(formerly ABTO)

AUSPI / 12 / 2004 / 128 15th July 2004

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 13/2004 dated 23rd June 2004 on Access Deficit Review.

Dear Sir,

We refer to the TRAI Consultation Paper on Access Deficit Review.

AUSPI is pleased to provide its response on the various issues raised in this Consultation Paper by TRAI. These are detailed out in our response which is enclosed herewith for your kind perusal.

We look forward to participation in the Open House Sessions and TRAI's favourable consideration of our views while finalizing its recommendations on Access Deficit Review. We would be pleased to provide any clarifications if necessary.

Thanking you,

Yours faithfully,

S C Khanna
Secretary General

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
Dr Harsha Vardhana Singh, Secretary-cum-Principal Advisor, TRAI
Shri R K Bhatnagar, Advisor (FN), TRAI
Shri M Kannan, Advisor (Eco), TRAI
Shri Rajendra Singh, Advisor (MN), TRAI

AUSPI RESPONSE TO TRAI CONSULTATION PAPER ON ACCESS DEFICIT REVIEW

Introduction:

TRAI has forborne tariffs for all access services in all areas except for rural areas. This has given all operators including BSNL, the regulatory freedom to alter their tariffs given the market dynamics. This policy is in line with the free market economics and fosters healthy competition.

In addition to the above, it must be remembered that BSNL is a profit making entity. Their claim on an access deficit is unsubstantiated, since they use a common network for provision of all kinds of services (i.e. their local network on which they claim they incur access deficit has not been isolated). They provide a multitude of services from the same facilities and hence generate huge surpluses. Therefore, it is essential that the incumbent's cost of local network only is separated if any meaningful estimates of ADC are to be arrived at.

The above, we believe would be key essentials, which must be kept in mind while we proceed to review the ADC.

1. **What may be the shortcomings of an ADC regime based on revenue share?**

At the outset itself, AUSPI (formerly ABTO) strongly believes that ADC is not required.

AUSPI has continuously held the view that BSNL has been a huge beneficiary of the existing ADC regime paid by private operators to BSNL on call-by-call basis. The TRAI's Consultation Paper confirms that ADC payments to BSNL in the past year of its implementation may have been to the tune of Rs 4,700 crores.

As submitted earlier, we would like to reiterate our position that BSNL has leveraged considerably on this huge amount it has received and is a direct beneficiary of. Earlier this year in the first quarter (March / April 2004), BSNL has offered extremely aggressive tariffs which are detrimental to its competitors who have ended up subsidizing the BSNL tariffs. BSNL as a consequence, has sharply reduced its long distance tariffs. NLD tariffs were reduced to Rs 3.60p / min from Rs 4.80p / min on the highest distance slab of > 500 kms across the country. Even intra-circle tariffs were reduced and the highest distance slab is now priced at Rs 1.80p / min. These steep reductions cannot be justified as a response to competitive market pressures since these were initiated by BSNL itself, without any reduction being announced by any of the private operators prior to their announcements.

In the interest of healthy growth of competition in the sector, we strongly recommend review of the ADC regime, since BSNL has been unfairly using these payments received to price its services way below sustainable levels. This would check unfair and anti-competitive practices of the incumbent.

In view of the above cited reasons, we reiterate our earlier submission that a separate ADC is not called for. AUSPI suggests that the current revenue share which includes USO contribution is adequate to cover any access deficit.

If this is implemented differently, through an additional charge outside the present revenue share, it would suffer from serious shortcomings which are enlisted below:

- Additional burden on service providers who would pass on the cost to the end customer resulting in tariff increases. A similar situation had cropped up when ADC was to be paid on a call-by-call basis resulting in tariff increases across the board.

- Tariff increase is against the principle of affordability which is the key factor that will drive growth.

- Slower uptake of services would affect revenue collections which in turn may affect USO, ADC collections since these are dependent on the revenue generated thereby affecting accessibility which is another objective of the Government's stated policy.

- All in all, teledensity will get adversely impacted and India's telecom growth will be stunted.

- Assuming the existing ballpark numbers for monthly ILD traffic as 300 million inbound ILD calls and 100 million outbound ILD calls the present ADC charge of Rs. 4.25 / min on ILD calls, it can be roughly estimated that the ILD business itself contributes Rs. 2040 Crs (i.e. around 38% of the total estimate for current ADC amount of Rs. 5,335 Crs).

- However, in the event of migration to revenue share based ADC regime, it can be clearly seen that the entire 100% load of estimated ADC will have to be borne only by domestic access providers. Although this regime may help Indian end consumers slightly in the form of lower tariffs for outgoing ILD calls, the greater benefit is being passed on to consumers outside India through the reduction of inter-operator settlement rates for incoming ILD calls. This in turn sharply increases the load on domestic consumers, since they have to bear the burden of paying for the ADC amount that today comes from inbound ILD calls.

AUSPI favours that present level of revenue share including USO contribution can sustain the ADC. Given the current levels of growth and the projected turnover of the industry which is estimated at Rs 65,000 crores last year, it is estimated that a sizeable amount in the range of Rs 3,000 - 3,500 crores can be collected from existing levels of revenue share payments to meet

ADC requirements. BSNL also receives benefit of Government Budgetary allocations, grants and reimbursements. Therefore, ADC must be generated from the present levels of revenue share already being paid to the Government.

2. Should the ADC funding under the proposed regime be provided only to BSNL or also to other Basic Service Operators? If so, what should be the criteria for selection of such operators, and how should the funding be achieved? Would it be reasonable to consider not funding the ADC for other Basic Service Operators but at the same time not charging from them for ADC also? Please give your reasons for your response.

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 about 3 million fixed lines in the country as of June ’04, 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 centres, 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.

(vi) **If ADC is to be given to BSNL only, then it is the strong view of AUSPI that this should be for their rural lines only which can be drawn out of the existing revenue share including USO contribution.** This is because in an open market where tariffs are under forbearance in urban and semi-urban areas, BSNL cannot claim compensation that they are having cost-minus operations. They have all the regulatory freedom to increase their tariffs but they choose not to. Therefore, ADC is justified only on cost-minus operations which are in a regulated tariff market which is only in the rural areas today.

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.

3. Please comment on the methodology and estimates of the ADC regime proposed in this paper. Please substantiate your response with factual information and any other basis that would imply a reconsideration of the proposal. If a suggestion is made for any amendment, please also propose an alternative for consideration of the Authority.

We do not subscribe to the view of any ADC being given to BSNL. As has been seen in the past, BSNL after receiving ADC slashes the tariffs of services and kills the competition. BSNL is a profit making unit and deserves no ADC.

The following are the **comments on the methodology and estimates of the ADC regime proposed by TRAI**:

- The size of the estimated access deficit of BSNL is much higher than the actual, if any.

- The methodology to estimate the ADC still continues to use historical costs of BSNL rather than forward looking costs. Most countries where ADC is prevailing follow the forward looking long run incremental costs to estimate the ADC. Historical costs do not necessarily reflect efficient estimate.

- Current business plans of BSNL should be examined to see what their projections are regarding their operations – costs, revenue generation, profits, etc. This will give a clear insight into how BSNL's expansion plans and how it is meeting its expenses. Therefore, TRAI through regulatory intervention must call for this vital data and instead of looking at historical costs, estimates of ADC must be arrived at by looking into the BSNL's business plans.

- There would be no access deficit if the incumbent's network is efficient.

- Efficient costs should be used to estimate if any access deficit exists.

In response dated 15th Dec, 2003 to various issues raised by BSNL concerning IUC regulation dated 29th October, 2003, TRAI observed "even after announcement of the new regime, BSNL has heavily slashed ILD rates, which raises questions about their stand of huge ADCs."

- BSNL is an integrated operator and it is not known whether the capital expenditure of BSNL considered by TRAI relates to access network only or not.

- TRAI opines a decline of the overall ARPU and considered a lower estimate of ARPU (Rs 525 per month) instead of the estimated overall ARPU (Rs 575 per month). With TRAI's higher rental estimate of Rs 200 per month, ARPU will increase and a higher ARPU should have been taken into account to estimate access deficit.

- BSNL offers GSM & CDMA mobile services. Data regarding separate costs incurred in setting up the mobile network is required to arrive at a correct estimate. Also, use of common infrastructure, building etc should be taken into account for allocating percentage of CAPEX for mobile services. No rationale is given for allocating 20% CAPEX for mobile services. We, therefore, consider allocation of 20% CAPEX for common use as low.

- Free of cost / concessional use of government / public funds by BSNL need to be considered and quantified and treated as compensation from government for calculation of net access deficit.

- Break up of Government compensation of Rs 870 crores arrived at by TRAI is not indicated.

- TRAI in its Consultation Paper while estimating the compensation BSNL has received from the Government has not accounted for the 4th Operator's entry fee which has been paid by all private operators except BSNL. This itself calls for an additional adjustment of ~ Rs 1600 crores, which will reduce access deficit estimates by this amount.

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