Predictability & transparency in governance

TRAI derails the 'Digital India' dream as investors question Modi's pledge to Obama

MANOJ KUMAR | JANUARY 28, 2015

As the curtains come down of one of the best Republic Days ceremonials in 65 years, focus shifts to the way forwards. Prime minister Modi's promises of large scale reforms to make 'doing business' in India simple alongside making governance transparent & predictable have been welcomed by Obama and the America Inc. contingent, being wooed by Modi to buy-in into the 'Make In India' initiative of the Modi administration.

Truly, a CEO style functioning of the top administration has shown its advantages of speed, delivery, accountability and communications with the masses.

However, is the time bomb ticking on pockets of percieved discretion who are acting converse to the tone and direction set by Modi, as discussed above.

Lets take the example of the Telecom sector. Interconnection Usage Charges (IUC), commonly understood as a charge payable by the call originating telecom operator to the terminating telecom operator. Telecom Regulatory Authority of India (TRAI), which is the authority to fix the IUC, is busy flip flopping on the issue and keeping stakeholders on their toes, for reasons unknown.

The IUC for local calls from mobile to mobile had been initially fixed at 40 paise per minute in 2003 and thereafter had been reduced to the present 20 paise per minute since 2009. This 20 paise was determined on the basis of a methodology of Fully Allocated Cost (FAC).

Present IUC Regime in India

At present, India has a relatively high ratio of IUC to retail price, at 40 per cent, compared to less than 10 per cent in the UK and less than 1 per cent in China. It is obvious that retail prices will drop if Mobile Ttermination Charge (MTC) is eliminated.

High termination rates are basically anti competitive and harmful to consumer interest. Thus being exploited by incumbent operators to subsidize on-net traffic is leading to discriminatory practices and non-level playing field for new entrants. This is also one of the main handle being usd by existing operators to slow pace entry of new operators into the market.

Ultimately, the consumer has to suffer.

Author

Manoj Kumar
Kumar is the founder and managing partner of Hammurabi & Solomon, and visiting fellow with the Observer Research Foundation at New Delhi.
manoj.kumar@hammurabisolomon.com

In Other Stories

Predictability & transparency in governance
Curtains down for planning commission but challenges remain
Legacy of justice VR Krishna Iyer
SEBI pushes reforms on insider trading & de-listing of shares
India, US and WTO
New rules of land acquisition law: a primer
Real estate bill: to reform or to regulate?
Tehelka: why apology won`t do
Bansal and witness to a farce
Needed: legal framework for CBI

Facebook

TRAI Recommendations on IUC in 2011

In 2011, TRAI had published a consultation paper on IUC and thereafter filed its recommendations in an affidavit in the Hon Supreme Court in October 2011 following detailed consultations and public hearings.

In the 2011 Affidavit TRAI had recommended to reduce the IUC to 10 p in 2012 and thereafter to zero in 2 years upon being convinced that the IUC should be reduced over a period of time to zero – also known as 'Bill and Keep regime'.

TRAI had listed out numerous advantages of lower IUC and Bill and Keep regime i.e (i) improved capacity utilization leading to lower telecom tariffs (ii) generally in the interests of consumers, (iv) IUC acts as a barrier for reducing tariff . If IUC is removed there will be tariff innovations leading to lower tariffs. Over 3 years later, the recommendations are yet to be implemented, though stakeholders have been looking out for the roll-out.

Why it is important for India to reduce IUC to zero and move to Bill and Keep Regime

A mobile telecom operator sets up a network for acquiring new customers who originate calls from his network. Therefore a business plan of an operator has to be based on the income from tariff for calls originated from his network. It cannot be based on income from call terminations. It is only because IUC is prevalent that now existing operators are crying hoarse over reduction of IUC. But an unbiased opinion would be that there is no place for IUC, had the consumer and stakeholders interest found a place in the sheme of things.

IUC acts as a barrier to competition as new operators will be reluctant to set up networks, and thus reluctant to enter the market.

Much to the detriment of consumer interest, IUC acts as a barrier to reduction in Tariffs. Lets take the example of one such operator 'V-Mobile' as a test case : V-Mobile in one of its plans offers a tariff of 30 paise per minute for V-Mobile – V-Mobile calls and 45 paise per minute for calls to any other operator. The tariff is 15 paise more only because V-Mobile has to pay IUC to the terminating operator. In both the cases network utilisation of V-Mobile is same. Ironically, demands by some existing operators for increasing IUC to 35 paise per minute is sure to raise the tariff from 45 paise per minute to 60 paise per minute.

It is therefore clear that on net calls (that is calls which originate and terminate in the same operator network) are priced less than off net calls (that is calls originating in one operator network and terminating in another operator network). This is the effect of IUC and will hamper competion which is anti-consumer. It creates an artificial barier for new entrants into the market.

A clear example of benefits of non IUC regime is that of dta services. Data usage and traffic is increasing multifold. There is no IUC anywhere in the world for data traffic termination. Voice when carried in Internet Protocol (IP) mode is also data and therefore benefits in net pricing for consumers. IP based voice calls are being increasingly used as a result of no IUC.

Unlike in India where the IUC is static since year 2009, IUC has fallen rapidly over the last 10 years due to determined efforts by the regulators. Especially Europe has witnessed a significant decline in MTRs at a CAGR of 30.6 % (-ve) over the last five years. (2009-14)
A large number of countries worldwide have already moved to a pure Long RUN Incremental Cost LRIC model, with an envisaged glide path to "Bill and Keep" regime

The Fully Allocated Cost (FAC) method, which is being implemented in India, has become out dated and being used only in few countries like Finland, Brazil. Regulators have realised non-sustainability of MTC based on these historical methods and therefore globally there is clear shift away from FAC.

It is also worth mentioning the fact that TRAI itself had decided abolishing MTC completely in 2 years time from year 2012 and now when the world is understanding the benefits and following suit, there can be no justification for India to reconsider its stand.

There are sound economic reasons which necessitate the need to move towards a 'Bill and Keep' interconnect regime namely

- Compatible with new technological innovations and emerging technologies like IP networks
- Necessary for Convergence of telecom and is the most supportive IUC regime to ensure that targets of Digital India programme will be met

In This Section

- Most Emailed
- Most Popular
- Most Commented

Fragility of regulatory reform...

Mixed signals from Indian economy...

Union Budget: A comedy of errors...

An open application to Prannoy Roy for post o...

- Will arrest the increase in prices and will ensure further lowering of telecom tariff in India due to greater retail pricing flexibility with Operators under BAK and increased competiton
- Will promote technology neutrality since this regime will not provide benefit to any particular technology
- Will make new investment in Telecom non-prohibitive, more and more new players can enter the market and ensure more benefits to rural India

The Current IUC regime is not compatible with the technological evolutions / IP based networks – BAK is the only option for future proofing. The advent of new technologies & diminishing boundaries between networks question the need for interconnect charges that are currently levied.

Traditional distinction between fixed and mobile voice services, and between voice and data services, are likely to become less relevant in the future. The growing and universal trend towards IP based networks further makes the existing interconnect regime irrelevant. Extending regulations from circuit switched networks to IP networks is not a rational approach as cost drivers in these next generation networks will be bits/s and not minutes. The future IP based networks will necessitate a need to establish" bill and keep".

Voice will be delivered in the data packets in an IP Network and there cannot be any termnation charges in a data network. Realising these benefits there has been a relentless trend globally towards lowering of termination rates nearing to zero

Therefore, in the interest of the telecom industry, its stakeholders and consumer, IUC has to be done away with to achieve the Bill & keep Regime.

TRAI U-TURN in 2014

Even before implementing its existing recommendations and sitting on them for over 3 years, TRAI, has now filed another consultation paper in the Supreme Court with its Affidavit of 2014 reversing its recommendations leaving stakeholders at a complete loss on transparency and predictability of regulations and rule of law.

TRAI has not just stopped here to shake the foundations of transparency & predictability in governance, it seems to have gone way beyond, in as much as:

- No stakeholder consultations or public hearings have been done to seek inputs for any change;
- Stakeholders have been caught complete unaware of a new impending regime, without even a right to be heard, as in the past;
- Has not even disclosed any deliberations at any board meeting approving the change in recommendations concerning IUC regime;
- Has not even bothered to explain reasons for changing its recommendations i.e whether the earlier recommendations were wrong, and if so – how. In fact, it merely mentions that in November 2011 recommendations were submitted to the Supreme Court, not a word beyond this.
- Sets out a case that views of TRAI can change simply upon the change of its Chair, in complete disregard to due process of law;

It is incumbent upon our regulators such as TRAI fuction within the realms of due process of law and in the present case to forthwith disclose the following to allow transparency and predictability in governance to prevail :

(a) the minutes of Board meeting in which TRAI took the decision to issue a fresh consultation paper;
(b) all the internal notes evidencing the reasons due to which it was decided to discard the earlier recommendations.

Any blatant departure from due process of law and governance will shake the very confidence of stakeholders and consumers, let alone overseas investors to whom Prime Minister Modi has been trying to woo for the past 6 months to invest in India under the 'make In India' Initiative.

Apart from this, the credibility of regulatory bodies such as TRAI would come down in the eyes of consumers and the motive and rationale for unilaterally issuing new consultation paper will be in question. I sincerely hope, the TRAI will rise to the occasion and not allow such damage to be done so that the credibility of TRAI itself, remains in tact by corrective action.

'Digital India' and truly empowering rural India

The Government of India has launched "Digital India" – A programme to transform India into a digitally empowered society and knowledge economy. Under this initiative, government is aiming that every Indian will have a smartphone by 2019 and to use mobile as delivery mechanism to offer one stop shop for all governmental schemes. The programme has key focus on Broadband highways, mobile connectivity, e-governance and public internet access.

The single unifying factor that can help in achieving these goals is the holistic deployment and ubiquitous access of Information and communication technologies (ICT) as worldwide ICTs are reshaping many aspects of the world's economies, governments, and societies.

The backbone for ICTs is all pervasive broadband, which is not only ubiquitously available but also affordable. Once the affordable broadband is accessible all across the country, the accessibility to ICTs will follow suit.

The IP based networks have the potential to give a considerable impetus to broadband proliferation. The IP based networks will help the telecom service provider to converge their network infrastructures, provide huge bandwidth, consolidate terminating traffic and reduce costs in general.

The IP based networks primarily connect on the principle of free peering and there are no interconnection charges in IP networks that can connect globally without any need of interconnection. These networks will necessarily be under a Bill and Keep regime with Zero IUC.

In view of the above, it is obvious that to attain the laudable goals of Digital India and truly empower rural India the Bill and Keep regime for IUC should be adopted. This would also be in line with Hon'ble Prime Minister's express philosophy of Minimum Government but Maximum Governance. It would not only help galvanise the telecom sector but also bring the fruits of Digital India to the rural India.

Irrespective of TRAI's actions, questions remain to be answered from the perspective of stakeholders and consumers alike, whether:

- Any review is at all required - of the earlier 2011 recommendation of TRAI to reduce the IUC to 10 paise per minute and to Zero (that is a Bill and Keep regime) in two years; and
- If the answer to the above is yes, then to consider how either of (a) keeping the IUC at the same levels or (b) increase the same would benefit the consumers and stakeholders;
- If the answer to (i) is no, then whether the 2011 recommendations should not be implemented forthwith.

Be it from the:

- consumer's perspective
- stakeholders perspective
- cometition or level playing filed perspective
- global trends prespective
- overseas investor confidence perspective
- transparency & predictability perspective

The answer is only one - India should move to Bill and Keep Regime.

Stakeholders, both within India nd outside are looking up to us – to take the right decisions and instill investor confidence in having a governance that is transparent and predictable.

manoj.kumar@hammurabisolomon.com

Comments