

Telecom Hotline

May 29, 2008

GOVERNMENT MAY OPEN UP INTERNET TELEPHONY

On May 12, 2008 the Telecom Regulatory Authority of India¹ ("TRAI") issued a consultation paper on Issues related to Internet Telephony ("Consultation Paper"). Various stakeholders were asked to give their comments on various issues raised in the Consultation Paper by June 9, 2008.

INTRODUCTION

"IP" is an abbreviation for Internet Protocol. There are two major categories for voice transmission over IP networks based on type of IP network used. (1) When voice is transmitted over public Internet, it is termed as Internet Telephony or IP Telephony. (2) When voice is transmitted over managed IP networks, it is termed as Voice over IP or VoIP.

THE REGULATORY REGIME

The New Telecom Policy 1999 ("NTP 99") envisaged that all technologies should be equally permitted for the benefit of consumers. However with regard to Internet telephony, Clause 3.2 of the NTP 99 states "*Internet Telephony shall not be permitted at this stage. However, the government will continue to monitor the technological innovations and their impact on national development and review this issue at an appropriate time.*"

As Internet telephony started gaining popularity, the Government allowed Internet Service Providers ("ISPs") to offer Internet telephony services with effect from April 2002. The then existing ISPs were permitted to offer Internet telephony services only after signing the amended ISP license agreement called Internet Service Provider (including Internet telephony) license. Initially Internet telephony was permitted only in a limited way, as there were restrictions on the type of technology and devices which could be used to offer Internet telephony services. Further, ISPs were permitted to provide Internet telephony services through public Internet by use of Personal Computer (PC) or IP based Customer Premises Equipments (CPE) connecting the following:

1. PC to PC within or outside India
2. PC in India to telephone outside India
3. IP based H.323/ SIP terminal directly connected to ISP node to similar terminals within or outside India.

Apart from the above, ISPs were not permitted to have interconnection with Public Switched Telephone Network ("PSTN") or Public Land Mobile Network ("PLMN") exchanges to provide Internet telephony within India, i.e. ISPs were not allowed to make calls to fixed line and mobile subscribers as they were not permitted to have interconnection with these networks to terminate Internet telephony calls within India.

Basic Service Operators ("BSO"), Unified Access Service Providers ("UASP") and Cellular Mobile Service Providers ("CMSP") were subsequently permitted to provide Internet telephony in March 2006. Based on TRAI recommendations, Government modified ISP licensing guidelines on August 24, 2007 and new license agreement was issued by the Department of Telecommunications² ("DoT") in October 2007. Accordingly, all ISPs were permitted to provide Internet telephony. Further, a subscriber was allowed to use a PC/a device/an Adapter conforming to the standards of any international agencies like the International Telecommunication Union ("ITU"), Internet Engineering Task Force ("IETF"), etc to dial PSTN/PLMN abroad. However, ISPs were not permitted to have interconnection with PSTN/PLMN exchanges to provide Internet telephony within India.

BSO, UASP and CMSP did not commence provision of Internet telephony services due to ambiguity in the term 'Internet telephony' as it was not defined in respective licenses resulting in further uncertainty in the scope of the service. On April 9, 2008 the DoT defined Internet telephony as "Internet Telephony" means "Transfer of message(s) including voice signal(s) through public Internet". However, the rollout of Internet telephony services by UASP/CMSP did not pickup for want of clarity in the scope of Internet Telephony in their license till recently.

The above ambiguity and the demand from the ISPs to permit them to offer Internet telephony in the National Long Distance ("NLD") sector as well as they be permitted to call PSTN/PLMN in India has necessitated a re-examination of the whole issue for provision of Internet telephony services. Hence TRAI came up with the Consultation Paper to identify the impediments for provision of Internet telephony to PSTN/ PLMN within India and create conducive regulatory framework.

SALIENT FEATURES OF THE CONSULTATION PAPER

- Connectivity between PC and PSTN and PLMN (fixed and mobile phones) to be now allowed.
- ISPs will be allowed to offer NLD services themselves and they need not obtain a specific NLD license from the DoT as was required earlier.

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The Consultation Paper, while seeking industry view on whether Internet telephony should be permitted between ISPs and landline and mobile phones in India, has also sought responses to some other questions such as following:

- Is there any concern and limitation to facilitate lawful interception and monitoring while providing Internet telephony services within India?
- Is it desirable to mandate emergency number dialing facilities to access emergency numbers using Internet telephony?
- What should be the numbering scheme for the Internet telephony provider?
- What will be the Quality of Services (QoS) that will be required to provide Internet telephony services?

ANALYSIS

Liberalizing of Internet telephony further and permitting ISPs to connect with landline and mobile phones has various advantages. It will certainly lower telecom tariffs (both national and international calls) further especially when Indian telecom subscribers already enjoy one of the lowest tariffs in the world. This will further act as a catalyst in boosting broadband penetration in the country. Other benefits include convergence of networks, introduction of user-friendly devices, improved voice quality and reduced cost of services.

On the other hand, banning ISPs to interconnect with PSTN/PLMN networks will restrict technological innovation. Further not permitting Internet telephony services under one single license will raise the issue of non-level playing field due to different regulatory levies and will further lead to ambiguity in the scope thereof.

India is one of the world's fastest growing telecom markets and it continues to be amongst the world's lowest telecom tariff destinations. Worldwide, the regulatory trends are supporting introduction of technological advancements, technological neutrality and competition in the telecom sector. India is already witnessing a convergence era. Albeit late, the Indian Government finally seems to have comprehended the need to further liberalize the Internet telephony sector. **Prerak Hora**³ feels that that once the DoT agrees to liberalize the Internet telephony sector, more and more service providers will join the race to offer Internet telephony services which will certainly lead to increased competition, increased employment, increased innovation and lower tariffs (both national & international) which will ultimately benefit the end user at large and thereby help in reducing the digital divide.

Various stakeholders are expected to comment on TRAI's Consultation Paper over the next few days. The comments will then be sent to the DoT who will take a final call on whether to open up the Internet telephony sector or not.

- Telecom Practice Team

[1] TRAI is the regulatory authority which issues from time to time a large number of regulations, orders and directives for the evolution of the Indian telecom market.

[2] DoT is the licensing authority set up under the Ministry of Communications & Information Technology which issues various telecom licenses and approvals.

[3] **Prerak Hora** is a member of the telecom practice at **Nishith Desai Associates**.

Sources:

- **The Economic Times** dated May 13, 2008
- **TRAI Consultation paper on Issues related to Internet Telephony**

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