

AUSPI / 12 / 2005 / 70

30th April 2005

Shri Pradip Baijal,
Chairperson,
Telecom Regulatory Authority of India,
A-2 / 14, Safdarjung Enclave,
New Delhi 110 029

Sub: AUSPI Response to TRAI Consultation Paper No.4/2005 dated 17th March, 2005 on Interconnection Usage Charge Review

Dear Sir,

We refer to the TRAI Consultation Paper on Interconnection Usage Charge Review.

AUSPI is pleased to enclose its response on the various issues raised in this Paper by TRAI for your kind perusal and consideration. One of our members, HFCL Infotel Ltd., has different viewpoint.

AUSPI requests the Authority to kindly consider its views enumerated in the response while TRAI is finalizing its recommendations on the above consultation paper.

Should you require any further information or clarification, we shall be pleased to furnish the same.

Thanking you,

Yours faithfully,

S C Khanna
Secretary General

Encl : As above

CC: Dr D P S Seth, Member, TRAI
Shri P K Sarma, Member, TRAI
Prof. Sanjay Govind Dhande, Member (Part-time), TRAI
Dr Arvind Virmani, Member (Part-time), TRAI
Shri Rajendra Singh, Acting Secretary, TRAI
Shri R K Bhatnagar, Advisor (FN), TRAI
Shri M Kannan, Advisor (Eco), TRAI

INDEX

| Question No. | Question | Page No. |
|--------------|--|----------|
| | Introduction | 1-2 |
| 2.1 | Should the ADC funding be provided only to BSNL or also to other Fixed Service Providers? | 3-5 |
| 2.2 | In case the ADC is to be provided only to BSNL, should it be provided based on its Rural Costs for its Rural Fixed lines i.e. areas where the tariffs are being regulated, or for all other lines including urban lines based on average costs i.e. covering all fixed lines where the rentals and call charges are below cost. | 5 |
| 2.3 | In case the ADC is to be provided to other Fixed Service Providers also, should the same criteria as discussed in Question 2.2 above be applied in their case also? | 5 |
| 2.4 | Would it be reasonable to consider not funding the ADC for other Fixed Service Providers but at the same time not charging them for ADC also? Please give reasons for your response? | 6 |
| 2.5 | While working out the admissibility of ADC, what should be the weightages for factors like fixed lines in Urban/ Rural areas provided through Wire-line/ Wireless access? | 6 |
| 2.6 | Whether ADC should be given for WLL(F) lines? Should any distinction be made between Rural and Urban WLL (F) lines? | 6-7 |
| 2.7 | If ADC is to be given for WLL (F) lines, what criteria should be determined with regard to the range of portability/mobility of WLL (F)'s subscriber terminal and the specifications of the subscriber terminal so that clear distinction can be made between WLL (F) and WLL (M)/ Mobile services? | 7 |
| 2.8 | Can we give a higher weight-age for ADC purposes for the fixed wire-lines that are operational in areas where tariffs are regulated? | 8 |
| 2.9 | Whether ADC should be worked out based on the cost data of incumbent only or most efficient operator's data for fixed wire-line should be used? | 8-9 |
| 3.1 | With the substantial reductions in the ADC for international incoming /outgoing calls and in certain categories of domestic long distance calls as well as introduction of uniformity in ADC on domestic calls, do you feel the time has come for smooth transition for imposition of ADC on the basis of percentage of adjusted gross revenue of the operators? | 10-11 |
| 3.2 | What are the probable pros and cons of switching over to ADC regime based on revenue share? Also suggest as to who should be the recipient(s) of the ADC collected on revenue share basis? | 11 |
| 3.3 | answer to 3.1 is no, specify the period by which the existing per minute based ADC regime could be switched | 11-12 |

| | | |
|-----|---|------|
| | over to revenue share regime with reasons. | |
| 3.4 | If Revenue Share regime for ADC is to be implemented, whether the percentages could be different for long distance and International long distance calls especially Incoming ILD calls? | 12 |
| 3.5 | What could be other alternate options, say a fixed monthly ADC charge on all non-Rural lines covering all subscribers, please comment clearly taking account of any likely adverse effects? | 12 |
| 3.6 | What could be a reasonable period by which ADC Regime could be part of USO Regime? | 12 |
| 3.7 | In case ADC is to be recovered as a percentage of Revenue, should it cover all type of services including ISPs, or should it exempt certain operators like niche operators or ISPs with annual revenue collections upto a defined threshold value? | 12 |
| 3.8 | What other possibilities should be considered for funding ADC? Please answer with specific reference to the points raised in main paragraphs 3.2 to 3.4 of the Chapter, including the manner in which USO funds collected but not disbursed should be treated in estimation of ADC amount. | 12 |
| 4.1 | a) Should the carriage charges be made identical for all intra/ inter-circle calls? b) Alternately, should there be an option of distance based carriage charge or identical value being left open for negotiation by NLDOs and Access Providers? c) What would be the likely impact of the change, if any, on the tariffs? | 13 |
| 4.2 | Should there be forbearance on carriage charges? If yes, should it be with ceiling or without ceiling? | 13 |
| 4.3 | Whether the termination charges on international incoming calls should be left to Access Providers to be negotiated with the ILDOs? If yes, should the Regulator prescribe a ceiling? | 14 |
| 4.4 | Should there be any differences in the termination charges for Domestic and International Long Distance calls? | 14 |
| 4.5 | Whether there should be different termination charges for mobile and fixed line calls. In case charges are different, whether differential termination charges be allowed for Rural Lines? | 14 |
| 4.6 | Should Revenue Share on Roaming charges be allowed for Roaming calls, both National and International or only on International call? | 14 |
| | ANNEX | I-XI |

AUSPI RESPONSE TO TRAI CONSULTATION PAPER NO.4/2005
DATED 17TH MARCH, 2005 ON INTERCONNECTION USAGE CHARGE REVIEW

INTRODUCTION

This consultation paper has not taken view on the quantum of ADC. Earlier consultation paper on Access Deficit Review had stated the net deficit as Rs. 3436/1402 crores; however, regulation following this consultation process enhanced the amount to nearly Rs. 5400 crores without any valid reasons. The present Consultation Paper is an attempt which is in contrary to the views of the Authority in its earlier Consultation Paper on Access Deficit Review and has taken a 'U' turn from its earlier stand. The estimate of ADC must be realistically based and data on which the ADC estimate is arrived at must be transparently made available to the stakeholders.

We favour that the present level of revenue share which includes USO contribution can sustain ADC. If ADC has to be given, then it is the strong view of AUSPI that private fixed telephony service including fixed wireless service should also be given ADC. There is a case for ADC regime to be phased out completely due to forbearance of tariff for urban fixed line service. In respect of ADC for the rural subscribers, it is covered under the scope of USO Fund and therefore, there is no justification of continuing the concept of ADC.

The international trend is to move away from reliance on internal cross-subsidies and provide such cross subsidies, if required only from the USO Fund. There are many reasons to move away from the ADC regime. 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.

The scope of USO fund is to provide cost of provision of rural telecom services, operation and maintenance of VPTs and other rural telecom facility along with payment of ADC. USO Fund is similar to that of ADC although the scope of use of the fund is much wider than ADC. ADC funding is really a subset of USO Fund. In view of that, 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.

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.** It may be noted that the current market share of private sector is 47% and therefore there is scope for generating enough revenue to pay ADC out of USO contribution.

From the submissions made by TRAI to TDSAT, it is very clear that TRAI has taken a decision regarding ADC and also about costing of fixed line and services using wireless technology and this consultation process is a mere eyewash. The various issues raised in this Consultation Paper give a clear indication that this review assumes that BSNL must receive ADC payment from its competitors.

BSNL has been offering FWT service since many months and it also offering door-to-door services with FWTs along with DoP and it is hoped they will be treated at par in whatever decision TRAI finally takes on ADC. In a competitive market, payment of ADC to BSNL only is extremely unfair and unjustified. Every service provider must get a fair deal with none getting undue advantage.

AUSPI is of the view that there should be uniformity in termination charge due to level playing field and equitable treatment of all types of calls.

On the carriage charge, we consider that it shall be made identical for intra / inter circle calls. The option of distance based carriage charge is proposed in 3 slabs viz. 0-50 km, 50-200 km and >200 km. The carriage charge should be uniformly applicable for all intra / inter circle calls for the proposed slabs.

Questions from Chapter 2 for Consultation

2.1 Should the ADC funding be provided only to BSNL or also to other Fixed Service Providers?

When fixed line services in the access network suffer deficit on account of below cost rental, free calls and certain below cost charges for short distance calls, then ADC is entitled. ADC is an inherent fall out of a specific type of operation, the fixed service, and is not limited to a particular operator. Private fixed service operators should not be kept out of it. In fact, quantum of deficit incurred by these fixed line operators is higher than that of the incumbent. If BSNL is entitled to reimbursement of this access deficit on its fixed line, then there can be no justification for denying the same benefit to the other private fixed line operators. All operators must be treated equally without discrimination.

At the outset, we would like to reiterate our consistent stand, which has been quoted out of context in the TRAI's Consultation Paper without examining the issue in totality as responded by us. AUSPI vide its earlier response to TRAI's Consultation Paper No 13/2004 dated 23rd June 2004 on Access Deficit Review has stated:

Quote:

*"In a competitive and open market, regulation should be such that it is transparent and non-discriminatory and applicable equally on all service providers. This will add to investor confidence without which a section of operators would be beneficiaries of some regulations while others would be deprived of the same. This is particularly important when the beneficiary is going to be the incumbent, which is a profit making company. **Therefore, in the interest of equitable treatment and non-discriminatory regulatory principles all Fixed Service Providers should receive ADC funding in a transparent manner.**"*

We give below some reasons to justify our case for retention of the existing policy that ADC is paid to private Basic Service Providers also since there is an access deficit in their operations too:

- (i) Tariffs in a competitive scenario, even in an urban area, despite coming under forbearance cannot be easily increased because of the huge market share of the incumbent operators. It would not be out of place to mention that when commercial tariffs were announced initially, the private BSOs were unable to implement the same since the incumbent did not effect any changes in his tariff plans for his commercial subscribers. Any distortion through regulation here will result in massive churn to a cheaper operator which would be detrimental as competition would be totally wiped out in the fixed segment. Therefore, when it was not practical to implement commercial tariffs, it would be far more difficult to implement a similar increase of tariffs on residential subscribers. Private BSOs having fixed operations have a substantial number of subscribers in urban and semi-urban areas. The business plans drawn up by these BSOs have factored in ADC funding in an artificially regulated market (although there is forbearance but market*

pressures do not allow tariff increases) because of the size of the market controlled by the incumbent. Thus their business plans will go totally awry if they are denied ADC funding by TRAI. These operators will be out of pocket trying to retain their subscribers.

- (ii) We strongly believe that access deficit exists in urban and semi-urban areas in our country and despite forbearance; tariff increases cannot be effected due to a variety of socio-economic reasons. The effect of any such increases has already been mentioned above.
- (iii) Private UASLs contribute to more than 3 million fixed lines in the country as of March 2005, which although a small percentage as compared to the incumbent, deserves its due share of recognition. Almost 2 lakhs fixed lines are being added every month by the private sector and this can only grow further once the appropriate policy support is extended through regulation and otherwise. This nascent development will significantly complement BSNL's achievement in the past 55 years since independence in the years to come since this will be a state-of-the-art deployment, which is helping create national infrastructure. Therefore, ADC must be made available to private Basic Service Providers for this contribution too, without which the fixed business will soon become a monopoly and a preserve of BSNL only.
- (iv) Private operators spend huge sums of money, which are raised through market borrowings, and equity placements, which come at considerable costs. On the contrary, BSNL is a beneficiary of huge Government allocations in the form of reimbursements, budgetary grants, etc. on the pretext of "social obligations" that it carries out as a Government owned company. It would be totally unfair and lop-sided to consider continued funding of BSNL through ADC while denying the same to private operators.
- (v) It is a well-established fact that the market is nearing saturation in urban areas. Expansion by private operators will have to be in smaller towns (semi-urban) and rural areas including villages. To generate demand for telephone services in these areas, where average income levels are much lower than urban centers, it would be necessary that tariffs are kept unchanged, if not reduced even further. Therefore, there is absolutely a case for extending the benefit of ADC payments to private operators as they expand their networks in these areas to cover their cost-minus operations.

In the light of the reasons given above, **AUSPI feels that it is only appropriate to consider continuance of ADC funding to private UASLs.** As mentioned earlier, regulations should be applicable equally on all service providers, which will be beneficial for healthy growth of competition and also minimize disputes. Therefore, the suggestion of not giving ADC to private BSOs while at the same time not charging them for the same is out of context for the reasons given above and doesn't merit consideration."

Unquote

AUSPI maintains the position outlined above without any dilution of any kind. In view of this position, it is our well-considered and reiterated opinion that all fixed service operators should be the beneficiaries of the proposed ADC regime.

2.2 In case the ADC is to be provided only to BSNL, should it be provided based on its Rural Costs for its Rural Fixed lines i.e. areas where the tariffs are being regulated, or for all other lines including urban lines based on average costs i.e. covering all fixed lines where the rentals and call charges are below cost.

There is neither reasonable basis nor any ground for payment of ADC fund to BSNL only. In addition, it must be remembered that BSNL is a profit making entity. They provide a multitude of services from the same facilities and hence generate huge revenue surplus. We would like to reiterate our position that BSNL has been a huge beneficiary of the existing ADC regime. However, if ADC is collected by BSNL only, then it should be only for the rural fixed line and this payment should be drawn out of the USO Fund contribution.

There is no justification whatsoever in covering fixed lines of BSNL only whether rural or urban or semi urban. It must also cover the private fixed line telephony service including fixed wireless service. The quantum of deficit incurred by private fixed line operators using wire line / wireless technology is of higher extent than BSNL.

2.3 In case the ADC is to be provided to other Fixed Service Providers also, should the same criteria as discussed in Question 2.2 above be applied in their case also?

AUSPI believes that whatever principle TRAI adopts for distribution of ADC, the same should be uniformly applicable to all fixed service providers so as to avoid any advantages that may arise due to regulatory changes to one set of operators while denying the benefit to another set of operators. TRAI, as per the ADC Regulations dated 6th January 2005 has breached this principle of non-discrimination, which has resulted in imbalances and undue advantages to the incumbent at the cost of their competitors. The precedent which has been set is very disturbing and alarming for private sector players who have been denied ADC for incoming calls to their fixed lines on the plea of undue unjust enrichment and this anomaly be immediately rectified through this review.

2.4 Would it be reasonable to consider not funding the ADC for other Fixed Service Providers but at the same time not charging them for ADC also? Please give reasons for your response?

As we have already stated earlier, there is a strong case for ADC regime to be phased out completely. If at all ADC is to be paid, it should be paid to all fixed service providers and hence the question of differential treatment for the purpose of payment between BSNL and other operators does not arise. In view of this fact, the relevance of this question of not giving ADC to other fixed service providers while at the same time not charging them for the same is out of context for the reasons above stated and does not merit consideration.

2.5 While working out the admissibility of ADC, what should be the weight-ages for factors like fixed lines in Urban/ Rural areas provided through Wire-line/ Wireless access?

ADC admissibility arises when below cost tariff regulation is there. When there is no regulation of tariff i.e. tariff is forborne, then ADC should not be admissible. In

today's scenario, if ADC is to be given, then it should be for rural lines only which can be drawn out of the USO fund. ADC is justified only on cost-minus operation, which in a regulated market is only in the rural areas today. We are attaching as Annex to this response some international examples from some countries which clearly shows that ADC regime be dispensed with.

2.6 Whether ADC should be given for WLL(F) lines? Should any distinction be made between Rural and Urban WLL (F) lines?

Today, access to the consumer in the fixed line domain is both through wire line and wireless in all areas. There is no differentiation on this aspect. Growth of fixed service is today primarily through fixed wireless. BSNL [erstwhile DoT] had the option for quite some time [since 1997] of providing fixed line access through WLL (F) and they did not use this option. Therefore, the fixed line spread, which is being primarily done by the private service providers through fixed wireless, whether in the rural or urban areas has to be considered for ADC uniformly without discrimination and differentiation.

If ADC funding has to be considered for fixed wire line, then it has to be considered for WLL (F) line also. Provisioning of fixed wireless connection is as expensive if not more as fixed wire line connection in long term. Fixed wireless service can be provided only with fixed wireless terminals/phone. The FWT/FWP contain network interface unit with wireless antenna, which are an integral part of the network element without which the services cannot be provided. Historically, for estimating the cost of last mile, the cost of network elements for local access has never been excluded and it is more so in case of wireless phones. These wireless phones are not available in the market and need to be provided to the customer by fixed line operator within the same tariffs as fixed wire line. In view of these facts and those enumerated below, ADC should be given for WLL (F).

- FWT/P instruments are being provided to consumers at a highly subsidized price and customers are not required to purchase these phones. These FWT/P comprising of NIU, antenna and battery pack are not available freely in the open market and costs of FWT/P cannot be equated to a conventional wire line telephone instrument.
- Despite high instrument cost, the connectivity in small towns across the country are being provided at a monthly commitment level as low as Rs. 150. Connectivity is being provided where traditional wire line is unable to reach.
- Many of the PCOs installed by the private fixed line service providers are fixed wireless PCOs. A change in ADC regime will make this business unviable thereby leading to shutting down of many PCOs which are playing important role in generating employment and providing telecom access.
- Expenditure on establishing various POIs at the SDCA level to offer fixed line wireless service is high and same as fixed wire line as against mobile operators who have POIs at the LDCA level. Significant SDCA wise infrastructure expenditure has also been incurred to establish POPs.

If ADC is to continue, it must be allowed on WLL (F) services also. In fact, TRAI's ADC Regulations of 6th January 2005 are discriminatory in nature when ADC has

not been allowed for incoming calls to private operators on their fixed line services. We have given adequate justification above as to why TRAI's argument of differential treatment of costs for wireless access is fallacious. It is noteworthy to mention here that BSNL has been allowed ADC for incoming calls on its fixed wireless network while the same has been denied to private operators. Are network costs any different between private operators and BSNL for the fixed wireless access services being provided by them?

As regards admissibility of ADC on rural and urban lines it was clear view that no distinction is required to be made between rural and urban lines for ADC purpose, provided ADC is given to all fixed service providers.

2.7 If ADC is to be given for WLL (F) lines, what criteria should be determined with regard to the range of portability/mobility of WLL (F)'s subscriber terminal and the specifications of the subscriber terminal so that clear distinction can be made between WLL (F) and WLL (M)/ Mobile services?

Our members will individually respond to this issue.

2.8 Can we give a higher weight-age for ADC purposes for the fixed wire-lines that are operational in areas where tariffs are regulated?

The question is framed in such a manner that it seems to suggest that the Regulator is in full sympathy with the incumbent who has a high wire line presence in rural areas and thereby justifying its demand for continued ADC funding. AUSPI would like to state that any differential approach adopted is discriminatory and against the principles of fair competition.

TRAI should carry out a detailed analysis of costs after accounting for all the benefits that the incumbent has enjoyed due to the "social baggage" imposed on it as a Government operator and ascertain transparently whether any deficit actually exists. Prior to its corporatisation, there was near monopoly in rural areas, which still exists to a large extent. It is only very recent that private operators have ventured into rural markets, which is going to increase rapidly in times to come. In addition to this, the network of incumbent has depreciated significantly which also must be accounted for. The incumbent has enjoyed other benefits of license fee reimbursements, budgetary support, etc which is not forthcoming for private operators. Further, USF support also exists. All these must be examined to see what is the actual quantum of deficit.

It is AUSPI's strong belief that once all the above have been accounted for, there will be no justification for a differential treatment of wire line services for ADC funding in tariff regulated rural markets.

2.9 Whether ADC should be worked out based on the cost data of incumbent only or most efficient operator's data for fixed wire-line should be used?

AUSPI believes that if ADC is to be phased out eventually, ADC should be benchmarked against the most efficient operator's data for fixed wire line services. This will help in operator's striving to achieve lower costs rather than being

complacent with higher historical costs of the incumbent. The incumbent will also be incentivised to deploy latest technologies as is being witnessed in the case of USF disbursements. This would be the correct methodology to follow in a multi-operator scenario, which has been opened to competition. This mechanism will also help to lower or eliminate the ADC burden on the consumer who is actually paying through higher tariffs. The whole exercise of reviewing ADC is with the end objective of consumer interest to bring about more affordable tariffs that will lead to higher volumes and an overall growth.

A working of the cost data whether incumbent or for the most efficient operator should be uniformly applied across the board for determining the deficit.

Whatever cost data applicable, it should not be on the selective basis and should not be inconsistent in its use. It has been observed that TRAI has earlier admitted that capital cost funding of private operators are generally higher than that of BSNL (October 2003 Regulation).

In view of the above, AUSPI suggests consistency in the use of data and analysis and it should be uniformly applicable to all fixed line operators.

Questions from Chapter 3 for Consultation

3.1 With the substantial reductions in the ADC for international incoming /outgoing calls and in certain categories of domestic long distance calls as well as introduction of uniformity in ADC on domestic calls, do you feel the time has come for smooth transition for imposition of ADC on the basis of percentage of adjusted gross revenue of the operators?

ADC amount can be taken care from revenue share contribution of the operators, which include contribution to USO Fund. The revenue share proportions are as follows:

- 15% from the National Long Distance
- 6-10% depending on type of telecom circles from the access providers

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.

Therefore, ADC must be generated with the present level of revenue share already paid to the Government. Otherwise also, consumers should not be asked to pay twice for the same service. AUSPI would also like to state that the quantum of ADC required to be generated is not clear from the Consultation Paper. TRAI's earlier consultation paper had very clearly stated that the net deficit to be around Rs. 1400 crores whereas the regulation issued on 6th January, 2005, the amount was enhanced to Rs. 5400 crores without any valid reasons.

However, AUSPI suggests calculation of ADC amount should be correctly determined by TRAI and ADC, if required, be contributed in two ways viz. out of the percentage of revenue share from the mobile revenue and call-by-call basis from the ILD incoming calls apart from self generated ADC which the fixed line operators keep. Say 2-3% required to be collected from mobile revenue and rest from call-by-call basis from the ILD incoming calls.

As has been observed from TRAI's summary of ADC estimation for the period February 2005 to January 2006 in Table XXII [reproduced below for your ready reference] of the IUC Regulation of 6th January 2005, the contribution of ADC to BSNL is from mobile outgoing and ILD incoming other than self generated ADC by BSNL.

| Traffic Stream | BSNL Fixed | Non-BSNL Fixed (if no change after Consultation Process/ Review) | Total (if no change after Consultation Process/Review) |
|--|------------|--|--|
| Non-BSNL outgoing including ILD Outgoing | 0 | 715 | 715 |
| BSNL Outgoing including ILD Outgoing | 1650 | 0 | 1650 |
| Mobile Outgoing | 1205 | 0 | 1205 |

| | | | |
|--------------|------|-----|------|
| ILD Incoming | 2099 | 0 | 2099 |
| Total | 4954 | 715 | 5669 |

From the above table, it will be seen that the contribution from ILD incoming is the highest i.e. Rs. 2099 crores. Contribution from mobile outgoing amounts to Rs. 1205 crores. The ADC estimation clearly shows that barring ILD incoming, the mobile outgoing traffic stream of private service providers contribute ADC.

As observed above, taking into account the self generating ADC amount from fixed line outgoing calls, the remaining amount of ADC, if required, be collected as follows:

- As a basis of percentage of mobile outgoing calls.
- Call by call basis from ILD incoming calls.

3.2 What are the probable pros and cons of switching over to ADC regime based on revenue share? Also suggest as to who should be the recipient(s) of the ADC collected on revenue share basis?

Please refer to response at question No.3.1 above.

As stated earlier, ADC reimbursement has to be non-discriminatory. All the fixed line operators should be eligible for ADC. Only BSNL does not deserve to be supported with ADC as it would be anti-competitive, discriminatory and against consumer benefit.

3.3 If the answer to 3.1 is no, specify the period by which the existing per minute based ADC regime could be switched over to revenue share regime with reasons.

ADC is to be phased out immediately. There is no reason for its continuance with various aspects deliberated earlier.

TRAI's consultation paper on ADC regime of 23rd June 2004 stated the net deficit as Rs. 3436 / 1402 crores. However, surprisingly in the 6th January 2005 Regulation an enhanced amount of Rs. 5400 crores has been considered without any valid reasons. This is retrograde step against consumer interest and anti competitive. No operator should get undue advantage over others. In view of this, TRAI may consider doing away with ADC Regime instead of deliberating on the modality of ADC collection.

3.4 If Revenue Share regime for ADC is to be implemented, whether the percentages could be different for long distance and International long distance calls especially Incoming ILD calls?

Response at question 3.1 above may please be seen.

3.5 What could be other alternate options, say a fixed monthly ADC charge on all non-Rural lines covering all subscribers, please comment clearly taking account of any likely adverse effects?

AUSPI has clearly stated that ADC should be eliminated completely. The alternative option suggested in this question is not workable.

3.6 What could be a reasonable period by which ADC Regime could be part of USO Regime?

ADC regime is a subset of USO regime. Therefore efforts should be there by the Government to have full disbursal of collected USO fund in order to eliminate ADC regime immediately.

3.7 In case ADC is to be recovered as a percentage of Revenue, should it cover all type of services including ISPs, or should it exempt certain operators like niche operators or ISPs with annual revenue collections upto a defined threshold value?

Please refer to our response to question 3.1 above. ADC amount must be determined correctly and this be collected as proposed in our response above to question 3.1.

3.8 What other possibilities should be considered for funding ADC? Please answer with specific reference to the points raised in main paragraphs 3.2 to 3.4 of the Chapter, including the manner in which USO funds collected but not disbursed should be treated in estimation of ADC amount.

USO contribution should be considered for estimating ADC amount even if the USO fund collected or not disbursed for obvious reason of double / twice payment. If TRAI desires to continue ADC regime, then it should be only that amount which is not taken care of by USO contribution. **That means if as per the TRAI's estimated AGR collection is Rs.65000 crores [para 3.14 of the consultation paper on ADC regime dated 23rd June 2004] then the contribution amount by service providers are nearly Rs. 4000 crores per year and this amount should be taken into consideration while estimating ADC.**

Questions from Chapter 4 for Consultation

4.1 a) Should the carriage charges be made identical for all intra/ inter-circle calls?

b) Alternately, should there be an option of distance based carriage charge or identical value being left open for negotiation by NLDOs and Access Providers?

c) What would be the likely impact of the change, if any, on the tariffs?

(a) Yes. The carriage charge to be made identical for intra / inter circle calls in the proposed slab. The carriage charge for the proposed slab should be identical for intra circle calls as well as for inter circle calls i.e., it should be the same carriage charge, say up to 50 km in the intra circle as well as inter circle.

(b) AUSPI proposes 3 slabs for the carriage charge based on distance:

- Up to 50 km
- 50 to 200 km
- above 200 km

For the slab proposed, the present arrangement of negotiation as per the regulation is ok. It is suggested that the range available for negotiation be suitably increased from the present 10%.

(c) Tariffs would further fall once this regulatory freedom is given for the benefit of the consumer. Suitable checks and balances should be instituted to ensure long-term sustainability and effective competition so that the same is not endangered.

4.2 Should there be forbearance on carriage charges? If yes, should it be with ceiling or without ceiling?

There should be no forbearance on carriage charges. However, as proposed above, carriage charge need to be determined by the Authority for the 3 distance slabs and negotiation as per the present regulation be permitted with a suggestion that this range of negotiation (it is presently 10%) be suitably increased.

4.3 Whether the termination charges on international incoming calls should be left to Access Providers to be negotiated with the ILDOs? If yes, should the Regulator prescribe a ceiling?

The negotiation of the termination charge of international incoming call should not be left to the access providers. It should be clearly non-negotiable and on fixed rate.

TRAI supports this contention in its 6th January 2005 Regulation that for access providers to negotiate termination charge with ILDOs would not be appropriate.

4.4 Should there be any differences in the termination charges for Domestic and International Long Distance calls?

Since the cost based termination charges have been kept uniform for all types of network, in the interest of equitable treatment and level playing field, it will only be fair that this treatment should continue for termination charges for domestic and international long distance calls.

4.5 Whether there should be different termination charges for mobile and fixed line calls. In case charges are different, whether differential termination charges be allowed for Rural Lines?

No. For the sake of simplicity, cost, routing and implementation, there should be a uniform termination charge for all types of call and also for rural and urban calls. Selective increase of termination charge on any one type of network would be discriminatory and non-transparent since the termination charges today have been fixed uniform based on cost. As the cost based termination charge has been fixed for all types of networks (fixed and mobile) in the interest of equitable treatment and level playing field, there should be no differentiation in the termination charge for mobile and fixed line calls including for rural lines.

4.6 Should Revenue Share on Roaming charges be allowed for Roaming calls, both National and International or only on International call?

In the Interconnect Usage Charge regime, the revenue share of roaming charges is not included and therefore revenue share on roaming charges should not be allowed. This kind of revenue share should not be mandated by TRAI as it is felt that it is outside the purview of IUC. The issue primarily has been raised by TRAI recognizing the muscle power of the incumbent.

ANNEX

SOME INTERANTIONAL EXAMPLES [cf response to Q.2.5]

Cullen International, in its study on Universal Service in Accession countries for the EU (June 2001) points out that

There are 3 possible responses open to an administration to the existence of a large access deficit (AD):

- ? permit the incumbent to rebalance its prices;
- ? implement an access deficit contribution (ADC) scheme,
- ? maintain status quo. (Not possible where significant liberalization and competition exists)

While highlighting various problems associated with an ADC mechanism, it points out that the realistic way forward in terms of the long-run public benefit is to make attempts at tariff rebalancing rather than implementing ADC schemes since rebalancing improves allocative and dynamic efficiency (by removing the inefficient wedge between call costs and prices). The EU and other countries of the world have acknowledged this fact and the EC has mandated adoption of this approach for EU countries.

Problems associated with ADC

Numerous arguments are made by incumbents world over in favour of ADC schemes. However, they are found unconvincing. As pointed out by Cullen International, access deficit contribution (ADC) schemes are a problematic way of dealing with Access Deficit. They have several serious practical problems:

- ? They are conceptually complicated, and information intensive to design and operate.
- ? In practice ADC schemes will not adequately prevent by-pass of the rules, and will give rise to economic distortion and inefficient entry.
- ? ADC schemes do not address the problem of the under-supply of access, and actually tend to be a cause of the problems they are reputedly designed to solve.

Other issues with ADC schemes

The main problem with **ADC schemes** is that they **reward those who can avoid** (which is legal) **or evade** (which is illegal) **the pricing/payment rules that are the ADC scheme**. In dynamic markets like telecommunications, characterized by rapid technological development and convergence, some types of by-pass of ADC regulations cannot be prevented. ADCs will encourage the use of technologies that do not have to pay ADCs or pay ADCs only on one part of the service, such as can occur when a mix of packet and switched technologies are used in the service. Such an example might be voice over IP networks. The use of very small aperture terminals (VSAT), private networks, call-back and possibly off-peak transmission over cellular and fibre infrastructure owned or leased by mobile operators, all offer examples of ways the rules can be and are avoided.

The rationale for an ADC requires that interconnection prices inclusive of ADCs are calculated from a starting point that is the opportunity cost of the incumbent, - i.e. its retail prices. In this regard, **ADCs are said to avoid the need for tariff rebalancing**.

Arguably **the main fault with using interconnection as the point at which AD liabilities arise is that it works as a tax on an input, which will cause substitution**

away from that input where this is possible. Furthermore, liberalization tends to result in an increase in the growth rate of calls, and it is not clear how this should be dealt with in the design of an ADC scheme. Perhaps the ADC contribution per charge unit should be reduced below that indicated by current traffic levels and types, in accordance with forecasted traffic for the coming year.

Treating the AD issue as a compensation issue rather than a price signaling problem will provide for a level of double collection by the incumbent where a level of 'other' subsidies are maintained, i.e. cases where interconnection prices are not cost-based, international and long distance sectors are not thoroughly competitive, or an official universal service fund operates.

(In France, for example, the regulator ART saw the problem almost entirely as one of compensating France Telecom (FT). The ADC payment per minute to terminate a long distance call was the same as for a local call. There was no ADC charge on the originating part of a call, only on the terminating part. Among other things, such a scheme under-compensated FT for interconnection of a substitute long distance call carried part of the way by a competitor and terminated by FT, and over-compensated FT for low profit minutes such as local calls. **ADCs have now been abandoned in France.**)

Most importantly, where an operator is incurring an access deficit, this does not necessarily mean that the operator is incurring an overall loss in the provision of service. This is because where the **operator is supplying a range of services jointly**, (and where cross-subsidization is permitted) in order to fund the access deficit it will charge prices which are above costs for other services that are jointly consumed alongside access, such as long distance and international services. **(Source: <http://itu-coe.ofta.gov.hk/vtm/universal/faq/q10.htm>)**

Official subsidy schemes can end up as a significant check on new entry and investment in the industry. It is interesting to note that there were almost no official access subsidies during the period of rapid network growth in the USA. Significant (universal) access subsidies did not start until 1970, but by 1965 85% of US households were already connected (Mueller, 1997). Evidence suggests that in developing countries, growth in mainline numbers is positively associated with privatization and rebalancing.

With tariff reform, penetration rates are shown to be higher in both rural and urban areas. In urban areas this is due to: (i) prices being lower in urban areas than they would otherwise be if urban to rural cross-subsidies are retained, and (ii) because with the growth of rural subscription rates, **network benefits increase** (increasing demand), and **network utilisation is increased** (lowering costs).

Lastly, ADC schemes compel **all operators** in the market to make a contribution to the deficit in the access network thereby penalizing new operators at a time when they have to compete against the incumbent to garner more subscribers in order to achieve economies of scale and scope.

Sustainability of ADC schemes

[In Australia and France, the incumbent operator is fully integrated and is not free to adjust its prices as it would like, and in this case ADC charges need to be related to the incumbent's retail prices if interconnection prices are not to send substantially different price signals to different competitors. However, the French scheme is compensatory. (France Telecom recently ended this scheme following a period of rebalancing).]

Because of these problems many countries around the world are abandoning ADC schemes as a means of achieving universal access or universal service. These include the France, UK, Australia and various countries in the EU.

International Benchmarks

- **Australia**

In Australia, the regulator argued in the ACCC 2001 report that **reducing the access deficit has long-term benefit to consumers.** (REVIEW OF PRICE CONTROL ARRANGEMENTS: An ACCC Report", ACCC, February 2001)

Extract from the ACCC Report:

The long-term benefit to consumers will be enhanced by the removal of certain price control arrangements, as current arrangements may be inconsistent with the development of competition, efficient investment and consumer choice. The Government has implemented a range of pro-competitive structural and regulatory reforms in recent years aimed at increasing competition in telecommunications markets and providing an increase in the choice of services available to consumers. While price control arrangements can help protect consumers during the transition from monopoly to competition, there is also a danger they can inhibit the development of competition, efficient investment and the long-term benefits of consumers – especially if they are not implemented consistently with pro-competitive reforms. In this regard, analysis suggests that the sub-caps, which restrict the ability of Telstra to raise the price of line rental towards cost, have had significant impacts on the development of competition and the efficient operation of the access regime as a result of the consequent access deficit. For instance, the inclusion of an access deficit contribution in wholesale charges, which forces the price of some interconnection services above efficient levels, may be deterring investment that would otherwise be economic. Accordingly, the analysis finds that there is considerable scope for the price control arrangements to hamper the competitive developments expected to unfold over the next few years. Changes to the price control arrangements that will allow the price of services to begin moving closer towards costs are considered to be an extremely important objective for the next period of price control arrangements. This conclusion further supports the view that **sub-caps should be removed in order to give Telstra the incentive to efficiently restructure its prices** for price-controlled services. Further, the removal of the local call parity requirement also has the potential to unlock much larger longer-term dynamic efficiency gains

for consumers in all regions of Australia. In this regard, the Commission's analysis finds that the **removal of the local call parity requirement has the potential to enhance the development of desirable competition and efficient investment in the local call market in both rural and metropolitan parts of the country.**

On 17 June 2004, the Minister for Communications, Information Technology and the Arts, tabled the report of the Department of Communications, Information Technology and the Arts into the universal service obligation arrangements and the Customer Service Guarantee in Parliament. The following attachment is from the same report:

The ACCC decision to phase out the access deficit contribution and USO subsidy and funding arrangements:

A number of submissions point to the recent decision of the ACCC to phase out the access deficit contribution (ADC) component of interconnection charges as justification for Telstra absorbing USO costs.

An ADC was added to Telstra's public switched telephone network (PSTN) interconnection charges (also known as PSTN originating and terminating charges) because of the effect of retail price controls, which may have prevented Telstra from

efficiently recovering its line related costs from retail customers, resulting in an access deficit. Therefore, parties interconnecting with Telstra in supplying their retail services have had to contribute to affraying this deficit. The ADC has accounted for on average 45 per cent of the total interconnection charges considered reasonable by the ACCC. The ADC was based on the access deficit being allocated to calls and minutes on an equal basis (the 50:50 rule). Given that access seekers have shorter duration calls on average, the higher the proportion allocated to calls the higher the ADC amount paid by access seekers.

The ACCC recognized that the ADC would result in distortions to efficient access pricing, including in relation to the build-buy decision, but it was added largely based on concerns about possible long-term impacts of the access regime in a competitive market on Telstra's profitability and investment incentives.

Prior to this ACCC decision to phase out the charge, the implementation of a policy requiring Telstra to absorb USO costs would have resulted in the ACCC's 'model' interconnection charges rising overall by the extent of the subsidy amount currently received by Telstra. This is because the ACCC reduced the access deficit by the amount of USO payments made by other carriers to avoid double counting of the 'deficit'. This ACCC decision has therefore substantially increased the attractiveness of Telstra absorbing all USO costs for carriers that are making high payments to Telstra for interconnection services.

While ADC and USO funding concepts are different from one another, a number of the arguments relied on by the ACCC to support the removal of the ADC could apply equally to USO funding. The ACCC views about the capacity of Telstra to absorb costs, and effects on investment and retail pricing incentives for other carriers, are all relevant to decisions about future funding arrangements for USO costs.

The ACCC has carried out studies of the profitability of both Telstra as a whole and of the PSTN alone since 2000. This work included a 2001 study by Ovum and the commission's own PSTN profitability study. Based on this and other work, the ACCC concluded that Telstra had sufficient profit from the PSTN easily to cover even the highest estimate of the loss in revenue if the ADC was removed completely. (The ADC in 2001-02 represented about \$108 million or 0.57 cents per minute.) This conclusion about Telstra's capacity to absorb these costs would appear to also apply to the amount of the USO levy contributed by non-Telstra carriers (\$68.1 million in 2002-03). While Telstra now has a greater capacity to increase its line rental charges under the existing CPI+4% sub-cap, the ACCC decision to phase out the ADC was not dependent on the ability of Telstra to eliminate the ADC under the existing retail price control determination. Indeed, under current constraints, it is unlikely that Telstra has sufficient scope to do so within the current price cap period. Rather, the ACCC's decision on phasing out the ADC from interconnection charges was partly aimed at decoupling the ADC from the existence or otherwise of the access deficit. More fundamentally, **the decision to phase out the ADC was largely based on the need to ensure a much closer affinity between prices and underlying efficient costs** in order to address the adverse effects of distorting investment and retail pricing decisions of carriers.

Unlike the ADC situation, the universal service obligations are a statutory requirement that has been placed on Telstra. While Telstra has scope to reduce its costs in fulfilling the USO through efficiency improvements and to increase revenue in potential loss-making areas to the extent allowed by price cap regulation, it cannot remove the obligation without legislative change.

The access deficit concept may have supported an argument that access services could not be made to pay their way on a stand-alone basis under the rules at the time, and that interconnection charges needed to take that into account. Also that competition for

customer pre-selection would limit Telstra's financial ability to meet any shortfall between customer access network revenues and costs.

The ACCC's change in policy reflects its views about the overall profitability of the PSTN, notwithstanding any additional competitive pressures, but more importantly on its overall assessment that removal of the ADC would be in the long-term interests of end-users (LTIE).

Source: http://www.dcita.gov.au/Article/0,,0_1-2_1-3_143-4_119230,00.html

- **European Union**

The EU legislation prohibits the use of access deficit schemes after 1st January 2000 (<http://europa.eu.int/ISPO/infosoc/legreg/tcstatus.html>). The EC advocated a process of re-balancing due, in large part, to problems with the use of ADCs. In issuing its guidelines for the operation of USO schemes, the EC noted in an annexure the following problems with ADCs:

“In principle, access deficit schemes take the retail price structure (or the profitability of the various business areas) of the incumbent as the starting point for calculating the interconnection price, and allow a discount on these prices to give the price for interconnect for a particular type of call or service. The calculation is therefore top down, rather than a bottom up approach based on the actual costs incurred.

As a result any access deficit scheme will prevent effective competition from becoming established as competitors (entrants) will be forced to charge higher prices for those services, which contribute to the incumbent's access deficit. This type of interconnection pricing regime undermines the incentives for the incumbent to orient its prices towards cost. These effects distort investments within the industry and can only be considered as a temporary exception to the Treaty competition rules.

The EC reiterated these distortionary effects of ADCs, as well as noting the problems associated with administering ADCs, in its recommendations on interconnection:

“Access deficit contribution schemes always provide inefficient investment signals, and raise overall industry costs. They are also administratively cumbersome, and lack transparency.” (EC, *Report on Costing Universal Service Schemes*, COM (96) , 27.11.1996 at 608)

The EC interprets access deficit schemes as temporary arrangements to help transition to cost oriented tariffs (as required by the Full Competition Directive) that must be terminated before 1st January 2000.

Most EU countries (example Spain, Germany, Hungary) and countries like Jamaica after allowing sufficient leverage to the incumbents to rebalance their tariffs in order to make them cost-aligned, have discarded any payment of access deficit to the incumbents.

- **USA**

The USA does not have a formal ADC. The Carrier Common Line Charge (**CCLC**) and the Pre-subscribed Interexchange Carrier Charge (**PICC**) should not be mistaken to be an ADC since the CCLC and the PICC are designed to constitute part of a USO scheme. This was acknowledged by the FCC in its document:

Federal Communications Commission, "Sixth Report and Order in CC Docket Nos. 96-262 and 94-1 Report and Order in CC Docket No. 99-249 Eleventh Report and Order in CC Docket No. 96-45", May 2000, para 25.

The relevant paragraph is reproduced below:

"Recognizing the disruptive effects that competition would have on universal service support mechanisms developed in a monopoly environment, Congress instructed the Commission, after consultation with the Federal-State Joint Board on Universal Service (Joint Board), to establish specific, predictable, and sufficient mechanisms to preserve and advance universal service. Congress concluded that the support provided by these mechanisms "should be explicit and sufficient to achieve the purposes" of section 254, which include the purpose that all Americans should have access to telecommunications services at affordable and reasonably comparable rates. In response to this directive, the Commission has taken several actions to put in place universal service support mechanisms that will be sustainable in an increasingly competitive marketplace. These actions fall into three general categories: (1) reforming our existing universal service support mechanisms; (2) reforming our interstate access charge regime to identify implicit universal service support and to remove such implicit support from our interstate access charges, and (3) establishing new universal service mechanisms. In this Order we focus our efforts in these last two categories."

Nothing in the FCC's Report on reform of the USO regime can be taken in support of an ADC in addition to a USO scheme.

- **Canada**

In **Canada**, the CRTC does not advocate any ADC scheme in addition to its equivalent of the USO scheme. The CRTC decided that only those services in clearly defined high-cost areas are eligible for a contribution.

<http://www.crtc.gc.ca/archive/ENG/Decisions/2000/DT2000-745.htm>

The CRTC's decision criteria even on contribution (under USO) is determined by treating basic access as a joint product used in conjunction with other local services, and by deducting from the costs of providing basic access the implicit contribution made by these profitable services. In effect, the CRTC's regime does not seek to ensure that LECs are compensated for the total revenue shortfall. LECs are only compensated for the total revenue shortfall in certain high cost areas, and are compensated for a total revenue shortfall that is reduced to reflect the contribution of other telephony services to the costs of providing basic access.

On 30 November 2000, the Commission issued Decision CRTC [2000-745](#) (the Decision), introducing major changes to the Canadian contribution regime. In the Decision, the Commission decided that it would introduce a national contribution collection mechanism based upon revenues from all telecommunications service providers (TSPs), who meet the minimum threshold of \$10 million in Canadian Telecommunications Services Revenues (CTSR), and replaced the per-minute mechanism effective 1 January 2001. Contribution serves to subsidize the high cost of residential local telephone service in rural and remote areas. The revenue charge is set annually and is based upon the contribution-eligible revenues of the previous year. Monthly remittances based upon the previous month's actual revenues will be made to the Central Fund Administrator (CFA) and distributed to those TSPs serving high cost serving areas as determined by the CRTC.

- UK

In UK, Oftel found significant problems with ADCs:

*“The problems with ADCs were rehearsed in the December Document (**A Framework for Effective Competition**) – their basis in fully-allocated costs, their complexity of administration and the uncertainty they create in the market place. They have become a major source of uncertainty for those considering investing in the UK telecommunications market. . . . **To continue with ADCs would institutionalise a significant distortion of the market.**”*

Dec 1994-Oftel’s Consultative Document

In light of these problems, Oftel removed the constraint imposed by the price cap in order to remove any argument for the recovery of an ADC (circa 1996). In other words, Oftel did not decide to exclude an ADC on the basis that there was no access deficit, but removed the constraint on line rental charges, and thus the access deficit, specifically in order to overcome problems with the levying of an ADC.

Oftel recognised that there were significant advantages to the removal of the ADC:

“In considering changes to the present regime Oftel is concerned to ensure that interconnection charges better reflect how a business operating in a normal, competitive market would set its charges. Interconnection charges which provide the appropriate economic signals will promote efficient and sustainable competition in infrastructure and services and encourage effective, competitive pressures to reduce costs. Oftel also aims to reduce the complexities of current regulation. Without change these complexities will increase and so will uncertainties for firms considering investing in new infrastructure and services in the UK. Greater clarity in regulation is good for operators and for consumers too. Oftel made clear in the Consultative Document its strong preference for abolishing ADCs, for moving towards incremental costs as the basis for interconnection charging and for moving as far towards Option 4 [switching from systematic regulation to policing of the market through competition rules] as the extent of effective competition in the market would allow.”

Interestingly, even following the removal of the retail price cap, BT did not increase its line rental charges by the amount required to recover the access deficit that BT had claimed it incurred, which suggests that the access deficit was no deficit at all.

As Walden and Angel write: (Walden and Angel, *Telecommunications Law*, 2001, Blackstone Press: London, page 36.)

“. . . in 1996, BT’s licence was modified and the RPI – 2% line rental constraint was lifted, resulting in the access deficit being removed. It was envisaged that given BT had claimed for so long the efficiency of rebalancing, it would raise line rentals accordingly so as to collect the extra £1.5 billion to finance the ‘access deficit’. In practice, it did not increase them by the 80 per cent required to collect this extra amount. This, therefore, confirmed the viewpoint that it would not be in BT’s interests to make a large rebalancing price change; instead it would be better to price to maximise its long-term value and profit.”

Before Oftel decided to prevent the recovery of the access deficit through inflated access charges, Oftel exhibited reluctance to enforce the payment of an ADC by access seekers. During the period in which ADCs were accepted in principle, the Director-General of Telecommunications enjoyed discretion to waive the ADC subject to a set of rules regarding the market share of entrants. In 1994 and 1995, Oftel granted 35 separate ADC waivers to access seekers. As recognised in a paper by **Valletti** – the

effect of these waivers was that, even during the period that Ofcom supported the principle of the recovery of the access deficit through an ADC, the charge was paid for only a very few years and only **for international calls. (eg. Hong Kong)**

There is currently no ADC in the UK because the European Commission has stated that ADC would no longer be allowed after 1 January 2000, on the basis that liberalization process starting in 1998 should allow incumbent operators to adjust their prices. **Any continuing deficit would have to be funded exclusively by the incumbent's own services.**

- **Netherlands**

In early 1998, OPTA annulled the high access deficit charge levied by KPN on top of its rates for originating interconnection access by competitors. This decision induced KPN to request a 27% increase in monthly subscription charges, in return for equivalent reductions in all of its domestic call prices. OPTA was happy to approve such balanced tariffs (which we could not have ordered ourselves). This created the right investment signal for considering local facility-based competition, namely the cost-orientation of all elements of dominant telephone tariffs in the market. It stimulated competition from mobile networks right away.

Source: <http://www.idate.fr/an/publi/revu/num/n48/vallee.pdf>

- **Jamaica**

OFFICE OF UTILITIES REGULATION

Press Briefing on January 27, 2004

Presentation by J. Paul Morgan, Director General

*Some two weeks ago we issued a decision varying the price cap arrangement for C&WJ rates. This decision was delayed for nearly eighteen months due to court actions brought by Digicel to prevent the imposition of an access deficit charge. The access deficit arises from the fact that we have not hitherto allowed the full costs claimed by C&WJ for the line rental and installation – this being subsidized, in part by international revenues. In simple terms the access deficit charge is designed to provide a level of subsidy for the line rental. As a consequence of the then ongoing court action we were unable to take a decision at the time. In the meantime the settlement rates plummeted to a point that provided little or no room for the imposition of the ADC. Consequently we took a decision, two weeks ago to remove the constraint on the local prices (**in effect there is no ADC**) in the price cap. As a result C&WJ will have to make their own decision as to how they recover the cost of local services. Subsequently, the OUR has received a submission from the company that proposes increases in a mix of local services covered by the price cap. The OUR's task is really to determine that C&WJ has applied the price cap formula correctly and it is not an attempt at a general price review.*

- **ETNO documents** (The European Telecommunications Network Operators' Association)

RD01 (09/93) - ETNO Reflection Document on The Future of ONP

<http://www.etno.be/article.asp?ID=366>

Allowing competitive pricing freedom is the key to real market opening. If the period of unbalanced prices is allowed to continue for too long, it can lead to a pattern of segmented monopoly in which subsidised entrants supplant the incumbent in some markets but in which the incumbent remains a monopolist in markets where prices are "too low". In addition, an access deficit regime does not preclude uneconomic bypass of networks. To avoid problems, restrictions must be removed (perhaps over a period of time), on pricing and on the ability of operators to offer price packages which are focused

on particular markets, provided that those packages are not unduly discriminatory and do not involve inappropriate cross-subsidies

RD50 (01/97) - ETNO Reflection Document on the Commission Communication on Costing and Financing of Universal Service – COM (96)608

.2 In a competitive environment where there is price regulation and the operators are not free to rebalance their tariffs, then the access deficit does represent a genuine loss until the tariffs are rebalanced and a funding mechanism should be maintained to cover this loss.

International Communications Round Table Response to the 5th Implementation Report on the Telecommunications Regulatory Package

The International Communication Round Table (ICRT) is a broad grouping of 34 leading publishing, media, computer, and communications companies all of which are actively involved in developing products and services for the Information Society

(Feb 2000)

? In many member states, customers are still not being offered the possibility of fully rebalanced tariffs. In the continuing absence of rebalancing, the Commission must be vigilant to prevent the emergence of **local access deficit** contributions on interconnect rates.

http://www.icrt.org/pos_papers/2000/000211_OB.pdf.