

SUGGESTED LICENSE AMENDMENTS WITH REGARD TO PROVISION OF INTERCONNECTION

Clause No.	Provision (with suggested amendments in trackchange)	Comments / Justification
26.	<u>Network Interconnection.</u>	
26.1	Interconnection between the networks of different SERVICE PROVIDERs shall be as per National Standards of CCS No.7 issued from time to time by Telecom Engineering Centre (TEC) and also subject to technical feasibility and technical integrity of the Networks and shall be within the overall framework of interconnection regulations, Decisions, Orders and Guidelines issued by the TRAI from time to time. However, if situation so arises, INTERCONNECTION with R2MF signaling may be permitted by LICENSOR.	
26.2	<p>I. The LICENSEE-shall enter into suitable arrangements with other service providers to negotiate Interconnection Agreements whereby the interconnected networks will provide the following:</p> <p>(a) To meet all reasonable demand for the transmission and reception of messages between the interconnected systems.</p> <p>(b) To establish and maintain such one or more Points of Interconnect, as are reasonably required and are of sufficient capacity and in sufficient numbers to enable transmission and reception of the messages by means of the Applicable Systems,</p> <p>(c) To connect, and keep connected, to their Applicable Systems.</p> <p>II. <u>All such interconnections, shall be provided:</u></p> <p>a. <u>under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like</u></p>	<p>These fundamental principles of interconnection are in line with the framework laid down by WTO and GATT</p>

	<p>services or for like services of non-affiliated service suppliers or for its own subsidiaries or other affiliates;</p> <p>b. in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and</p> <p>c. upon request, at points, in addition to the network termination points, offered to the majority of users, subject to charges that reflect the cost of construction of additional facilities.</p> <p>III. For the purposes of this License as also Interconnection Agreements between service providers;</p> <p>a. Interconnection seeker shall mean a later entrant (based on effective date of license) into the respective service segment for which Interconnection is being sought and the Interconnection Provider shall mean the existing operator who is providing the interconnection.</p> <p>b. The cost of network resources including the cost of upgrading/ modifying interconnecting networks to meet the service requirements of the LICENSEE will be paid for by the service provider seeking interconnection for a period of 2 years from the date when interconnection was first sought from the Interconnection Provider.</p> <p>c. After the expiry of the above said period of 2 years each Service Providers shall bear the incremental cost of Augmentation incurred to meet the requirement of their outgoing traffic as also the quality of service standards laid down by TRAI.</p> <p>d. With respect to existing Points of Interconnection where the</p>	<p>As networks grow, there is a need for operators to continuously upgrade /augment their capacity to deal with the increased traffic. However while existing provisions of license talk about mutual negotiations for sharing the costs of augmentation, the reality of the matter is that in the case of asymmetric market power the SMP operator is able to dictate terms and make the other service provider continue to pay for augmentation of interconnection. This is the reason why private operators bear their own costs for augmentation, In the case of incumbent SMP, the private operators continue to pay for ports and leased circuits even after a period of 11 years.</p>
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	<p>period of 2 years has already expired from the date of establishment of the interconnection both the Service Providers shall bear the cost of Augmentation to meet the requirement of their outgoing traffic</p>	<p>It is therefore important to define the period for which a licensee would be an interconnection seeker and also clearly lay down that after the expiry of the said period, the costs for interconnection would be shared between the interconnecting operator.</p> <p>The period of 2 years has been taken from the TRAI's RIO guidelines of 12 July 2002 which state that "Two years after the initial interconnection is established, the issue as to who bears the cost of additional resources required shall be negotiated between the service providers. The general principle followed in these negotiations is that each party should bear the incremental costs incurred for the additional ports required for meeting the QOS standards relating to its outgoing traffic to the other Party."</p>
26.2 (A)	<p>All Interconnection / Points of Interconnect (POI's) shall be provided/augmented by the Interconnection Provider within a period of 60 days from the date of the Interconnection Seeker applying for the POI/augmentation. In case of inability of Interconnection Provider to provide the POI/augmentation within the said period of 60 days for reasons of it not being technically feasible, the Interconnection Provider shall approach TRAI for extension of time at least 30 days before the expiry of the said 60 days period, with details of the reasons for such inability. The TRAI may in its sole discretion either grant or reject such request and if granted, TRAI may grant the same for such reasonable period as the facts of each case may demand.</p>	<p>Timely provision of interconnection / augmentation is a key requirement under WTO and is also important to ensure sustained growth as well as quality of service.</p> <p>At present the delays in the provision of interconnection occur both in the issue of the demand note and also in the provision of the E1 ports.</p> <p>The Hon'ble MoC in the recent India Telecom Summit in December 2006 announced that interconnection would be provided within 30 days of all applicable payments being made.</p> <p>In addition the interconnection agreements signed by the operators already provide that the intimation of the acceptance of the application will be given within a period of 30 days of the application being made and if no intimation is received within 30 days, the same should be treated as accepted. However this provision is not being</p>

		<p>complied with. Inclusion of this as a license term will give TRAI enforcement powers in this regard and will ensure timely provision of interconnection facilities.</p> <p>The provision of 60 days from date of application will cover both the above requirements.</p>
26.3	The provision of any equipment and its installation for the purpose of Interconnection shall depend on the mutual agreement of the concerned parties.	
26.4	The Interconnection Tests subject to orders/regulations/direction of TRAI/Licensor, for each and every interface with any Service provider shall be carried out by mutual arrangement between the LICENSEE and the other party involved. The Interconnection Tests schedule shall be mutually agreed. Adequate time, not less than 30 days, will be given by the LICENSEE for these tests. On successful completion of interconnection tests or on mutual agreement between service providers for rectification of deficiencies / deviations, if any, the LICENSEE can commence the SERVICE. In case of disagreement for rectification of deficiencies / deviations in conducted interconnection tests, prior approval of LICENSOR shall be required.	
26.5	It shall be mandatory for the LICENSEE to provide interconnection to all eligible Telecom Service Providers as well as NLD Operators whereby the subscribers could have a free choice to make inter-circle/ international long distance calls through any NLD/ ILD Operator. For international long distance call, the LICENSEE shall normally access International Long Distance Operator's network through National Long Distance Operator's network subject to fulfillment of any Guidelines/ Orders/ Directions/ Regulation issued from time to time by Licensor/ TRAI. The LICENSEE shall not refuse to interconnect with the International Long Distance Licensee directly in situations where ILD Gateway Switches/ Point of Presence (POP), and that of Access Provider's (GMSC/ Transit Switch) are	

	located at the same station of Level -I TAX . The Licencee shall be entitled to choose between Private NLDO's or Public sector NLDO's for terminating their Intra-circle traffic on the terminating Access Providers Network.	<p>This amendment will bring competition into the intra circle long distance segment.</p> <p>At present the incumbent SMP is in a monopoly position for terminating calls on its network at the SDCA level and is thus able to charge a premium for this service.</p> <p>Private NLDOs who also have POIs at the SDC level should be allowed to take intra circle Cell to PSTN calls and carry them to the SDCA for handover to BSNL.</p> <p>Introduction of competition in this segment will reduce the charges for this leg which will be in consumer interest.</p>
26.6	Direct interconnectivity among all Telecom Service Providers in the licensed SERVICE AREA shall be mandatory except in exceptional circumstances where both parties mutually feel that such direct connectivity is not warranted. LICENSEE shall interconnect with other Service Providers, subject to compliance of prevailing regulations, directions or determinations issued by TRAI. The interconnection shall have to be withdrawn in case of termination of the respective licensed networks of another Telecom service providers within one hour or within such time as directed by the LICENSOR in writing, after receiving intimation from the LICENSOR in this regard.	<p>This provision is desirable in consumer interest.</p> <p>In the present case where direct connectivity is only 'permissible' it is used as a way to delay or deny direct connectivity. There have been instances where operators have been made to sign one-sided addenda to their interconnect agreements with the incumbent SMP operator in order to establish direct connectivity.</p> <p>The caveat "except in exceptional circumstances" is necessary because there may be cases where the costs entailed in establishing direct connectivity are not justified by the traffic patterns at the initial stage of the launch of the service. But it is important to note that both parties must agree that direct connectivity is not warranted.</p>
26.7	Point of Inter-connection (POI) between the networks shall be governed by Guidelines/ Orders/ Directions/ Regulation issued from time to time by Licensor/ TRAI.	
26.8	LICENSEE will work out suitable regular interconnect billing	

	arrangements with other licensed service providers in the respective Interconnect Agreements with them. Interconnect billing arrangements between networks shall be governed by Guidelines/Orders/Directions/Regulations issued from time to time by licensor/TRAI.	
26.9	1. Notwithstanding anything contained in this Licence or in any Interconnect Agreement between Service Providers each and all mutually negotiated terms of Interconnection shall be subject to and within the overall parameters of the Interconnect Regulations / Directions / Decisions/ Orders/Guidelines of TRAI and in case of conflict between the two the TRAI's Regulations / Directions / Decisions/Guidelines shall prevail.	<p>While on one hand interconnection has been made mandatory for the Licensees, various provisions of the License Agreement refer both i.e. to the service provider mutually negotiating the terms of interconnectivity and also to the connectivity being within the overall framework of interconnection regulations issued by the TRAI from time to time and compliance with the TRAI's Regulations.</p> <p>Please refer to highlighted portions of Clauses 26.1; 26.2; 26.3; 26.4; 26.5; 26.6; 26.7; 27.1; 27.2 & 27.3</p> <p>This reference to both mutual agreement and compliance with TRAI's Regulations has given rise to interpretative controversies and disputes</p> <p>Introduction of Clause 26.9 will provide clarity in respect of interconnection,</p>
26.10	<p>1. A Service Provider with significant market power shall be required to publish, within 90 days of this amendment, a Reference Interconnect Offer (RIO) describing, inter-alia, the technical and commercial conditions for interconnection based on the model RIO and guidelines issued by TRAI and as modified by TRAI from time to time, with the prior written approval of TRAI, including amendments thereto. The RIO so published by the Service Provider shall form the basis for all Interconnection Agreements to be executed hereafter.</p> <p>2. The existing Interconnect Agreements shall stand modified to fall in line with the model RIO approved by the TRAI.</p>	<p>It must be appreciated that it is very difficult for individual private operators to negotiate with the incumbent operators like MTNL / BSNL. Thus while in theory the emphasis is on mutual negotiations, in actual fact, this results in a unilateral prescription of terms and conditions on a take it or leave it basis by incumbent SMP operator.</p> <p>It is thus very important for new /small operators to be assured of interconnection on the basic terms & conditions as laid down / approved by the TRAI.</p> <p>Thus while parties may negotiate to better the terms of</p>

	<p>3. A published RIO may be changed only with the prior written approval of TRAI. Interconnection Agreements are required to be entered into by and between all Service Providers based on the RIOs so published, provided, however, that by mutual agreement the two parties concerned i.e. the Interconnection Provider and the Interconnection Seeker may modify and/or add to the terms and conditions stipulated in the published RIO for entering into an Individualised Agreement. However, if the parties fail to agree to mutually acceptable terms within a period of 90 days from the commencement of the process of negotiation, the so published RIO shall be deemed to have been executed as the Interconnect Agreement between the parties.</p> <p>4. A Service Provider shall be deemed to have significant market power if it holds a share of 30% of total activity in a licensed telecommunication service area. These Services are categorized as Basic Service, Cellular Mobile Service, National Long Distance Service and International Long Distance Service.</p> <p>"Activity" would mean and include any one or more of the following:</p> <p>(a) Subscriber base (b) Turnover (c) Switching Capacity (d) Volume of Traffic</p>	<p>interconnection, the RIO as approved by TRAI should form the basic minimum interconnection terms & conditions guaranteed to an operator</p> <p>This is the standard definition adopted for SMP</p>
26.11	<p>Subject to TRAI's Regulations / Directions / Decisions/ Orders/Guidelines, all Interconnection charges including but not limited to Interest on delayed payments, provision and amounts of Bank Guarantees, charges for Co locating equipment, etc, shall be on Reciprocal basis.</p>	<p>The principles of reciprocity have been repeatedly upheld by the Hon'ble TDSAT.</p> <p>However, this principle is still not being followed by incumbent SMP operator and private operators are often constrained to enter into one sided agreements in order to ensure interconnection /augmentation.</p> <p>Introduction of this provision in the license will give TRAI</p>

		enforcement powers and will ensure equitable treatment and level playing field.
26.12	No Service Provider shall disconnect one or more Points of Interconnect without providing a prior written notice of at least 21 working days, during which period the concerned Service Providers shall make all attempts to mutually settle the dispute.	
27	<u>Interface</u>	
27.1	The LICENSEE shall operate and maintain the licensed Network conforming to Quality of Service standards to be mutually agreed in respect of Network- Network Interface subject to such other directions as LICENSOR or TRAI may give from time to time. Failure on part of LICENSEE or his franchisee to adhere to the QUALITY OF SERVICE stipulations by TRAI and network to network interface standards of TEC may be treated as breach of Licence terms. For the purpose of providing the SERVICE, the LICENSEE shall install his own equipment so as to be compatible with other service providers' equipment to which the LICENSEE's Applicable Systems are intended for interconnection. The LICENSEE shall be solely responsible for attending to claims and damages arising out of his operations.	
27.2	The charges for accessing other networks for inter-network calls shall be based on mutual agreements between the service providers conforming to the Orders/Regulations/Guidelines issued by the TRAI from time to time.	
27.3		Has been dealt with under Clause 26.2