expert group on the subject can be engaged to work out the exact modalities and the cost basis to be applied.

5. In case of the free phone services should the originating access provider handover the call at the destination service area or the IN service provider should be required to pick up this call from the originating service area.

IN Service Provider should pick up the call from the Originating Service Area. Originating service provider should facilitate local interconnection to the IN Service Provider (and vice versa).

*************UNINOR*************