Vodafone Essar's Response to TRAI Consultation paper on Revenue Sharing Arrangement for Intelligent Network Services

Summary comments:

The Authority's consultation paper has quite rightly pointed out the complexity involved in attempting to determine a regulatory answer to the question as to how value might be distributed between various companies involved in the provision of virtual calling card and free phone services.

However, it remains unclear why such a complex and intrusive regulatory intervention in this area is required. There is already an extremely high level of competition in the national and international calling business, with up to 14 mobile operators per circle as well as numerous fixed operators offering highly competitive services. This has led to rapid declines in prices for national and international calling and a high degree of competition in free-phone services.

Indian consumers continue to enjoy substantial benefits from this high degree of competition to the point where investors, analysts and others have questioned the sustainability of the Indian communications industry given the extremely low prices and lack of profitability. Mobile Number Portability is about to bring further increases in competition.

It is therefore not clear that there is a clear case for additional regulatory intervention in this area, and it seems from the Authority's own consultation paper that the complexity of regulatory intervention, and therefore the costs and risks involved in intrusive regulation in this area are likely to far outweigh the benefits of regulation. We therefore urge the Authority to exercise extreme caution in this area.

If any regulatory intervention is to be considered, given that the Indian market is so competitive and retail prices have dropped to such low levels, we do not believe that a revenue share arrangement could be workable. As set out below, the retail prices have dropped to levels which mean that it is by no means assured that retail revenues are sufficient to provide a profit to "IN service providers" as well as compensate access providers for their legitimate and necessary costs of providing originating access and IN services. Since therefore the only possible form of regulatory intervention would be to set origination and IN access charges, if the Authority is seriously considering any intervention in this area, the issue should be deferred until after the IUC review is completed since this will shed important light on the issues and costs involved.

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.

The provision of IN services is governed by the TRAI Regulation on Intelligent Services Network in Multi Operators and Multi Network Scenario Regulations, 2006. The said regulation mandates that the IN interconnection between Access Operators should be on a reciprocal and non-discriminatory basis.

It is humbly submitted that at present the above regulation is for sharing of Toll free and Free phone services. These services are of the nature that subscribers of any Access Operator are able to access the IN Services provided by any other Access Operator. Thus the present arrangement is between two access operators who have equal opportunities to offer services to each other by way of their customer base.

It is further submitted that in the current consultation paper, the situation is very different since the Authority is contemplating the relationship between two very different types of operators: Carriers (NLD / ILD operators) on the one hand, and Access operators on the other.

In this regard it is submitted that the Carriers, i.e, the NLD and ILD operators are not Access Operators. They do not own any access customers. In the absence of reciprocity of relationships with the Carriers, the technical and commercial relationships for IN services need to be governed differently as compared with the relationship with other Access Operators. In view of the above it is further submitted that the principle of "reciprocity and non discrimination" for interconnection can not be made applicable in this very different scenario.

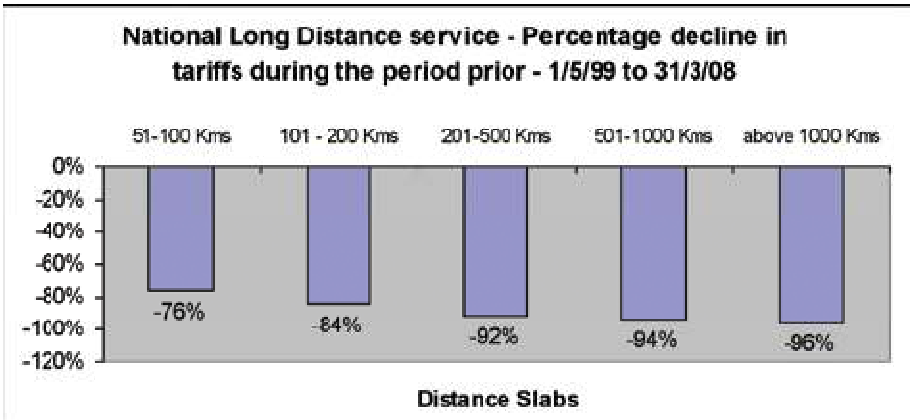
In the case of Virtual Calling Cards the Carriers are seeking to access the customer base of the Access Operator for which they have to pay as per mutual negotiations.

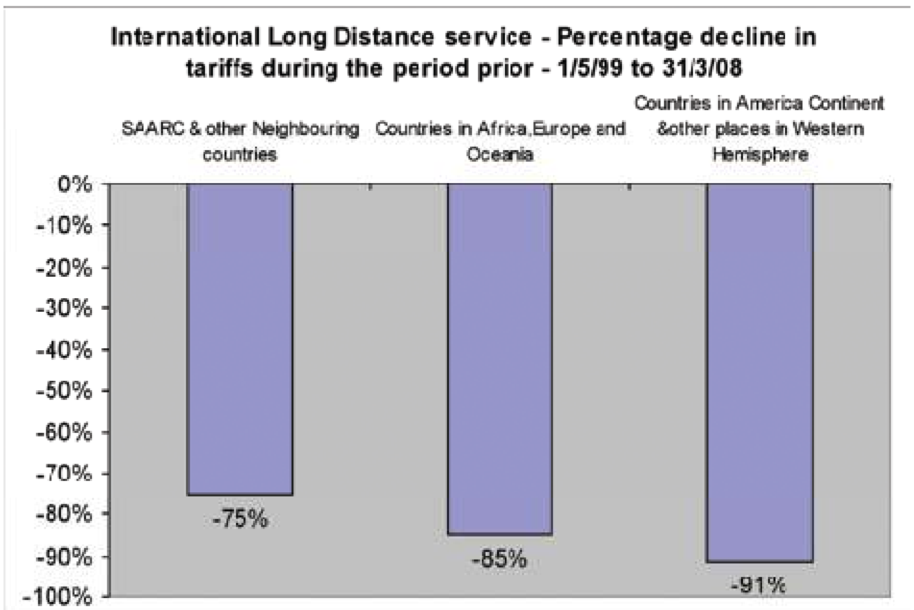
A similar situation will arise when connectivity has to be established between access providers and pure play IN service providers. In case the Authority intervenes in the present case of arrangement between Access Operators and Carriers for accessing IN services, the Pure play IN service providers will also seeks similar intervention in the future which is not desirable and will adversely affect the business of the Access provider, or force the Authority to again intervene to try to determine a new set of regulatory interventions which are appropriate for a new set of circumstances and relationships.

It is also submitted that that Arrangement for the Carrier accessing IN Services of Access Operator does not come under the ambit of Interconnection arrangement and hence it is not within the purview of TRAI to mandate any revenue sharing arrangement for the same. Such an arrangement should be based on mutual negotiations and there is no need for any regulatory intervention for the same.

It is evident that the Authority has issued the current consultation paper keeping in mind the laudable objective of reduction in long distance tariffs for consumers:

However, in this regard it is humbly submitted that the competition in the national & international long distance segment has increased significantly in the last few years resulting in a significant decline in the national & international long distance tariffs, which is evident from the below figures taken from an article authored by Shri Nripendra Misra, former Chairman of TRAI, published in the magazine Connect - World





Source - http://www.connect-world.com/index.php/magazine/india/item/763-tariff-trends-in-indian-telecom

We note that the above data extends only to March 2008 and therefore doesn't capture the increased level of competition in the Indian retail market as a result of the entry of an unprecedented number of new operators. This has led to further price declines in local, national long distance and international tariffs. This continuing drastic reduction in the National and International long distance tariffs is also evident by the Long distance tariff plans of various access providers which allow the subscriber to make STD calls for as low as 30p / min[1] – which used to be Rs. 30 per minute in 1995. The Subscriber can now make ISD calls at a price as low as 1 p/ sec to US, Canada, UK, China, Singapore etc[2]. – which used to cost him on an average Rs. 60 per minute in 1995. The following table sets out some of the key pricing slabs for international calling in that plan. The fact that retail prices to some destinations is as low as 1p/sec indicates that the level of competition in the Indian retail market is intense. The price differences in relation to other markets are driven merely

[1] Eg TATA Indicom's ULTA plan
[2] Eg UNINOR's STV- 111 plan

by the fact that international corresponding ILD operators charge higher international settlement rates to deliver calls to those countries:

UNINOR's STV- 111 plan

1p / sec	US , Canada, UK Fixed, China, Singapore & Hong Kong
4p / sec	Bangladesh, Malaysia & Thailand
11p / sec	Bahrain, Kuwait, Saudi Arabia, UAE, Yemen, Oman Fixed, Qatar Fixed, Iraq, Australia, Nepal, Bhutan, Sri Lanka, Indonesia, Philippines Fixed
18p / sec	UK Mobile, Libya Fixed, Qatar Mobile, Philippines Mobile
25p / sec	Libya Mobile, Oman Mobile, Myanmar

It is submitted therefore that the Indian retail market for national long distance and international calling is extremely competitive. This means not only that there is no compelling case for regulatory intervention, but also that any Regulatory intervention could in fact reduce the level of competition, eg by reducing the ability of service providers to differentiate their offerings to the subscribers in the market place.

Moreover, any regulatory intervention becomes necessary when there is a market failure, and since there is no instance of *"market failure", it is submitted* that the Authority should not intervene and leave arrangements regarding IN services to be based on mutual negotiations. It is further submitted that the Regulation on Intelligent Network (IN) Services in Multi Operator, Multi Network Scenario notified by the Authority on 27th November, 2006, is adequate and no further Directive or Amendment in the above stated Regulation is required or necessary.

In fact, as opposed to a market failure, we have an intensely competitive environment which has led to a price war /severe decline in prices over the last three years and the subscribers have experienced significant benefits of price declines from such price wars. Subscribers who are particularly sensitive to STD and ISD tariffs will take into account those tariffs when selecting their access provider (or access providers in the case of consumers with subscriptions with more than one network). Mobile Number Portability will further increase the competition in this sector, by allowing a subscriber who is particularly sensitive to STD and ISD tariffs to change access provider without changing their mobile number, which will result in further reduction in tariffs.

As has been the case in the past, market forces will continue to drive down tariffs and the benefits of lower tariffs and greater choice will continue to flow to the subscribers. In this case, it is difficult to understand how there could be a compelling case for additional regulation beyond the current obligation to provide access on the basis of mutual commercial negotiations. We hence reiterate our view that no further Directive or Amendment in the above stated Regulation is required or necessary.

It is further submitted that IUC review is already pending, so in any case no decision on this should be taken till the IUC review is concluded.

<u>Conclusion</u> – It is submitted that there is no reason for regulatory intervention in this area. Competition is delivering great results for consumers, while the complexity, costs and risks of regulation are substantial. Arrangement between Operators for IN services should be left to commercial negotiation as is the case presently.

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

As stated in Response 1 no regulatory intervention is required. TRAI should not prescribe charges for any IN services and such arrangement should be as per mutual negotiations as is the case presently. If the Authority is considering imposing regulated access prices for any other IN services, the Authority should specify which services, the reasons for which those services are regarded as not being competitive, why regulatory intervention is required, and the reasons for which regulatory intervention is likely to result in better outcomes than market forces.

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?

As stated in Response 1 no regulatory intervention is required. TRAI should not prescribe charges for any IN services and such arrangement should be as per mutual negotiations as is the case presently. Furthermore, if any regulatory intervention is to be considered, given that the Indian market is so competitive and retail prices have dropped to such low levels, we do not believe that a revenue share arrangement could be workable. As set out above, retail prices have dropped to levels which mean that it is by no means assured that retail revenues are sufficient to provide a profit to “IN service providers” as well as compensate access providers for their legitimate and necessary costs of providing originating access and IN services. Since therefore the only possible form of regulatory intervention would be to set origination and IN access charges, if the Authority is seriously considering any intervention in this area, the issue should be deferred until after the IUC review is completed since this will shed important light on the issues and costs involved.

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.

As stated in Response 1 no regulatory intervention is required. TRAI should not prescribe charges for any IN services and such arrangement should be as per mutual negotiations as is the case presently. In any case, given that there is effective competition in NLD services, it is not necessary for the Authority to specify whether the call should be handed over in the destination or originating service area – this can be left to market forces.

****