

IBSL's Comments on Consultation Paper on "Estimation of Access Facilitation Charges and Co-location Charges at Cable Landing Stations"

The telecom services have been recognized the world-over as an important tool for socio-economic development for a nation. It is one of the prime support services needed for rapid growth and modernization of various sectors of the economy. Indian telecommunication sector has undergone a major process of transformation through significant policy reforms, making it a global leader and a role model for other countries. It has achieved phenomenal growth during the last few years and is poised to take a big leap in the future also. The sector is growing at a speed of 45% during the recent years. This rapid growth is possible due to various proactive and positive decisions of the Government and contribution of both by the public and the private sectors.

At the outset, we congratulate the Authority to have released the International Telecommunication Access to Essential Facilities at Cable Landing Stations (Amendment) Regulations, 2012 on October 19th, 2012. This is indicative of the fact that the Authority recognizes the need for regulating the various charges levied at the Cable Landing stations. The floatation of this Consultation Paper is a welcome move by TRAI to estimate the Access Facilitation Charges and Co- location Charges at Cable Landing Stations. The work carried out by TRAI in aligning these charges with current costs and utilization will also be lauded by all service providers in the industry and will certainly have positive impact on the prices offered to the end consumers for bandwidth and broadband.

Our submissions on the various aspects of the consultation paper are as below:

Q1. Cost data and costing methodology used for estimating the access facilitation charges and co-location charges in this consultation paper. In case of a different proposal, kindly support your submission with all relevant information including cost and preferred costing methodology.

The cost data and the cost methodology adopted by the Authority used for estimating the AFC and CLC in the Consultation Paper are broadly logical and reasonable. However, we would like to suggest reconsidering the following:

1. Weighted Average Cost of Capital (WACC) of 15% and the Depreciation rate of 10% are on the higher side. Considering the current market conditions and the growth factors, WACC of 15% is too high and thus, we re-iterate that it should be lowered down to at least 13% or may be kept concurrent with the SBI prime lending rate. Similarly, the life of the network elements averages to almost 12 years and that of Submarine cables to around 15 years. Thus, the depreciation

rate should be lowered to 7%-8%. Considering the depreciation rate at 10% unnecessarily escalates the AFC and CLC estimates.

2. Cost of active elements is reimbursed by consortium partners and therefore should not form a part of the cost calculation.
3. There is no justification provided on taking cost of cross connect for taking bandwidth of 10gbps since cross connect is used for lower bandwidth sizes.

Q2. On the power requirement of the transmission equipment i.e. DWDM, DXC equipped with different capacities, supplied by different equipment manufacturers.

We find the assumptions made by the Authority logical and reasonable.

Q3. Percentage used for OPEX and capacity utilisation factor with supporting data on each OPEX item especially on space and power consumption of various equipments.

Operating costs of the Cable Landing Stations are normally in the range of 10-15% of Capex across the World. The assumption of OPEX percentage at 30% is too high and unnecessarily escalating the cost estimates. Thus, we request the Authority to kindly revise the assumptions for OPEX percentages.

Q4. Whether ceiling of uniform Access Facilitation Charges may be prescribed for all Cable Landing Stations in two categories i.e. AFC at CLS and AFC at alternate Co-location, or these charges should be dependent on submarine cable system or location of cable landing stations?

In our view, the Access Facilitation Charges should be uniform at all submarine cable systems at all locations. Further, these charges should determine the cap or ceiling rates that can be negotiated between the operators to promote competition.

Q5. Whether prescribing the access facilitation charges on IRU basis is required?

Prescribing Facilitation charges on IRU basis

We notice that in the consultation paper the charges for provisioning of capacity on IRU basis has not been estimated based on reasoning submitted by one of the OCLSs as referred in the para 35 of the current consultation paper.

We firmly believe that charging only on an annual basis and doing away with calculations on an IRU basis would go against the spirit of the industry and question the manner in which the industry has functioned for so many years transforming the telecommunication landscape of the country. It may be noted that worldwide the operators have been and are offering bandwidth on IRU as well as on annual basis.

Most telecom operators secure capacity for long term on an IRU basis whereby clearly indicating a long term symbiotic relationship exists between the OCLS and the Indian Telecom Entity. This shows that there is a definitive need to have access facilitation charges based on IRU.

In the absence of charges for provisioning of capacity on IRU basis, from the prices quoted by the OCLS' as stated in the consultation paper and normal practice adopted by OCLS' for providing connectivity to ITEs only at alternate co-location, it can be seen that the proposed Access Facilitation charges would cost the ITEs approximately the same price as currently prevalent charges on IRU basis. This clearly goes against what the industry and the government wishes to accomplish through this exercise.

In this context, we would like to draw your attention to the methodology that was proposed by TRAI in its previous consultation paper dated 22.03.2012. With reference to Annexure-III to Annexure-V, it can be clearly seen that the annual charges should be pegged at 1/3rd of the IRU charges. We therefore firmly believe that in line with the previous methodology, TRAI should specify these charges on IRU basis as well, which can be 3 times the annual lease charges, ensuring a level playing field to all players and ushering the industry into another phase of rapid growth. Otherwise the entire exercise will not do justice to the objective of reducing the Access Facilitation Charges considering enhanced technological capabilities and increased amount of data carried in the network.

Q6. Whether uniform co-location charges may be prescribed or such charges should be location dependent?

In our view, the co-location Charges should be uniform at all locations. Further, these charges should determine the cap or ceiling rates that can be negotiated between the operators to promote competition.

Q7. Whether the restoration and cancellation charges should be either a fixed charge or based on a percentage of the AFC. In case of fixed charge, should the present charges be continued or need revision?

The restoration charges and cancellation charges may be charged at a nominal percentage of Access Facilitation Charges, say at 5%.

Q8. Any other comment related to Access Facilitation Charges, Co-location charges and other related charges like cancellation charges, restoration charges along with all necessary details.

A consortium partner of the submarine optic fiber cable system having license to provide telecom services in India should not be required to pay any AFC to the owner

of the CLS for use of the bandwidth owned by it in the submarine optic fiber cable system for providing telecom services to its consumers. Only co-location charges should be payable by such entity to the OCLS' for the CLS in such case.

We hope and believe that the Authority would kindly consider our suggestions, and take decisions that are best for all players in the industry creating a "win-win" situation for the government, the industry and above all, the people of India, such that the consumers involved belonging to all strata of society reap benefits of another technological boom.