



COAI Response

to

TRAI Consultation Paper No. 2001/2

ON

International Long Distance Services

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New Delhi

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A. INTRODUCTION

The opening up of the ILD sector has been pre-poned by the Government from Year 2004 to Year 2002 as a part of its ongoing commitment to completely liberalize the Indian telecommunications sector. COAI welcomes this initiative of the Government.

However, we believe that there are certain lessons to be learnt from the liberalization initiatives of the Government till date, which will ensure the speedy achievement of the ultimate Government objective of increased competition and the delivery of efficient & effective telecommunications at the most affordable price to the end-consumer.

In this context, we would like to draw your attention to the effect of the opening up of national long distance in August 2000, where even after one year of opening up of the sector the consumer is yet to benefit from the introduction of private competition into the sector.

The NLDO sector was opened up completely to private competition, but with the prescription of heavy entry fees & bank guarantees, levy of a steep annual revenue share levy and onerous roll-out obligations. These very high entry barriers prescribed by the Government in fact had the effect of limiting competition.

Another factor that has been responsible for the delay in the commencement of private NLD operations is continued uncertainty / ambiguity on the costs and terms of interconnection between the NLD operator and the Access Providers.

COAI is aware that the Regulatory Authority is carrying out a detailed cost analysis for fixing the originating and terminating access charges for FSPs and CMSPs. However, we believe that until this assignment is completed and there is complete clarity on the costs for origination & termination of a call, the private NLD and ILD operators will be unable to finalize their business plans & will therefore be reluctant to commence offering long distance services.

Further, the NLDO policy laid down by the Government, denied FSPs and CMSPs direct inter-circle connectivity & direct connectivity to VSNL - both provisions that were clearly mandated by NTP 99 [Ref Paras 3.1.1 and 3.1.2 of NTP 99]. This prevented optimal utilization of existing infrastructure & delivery of more affordable STD & ISD services to the consumer.

COAI would like to take this opportunity to reiterate some views on the opening up of Indian Telecom to private competition :

- Open & unlimited competition should be allowed in sectors that do not involve the use of any scarce resource.
- Entry barriers should be set at a level that would deter non-serious players.
- Annual license fee levy must be kept at a nominal level - to cover only the costs of administration & regulation of the sector.

- All Service Providers must contribute toward the USO Fund.
- All Long Distance Service Providers to pay an Access Deficit charge, which would then be used to reimburse the fixed operators for their below cost charge for local access.
- Interconnection is the most vital aspect of effective communications. There must be no artificial barriers on interconnection. The terms of interconnection including the costs of access for both originating and terminating a call, must be clearly laid down and known in advance to the new entrants.

B. COAI RESPONSE TO SPECIFIC ISSUES RAISED BY TRAI

Our response to the specific issues raised by TRAI are below :

3. TERMS & CONDITIONS OF LICENSE

3a) What are the type of tele and bearer Services that should be permitted as part of ILD License provided under the liberalised environment? Considering the fact that tele services are basically derived from bearer services by the Customer's Premises Equipment (CPE), which is provided by BSOs, is there a need for the ILD licensee to specify tele services? Will it not be adequate, if it specifies certain bearer services and otherwise adopts a neutral approach in so far as specific tele services are concerned?

COAI believes that for optimal utilization of resources, the ILD license must cover all types of ILD services. The days for separate networks for voice and data are over. With the evolution of technologies, a single network will be able to cater to and carry voice, data and video and leased lines of different bandwidths. Consequently, we believe that all types of tele and bearer Services should be permitted as part of the ILD licence. There should be no restrictions imposed in the context of emerging convergence of services.

3b) VSNL has International gateway switches at a few metro cities, such as Mumbai, Delhi, Chennai, Calcutta etc. Will it be the most appropriate architecture when there are multiple ILDOs? Should we mandate a similar architecture for private ILDO? It should not be mandatory for the ILD operator to mirror the VSNL architecture. The ILD operator should have the flexibility to choose his network architecture depending upon quantum and type of traffic, technological considerations, other logistics, etc. However, the network architecture chosen by the ILD operator must be in compliance with regulatory requirements, QOS parameters, etc. laid down by the Regulatory Authority.

3c) Three deployment options of Interconnectivity, viz a) with NLDOs only, b) directly with Access Providers, and c) the existing VSNL deployment practice, have been discussed in the Consultation Paper? Which of these or any other should be the preferred option and why?

At present, interconnectivity of FSPs and CMSPs with VSNL for the international traffic is allowed only through NLD service providers. However, COAI believes that with the opening up of the ILD segment, this decision must be reviewed. As per the clear mandate of NTP 99, all Access Providers should be allowed to directly connect with VSNL. With the entry of private competition into ILD, this direct connectivity should also extend to all private ILD operators. COAI is of the view that just like the customer has been given a choice to select his NLD operator for a national long distance call, he should also be given a choice to

select his ILDO operator for his ISD calls. The Authority has acknowledged that at present it is difficult to give the customer a simultaneous choice of both the NLDO and ILDO. If access to the ILDO operator is only through a NLDO, then the customer is restricted in his choice of either the NLDO operator or the ILDO operator. This would be against the principles of free choice and equal ease of access that have been advocated by the TRAI.

COAI thus supports Configuration 2 of the TRAI Consultation Paper, wherein the ILDO operator connects directly to the Access Provider.

For this, the ILDO operator must set up a Point of Presence (POP) in each Telecom Circle within a defined time frame of say, three years. The ILDO operator may meet this requirement in a phased manner say 25% in the first year, 50% by the end of the second year and 100% within three years. This percentage roll-out obligation must be equally applied for coverage in each of the 4 regions of the country.

Until this POP is established, the ILDO operator should provide long distance bandwidth from the Gateway Switch to the Access Provider at his own cost.

3d) Should a set of roll out obligations be imposed on ILDOs similar to the pattern of Basic Service and NLDO licenses along with associated penalties for non-compliance for establishing Services and POPs?

Yes, as mentioned in 3 (c) above, roll out obligations must be specified.

In addition to the roll-out obligations prescribed for interconnectivity within the country, the ILDO operator must be able to deliver calls to and accept calls from all countries within a defined time frame of say, within two years.

The coverage obligations of the ILDO operator must be clearly laid down in a phased manner, with corresponding performance bank guarantees to be provided for each stage / phase of roll-out. There should also be clear penalties for non-performance.

3e) What should be the license period for an ILDO License?

As in the case of other telecom licenses for Basic, Cellular & NLDO Services, the license period for ILDO Services too should be for 20 years, after which it would be extendable for 10 years at a time.

4. NATURE OF COMPETITION

4a) Should it be mandatory for ILDOs to establish switching facilities in the country? Should we go in for facilities based competition only?

To have better management and to encourage build-out of infrastructure, it should be mandatory for ILDO operators to establish switching facilities in the country. Hence we should permit only facilities based competition.

However, for optimal utilization of infrastructure, sharing of infrastructure must also be encouraged.

4b) Should non-facility based competition be permitted? If yes, what should the terms and conditions for non-facility based Operators or Resellers? Should Resellers be permitted to purchase switched minutes of call time not only from ILDO Operators (facility based), but also from NLDOs?

Resellers may be permitted, but only as franchisees of the ILDO operator and subject to mutual agreement between the two parties. However, the ILDO operator must ensure that the reseller upholds and adheres to the QOS parameters laid down by

the Regulator. To facilitate this, the ILD operator should be required to register the list of his franchisees with the Regulatory Authority.

Further, resellers may be permitted to provide both NLD & ILD Services so as to make it an attractive proposition.

4c) Should there be limited or unlimited competition? In case of limited competition policy, what should be the mechanism to restrict entries and is it reasonably possible to arrive at the optimum number of operators in the ILD segment?

COAI believes that as in the case of NLD services and because there is no scarce resource involved, there should be open competition in the ILD sector.

Open competition will permit the new entrants to choose their time of entry and will also avoid delay on account of a bidding process, which would be necessary in case of limited competition.

Finally however, it is the size of the market that will determine the number of players and the degree of competition.

4d) If unlimited competition is introduced, should this be phased-in over a specified period or be introduced from the beginning itself?

Unlimited competition should be introduced from the beginning itself.

4e) Should the option of infrastructure leasing include the leasing of switching capacity from NLDs?

COAI believes that the International Gateway Switch, which would be the property of the ILD operator, could be shared between two ILD operators subject to mutual agreement.

NTP 99 had provided for sharing of infrastructure between service providers. Pursuant to the NTP 99 provisions, on August 9, 2000, the Government issued a notification permitting sharing of infrastructure between service providers.

In the light of the principles adopted by NTP 99, we believe that ILD operators too, should also be permitted to share their infrastructure - both in respect of switching capacity and transmission medium.

5. SELECTION CRITERION

5a) What should be the eligibility criteria? Should it include Financial parameters and minimum experience of ILD operations elsewhere. Should it also include the combined net worth of promoters above a particular threshold, a minimum percentage of stake in the total equity, a stipulated number of years of experience in Telecom Service Sector particularly in Long Distance Operations, or any other criteria?

Some or all of the following should be prescribed as eligibility criteria:

1. Networth - the networth of all promoters having minimum of 10% equity holding in the bidding company should be counted.
2. Experience - experience of ILD operations may be desirable, but not mandatory. Experience of operating Basic, Cellular or NLD services for a minimum period of 3 years in one or more circles, should be considered adequate. Experience of any promoter with more than 10% equity in the bidding company should be considered for meeting the eligibility criteria.

5b) In case limited competition is preferred, should the criteria for financial selection include both Entry and Annual License Fees payments?

5c) Should an Entry Fee be specified or should it be subject to bidding? What should be the optimum level of the Entry Fee if it has to be specified?

b & c

As mentioned earlier, we would prefer unlimited competition in ILD operations, as there is no utilization of a scarce resource.

The amount of Entry Fee must be set at a level that would deter non-serious players, but would still make the sector an attractive enough business proposition to attract multiple players and foreign investor interest.

As regards the annual License Fee revenue share, COAI would like to re-iterate that this should be set at a nominal level - to cover only the costs of administration and regulation of the sector. A low level of license fee will ensure delivery of most affordable services to the end consumer. This view was also taken by the Authority in its recommendations on NLDO wherein it had stated that "the revenue share should be restricted to cover only the annual administrative costs in the management, control, enforcement and regulation of NLD licenses."

COAI suggests that the revenue share as a percentage of Adjusted Gross Revenues may be fixed at a maximum level of 10% of AGR, which includes contribution to USO and levy for R&D and revenue share to the Government.

5d) Should the selection criteria include technical parameters? If the answer is in the affirmative, then what parameters should be included and what weightage should be given to the parameters taken into account?

COAI believes that it is not necessary to prescribe technical parameters for selection criteria. All technologies meeting QOS parameters should be permitted and the flexibility of choosing a network architecture subject to regulatory requirements and QOS parameters should be allowed to the new entrants.

5e) Should the parties acquiring VSNL equity through the disinvestment process, be permitted to obtain licenses for new ILDOs?

As per the precedent established by the Government in the FSP & CMSP licensing, 'a promoter company cannot have stakes in more than one Bidder Company.'

By the above definition, a company acquiring VSNL equity through the disinvestments process, should not be allowed to bid for another ILD licence. In case VSNL's control is acquired by a Joint Venture, then all partners having more than 10% stake in the Joint Venture, should not be allowed to bid for or acquire a separate ILD licence.

6. STRUCTURE OF THE LICENCE FEES

6a) What factors should be taken into account while determining the License Fee for ILD operations?

6b) How should License Fee be estimated? For example, should it be a certain percentage of the ILDO's revenue? Whether this percentage should be the same as was fixed for NLD Services?

a&b

As mentioned above, the annual license fee levy for the ILD operators should be based on adjusted gross revenues, which exclude the pass thru revenues of the ILD operator.

We have also suggested that this revenue share percentage should not be more than 10% of AGR - inclusive of contribution to the USO Fund, levy for R&D and the revenue share to the Government.

6c) How should the revenue on incoming calls be determined and included in gross revenue of the ILDO for the purpose of arriving at the license fee payable by the operator?

At the outset, we would like to state that any scheme to compute the actual revenues of the ILD operator must be easy to understand and simple to administer.

Having said that, COAI nevertheless appreciates the Regulator's concern about the possibility of call revenues being retained abroad which would minimize the payment to the Indian ILD operator resulting in lower license fee payables.

To address this concern it is suggested that the ILD operator be required to submit / register his settlement agreements with different carriers / countries with the TRAI.

The above agreement will clearly specify the accounting rate settled between the two carriers and based on this and the available information of the number of minutes of usage, there would consequently be no scope for ambiguity in the revenues from incoming calls and the license fee payable by the ILD operator.

7. TECHNICAL

7a) Should ILD Operator be permitted to deploy VOIP network instead of PSTN for carriage of International voice traffic?

Yes, managed VOIP network should be permitted subject to compliance with the QOS standards prescribed by the Regulator.

7b) In case the answer to the previous question is in the affirmative, then how to regulate the Quality of Service on VOIP links? Should a degraded performance on ILD link be acceptable with a reduced tariff?

As mentioned above, VOIP should be allowed, but subject to compliance with clearly laid down QOS parameters. There should be no question of permitting a degraded / lower quality of service for VOIP networks.

7c) Whether existing Regulatory frameworks will be adequate for IP based Networks? What QOS standards should be applicable until ITU standards become fully mature?

Some changes in Regulatory framework may be necessary for IP based network. The 3 important parameters to be laid down for QOS could be:

Grade of Service : 0.005
Mean opinion score (MOS) : >4
Packet Loss : <1%

7d) Whether VOIP based Networks need special considerations on issues like Numbering, Routing, addressing, inter-operability and QOS?

The numbering plan will have to be same as per the PSTN network.

However, routing & addressing should be separate so as to be in accordance with the IP based Networks.

As regards Interoperability and QOS standards, these should be the same as for PSTN networks.

7e) Can ILD operator be allowed to engineer two networks, one based on PSTN with QOS guarantees and other based on VOIP with no QOS guarantee? How to regulate QOS and Interconnection in such a scenario?

Two separate networks - one PSTN and one for IP architecture may be allowed. However, in either case the ILD operator must meet the minimum QOS standards for both networks.

7f) Should there be Carrier Selection of ILDO? If yes, what should be the modality of ILD access i.e. pre-selection or dial around or both?

As mentioned in 3 (c) earlier, we would like to reiterate that the Access Provider should be allowed to directly connect with the ILD operator.

Call by call selection should be the ultimate objective in opening up of ILD. COAI believes that this must be accomplished within a prescribed time frame of say three years.

Initially however, carrier pre-selection could be provided by the Access Providers to their customers.

7g) What should be the technical arrangement and responsibilities for Billing for ILD calls? Where should the call data records (CDR) be generated for example, should these be generated by Routers in addition to the Switches?

Billing should be done by the Access Provider. Further, the Access Provider should be allowed to retain 5-10% of pass through revenues as charges towards collection cost and bad debts besides the normal cost based access charges. However, CDRs should also be maintained by the ILD Operator to avoid any disputes and also to settle with the international carriers.

C. OTHER ISSUES

The ILD business is worth over Rs. 7,000 crores and is the last area to be opened up for competition in India. COAI believes that this business therefore merits greater analysis and we are of the view that there are a number of issues, which must be covered in greater detail in order to arrive at a conclusion.

In addition to the issues that have been raised by the Hon'ble Authority, COAI would like to point out some key concerns in the opening up of ILD operations, which need to be considered by the Authority. These are:-

- International trends in pricing and traffic

- Issues of diversion of traffic
- New technologies.