

Telecom Regulatory Authority of India
Notification
New Delhi, the 23rd February 2006

No.409-5-2005-FN

In exercise of the powers conferred upon it under section 36 read with paragraphs (ii), (iii) and (iv) of clause (b) of sub-section (1) of Section 11 of the Telecom Regulatory Authority of India Act, 1997, the Telecom Regulatory Authority of India hereby makes the following regulation to further amend the Telecommunication Interconnection Usage Charges Regulation, 2003 (4 of 2003), namely:-

1. Short title, extent and commencement:
 - (i) This Regulation shall be called “The Telecommunication Interconnection Usage Charges (Sixth Amendment) Regulation (1 of 2006)”
 - (ii) This Regulation shall come into force with effect from 1st March, 2006

2. In Schedule II of the Telecommunication Interconnection Usage Charges Regulation, 2003 (4 of 2003) -
 - (i) the following entries shall substitute the existing entries relating to paragraph (a), namely:-

“(a) Carriage charges for Long Distance calls within India

Table – I
(Amount in Rupees per minute)

Carriage charges per minute for Long Distance Calls within India	As per mutual agreement between the service providers subject to a ceiling of Rupees 0.65 per minute irrespective of the distance.
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(ii) The following entries shall substitute the existing entries relating to paragraph (b) under the heading 'Notes to Schedule II' of the Telecommunication Usage Charges Regulation, 2003 (4 of 2003), namely:-

“The Carrier, as shown in Table II, would collect the applicable amounts for carriage and termination charge from the Originating Service Provider for various type of calls. The Carrier would pass on the termination charge for terminating the traffic to the Terminating Service Provider as per Schedule-I.”

3. In Schedule III of The Telecommunication Interconnection Usage Charges Regulation, 2003 (4 of 2003), the following entries shall substitute the existing entries relating to paragraphs 3.1 and 3.2, respectively:-

“3.1 The Access Deficit Charges for International Outgoing and Incoming Calls shall be as per Table III.

Table III
Access Deficit Charge for International Long Distance Calls

Sl.No.	Type of Call	ADC per minute (in rupees)	ADC to be paid to / retained by
1.	All Outgoing ILD calls originated from Fixed wireline subscribers.	Rs.0.80	To be retained by originating Fixed wireline Service Provider.
2.	All Outgoing ILD calls originated from Cellular Mobile / Wireless including WLL (F) subscribers	Rs.0.80	To be paid to BSNL by originating access provider through ILDO
3.	All Incoming ILD calls	Rs.1.60	To be paid to BSNL by ILDO or NLDO

3.2 ADC as a percentage of Revenue.

3.2.1 In addition to the payment of ADC on international outgoing and incoming calls in terms of Clause 3.1, all licensees of Unified Access Service, Cellular Mobile Telephone Service, National Long Distance Service and International Long Distance Service and Basic Service Operators shall pay

1.5% of their Adjusted Gross Revenue as ADC to the BSNL. BSNL shall retain ADC chargeable as percentage of its Adjusted Gross Revenue.

Provided that if a service provider has Unified Access Service License/Basic Service Licence, it shall retain ADC as percentage of Adjusted Gross Revenue of Fixed wireline subscribers and the balance shall be paid to the BSNL. MTNL shall also retain ADC as percentage of Adjusted Gross Revenue for its Fixed Wireline subscribers and shall pay the balance to BSNL.

3.2.2. For calculating ADC , Adjusted Gross Revenue shall have the same meaning as given in the respective licences;

PROVIDED that in calculating the ADC as a percentage of Adjusted Gross Revenue (AGR) of a Universal Access Service Licensee/Basic Service Operator, the revenue from rural subscribers shall be excluded.

3.2.3 Adjusted Gross Revenue of Fixed Wireline subscribers for purpose of retention of ADC shall be calculated as given in Table IV.

Table IV

Calculation of AGR for Fixed Wireline Subscribers for retention of ADC

S.No	Particulars	Amount in rupees
	Revenue from Fixed Wireline subscribers:	
	(i) Rentals	
	(ii) Call revenue within service area	
	(iii) National LONG DISTANCE CALL revenue	
	(iv) International LONG DISTANCE CALL revenue	
	(v) Pass thru revenue for usage of other networks	

	<p>(vi) Service tax</p> <p>(vii) Service charges</p> <p>(viii) Charges on account of any other value added services, Supplementary Services etc.</p> <p>(ix) Any other income / miscellaneous receipt from Fixed Wireline subscribers.</p> <p>(x) Revenue from other OPERATORS on account of pass through call charges on fixed wireline subscribers</p> <p>(xi) Any other revenue for provisioning of Fixed Wireline subscribers</p>	
A	GROSS REVENUE from Fixed Wireline Subscribers	
	<p>DEDUCT:</p> <p>1. Charges actually paid to other SERVICE PROVIDER for Fixed Wireline subscribers</p> <p>2. Service Tax paid to the Government on Fixed wireline subscribers</p> <p>3. Sales Tax paid to the Government on Fixed Wireline subscribers</p> <p>4. Revenue from Rural subscribers.</p>	

B	TOTAL DEDUCTIBLE REVENUE	
C	ADJUSTED GROSS REVENUE for Fixed Wireline Service on which ADC retention is admissible (A-B)	

3.2.4 Since this Regulation shall come into force with effect from 1st March, 2006, therefore, after payment of ADC in terms of percentage of AGR up to 31-3-2006, the subsequent payments shall be on quarterly basis so that it matches with the payments of annual licence fee. The ADC to be paid on the basis of revenue share between 1st March, 2006 and 31st March, 2006 shall be determined on the pro-rata basis of Adjusted Gross Revenue for the last quarter of year 2005-2006.

4. In Section (V) of the Telecommunication Interconnection Usage Charges Regulation, 2003 (4 of 2003), in Regulation 5, after paragraph (iii) and the entries relating thereto, the following paragraphs and entries relating thereto shall be inserted, namely:- .

“iv. Each service provider shall report to the Authority on quarterly basis, the ADC retained by it, wherever applicable, and also ADC paid by it to BSNL. In addition, BSNL shall report, on quarterly basis, ADC payments received by it from each operator. This shall include both the components of ADC, namely ADC paid in the form of percentage of Adjusted Gross Revenue and ADC on per minute basis for international incoming and outgoing calls. This quarterly report shall reach the Authority within 30 days of the end of the previous quarter.”

5. In Section VI of the Telecommunication Interconnection Usage Charges Regulation, 2003 (4 of 2003), in Regulation 6, the following paragraphs and entries relating thereto shall substitute the existing paragraphs and entries relating thereto:-

- “(i) The Authority may, from time to time, review and modify interconnection Usage Charge and Access Deficit Charge.”
- (ii) “The Authority may also at any time, suo-motu, or on the basis of reported information in terms of clause (iv) of Regulation (5) above or on reference from any affected party, and for good and sufficient reasons, review and modify any Interconnection Usage Charge and Access Deficit Charge.”

6. **Explanatory Memorandum**

This Regulation contains at Annex A, and explanatory memorandum to provide clarity and transparency to matters covered under this Regulation.

BY ORDER

[RAJENDRA SINGH]
Secretary

ANNEX "A"

EXPLANATORY MEMORANDUM

I. Introduction

1. TRAI in its Regulation of 24th January, 2003 had put in place an IUC & ADC Regime which included origination, carriage and termination charges as well as the access deficit charges to cover the access deficit arising due to access tariffs being below costs. This Regime was reviewed in TRAI's Regulation of 29th October, 2003 and further amended vide Notification of 6th January, 2005. The Authority had enunciated this framework to promote lower domestic prices and give a greater impetus to subscriber growth. The subsequent growth in subscriber base and the fall in call charges has confirmed this stand. The monthly growth in mobile subscribers' base in India, has been among the highest and various Government policy decisions, regulatory initiatives and the competition have mainly contributed significantly to such growth. The number of mobile subscribers in the last five years are given in the table below :-

Table-1 : Annual Growth of Mobile Subscribers

Financial Year	No. of subscribers (in million)
March, 2002	6.54
March, 2003	13.00
March, 2004	33.69
March, 2005	52.22
December, 2005	75.92
January, 2006	81.00

2. The exceptional growth in Mobile subscriber base has resulted in substantial change in the situation which existed at the time of determining the ADC regime notified in the Regulation of 6th January 2005. In its Regulation dated January 6, 2005, the Authority had

examined the possibility of implementation of ADC recovery in terms of percentage of revenue of the service providers (Para-50 to 54 of Explanatory Memorandum). Due to its adverse impact on local calls tariffs and implementation problems discussed therein, the Authority at that time had decided to continue with per minute charging of ADC. The Authority considered that various issues including implementation of revenue share ADC Regime, review of carriage charge and termination charge could be addressed through a consultative process. The Authority in its above referred Regulations had mentioned that there is an overlap between the disbursed USO Fund and the ADC amount due. It had further proposed to address in the next Consultation Paper, the greater application of the Forward Looking Long Run Incremental Costs(FLLRIC) for ADC computation in the face of greater use of newer and less expensive technologies. It had noted the need to account for factors such as the net effect of depreciation in the gross CAPEX and allocation of costs to non-fixed line items, which are likely to decrease the overall costs per subscriber over time. Thus, the Authority has conducted another review of IUC / ADC based on its consultation paper of 17th March 2005. which addresses a wide range of issues including:-

- a. Justification of ADC on Fixed Wireless Lines and admissibility of ADC for non-BSNL Fixed Line Operators.
- b. ADC as Percentage of Revenue, and its various variants including mixed models, higher ADC on NLD and ILD calls etc.
- c. Interconnection Usage Charges (Carriage and Termination issues) including those for Incoming International calls, and whether to have differential termination charges for National and International long distance calls.
- d. Implications of increasing disbursement of USO Fund on the quantum of ADC payable.

The Authority had also noted that the disbursement from USO Fund in the last 3 years has been much less than the collection and at the end of 2004-05 the balance amount in USO Fund is Rs.5439 crore. The Authority had expected that the balance by end of year 2010 would be of the order of Rs.25,000 crore. This is indicated in the table given below:-

Table - 2: Collection and disbursement of USOF

Collection and Disbursement of USOF			
(Rs. in Crore)			
Financial Year	Collection	Disbursement	Balance
2002-03	1653.61	300	1353.61
2003-04	2143.22	200	3296.83
2004-05	3457.73	1314.58	5439.98
Total	7254.56	1814.58	5439.98
2005-10	37541	17936.80	25044.2

Note :

1. Figures for 2005-10 are based on projections
2. Growth in fixed service revenue – 10% p.a.
3. Mobile Growth to reach 20 crore by 31.3.2008. Therefore, mobile growth assessed at 10 crore by 31.3.2006 and 15 crore by 31.3.2007.
4. Projection for the year 2008-10 is 25% on absolute revenue of fixed and mobile services.

(Source: TRAI's Recommendation on Rural Telecom :Table 1.2)

Further DoT in USOF Guidelines have indicated that for household DELs installed prior to 1st April, 2002, the difference in rental actually charged from rural subscribers and rent prescribed by TRAI for such subscribers shall be reimbursed until such time the Access Deficit Charge (ADC) prescribed by TRAI from time to time take into account such difference. It is also noted that the Authority is not regulating fixed line tariffs in urban areas but only the rental, free call allowance and local call charges in rural areas are regulated by the Authority. It implies that after liberalisation of long distance services in the country, the Authority is giving sufficient time and opportunity to rebalance the tariff to various operators so that the cross subsidy between long distance charges and rental, etc. is minimized. In case, operators are not doing tariff rebalancing or if they are doing reverse tariff rebalance, i.e. they are reducing the rental and in turn increasing the long distance charges then the Authority is of the opinion that due to such action of the operators the ADC regime cannot continue in perpetuity. Keeping all these factors in mind, the Authority did not go into detailed calculations of admissibility of ADC but reduced it in such a way that the ADC Regime is ultimately merged with USO regime from the year 2008-09 onwards and accordingly estimated the ADC payable to BSNL and other fixed line operators including MTNL for the year 2006-07. The Authority had expressed the similar opinion in its IUC Regulation dated October

29, 2003 (para-24 of the Explanatory Memorandum) and also in its January 6, 2005 IUC Regulation (Para-25 of the Explanatory Memorandum).

3. The Authority would submit suitable recommendations to Government on this issue so that finally USO Regime takes care of support on account of ADC also.
4. The new regime notified in this Regulation takes into account all the inputs provided during the consultation process, which in a number of cases involved different stakeholders giving diametrically opposite views on certain issues. The responses to the Consultation Paper have been put in the TRAI's website (www.traigov.in). The revised IUC / ADC regime has been worked out with a view to allowing larger benefits to the Indian consumers and rapid growth of telecom services.
5. The Authority in its Regulation dated 6th January, 2005 had observed that the revised ADC regime should also be seen in the context of the overall policy framework being developed by the Authority for improving the availability of modern communication services across the country, with a special focus on rural areas. At that time mobile network were covering only around 20% of the population which is around 35% now. Still the mobile operators have to complete substantial rollout of their networks in rural areas. This is shown in the table below:-

**Table- 3 : Present Coverage of Mobile Networks
(Population Coverage around 35%)**

	By area	Population Coverage
Towns	~ 2000 out of 5200	~200 Million
Rural areas	Negligible	Negligible
Proposed Network Coverage by 2006; operators plan (Population Coverage 75%)		
	By Area	Population Coverage
Towns	~4900 out of 5200	~ 300 Million
Rural areas	~350,000 out of 607,000 villages	~450 Million

6. As the coverage of service increases to include a larger area in the country, the contribution of lower domestic tariffs becomes crucial for

expanding subscriber base and providing the benefits of accessible communications service to our population in general. **The Authority is of the view that to provide a sustain boost to subscriber growth and teledensity while the operators cover more interior areas with lesser purchasing power, the prevailing tariff levels may have to go down further.**

7. In specifying its 6th January 2005 Regulation, the Authority had given particular emphasis to provide a strong basis for further decrease in domestic charges and death of distance. Relevant paragraph from the explanatory memorandum is reproduced below:

“Para-7 : In specifying its revised ADC regime, the Authority has given particular emphasis to provide a strong basis for a further decrease in domestic prices and boosting subscriber growth, as well as to pave the way towards as much similarity in long distance charges as possible (i.e. working towards a “death of distance” which the technological change is bringing about). Thus, the Authority expects that the regime notified under this Regulation will be followed by a competitive market response resulting in a reduction in call charges, which in turn should add to the subscriber growth and greater availability of telecom services.”

In this IUC / ADC regime the Authority has again given particular emphasis to provide a strong basis for a further decrease in domestic prices and boosting subscriber growth, as well as to pave the way towards death of distance. Thus, the Authority expects that the regime notified under this Regulation will be followed by consumer-friendly different tariff packages and will boost the subscriber growth further.

8. The Authority in its January, 2005 Regulation had noted that the large increase in mobile subscriber base will also provide a substantial increase in traffic minutes which will lead to increased AGR. Further, this increase in AGR, to a significant extent, will be external to BSNL, i.e. the ADC funded by the BSNL itself will increasingly become a smaller portion. The Authority had also noted that if ADC is funded through a revenue share regime then this would lead to a lower percentage of revenue share imposed for funding of ADC. As already stated earlier by the Authority, the ADC

Regime will ultimately merge with the USO Regime. *(Para-8 of Explanatory Memorandum of January, 2005 Regulation)*

9. The Authority had already suggested in IUC Regulation of 29th October, 2003 (para-89) that funding of ADC on a percentage of annual revenue of the operator could be an alternative option as also that it could become part of USO. In most countries, funding of access deficit has been merged with the universal service obligation (USO) program.

“Para -89 : Since this was only a review exercise of the IUC/ ADC regime notified in January 2003, the Authority has not undertaken any structural changes in the estimation methodology for ADC. Periodic (annual) ADC calculations based on audited results of all service providers are being proposed. The next exercise would consider changes in the ADC regime. In the subsequent years, the Authority would review both the size of the ADC payments as well as who should be the beneficiaries of the ADC regime. It may even consider funding ADC based on a percentage of the Annual Revenues of the operators. Further, the ADC regime should ideally be merged with the USO regime over time, say in about 3 to 5 years. This will also help implement the scheme in terms of a revenue share, and will further reduce any competitive distortions that may be introduced by loading the ADC regime on the minutes of use. However, such a regime can only be introduced after consultations with the Government, which the Authority would initiate. In the post-Accounting Separation scenario, the Authority would also be better equipped for Forward Looking Proxy Models. “

10. The Authority also observed that data required for per minute regime is detailed and problems are being faced in reconciliation on this account. It has been reported that reconciliation issues also arise on account of the fact that whether a particular service qualifies for recovery of ADC or not and that verification of the information on such services is very difficult. Above observations suggest that it would be useful to evolve a simpler method of collecting ADC which does not involve distance based and call based ADC, and may also be subject to easier verification. In fact, the Authority had realised the problem of reconciliation and non-simplicity of the minute based regime in its consultation paper dated 23rd June 2004 and proposed ADC regime based on revenue share. The Authority's decision on

this issue finds a place in explanatory memorandum to the Regulation of 6th January 2005. Relevant paragraph from the explanatory memorandum is reproduced below:

“Para-51: In moving to the ADC regime based on revenue share, a crucial factor is the large transition that would be required if the ADC amount charged per minute for the international calls is converted into a revenue share. At present, this amount is Rs. 4.25 per minute. The transition will become easier if the corresponding ADC per minute amount is lower and can be distributed more easily on a larger base of minutes and revenues that will generate ADC funds. Over time, this will become possible as the increase in subscriber base results in much larger number of minutes that generate the ADC funds, and as the ADC amounts themselves decrease due to the reasons mentioned in the previous section. This would help us to avoid the “large transition” that would be presently required, and the Authority could consider moving to a revenue share regime with the ADC per minute charge for ILD calls being substantially below the Rs.4.25 presently in place.”

11. In the prevailing competitive scenario a revenue share regime would give a much greater flexibility to the operator to come forward with different packages than being bound by a fixed per minute charge on specific types of calls. Also, calculation and payment of ADC would become much easier since the service provider already makes payments for his license fee on the basis of the revenue share.
12. The Authority in its Regulation dated 29th October, 2003 had not treated other fixed line operators at par with BSNL because under that Regime only BSNL received the ADC from mobile-to-mobile calls and international calls to/from mobile. Further, in January, 2005 Regime also BSNL received ADC on all incoming international calls and all outgoing calls from mobile subscribers. The Authority even at that time felt that there is a good basis for this dissimilar treatment if one takes into account of the lower costs of access involved with fixed line with wireless terminals and the spread of subscribers in urban and rural areas. Please see the table below :-

