TELECOM REGULATORY AUTHORITY OF INDIA

Responses received on

Consultation Paper No. 3/2007 dated 31st January 2007

on

'Access Deficit Charge (ADC)'

Revised on 3.3.2007

INDEX

Q.1. Should the Authority maintain the present reduction trend in ADC amount prescribed in 23rd February 2006 Regulation? If not, give justification and suggest alternatives.

AUSPI

AUSPI believes that there is no case for continuing access deficit regime in the telecom sector. Liberalization of Indian telecom sector has witnessed intense competition leading to unprecedented growth of subscribers and reduction in tariff to a level, which is the lowest in the world. To have Access Deficit Charge in place in such a highly competitive market is not the right move as it is private operators who would be funding operations of the incumbent. AUSPI, therefore, feels that we must do away with the subsidy of ADC.

In view of the prevalence of Universal Service Obligation (USO) Fund, [which has the scope of provisioning of rural telecom services]; there is no case for ADC. In this consultation paper, the Authority has very clearly stated in para 2.2 (b) that:

Quote

> ***…..it may be possible to do away with the ADC regime, and ADC regime could be merged with the USO regime….”***

Unquote

USO fund is similar to ADC regime, although the scope of the fund is much wider than ADC. ADC is really a subset of USO fund. Therefore, it is not desirable to continue both the funds simultaneously. **Only one of the resources should be used to fund the activities related to rural telecom services and customers should not be forced to pay twice i.e., for ADC and USO levy.**

Internationally, the trend is to move away from the reliance on internal cross-subsidies and such cross-subsidies, if required, should be provided only from the USO fund. There are many reasons to move away from the ADC regimes, important amongst them are:

- ADC inflates the price of subsidizing services and reduces the demand for them.
- Technological development makes it difficult to measure.
- Subsidies promote unfair competition and anti-competitive use of subsidies.

When the Government invited private sector participation in the telecom sector during the year 1993-94, **it was the clear intention of the government to complement and supplement the services being provided by DoT and not for generating revenue for the Government**. In a highly competitive environment in the telecom sector, funding to state owned operator by competitors is not desirable. In view of that, we must move away from the present subsidy scheme, which is an unnecessary burden imposed on the consumers.

ADC admissibility arises only when there is below cost tariff regulation and since there is no regulation on tariff, i.e tariff is forborne, ADC should not be admissible. Importantly, now it is not possible to estimate the access deficit as reference regulated tariffs for its estimation are not available.

Further we believe that ADC should not be admissible to BSNL as it is a profit making company. For the year 2005-06, BSNL's total profits stood at Rs. 8739 Crores. Additionally, DoT as part of the package of financial/fiscal relief's for BSNL reimburses the losses incurred on account of rural telephony operation

However, in case Authority wishes to continue with the ADC regime for another one year, then guiding framework for phasing out ADC as laid down in para 24 of the explanatory memorandum to the Telecommunication Interconnection Usage Charges (Sixth Amendment) Regulation dated 23.2.2006 is reproduced below:

Quote

> *"The Authority had considered that since ADC Regime has to be reduced to zero in next 2 years, therefore, in the year 2006-07 the admissible ADC to BSNL would be reduced to 2/3 of Rs.4800 crore which is equal to Rs.3200 crore. It is again reiterated here that right from October, 2003 Authority has been emphasizing on the point that ADC regime is a depleting regime and should be replaced by or merged with USO regime from 2008 – 2009 onwards. The ADC is given for a temporary period for rebalancing the tariff and it cannot continue in perpetuity if the rebalancing is not done or reversed rebalancing is resorted to."*

Unquote

In line with the above framework, the ADC admissible to the BSNL for 2007-08 would have to be reduced by another 1/3rd of Rs. 4800 Crores to Rs. 1600 Crores. However, in line with our submission above and in consideration of the fact that BSNL might be collecting a higher quantum of ADC than the estimated amount in 2006-07 due to exponential growth of mobile subscribers, we firmly believe and submit that the ADC should be reduced at a higher rate **of around 60% of Rs. 4800 crores so that quantum of ADC for BSNL is restricted to Rs1280 Crores.**

<u>COAI</u>

- Yes. We fully support the efforts of the Authority to phase away with a separate ADC regime and merge the same with the USO Regime.

- As COAI has repeatedly submitted **USO and the ADC meet similar objectives** and that **it is undesirable to have to different vehicles and two different mechanisms in force to meet the same policy objectives**.

- We appreciate that the Authority too has noted this and also opined that ultimately ADC and USO regime would be merged from 2008 onwards.

- It is also reiterated in line with our earlier submissions that there is no justification for providing any ADC to any private fixed operator as **they are:**

- **Offering services only in the urban and semi-urban areas where tariffs are forborne** and the issue of an access deficit does not arise.

- **Predominantly using wireless networks** to offer their services.

- **Have an average monthly rental that is higher than the cost based rental for wireless** systems.

- We note that the Authority had voiced this view in its IUC Regulation of February 23, 2006 wherein it had stated that "there is no justification of ADC for other fixed line service providers" However, despite the above, the Authority allowed the other fixed operators to retain ADC as a % of AGR and on a per minute basis on their outgoing ILD calls. It is submitted that this above gave the private fixed operators an anti-competitive advantage over their wireless counterparts which was not in the interest of level playing field.

- It is thus requested that this above anomaly may be corrected in the present review. We note that the Authority has been of the view that ADC would be phased out for private fixed operators earlier than the overall phasing out of the ADC regime. **It is thus re-emphasized that hereinafter private fixed operators should no longer be incorrectly and unfairly entitled to ADC.**

- As regard ADC to BSNL, **we are principally of the view that ADC is admissible only in the case of fixed wireline services in rural areas** where tariffs are prescribed below cost by regulation.

- We note that the ADC quantum was reduced by the Authority to two-third from Rs. 4800 crores to Rs. 3200 crores in 2006-07. It is submitted that **in line with this approach the ADC may be reduced to Rs. 1600 crores for the year 2007-2008 and nil thereafter.**

- Any ADC which is admissible on rural fixed wirelines thereafter should be met from the USO Fund.

Bharti

We wholeheartedly welcome the reiteration of the earlier stand of the Hon'ble Authority to phase out the ADC regime from the Financial Year 2008-09 onwards as the same cannot be continued in perpetuity.

In this Consultation Paper, the Hon'ble Authority has sought the comments of all stakeholders on the ADC amount to be decided for the FY 2007-08. As per our understanding, **one of the following approaches may be adopted by the Hon'ble Authority:-**

Scenario – 1: - ADC is reduced by Rs. 2334 Cr. to Rs. 1000 crores i.e. the difference between last year ADC and year previous to that

Scenario – 2: - Rs. 1600 Cr (in line with the approach adopted by the Authority as the earlier ADC was reduced to 2/3rd from Rs. 4800 Cr. to Rs. 3200 Cr. in 2006-07 .)

ADC Amount over the Years				
	Rs Crores			
Particulars	2005-06	2006-07	2007-08 Projected	2008-09
Scenario 1 ADC based on the previous appraoch of 2/3rd reduction I.e. 2/3rd of Rs. 4800 Cr.	-	-	1,600	-
Scenario 2 ADC reduction by Rs 2334 Cr., same amount as previous year	5669	3335	1,001	-

While formulating the new ADC regime, we earnestly request the Hon'ble Authority to consider the following as well: -

1. **Extension of ADC benefit on Rural Wireless in line with rural wireline**

In the existing ADC regime, the revenue earned from rural wireline subscribers is to be excluded from the total AGR of the Access Providers i.e. no ADC is imposed on the revenue generated from the rural wireline subscribers.

While, we welcome the decision of the Hon'ble Authority to continue with the same principle in the coming Financial Year as well, however, it is desirable that the said principle should be extended to wireless as well.

As the Hon'ble Authority is aware that though the teledensity has been increasing at the fast pace, the rural teledensity has remained at the abysmally low level of 2%. It has a daunting task of increasing the rural teledensity to 12-15% by 2010. Therefore in order to give a boost to rural penetration it is imperative that the revenues generated from rural telephony even from wireless subscribers are excluded from AGR for ADC purposes in case the revenue sharing mechanism for recovery of ADC is continued in the year 2007-08.

2. **Continuation of existing ADC approach to Private Fixed Wireline Operators**

In the Consultation Paper, the Hon'ble Authority has stated that "*Case for ADC to other service providers for their fixed wireline needs to be re-examined in the light of the framework of ADC wherein it was indicated that phasing out of ADC to other BSOs may be earlier than the overall phasing out of the access deficit regime.*

We feel that the Hon'ble Authority should take a favourable view on the same and the existing approach should be continued. Therefore phasing out of ADC to other BSO should be done only when overall ADC regime is phased out.

MTNL

Access Deficit Charge (ADC) is for providing support during the period when costs of access are not fully recoverable for the revenues from access line monthly rentals under the existing tariff regime. The net deficit per annum as per the cost record of 2005-06 is Rs.819.87 cr which is a huge deficit for any organization to bear. The details of the calculation are enclosed herewith. It is therefore suggested that ADC should continue till the deficit is made zero and MTNL should actually receive ADC support to make up for this deficit.

Reliance Communication Ltd.

The Authority has laid down framework for phasing out ADC in para 24 of the explanatory memorandum to the Telecommunication Interconnection Usage Charge (Sixth Amendment) Regulation dated 23.2.2006 that it has to be reduced within two years to zero by 2008. Accordingly, for the year 2006-07, the ADC admissible to the BSNL was reduced to 2/3 of Rs 4800 crore i.e Rs 3200 Crs. Since the ADC has to be abolished in next one year and by the same logic it should be reduced by another 1/3rd of Rs 4800 Crs to Rs 1600 Crore.

2. However, we feel that ADC should be reduced at a much higher rate for the following reasons:

(i) The ADC should not be admissible to the BSNL as it has no losses on its wireline business. It is not only a profit making company but also expanding its network solely through internal generation of resources. The BSNL's capital investment and profit under various ADC regimes is given in the following table. Any company having access deficit cannot make investments through internal resources and at the same time make profits to the extent given in the following table.

			Rs Crs
	2003-04	**2004-05**	**2005-06**
Investment	9947	8815	7590
Profit	5976	10183	8739
Investment + Profit	**15923**	**18998**	**16329**

Source: BSNL's Audited accounts

(ii) The ADC is provided for tariff rebalancing which has already been achieved and the Authority put wire line tariff under forbearance.

(i) DoT as part of the package of financial/fiscal reliefs for BSNL reimburses the losses incurred on account of rural telephony operations.

(ii) BSNL gets reimbursement for rural rentals from USF for providing services at rate lower than the ceiling specified by the Authority.

(iii) BSNL is preferred service provider for USF funded rural projects.

(iv) There are number of new revenue streams like broadband which provide additional revenue for copper network.

(v) BSNL can generate additional revenue by unbundling its copper local loop. The potential to bear this notional loss of revenue clearly establishes that it is not incurring any access deficit.

3. In view of the above mentioned reasons, the Authority may consider reduction of ADC at higher rate of around 40% so that quantum of **ADC admissible for BSNL is Rs 1280 Crs.**

4. Further we would like to draw attention of the Authority to the following issues which have direct bearing on the final determination by the Authority:

(i) The Authority has revised AGR projections from the mobile segment for the year 2006-07 from Rs 51825 Crs made in February 2006 to Rs 41538 Crs. As mobile service is growing at a far higher rate, the Authority may re-evaluate the projections made in this respect and also make corresponding adjustments for the projected revenue for the year 2007-08.

(ii) Considering the high elasticity of demand for the international voice services and the phenomenal growth rate of the mobile services, the ILD minutes projections for 2007-08 should not be based on the past trend but on a more optimistic exponential growth path.

BPL

Yes, the present trend of reduction in ADC amount prescribed in 23rd Feb, 2006 Regulation should be maintained by the Authority.

BT

As already indicated in TRAI's IUC regulation dated 23rd Feb., 2006, the value of ADC has to gradually come down so that it is to become zero in the year 2008-09. As per the present reduction trend, the ADC amount for the year 2007-08 could be a maximum of Rs. 1670 crore.

BT submits that the regime should come to an end immediately or at minimum, it should be much lower that this amount. The actual requirement for making good the under-recovery of wireline operators should be much less due to forbearance on the tariff (except rural local calls tariff) and also the reduction in the number of the wirelines as a whole due to prevalence of wireless access. In addition, the cost based rental of wirelines used for calculation of ADC should come down due to deprecation. Therefore, the total ADC amount payable to incumbent needs to be recalculated and consideration should be given to taking this compensation from the existing USO fund. This will simplify the total process and will lead to operation of only one mechanism to sustain the rural telecommunications services. This in turn will result in the lowering of the cost of telecom services to the end users as the ADC burden will not be passed on to them. It may be noted that all telecom services are already contributing 5% of generated revenue to the USO fund which is quite a substantial levy and can be utilized in lieu of the ADC. It is worth mentioning that in Hong Kong the ADC arrangement was replaced by USC (Universal Service Contribution) in 1998, with a view to encourage rebalancing of tariff for local calls and long distance calls.

TTSL

No, we are of the view that since USO funding mechanism is already in existence no question of ADC to Incumbent arises.

We submit that ever since the ADC regime promulgated by the Authority, it has advocated that ADC is a depleting regime and the regime cannot be continued in perpetuity. The Authority in para 70 of the Explanatory Memorandum of IUC Regulation dated 23rd February 2007 clearly stated that changeover to complete revenue share regime and ***its merger with USO is indeed the final solution for taking care of all anomalies and issues associated with ADC***. The Authority already communicated to DoT on 20th

September 2006 and 2nd November 2006 recommending that Government should now consider that finally USO takes care of support on account of ADC also.

However, in case Authority wishes to continue with the ADC regime for another one year then guiding framework for phasing out ADC is laid down in para 24 of the explanatory memorandum to the Telecommunication Interconnection Usage Charge (Sixth Amendment) Regulation dated 23.2.2006 is reproduced below:

The Authority had considered that since ADC Regime has to be reduced to zero in next 2 years, therefore, in the year 2006-07 the admissible ADC to BSNL would be reduced to 2/3 of Rs.4800 crore which is equal to Rs.3200 crore. It is again reiterated here that right from October, 2003 Authority has been emphasising on the point that ADC regime is a depleting regime and should be replaced by or merged with USO regime from 2008 – 2009 onwards. The ADC is given for a temporary period for rebalancing the tariff and it cannot continue in perpetuity if the rebalancing is not done or reversed rebalancing is resorted to.

In line with the above framework, the ADC admissible to the BSNL for 2007-08 should be reduced.

VSNL

The Access Deficit Regime was put in place by TRAI vide IUC Regulation dated 24th January, 2003 to facilitate the fixed line (basic services) incumbents to transit from monopoly to competitive regime in the telecom sector giving adequate time for tariff rebalancing. The principle of annual review of the ADC regime was established in the IUC Regulation dated 29th October, 2003 and it was stipulated that ADC is a depleting regime which cannot be continued in perpetuity. This principle has been re-emphasized by the TRAI in all subsequent annual reviews of ADC.

The telecom sector has witnessed intense competition, especially in the Mobile and Long Distance sector and this has led to rapid growth in subscriber base and available minutes for funding of ADC. The ADC collections during the first two quarters of FY2006-07 suggest that the estimated ADC for 2006-07 would be recovered. The share of BSNL in funding of ADC has also been reducing with each revision of the ADC Regime. Therefore, the ADC needs to be further reduced in order to reduce it to Zero by 2008-09. The TRAI has given sufficient time for tariff re-balancing and continuance of the same level of ADC in a growing market will put undue burden on the subscribers and the objective of tariff re-balancing will never be achieved. The TRAI must maintain the present reduction trend in ADC amount prescribed in 23rd February, 2006 Regulation and proceed within the established framework for admissibility of ADC including its lifespan.

VOICE

To allow duplication is poor regulation. ADC , where no deficit exists
is unwanted burden on the customer, source of grey market and HURDLE in INERNET TELEOHONY launch.

WE believe that ADC should be done away with immediately.

Shri Sunil Chandra

Yes. This is perfectly logical and the right approach.

Q.2. What should be the appropriate option for collection of ADC? As illustration, some possible options are given below; Stakeholders may like to suggest specific item and rate for collection of ADC.

(i) Move to a revenue share regime if the incidence of burden can be ensured on International Calls.

(ii) Per Minute basis from ILD incoming and Outgoing and percentage of revenue share (same as existing Scheme) though at reduced scale.

(iii) Per Minute basis from ILD incoming only and percentage revenue share on the AGR of all telecom service providers.

(iv) Recovery of Complete amount of ADC from ILD Incoming calls on per minute basis only and no ADC from percentage revenue share.

(v) Recovery of complete amount of ADC from ILD Incoming and Out going calls on per minute basis and no ADC from percentage revenue share.

AUSPI

In response to question 1, we have submitted above that there is no reason for continuance of ADC any longer and if the Authority after due analysis/ estimation is of the opinion that ADC exists for the incumbent's rural operation, then the option should be to fund it from USO fund. It is not fair to fund the competitor's operations at the cost of private operators.

If the Authority still wishes to continue with the ADC regime, then the ADC should be reduced as per our response above to a maximum limit of Rs. 1280 crores and it should be funded only from ILD incoming calls on per minute basis and no ADC from percentage of revenue share.

It is seen from Table-3 given in the consultation paper (reproduced below for ready reference) that the yearly growth of ILD incoming traffic minutes is progressively increasing.

International Long Distance Traffic Minutes

Minutes in Millions			
Based on data reported by ILDOs			
Year	oming Minutes	tgoing Minutes	otal Minutes
1999-2000	1769	473	2242
2000-2001	2167	527	2694
2001-2002	2546	575	3121
2002-2003	3110	764	3874

2003-2004	4043	1176	5219
2004-2005	5251	1661	6912
2005-2006	7728	2320	10048
2006-2007*	11376	3478	14854

**Minutes for 7 months + Forecast for 5 months.*

It was 47% in 2005-06 and the estimated growth for 2006-07 (based on reported minutes for 7 months & forecast for 5 months) is also 47%. Considering the very high elasticity of demand for ILD calls and rapidly expanding subscriber base pattern, it is anticipated that growth rate for 2007-08 will exceed 50 %. Therefore, considering 50 % growth rate for incoming ILD traffic for the year 2007-08, gross traffic minutes would be more than 17,000 million minutes.

The Authority has also laid down the principle of recovery for ADC in para 36 of the IUC Regulation dated 23.2.2006. The relevant para is reproduced below:

Quote

> *"The main criteria adopted by the Authority while deciding the rates of ADC was to maintain the total collection of ADC at around the present Rs.2,000 crore from international traffic, as also to reduce the burden on domestic subscribers. The percentage revenue share should be fixed such that the remaining ADC was recovered from the percentage revenue share route."*

Unquote

In line with the above principle, AUSPI proposes that burden on domestic subscribers be removed and ADC be recovered from ILD incoming calls only. The ADC can be recovered in the following manner:

	Minutes for 2007-08 (Million)	Rate/Minute	Total ADC
Incoming ILD Calls	17000	Rs 0.75	**Rs 1275 Crores**

COAI

- We are in full agreement with the Authority's view that the **highest priority should be given to reducing domestic tariffs** to meet domestic consumer interest and spurring sustained growth.

- In light of the above, we believe that the **incidence of ADC levy should be completely removed from the domestic consumer a**nd that the ADC for 2007-08 should be **recovered from incoming ILD calls alone**.

- We therefore **agree with the proposal of the Authority in sub para (iv)** above that recovery of **complete amount of ADC should be from ILD Incoming calls on per minute basis** only and no ADC from percentage revenue share.

- We believe that this methodology is the **most simple to implement and easy to monitor** and if implement, **it would result** in the following:-

- **No burden on domestic industry**, which is in line with the Hon'ble Authority's objectives

- No ADC would be leviable on Outgoing ILD calls, which would **put the ILD calls from switched network at par with internet telephony.**

- As submitted above, the ADC quantum, as assessed by the Authority, is expected to be around Rs. 1600 crores for 2007-08, before being completely phased out from 2008 onwards.

- We note that the Authority has estimated total ILD incoming traffic at 11,376 million minutes for 2006-07 which is a growth of 47% over the previous year. Maintaining this same growth rate, it is expected that the incoming ILD traffic for 2007-08 will be at least around 16,745 million minutes.

- On this basis, **we believe that an ADC of Rs. 1 per minute on incoming ILD calls will be sufficient to meet the ADC requirements for 2007-08.**

- It is therefore **earnestly requested that this proposal of the industry may be seriously considered for implementation by the Authority.**

Bharti

(i) Move to a revenue share regime if the incidence of burden can be ensured on International Calls.

In case; the ADC is funded through revenue share only, the Hon'ble Authority would have to keep the same percentage for all types of calls.

IF ADC is kept at Rs. 1001 Cr:

Option I: ADC is Funded Through Revenue Share Only						
Particular	**Unit**	**Base**	**2007-08 (Fcst)**			
			Rate	**Rs./Minute**	**ADC**	**Rs Cr.**
Revenue Share	Rs Cr.	99,564		1.00%		996
International Incoming Calls	Minutes - Mn	16,723				-
International Outgoing Calls	Minutes - Mn	5,217		-		-
ADC Amount						***996***

If ADC is kept at Rs. 1600 Cr:

If the ADC amount is kept at Rs. 1600 Cr., the percentage of revenue share will be increased from existing 1.5% of AGR to around 1.60% of AGR, as the statement given below: -

Option I: ADC is Funded Through Revenue Share Only				
Particular	**Unit**	**Base**	**2007-08 (Fcst)**	
			Rate (Rs./Minute)	**ADC (Rs Cr.)**
Revenue Share	Rs Cr.	99,564	1.60%	1,593
International Incoming Calls	Minutes - Mn	16,723		-
International Outgoing Calls	Minutes - Mn	5,217	-	-
ADC Amount				***1,593***

While, there is no doubt that after following the above methodology, the overall burden of ADC between International Operators and Domestic Operators would be equally shared, however, it would result into increase in higher tariffs for the end subscribers, as burden on domestic industry would increase.

Moreover, the Hon'ble Authority has also stated that one of the main objectives of the exercise is to ensure that the said exercise result into reduction in the tariffs for telecom services to make it more affordable to consumers. Thus, we strongly fee that the above methodology may not meet the said objectives.

(ii) Per Minute basis from ILD incoming and Outgoing and percentage of revenue share (same as existing Scheme) though at reduced scale.

In case, the existing methodology is continued to fund ADC, some reduction would take place in all sources of ADC, which may be as under: -

If ADC is kept at Rs. 1001 Cr.

Option 2: Reduced Rates on All Existing Sources of ADC				
Particular	**Unit**	**Base**	**2007-08 (Fcst)**	
			Rate Rs./Minute	**ADC Rs Cr.**
Revenue Share	Rs Cr.	99,564	0.25%	249
International Incoming Calls	Minutes - Mn	16,723	0.40	669
International Outgoing Calls	Minutes - Mn	5,217	0.15	78
ADC Amount				***996***

If ADC is kept at Rs. 1600 Cr.

Option 2: Reduced Rates on All Existing Sources of ADC				
Particular	**Unit**	**Base**	**2007-08 (Fcst)**	
			Rate (Rs./Minute)	**ADC (Rs Cr.)**
Revenue Share	Rs Cr.	99,564	0.50%	498
International Incoming Calls	Minutes - Mn	16,723	0.60	1,003
International Outgoing Calls	Minutes - Mn	5,217	0.20	104
ADC Amount				***1,606***

In its earlier communications, the Hon'ble Authority has repeatedly stated that while formulating the ADC regime, its main objective is to minimize the burden on the domestic calls and make it affordable as much as possible.

While, there is no doubt that the reduction in the existing percentage of revenue share would provide some relief for domestic industry, however, the benefits to the domestic industry would not be as much as the Hon'ble Authority would desire. In addition this methodology would be cumbersome to administer since a small portion would be collected from various sources.

(iii) Per Minute basis from ILD incoming only and percentage revenue share on the AGR of all telecom service providers.

In this option, per minute ADC on ILD outgoing calls will become "zero" and for others there will be drop in ADC rates. The proposed structure would be as follows: -

If ADC is kept at Rs. 1001 Cr.

Option 3: ADC on ILD Incoming and Revenue Share Only				
Particular	**Unit**	**Base**	**2007-08 (Fcst)**	
			Rate Rs./Minute	**ADC Rs Cr.**
Revenue Share	Rs Cr.	99,564	0.25%	249
International Incoming Calls	Minutes - Mn	16,723	0.45	753
International Outgoing Calls	Minutes - Mn	5,217		-
ADC Amount				***1,001***

If ADC is kept at Rs. 1600 Cr.

Option 3: ADC on ILD Incoming and Revenue Share Only				
Particular	**Unit**	**Base**	**2007-08 (Fcst)**	
			Rate (Rs./Minute)	**ADC (Rs Cr.)**
Revenue Share	Rs Cr.	99,564	0.60%	597
International Incoming Calls	Minutes - Mn	16,723	0.60	1,003
International Outgoing Calls	Minutes - Mn	5,217		-
ADC Amount				***1,601***

While, there is no doubt that this methodology would be beneficial for the ILD Industry as per minute ADC would be removed on ongoing International Calls.

However, we feel that this methodology would give limited relief to the domestic industry, as they would continue to pay 0.60% of their AGR. Thus, it clearly looks that the benefit of international outgoing calls would be at the cost of domestic calls, which would not be in line with the Hon'ble Authority's objective as stated above.

(iv) Recovery of Complete amount of ADC from ILD Incoming calls on per minute basis only and no ADC from percentage revenue share.

In case, the ADC is kept only on the ILD Incoming and Outgoing calls and other services are kept out of domain of ADC, then the proposed structure would look like as follows:

If ADC is kept at Rs. 1001 Cr.

Option 4: ADC on ILD Incoming and ILD Outgoing Only				
	Unit	**Base**	**2007-08 (Fcst)**	
			Rate Rs/Minute	**ADC Rs Cr.**
Revenue Share	Rs cr	99,564		-
International Incoming Calls	minutes - mn	16,723	0.50	836
International Outgoing Calls	minutes - mn	5,217	0.30	157
ADC Amount				***993***

If ADC is kept Rs. 1600 Cr.

Option 4: ADC on ILD Incoming and ILD Outgoing Only				
Particular	**Unit**	**Base**	**2007-08 (Fcst)**	
			Rate (Rs./Minute)	**ADC (Rs Cr.)**
Revenue Share	Rs Cr.	99,564		-
International Incoming Calls	Minutes - Mn	16,723	0.80	1,338
International Outgoing Calls	Minutes - Mn	5,217	0.50	261
ADC Amount				***1,599***

While, there is no doubt that this methodology would give major relief to the domestic industry, however, the outgoing international calls would still be subject to ADC. Moreover, in case, the Hon'ble Authority decides not to impose ADC on Internet telephony, the non playing field between ILD outgoing calls from switched network vis-à-vis internet telephony will still exist.

(v) Recovery of complete amount of ADC from ILD Incoming and Out going calls on per minute basis and no ADC from percentage revenue share.

We are in full agreement with the Authority's view that the highest priority should be given to reducing domestic tariffs to meet domestic consumer interest and spurring sustained growth.

In light of the above, we believe that the incidence of ADC levy should be completely removed from the domestic consumer and that the ADC for 2007-08 should be recovered from incoming ILD calls alone, which is as under: -

If ADC is Rs. 1001 Cr.

Option 5: ADC is Funded Only Through ILD Incoming						
Particular	**Unit**	**Base**	**2007-08 (Fcst)**			
			Rate	**Rs./Minute**	**ADC**	**Rs Cr.**
Revenue Share	Rs Cr.	99,564				-
International Incoming Calls	Minutes - Mn	16,723		0.60		1,003
International Outgoing Calls	Minutes - Mn	5,217				-
ADC Amount						***1,003***

If ADC is Rs. 1600 Cr.

Option 5: ADC is Funded Only Through ILD Incoming				
Particular	**Unit**	**Base**	**2007-08 (Fcst)**	
			Rate (Rs./Minute)	**ADC (Rs Cr.)**
Revenue Share	Rs Cr.	99,564		-
International Incoming Calls	Minutes - Mn	16,723	0.95	1,589
International Outgoing Calls	Minutes - Mn	5,217		-
ADC Amount				***1,589***

Assumptions for all the calculations shown above:

Assumptions
1. The ADC figures for FY 2005-06 and FY 2006-07 have been taken from TRAI Notification on IUC Charges dated 23rd Feb 2006, and ADC consultation paper by TRAI dated January 31, 2007 respectively.
2. The calculations for 5 different methods each of ADC collection have been shown for ADC of Rs. 1001 Cr. and Rs. 1600 Cr. both.
3. Industry revenue growth for FY 2007-08 is assumed around @25%; approximately same as last year. The base revenue is taken as Rs. 79651 Cr. for FY 2006-07, based on the revised projections by TRAI, in its consultation paper on ADC (January 31, 2007),Table-4, Pg-14.
4. Incoming ILD Minutes 11,276 Mn., Outgoing ILD Minutes 3478 Mn. for 2006-07 are taken from TRAI consultation paper on ADC (January 31, 2007), Table - 3, Pg-13.
5. The Incoming and outgoing ILD Minutes for 2007-08 are estimated figures.A growth factor of 47% for incoming and 50% for outgoing; same as previous year has been applied on the base year figures of 2006-07.

Our Recommendation

In our opinion the ADC calculation methodology given in option (v) where ADC is recovered from ILD incoming calls alone is the most appropriate one. This is simple to implement and easy to monitor and if implement, it would result into the following:-

1. No burden on consumers and domestic industry, which is in line with the Hon'ble Authority's objectives

2. No ADC would be leviable on Outgoing ILD calls, which would put the ILD calls from switched network at par with internet telephony.

If the above methodology is adopted for the recovery of ADC , the current ADC on ILD incoming will come down from Rs 1.60 per minute to 60 paisa if the ADC amount is Rs 1000 cr and if the amount of ADC is Rs 1600 cr ,the per minute rate would be 95 paisa. Thus there would be reduction of ADC on ILD incoming calls by Re 1.0 or 0.65 as the case may be.

However, our plea to the Hon'ble Authority is that there should not be any reduction in the overall existing regulatory cost on ILD incoming calls and it should be maintained at the level of Rs 1.90 (termination charge 30 p+ ADC 1.60 p). **Therefore any reduction in ADC on ILD incoming calls should be added to termination charges for incoming International Calls within the** overall existing regulatory cost. In this case the termination charges on the International incoming calls would go up by Rs. 1.0 if the ADC amount is Rs 1000 cr or Re 0.65 if the ADC amount is Rs 1600 cr as the case may be. The same is reflected in tabular form as follows :

Per minute ADC Rate on ILD Incoming Calls (Rs)

	Current Rate of ADC	Proposed Rate of ADC	Reduction in ADC Rate	Current Termination Charges	Proposed Termination Charges
If ADC amount is Rs 1000 cr	1.6	0.60	1.00	0.30	1.30
If ADC amount is RSs1600 cr	1.6	0.95	0.65	0.30	0.95

We submit to the Hon'ble Authority that when the ADC is completely phased out in 2008-09, the reduction in the residual ADC per minute on international incoming calls should be added to the termination charges for international incoming calls. Thus mandating the termination charge on international calls to Rs 1.90 per minute in the year 2008-09.

Before making any further representation on this issue, we would like bring to the kind attention of the Hon'ble Authority that the issue of Higher Termination Charges for incoming ILD calls was discussed in the last exercise of ADC in 2006 as well and due to one major concern, the Hon'ble Authority did not agree for the same. We reproduce the concern as follows:

62. For incoming calls, since the end user is specified by the number on which the call comes, the access provider effectively has a monopoly position. In such a situation, the Authority is of the view that there is a major likelihood of the dominant operator exercising undue advantage through the negotiation process. The Authority further noted that allowing negotiations would permit a reduction of the ADC charge on international calls, but the total arbitrage margin would still remain high due to an increase in the termination amount retained by the access provider.

To address the above concern, the Hon'ble Authority may prescribe a fixed termination charges for incoming ILD calls instead of allowing the negotiations on termination charges.

MTNL

In view of difficulties faced in calculation of percentage of revenue share on the AGR, it is suggested to opt for recovery of complete amount of ADC from ILD traffic on per minute basis and no ADC from percentage of revenue share.

MTNL has 38 lacs fixed line subscriber and the access deficit is Rs. 819.87 crore. Therefore MTNL should receive ADC on Incoming international calls. This is in addition to the ADC retained by MTNL on outgoing international calls made from fixed wirelines.

Reliance Communication Ltd.

1. In the past, the Authority was guided by the principle to reduce the burden of ADC on the domestic subscribers and at the same time maintain the collection from ILD telephony to the existing levels. This guiding principle is laid down in para 36 of the IUC regulation dated 23.2.2006. We recommend the Authority to continue with the existing criteria for recovery of ADC. In reply to the above question, we have submitted that the quantum of ADC for BSNL be confined to Rs 1280 crores. To recover this ADC, we recommend adoption of the suggestion (iv) given above i.e **complete recovery of ADC from ILD Incoming calls on per minute basis. In case the TRAI decides to maintain the ADC at Rs. 1600 Crs, then the balance amount of ADC (i.e Rs. 1600 minus Rs. 1280 Crs) should be funded by a levy of some percentage on AGR.**

2. The Authority has rightly noted that the internet ILD telephony has price advantage over switched telephony as no ADC is charged on such calls. We suggest the Authority should maintain the level playing field and reduce arbitrage between the internet telephony calls and other outgoing ILD calls through switched telephony. As such we donot recommend any ADC on outgoing calls. As both services are almost similar in terms of quality, special treatment for non-payment of ADC should not be applicable on internet telephony or both should be subject to recovery of ADC at similar rates.

3. Reduction of ADC on Incoming ILD calls will reduce the arbitrage opportunity and check ILD grey traffic as well as boost the volumes of ILD traffic.

4. The ILD traffic data clearly indicates that the demand for the international voice service is highly elastic. At the same time the mobile services are also growing at phenomenal growth rate. By taking both these factors into account the projected incoming minutes for 2007-08 would be around 17000 million minutes. In line with our suggestion to recover ADC from incoming calls only, the recovery can be made in the following manner if the ADC is maintained upto Rs. 1280 Crs:

	Projected Minutes for 2007-08 (Million)	Rate per minute (Re)	Recovery (Rs Crores)
Incoming ILD Calls	17000	**0.75**	1275

5. In case the TRAI decides to keep the ADC more than Rs. 1280 Crs, then the balance ADC should be recovered by a levy of some percentage on AGR. **As the AGR of all telecom service providers for the year 2007-08 is estimated to be Rs. 90000 Cr, it is suggested that the AGR percentage can be fixed around 0.3%.**

6. The suggested ADC recovery mechanism has following advantages:
   a) The burden of ADC on domestic subscribers would substantially come down;
   b) The arbitrage margin for grey market from international calls would come down because of substantial decrease in the ADC.
   c) There will be level playing field between the internet telephony and ILD telephony;
   d) Domestic consumers will not have to pay higher charges for ILD outgoing calls.

BPL

The most appropriate option for collection of the reduced amount of ADC would be -

i) Per minute basis for charging ADC from incoming and outgoing ILD calls should be abolished and the termination charges for the incoming ILD calls should be "foreborne".
ii) The estimated ADC amount of Rs. 600-800 crores, after taking into consideration the higher collection from termination charges for the incoming ILD traffic, be collected as 0.7% of AGR from all Access Providers, NLDOs, ILDOs and ISPs handling ILD calls

The above suggestions, if implemented, will have the advantages of –
❖ Reducing the grey market for incoming ILD traffic
❖ Reducing the burden of ADC on Indian operators and hence the consumers
❖ Introducing the ADC Regime which could be easily merged with USO Fund w.e.f. 1.4.08 without making any major change.

BT

As mentioned above, BT believes that the ADC should be merged with USO immediately. In that case there is not need to deliberate upon various options for collection of ADC.

However, should the ADC continue, it should be significantly reduced and distributed across all the voice services on a uniform basis treating all the voice services similar. This will simplify the over all mechanism of the ADC regime and also be non discriminatory. The ADC should not be loaded on leased circuits used for data as it may increase cost of these services and may have repercussions on other services including ITES and broadband. The comments on various options mentioned in Q2 are following;

i. The ADC could be allocated a uniform basis across all the voice traffic revenue. The per minute charge only on ILD minutes is not sustainable as it leads to arbitration and hence may facilitate the grey market in this segment.
ii. The existing scheme of per minute basis for ILD minutes and percentage of revenue share from the sector revenue is discriminatory in nature and leading to arbitrage in ILD segment. In addition it calls for a complex system for ADC settlement which can be simplified by moving to a simplified regime as in (i) above.
iii. The per minute basis for ADC levied only on ILD minutes leads to arbitrage opportunity, loading it only on incoming ILD minutes is not an ideal option.

Additionally, if the full burden is shifted to ILD incoming calls only, the arbitrage will be increased substantially and may fuel the grey market further.

iv. If the complete amount of ADC is to be recovered from ILD incoming calls only, the per minute amount to be charged will be very high and will have adverse impact on the growth of incoming traffic in the country. This option may detrimental to the overall growth of international telecom services in the country.

v. If the complete amount of ADC is to be recovered only from the ILD segment (incoming and outgoing minutes) the overall burden on these minutes will be too high and will result in the increase of tariff for international minutes which may not be in the interest of the consumers. It would also be discriminatory against the international telecom segment vis a vis domestic segment.

In conclusion, it is submitted that as a best option the ADC regime should be merged with USO regime at the earliest, failing which the revised amount of ADC should be distributed uniformly as a percentage share of the voice calls revenue without any discrimination between domestic and international voice minutes.

TTSL

We are of the view that there should not be any ADC at all from April 2007.

Even if the Authority make out a case of payment of ADC, then it should be collected in only one manner suggested by Authority under sub-para (iv) of Para 2 above i.e. **Recovery of Complete amount of ADC from ILD Incoming calls on per minute basis only and no ADC from percentage revenue share.** However, the computation for calculating ADC rate per minute from ILD I/c calls should be made keeping in view the USO funding & exponential growth in ILD Minutes of Usage.

It is seen from Table-3 given in the consultation paper that the yearly growth of ILD incoming traffic minutes is progressively increasing. Considering the very high elasticity of demand for ILD calls and rapidly expanding subscriber base pattern, it is anticipated that growth rate for 2007-08 will exceed 50 %. Therefore, considering 50 % growth rate for incoming ILD traffic for the year 2007-08, gross traffic minutes would be more than 17,000 million minutes. The Authority has also laid down the principle of recovery for ADC in para 36 of the IUC Regulation dated 23.2.2006. The relevant para is reproduced below:

"The main criteria adopted by the Authority while deciding the rates of ADC was to maintain the total collection of ADC at around the present Rs.2,000 crore from international traffic, as also to reduce the burden on domestic subscribers. The percentage revenue share should be fixed such that the remaining ADC was recovered from the percentage revenue share route."

In line with the above principle, we propose that recovery of ADC **as % share on revenue be completely abolished** and the entire balance ADC be recovered from ILD incoming calls only. Taking into account that ILD incoming calls will be to the tune of approximately 17000 million minutes in 2007-08, the ADC can be recovered in the following manner:.

	Minutes for 2007-08 (Million)	Rate per minute	ADC
Incoming ILD Calls	17000	Rs 0.94	Rs 1600 Crore

VSNL

There are no compelling reasons to consider any major change in the mechanism of funding/collection of ADC in FY 2007-08, especially when ADC would be reduced to Zero by 2008-09.

In the prevailing ADC Regime notified by TRAI in its Regulation dated 23rd February 2006, the ADC on ILD traffic was continued on per minute basis but at reduced rates of Rs. 1.60 per minute (earlier Rs. 3.25 per minute) for ILD Incoming calls and Rs.0.80 per minute (earlier Rs.2.50 per minute) for Outgoing ILD calls. In addition to the ILD calls, ADC is also applicable as 1.5% of the AGR of Access providers, NLDOs and ILDOs. The Access providers can retain ADC generated from outgoing ILD calls originated from Fixed Wirelines and ADC as percentage of AGR of rural Wireline subscribers. This mechanism of funding of ADC results in **double incidence** of the ADC on **ILDOs** by requiring them to pay ADC both on a Per minute basis and also as a percentage of their AGR. The TRAI should dispense with the requirement of payment of 1.5% of AGR of ILDOs, since a major portion of the ADC is already being contributed by the ILDOs on a Per minute basis on ILD calls.

VSNL recommends that option (iii), i.e. **Per Minute basis from ILD Incoming only and percentage revenue share on the AGR of all telecom service provider** be the most preferred option for the ADC collection mechanism. This would facilitate on-passing of the entire ADC reduction for the benefit of customers in India by removal of ADC on Outgoing calls. This would not only boost the growth of outgoing international calls but also ensure that there is no pricing differential between ILD calls originating from mobile phones and fixed wireline phones, thus giving a boost to the growth of mobile penetration in the country. It would also create a level playing field with Internet Telephony (which is one of the objectives of TRAI as per the Consultation Paper on Internet Services).

TRAI laid out a principle in the IUC Regulation dated 23.2.2006 that the admissible ADC in the year 2006-07 would be reduced to 2/3 of Rs.4800 crores which is equal to Rs.3,200 crores, in order for the ADC to be reduced to Zero by 2008-09 (Para 24 of Explanatory Memorandum). **Accordingly, the ADC admissible for 2007-08 should be 1/3 of Rs. 4,800 crores, i.e., Rs.1,600 crores.**

Rs 1600 crores as admissible ADC for 2007-08 can be recovered in the following manner:

		Rate	ADC
Incoming ILD Calls	14000 million mins for 2007-08*	Rs.1.00	Rs 1400 Crs
Revenue Share @0.25%	Net AGR of Rs.90,000 crores#	0.25%	Rs.225 Crs.

* Conservative assessment keeping in view current traffic trends.

\# Excluding AGR of ILDOs.

Therefore, VSNL recommends that the ADC for Incoming ILD calls be reduced to Re 1.00 per minute and that an ADC revenue share of 0.25% be imposed on Access and NLD revenues.

VOICE

-ADC on outgoing ILD calls is coming in the way of INTERNET TELEPHONY.
-Amount recovered is miniscule [Rs 257 crores] but encourages grey market.
-Problem in settlements.
-Hence recovery of complete amount of ADC from ILD incoming calls on per minute basis only . But the ADC amount need b reviewed taking into account the amount received from USF.

Shri Sunil Chandra

In my opinion, option (a) is better. As the above calculation shows, a revenue share of 1.67% should be sufficient. Further, this will imply that ADC payable to non-BSNL service providers becomes zero. Moreover, the over and above ADC charge on outgoing and incoming ILD calls is also reduced to zero.
If due to any reason, the above option is not implementable, then option (d) should be accepted. In this case, the revenue share component and outgoing ILD call component is made to zero. Thus, Indian subscribers are exempted from this levy. Table-1 of the consultation paper indicates that this omponent only is sufficient to fund the total estimated amount of Rs. 1600 crore. Even this levy can be further reduced to Rs. 1.4 per minute also expecting that the incoming call minutes will grow by atleast 6%.

General Comments

BSNL's "Without Prejudice preliminary response."

In continuation of our letter No. 1-24/2006-Regln dated 23.02.2007, it is stated that the final hearing in the Appeal No. 6/2006 – BSNL Vs. TRAI & Ors. is going on, before the Hon'ble TDSAT continuously on day-to-day basis and is listed for further part-heard final hearing even today, i.e., 02.3.2007.

We do not find ourselves in position to accept your statement to the effect that TRAI does not agree that the response by the BSNL shall be immediately furnished upon the completion of hearing before the Hon'ble TDSAT.

This was clearly understood before the Hon'ble TDSAT and was reiterated on behalf of the BSNL on one of the days of final hearing before the Hon'ble TDSAT. It is, therefore, reiterated that BSNL shall furnish its response immediately on the completion of the hearing before the Hon'ble TDSAT.

However, when the above-mentioned final hearing before the Hon'ble TDSAT is being taken up on daily basis and the meaningful response on behalf of the BSNL to such a crucial and important aspect can be furnished upon the completion of the hearing, it is really unfortunate to receive the above-mentioned letter from the TRAI dated 01.3.2007.

Without prejudice to the above and reiterating that the response of the BSNL would deserve to be furnished to the TRAI, under these circumstances, immediately upon the completion of the hearing before the Hon'ble TDSAT – please find enclosed herewith the copy of the Appeal No. 6/2006 [3 volumes] alongwith rejoinder, as Annexure –A, containing the fundamental submissions raised on behalf of the BSNL before the Hon'ble TDSAT for determination on this crucial aspect. The contents of our appeal be taken as a part of the present without prejudice preliminary response to your above-mentioned communication and the contents thereto be also treated as an integral part of this without prejudice preliminary response.

Some of the present relevant data which has become available to the BSNL, in continuation of our fundamental submissions, is enclosed herewith as Annexure –B. This shall be suitably supplemented with further submissions on our behalf, immediately on completion of the hearing before the Hon'ble TDSAT.

1. Annexure –A: Appeal no. 6/2006 -Three volumes and Rejoinder
2. Annexure-B: ADC Computation sheet

ANNEXURE-B

Calculation of ADC as per the methodology prescribed by TRAI

ADC Based on Average Cost

Gross Rental Deficit for all DELs
Total DELs as on 31-03-2006 :3.51 crore (Approx.)

Average Rental cost per DEL	:Rs 425/ per month
Average Rental Recovery	:Rs 138/ per DEL per month
Rental deficit per DEL	:Rs 287/ per month
Gross Rental deficit for all DELs	:**Rs.12089 crores** (287x3.51x12) Appx

If deficit is calculated for free calls and subsidized calls also the total ADC will be **more than Rs 12089 crores**.

<u>ADC Based on Rural DELs</u>

Rural DELs as on 31-03-2006	: 1.28 crore (Approx)
Rural cost per DEL	: Rs 638/-pm (150% of average cost)
Average rural rental	:Rs 67/- per month (Approx)
Deficit per rural DEL	: Rs 571/- per month
Gross rental deficit for rural DEL	:**Rs 8771 crores** (571x1.28x12) Appx
ADC on account of free calls (75x1.80x1.28x12)	**:Rs 2074 crores**
ADC on account of subsidized calls 225x(1.80-0.80)x1.28x12	**:Rs 3456 crores**
Total ADC	**:Rs. 14301 crores**

Total ADC per year to be provided to BSNL to off-set its deficits emerging due to provisioning of below cost Rural Wireline telephony on account of rental, free calls and subsidized call charges is of the order of Rs.14301 crores.

<u>Bharti</u>

We submit below for the consideration of the Hon'ble Authority in case the Termination charges on International incoming calls are increased:

Whether the increase in termination charges for incoming ILD calls would impact the customer tariffs?

No! The increase in Termination Charges on Incoming International Calls would not impact the Customers tariffs at all because the call is originating outside India. Even the call charges at the origination point won't be impacted because regulatory cost of Rs 1.90 is already built into the call charges since the overall regulatory cost is not changing.

Whether the increase in Termination Charges would affect the Grey market?

As the Hon'ble Authority is well aware that in the Interconnection Usage Charges Regime, 2003, the total Regulatory cost on Incoming International Calls was Rs.5.50 (Rs.5.00 as ADC + Termination Charge (TC) - Rs.0.30). The same was reduced to Rs 1.90 (ADC – Rs 1.60 and TC – Rs. 0.30) in Feb 2006. One of the aims of reducing the ADC was to curb the grey market. The economics of grey market primarily works on the arbitrage available to grey market players since they don't have to pay any ADC or license fee as compared to an

ILDO. The grey market was very high in the earlier years due to a higher ADC and Licence fee.

Over a period of time, with the reduction in ADC as well as Licence Fee (15% to 6% for ILDOs) coupled with strict vigilance and monitoring, the grey market has reasonably been contained.

It is clear now that the Grey Market for International Incoming Calls is very minimal based on the existing Regulatory Costs. Any reduction in ADC and a corresponding increase in Termination Charges would not lead into any increase in Grey Market as the overall Regulatory Cost would still remain the same.

Whether the increase in Termination Charges would be beneficial for the Government?

Presently, as per the Licence conditions, the Access Providers are paying the Licence Fee as a % of the Adjusted Gross Revenue including the Termination Charges. The increase in Termination Charges would augment Government revenue by way of higher Licence Fees amount. As per our estimates, increase in Termination Rates for the Incoming International Calls would result in higher licence fee levy by Rs 130 to 200 Cr in 2007-08 (*assumed the effective license fee payment is maintained @12% including spectrum charges)*. Once, in the financial year 2008-09, the ADC regime is phased out, it will continue to give additional revenue stream in future also.

Licence Fee to Govt @12%

	Estimated ILD Incoming Minutes in 2007-08	Additional termination charge	Additional AGR	Licence Fee-Rs mn per annum
If termination charges increased by Re 1.0	16,723	1.00	16,723	2,007
If termination charges increased by Re 0.65	16,723	0.65	10,870	1,304

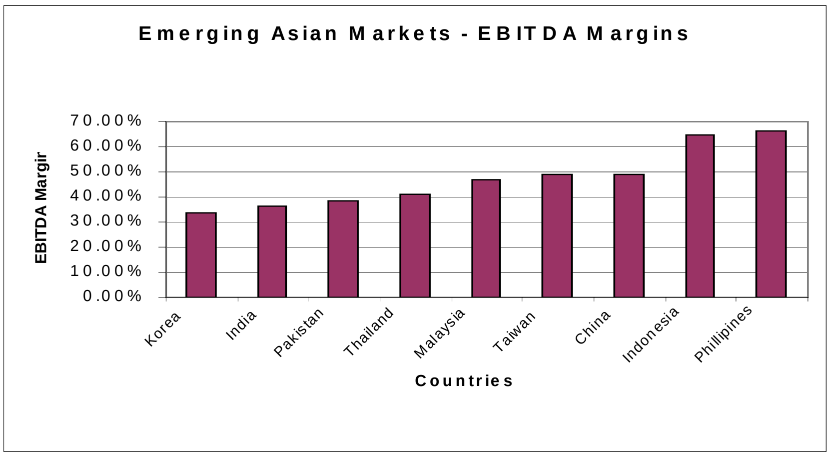
Whether the Increase in Termination Charges would be beneficial for the Operators?

Yes! All the operators would support this initiative as it would improve their financial viability, enabling them to invest more funds in the infrastructure to meet the teledensity targets as set by the Hon'ble Authority.

It is a well known fact that the Indian Telecom Industry has grown manifold since the liberalization started. The penetration level has reached 18%. The Hon'ble Authority has stated it's goal of increasing the penetration level to 41% by year 2010. This requires deployment of infrastructure in small towns and villages and entails huge capital expenditure. The investment so far in the telecom industry is in the region of 35 billion US dollars since beginning (China's total investment in telecom service sector is around 120 billion dollars !!). And to reach the stated penetration level of 41%, a further 30 to 40 billon dollars are required in the next 3-4 years. It's a huge sum by any standard. This is not going to end here. The requirement is going to go further up in the following years.

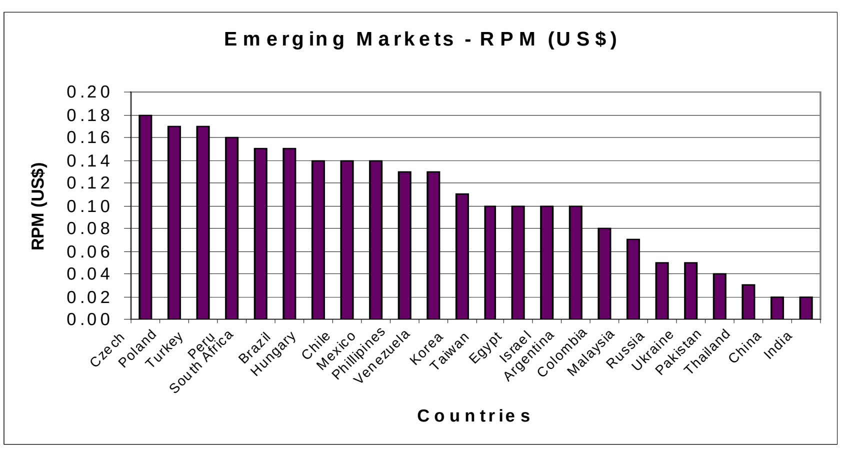
When we look at the financial health of the Indian Telecom industry that though looks very profitable is lagging far behind on crucial financial parameters as compared to International Telecom Markets. A comparative analysis of various parameters is highlighted below:-

1. The Indian EBITDA margins are among the lowest in the emerging markets



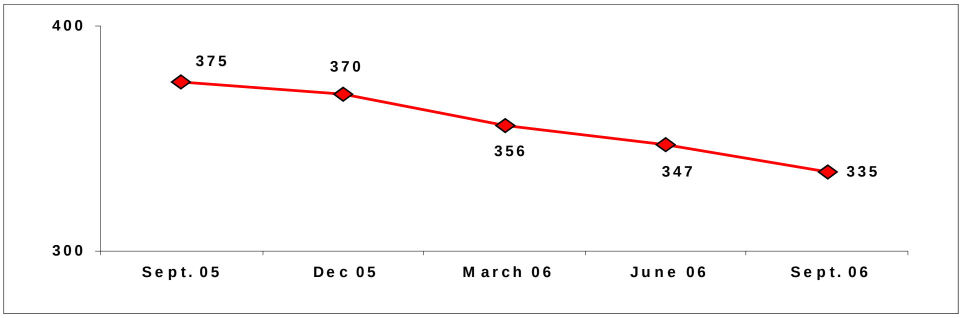
Source: Merrill Lynch – Global Wireless Matrix, 2Q 2006

2. The customer tariffs for mobile service area also lowest in the World despite the high Government's Levies and Duties, upto 30% of the total revenue



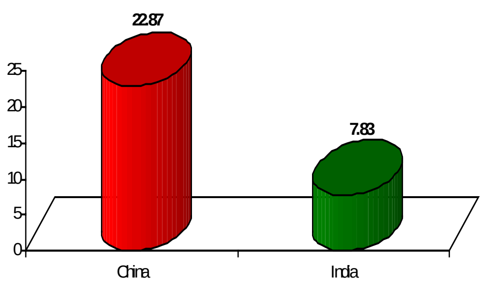
Source: Merrill Lynch – Global Wireless Matrix, 2Q 2006

3. The ARPUs are the lowest in the world and would become even lower as we go to the hinterland.



Source: COAI estimates

4. The Indian Companies earn a lower rate of return on Capital Employed (RoCE) as compared to Chinese Companies



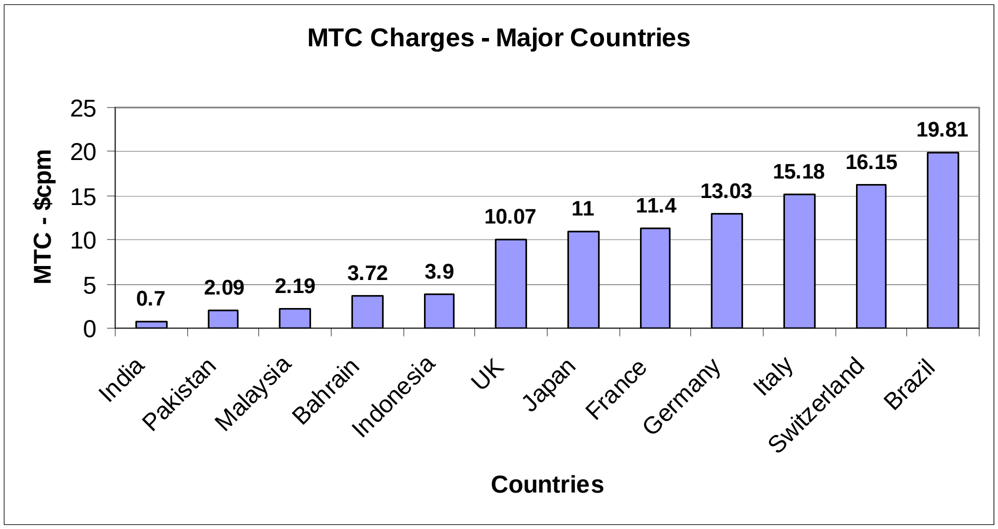
Source: TRAI Study Paper on Financial Analysis of Telecom industry of China and India, June 2006

5. Various studies have proved that **most mobile operators despite having been operating for over 11 years are still cash flow negative. Health of a telecom company worldwide is determined by the cash flow it generates after meeting it's capex requirements and not merely the profits it makes.**

The foregoing analyses once again reiterates the fact that various steps are still required by both the operators themselves and the Government to ensure the viability of the sector as also its sustained growth. We would like to submit to the Hon'ble Authority with the greatest humility that it is also charged **with the responsibility** of **protecting the interests of the service providers** as also **promoting and ensuring the orderly growth of the telecom sector. Given this background** we would urge the Hon'ble Authority to increase the termination charges on ILD incoming equivalent of reduction in ADC rate.

Would the increase in Termination Charge on international calls create imbalance vis-à-vis other countries.

The increase in termination charge on incoming international call would not create any imbalance with the termination charges levied by other countries. In fact the termination charges in India are one of the lowest in world. The following table clearly brings out this fact.



Since the termination charges are higher in other countries particularly European countries, it results in higher payout by Indian ILDOs to those countries. This results in higher cost for the consumers calling from India.

Whether the concept of differential termination charge exist in other countries as well
Yes! There are number of cases internationally where termination charges are different for domestic calls and for international calls. The instances of some of the countries are as under:-

Pakistan:
IUC- Ranges from 0.25 cent to 1.00 cent based on the distance bands
ATC-Access Promotion Charges: All ILDO need to pay to the Govt 2.5 cents if they are terminating to any Fixed Network
CPP-Cellular Phone Payment: If the international call is terminated by the ILDO to any Mobile operator they need to pay to the Mobile operator 2.5 cents

Malaysia
For All international Incoming Call termination by an ILDO to any Operator ranges between - 8.0 to 9.0 cents as IUC charges

Whereas for Local Calls IUC charges are 2.63 cen.

Bahrain
Network Sharing charge for Local Calls is Rs 83 paisa per minute whereas for international calls it is Rs 3.57 p/m

Oman
Network sharing charge for local call is appr Rs 1.44 per minute , whereas for International calls it is Rs 5.72 per minute

Saudi Arabia
Network sharing charge for local call varies from app 60 p to 4.86 paisa per minute , whereas for international calls it is similar to Oman ie; Rs 5.72 per minute

(Please note that the above statistics have been collected by us through our own resources and we request the Hon'ble Authority to revalidate the same with their counter regulatory authorities as well)

Executive Summary:-

Sir, you would appreciate that the above initiative would be a win-win situation for all the parties as the increase in Termination Charges for Incoming ILD Call will result in higher revenue for the industry, resulting in higher foreign exchange for the country and higher licence fee for the Government. Moreover, the customer tariffs would not be affected at all.

We earnestly request the Hon'ble Authority to consider the following favourably:-

1. The ADC should completely be recovered from Incoming ILD calls as it would give major relief to domestic Industry as well as put ILD calls at par with Internet Telephony

2. The overall regulatory cost of Rs.1.90 should continue to be levied on Incoming ILD calls and any reduction in ADC should be extended to the Indian Operators in terms of higher termination charges for incoming ILD calls.

BPL

1. We have carefully gone through the entire consultation paper. The estimated amount of ADC required for 2007-08 has not been indicated anywhere in the consultation paper. The methodology of collecting ADC during the year would depend upon the total amount to be collected, the estimated total revenue of the telecom sector during the year and the volume of outgoing and incoming ILD traffic. In the absence of these data we have extrapolated from the past trend of ADC reduction since 2003-04, when the ADC was first introduced in the country. Accordingly, as per our estimate, the total requirement of ADC during the year 2007-08 may be about Rs. 1600-1800 crores.

2. As per the declared policy of the Authority, the ADC is a depleting regime which has to be extinguished within 5 years of its inception in 2003 and merged with USO Regime. Since 2007-08 will be the last year during which ADC is to be collected, the methodology of collecting the estimated requirement of ADC during the year should be such which could be continued in future and easily merged with the USO Fund without making much changes or causing any undue burden on the consumers as well as the operators.

3. We agree with the Authority that the burden of ADC on the Indian Consumer should be minimal and the bulk of ADC requirement should be met from incoming ILD traffic. At the same time it is important that the present arbitrage between the ILD calls being routed through the legal channels and the grey traffic coming through illegal means should be eliminated, if possible. This will go a long way in reducing the grey market running into crores of Rupees, which is resulting not only in the leakage of revenue but also could be a security risk.

4. In the first IUC Regulation dtd. 24th January 2003, the termination charge for the incoming ILD calls was "foreborne" and decided based on commercial negotiations

between the ILDOs and the Access Providers. This was generally based on the principle of reciprocity and linked to the termination charges payable to foreign carriers in different countries for termination of outgoing ILD traffic. In the subsequent IUC Regulations TRAI has mandated a uniform termination charge of Rs. 0.30 per minute for all types of traffic viz Local, NLD & ILD. Major part of the termination charge was converted into ADC. This has been unfair to the Indian operators who while paying higher termination charges for the outgoing ILD traffic, as per regulation, were forced to charge much lesser amount for the incoming ILD calls. No room was left for the Indian Operators for negotiating the termination charge with the foreign carriers on the principles of reciprocity because of fixed ADC component and termination charges. This also vitiated the settlement charge regime and principle of commercially negotiated termination charge regime, which was in vogue between the Indian and foreign ILDOs for settlement of their dues on account of huge differential in incoming and ILD traffic.

5. At present the foreign carriers are paying a total amount of Rs. 1.90 per minute for incoming ILD traffic (ADC Rs. 1.60 and termination charge Rs. 0.30). If the present regime of fixed termination charge of Rs. 0.30 per minute is continued and the ADC for incoming call is reduced, the total charges payable by the foreign carriers will correspondingly get reduced and the burden will be passed on to the Indian Consumers in some form or the other. Moreover, from the year 2008-09 onwards when the ADC regime is extinguished, the total charges payable by the foreign carrier for terminating ILD calls in India will get reduced to Rs. 0.30 per minute only. This will be highly prejudicial to the interests of the Indian operators who have to pay much higher charges for the outgoing ILD calls. Going forward it would be difficult to negotiate higher termination charges for incoming calls to India. All the Access Providers, ILDOs and the country would collectively stand to lose.

6. Keeping the above logic in view, we recommend that the termination charges for the incoming ILD calls should be "foreborne" w.e.f. 1.4.07, as was the case prior to IUC Regulation dtd. 29th October 2003. If this suggestion is accepted by the Authority, BSNL may be able to collect Rs. 1.50 to Rs. 2.00 per minute or more, based on the commercial negotiations with the ILDOs, for the incoming ILD traffic terminating on its network. The higher collection from the incoming ILD calls will correspondingly reduce the requirement of ADC by BSNL which may get reduced to about Rs. 600 – 800 crores. This amount could be easily collected from all the Access Providers, NLDOs, ILDOs as well as the ISPs, who are allowed to handle incoming and outgoing ILD traffic, as a small percentage of their AGR. It is estimated that the total telecom revenue would be about Rs. 100,000 crores during 2007-08. Therefore, the ADC of Rs. 600 – 800 cores could be easily collected by charging 0.6% – 0.8% of the AGR.

AT & T

AT&T Global Network Services India Private Limited. ("AT&T India") and AT&T Inc. on behalf of its affiliates (collectively, "AT&T") respectfully submit these comments on the Consultation Paper on Access Deficit Charge (ADC), released by TRAI on January 31, 2007. AT&T India received licenses to provide National Long Distance (NLD), International Long Distance (ILD) and Internet Service Provider (ISP) services in India in late 2006 and expects to begin providing these services in the Indian market early in 2007. Additionally, AT&T, through its affiliates, is a leading U.S. provider of International Long Distance minutes, international private line and other business and consumer communications services on the U.S.-India route. AT&T has a significant interest in this consultation process on the ADC regime for the financial year 2007-08.

The Consultative Paper properly notes (p. 1) "the success story of liberalization" in India, which is one of the world's most important telecommunications markets and has implemented major measures to expand competition and liberalization in recent years. India has long recognized the central role of telecommunications to its growth and development and emphasizes in the draft National Telecom Policy 2005-06 that the telecom sector is a "key driver" of the economy that can "propel India into the forefront among the global economic superpowers with high quality and cost effective telecom infrastructure and service support."

AT&T urges the TRAI to continue India's important recent pro-competitive initiatives in telecommunications by ensuring that the transitional ADC subsidy program is phased out in accordance with the TRAI's stated objective of replacing or merging the ADC program with the USO program by March 2008. The removal of the current artificially inflated price floor for international calls to and from India resulting from the highly discriminatory and disproportionate existing ADC charges for international calling would provide significant benefits to all sectors of the Indian economy that rely on reasonably priced international telecommunications services.

The ADC was established in 2003 as a transitional mechanism during India's introduction of competition and TRAI has reviewed the program annually and reduced ADC rates consistent with the original framework. AT&T supports the continuation of this approach through a further reduction of ADC for 2007-08. Most importantly, in preparation for the planned phase out of ADC in the year 2008-09, the TRAI also should remove the disproportionate and discriminatory ADC burden placed on international calling (and particularly inbound international calling) by implementing a nondiscriminatory and competitively neutral revenue share approach for the year 2007-08 that treats all services on an equitable basis.

1. The TRAI Should Phase-Out ADC in 2008 and Adopt a Neutral Revenue Share <u>Approach for All Services in 2007</u>

The Consultation Paper asks (pp. 9, 16) whether ADC should continue to be reduced for 2007-08 in line with the existing trend and whether ADC should continue to be collected both as minute of use charges on international calls and from a percentage revenue share charge. The APCC urges the TRAI to continue with the planned phase out of ADC in 2008 by further reducing both the ADC amount and the ADC rates in accordance with the consistently stated intention of the TRAI to replace or merge the ADC program with the USO regime. The TRAI also should further assist this transition, and benefit businesses and consumers in India by removing the competitive distortion and discrimination inherent in the present ADC charges for international calls, by adopting a neutral revenue share approach for all ADC charges for the year 2007-08.

The ADC regime was established in 2003 as a transitional mechanism to subsidize local services during the introduction of competition in India and as "a depleting regime" that "would be reduced to zero in the year 2008-09." The orders issued by the TRAI following its annual reviews of the ADC program have consistently emphasized the temporary nature of this program and the Consultation Paper highlights many of these prior findings (pp. 5-7). The TRAI stated in February 2006, for example, that "the ADC is a depleting regime mainly to give time to the incumbent, etc for rebalancing of tariffs during a transition period" and that "by March 2008, i.e., next two years time frame any lines in rural segment having justification for funding access networks will be required to be considered through USO and ADC will be phased out." TRAI further explained in February 2006 that "since this is a depleting regime, therefore, the earlier calculated value of ADC has to gradually come down so that it becomes zero in the year 2008-09 and if at that time the Authority feels that some support is required than that can be given from the universal service fund."

AT&T fully supports TRAI's desire to merge the ADC regime with India's universal service program and encourages the TRAI to continue to seek to achieve this objective on or before the scheduled date of March 2008. It is widely agreed that universal service funds provide a far superior approach than access deficit charges to promoting universal service and universal access. ADCs inflate the prices of subsidizing services, reduce demand for these services and increase economic inefficiency. ADCs also encourage "grey market" bypass of the public switched network, thus depriving incumbent carriers of interconnection revenues, and have become increasingly unsustainable as technological and market changes have removed former distinctions between different types of calls. Universal service funds that comply with the requirements of the World Trade Organization ("WTO") Reference Paper and international best practice of being administered in a transparent, non-discriminatory and competitively neutral manner by treating all services alike provide necessary subsidies for universal service or universal access while avoiding these competitive distortions and inefficiencies.

The TRAI importantly recognized in February 2006 that the "changeover to complete revenue share regime and its merger with USO is indeed the final solution for taking care of all anomalies and issues associated with ADC." The TRAI also took significant steps in 2006 to further the transition to a USO regime by reducing the total ADC amount by one third, adopting a revenue share approach for domestic services and reducing the per minute ADC rates for international calls. However, the TRAI unfortunately did not at that time remove the disproportionate and discriminatory treatment of international calling (and particularly inbound international calling) under the ADC regime. Current ADC rates comprise per minute charges of Rs 1.60 for ILD calls, Rs. 0.80 for outbound ILD calls and a revenue share ADC charge of 1.5 percent of adjusted gross revenue for access providers, NLDOs and ILDOs.

AT&T urges the TRAI to continue this transitional process in 2007 by expanding the revenue share approach to replace all per minute of use ADC rates. The use of a neutral revenue share approach for all services would remove the competitive distortion, discrimination and inefficiencies caused by the disproportionate burden placed on international calling by the ADC regime and would encourage the further growth of international telecommunications services in India and the associated benefits to India's economy.

2. The TRAI Should Remove the Disproportionate ADC Burdens Placed on <u>International Calling</u>

AT&T is particularly concerned that the TRAI should eliminate the discriminatory treatment of international traffic – and the even greater discriminatory treatment of inbound international traffic – under the present ADC regime. This discriminatory treatment adversely affects Indian businesses that rely on reasonably priced inbound and outbound international telecommunications services by artificially inflating prices and suppressing demand for international calling services. As described below, the present ADC treatment of international calling stimulates the use of "grey market" bypass, Internet telephony and other alternatives, raises India's termination rates far above the prevailing rates of other competitive markets, and is contrary to India's WTO Reference Paper obligation to provide the “transparent and nondiscriminatory” administration of universal service. AT&T urges the TRAI to adopt a neutral revenue share ADC funding approach for the year 2007-08 that treats all services, whether domestic or international, on an equitable and nondiscriminatory basis.

The Consultation Paper states (p. 10) that the “grey market in international calls continues to be a matter of great concern.” However, AT&T submits that the inevitable result of the different treatment of international calls under the ADC is the growth of a huge arbitrage market to exploit these arbitrage opportunities. The Consultation Paper acknowledges (p. 10) that present ADC charges provide potential arbitrage margins of Rs. 1.60 per minute stimulating “grey market” termination of inbound international calls, and Rs. 0.80 per minute for outbound international calling encouraging the increasing use of Internet telephony for outbound calls to bypass these charges.

AT&T submits that the only effective way to eliminate this arbitrage is to remove the different ADC treatment of international and domestic calls. Because technological changes have blurred or removed former distinctions between different categories of traffic, any rate differences based on such distinctions will invariably give rise to thriving bypass markets. In contrast, the equitable and nondiscriminatory treatment of all services, both domestic and international, under a neutral revenue share approach will remove bypass incentives. A neutral revenue share approach is therefore likely to increase international traffic volumes – both inbound and outbound – for Indian carriers, by eliminating or greatly reducing the incidence of bypass traffic.

India’s continued high ADC charges on inbound international calling inflate its termination rates far above those of many of its neighbors and trading partners, which now obtain major benefits from lower inbound calling rates and lower costs for business and consumer users in the form of increased inbound calling volumes. For example, *TeleGeography* lists wholesale rates of Rs. 0.45 ($0.01) per minute for termination on fixed networks in Australia, China, Hong Kong, Japan, Malaysia, Singapore, the United Kingdom, and the United States.

The adoption of a neutral ADC revenue share approach for all services would encourage similar reductions and increased international calling volumes in India. The Consultation Paper reports (p. 13) that India’s reductions in ADC rates for international calls increased inbound and outbound international call volumes by almost 50 percent for the year 2006-07 over the year 2005-06. This demonstrates, as the Consultation Paper concludes, the existence of “a high elasticity of demand in international minutes” for inbound and outbound calls to and from India. The TRAI accordingly should stimulate the further growth of India’s international traffic, and the resulting benefits for business and consumer users in India from reasonably priced international telecommunications services, by removing the disproportionate treatment of international services under the ADC regime.

The disproportionate treatment of international calling – and particularly inbound international calling – under the ADC regime is also contrary to international trade rules and international best practice. India has made an international trade commitment under the WTO General Agreement on Trade in Services to administer its universal service obligation “in a transparent and non-discriminatory manner.” India’s ADC charges for inbound international calls, which are twice the level of its ADC charges for outbound international calls and many multiples greater than the ADC charges for domestic services, are neither transparent nor non-discriminatory as this WTO commitment requires. There is no transparency in the calculation of India's ADC charges on international calls, and the higher charges for inbound international calls ensure that Indian consumers pay far lower ADC rates than non-Indian consumers. The U.S. Federal Communications Commission has emphasized that universal service "subsidies borne disproportionately by one service, or in the case of settlement rates, by consumers from net payer countries, are not consistent with [the universal service principles set forth in the WTO Reference Paper] and cannot be sustained in a competitive global market." There is also specific concern with India's ADC regime. In April 2006, the United States Trade Representative listed India's ADC charge in its 2006 Section 1377 Review of Telecommunications Trade Agreements as an issue that it would "continue to monitor" and noted as a "positive development" that TRAI had "reaffirmed its commitment to reduce the ADC to zero."

The imposition of "universal service" or "access deficit" charges disproportionately on inbound international calls is also contrary to international best practice. In fact, the European Union has made clear that *no* universal service or access deficit charges should be imposed on inbound international calls. The European Commission stated in 1997 that "contributions to universal service should not be imposed either directly or indirectly on organizations which merely interconnect to deliver traffic to a Member State and do not actually offer telecommunications service in that Member State." The European Commission further stated that "when operators in other Member States interconnect to deliver traffic to a Member State, it is inappropriate that they should contribute either directly or indirectly to any access deficit type scheme in that Member State." Similarly, in the United States the FCC has stated that "[u]niversal service in the U.S. market is based on and uses end user telecommunications in the United States, not settlements revenues paid by foreign carriers."

Because of these concerns with the discriminatory and non-transparent nature of India's ADC charges for international calls, AT&T is especially concerned that the options listed in the Consultation Paper (p. 19) as "Questions for Consultation" would either increase or maintain these charges. Indeed, Question 2 (iv) would recover the entire ADC amount from inbound international calls, with no ADC being collected from percentage revenue share. AT&T respectfully urges the TRAI to reject these regressive approaches, which would not only perpetuate or increase the market distortions and discrimination resulting from the ADC program but also would fail to assist the planned 2008 phase-out of ADC.

The TRAI should instead replace the present ADC charges for international calling with a neutral revenue share approach for all services for the year 2007-08. The equitable and non-discriminatory treatment of all services under a revenue share approach would be consistent with international trade law principles and international best practice, would increase Indian carrier international traffic volumes and revenues and would not be vulnerable to "grey market" activities, Internet telephony or other forms of bypass.

AT&T would be pleased to provide any additional information that would be helpful to the Authority.

Shri Sunil Chandra

If we refer to Table-4 of the consultation paper, Net AGR for ADC recovery for year 2005-2006 is Rs. 63911 Crore and estimates for year 2006-2007 is Rs. 79651 Crore. The percentage increase in this case is 24.6%. If we assume another growth of 20% for the year 2007-2008, the net AGR for ADC recovery for year 2007-2008 will be Rs. 95581 Crore. These figures include all Local, NLD and ILD traffic, and excludes rural traffic.

The amount of ADC for BSNL for year 2005-2006 was Rs. 4800 crore and for year 2006-2007 is estimated to be Rs. 3200 crore. And, as per the current intentions of the Authority, this amount should be zero in the year 2008-09. Thus, for the benefit of smooth transition and the interest of the consumer in mind, it is advisable to keep the ADC for year 2007-2008 at Rs. 1600 crore. This amount is 1.67% of net AGR. Thus, even if Authority increases the ADC on revenue share from 1.5% to 1.67% (a nominal 11%) increase the whole intended ADC can be recovered and the ILD outgoing as well as incoming calls can be spared the discriminatory treatment.

The side effect of removing the discriminatory treatment will be reduction in grey-market ILD calls, which will help the service providers in mutliple ways:

1. calls through legitimate channels become cheaper so, stray operators have less arbitrage and their risk/gain ratio increases significantly.
2. Arbitrage on ILD calls goes down, so expenditure on the monitoring and penalty goes down.
3. It simplifies the accounting procedure for the service providers leading to lower expenditure and thus lower tariff.