

No.1-2/2000-CN

Dated

11th

September,

2001

To

The
Bharat
Sanchar
New

Chairman-cum-Managing
Sanchar
Bhawan,
20,
Delhi-110

Nigam
Ashoka

Director,
Ltd,
Road,
001.

(Attn: Shri K.S. Guliani, DDG (Regulations)

Sub: Direction under Section 13 of Telecom Regulatory Authority of India Act, 1997, in the matter of the so-called Interconnect fee being levied by BSNL for domestic leased line to interconnect a Private Data Network such as a Corporate Network including CUG networks to an ISP node.

Ref : 1. Our letters No.1-2/2000 CN dated 2-3-2001 & dated 6.6.2001.
2. Your letter No.112-130/99-PHC(Pt) dated 26.4.2001 and 15.6.2001

1. As already intimated vide our letter of even No. dated 6th June (copy enclosed) in response to your letter of 26th April, the Authority is not convinced by the justification provided by you in the letter under reference for the levy of Rs.15 lakhs. In your letter of 15th June you have not offered any additional justification in support of the levy of the so called interconnect fee.

2. We would like to reiterate that the access providers do not have any kind of `long distance data communication rights` as data communication through the Internet covers the whole world irrespective of distance. The concept of short distance and long distance communication does not apply to Internet. Another reason given by you in support of your contention that the leased line connection could be misused for voice communication and possible STD bypass, is also not tenable as there are enforcement mechanism to prevent such a misuse. In any case, a special levy of whatever amount can not be accepted as a means of guarding against any possible or apprehended misuse of the facility i.e. the leased line connectivity.

3. In this context it may be noted that as per para 7.5 of Schedule C of ISP Licence Agreement, which gives the terms and conditions/requirement for providing services, the ISPs shall use IP (Internet Protocol) in conjunction with Transmission Control Protocol (TCP) to provide either dialup access including ISDN, or leased line access to corporate networks such as Local Area Networks, to their Internet nodes. Both these interconnectivity requirements are to be treated on the same footing. The charges for network resources provided to the licensee by DOT (now BSNL)/MTNL/other licensed service providers, will be the applicable rates as specified at Clause 13.9 of the License. In case of PSTN Dialup, the charges are based on the use of network resources i.e. minutes of use (MoU) and no interconnect charges are levied. On identical basis, for leased line interconnectivity also, the only charge applicable should be the charge for network resources i.e. the leased line charge. The applicable leased line charges for various capacities are set out in the Schedule IV of the Telecom Tariff Order 1999. Therefore, the levy of the so called `interconnect fee` over and above the leased line charge is unjustified and not permissible.

4. In the light of what has been stated above the Authority hereby directs M/S BSNL, under Section 13 of the TRAI Act 1997, not to levy any fee over and above the leased line charges for interconnection between ISP and Private Data Networks including CUG Network.

5. This Directive will take immediate effect, and will also be applicable to similar cases of interconnection involving other BSOs.

6. Please acknowledge receipt.

(S. N. GUPTA)
Advisor (CN)

Copy

to:-

1. DDG (LR). DOT, Sanchar Bhawan, 20, Ashoka Road, New Delhi-110001
2. The Chairman-cum-Managing Director, MTNL, Jeevan Bharti Building, Connaught Circus, New Delhi-110 001.
3. All other BSOs
4. ISPAI, New Delhi
5. ABTO, B-601, Gauri Sadan, 5, Hailey Road, New Delhi-110 001.