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File No. 903-2/2012-MS

Dated:- 16th April, 2012

To,

The Secretary
Department of Telecommunications
Sanchar Bhawan
New Delhi-110001

Sir,

Sub: TRAI's Recommendations on Guidelines for Unified Licence/Class Licence and Migration of existing Licences. – regarding.

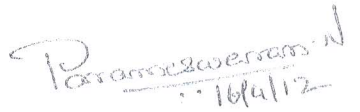
Ref:- DoT's letter no. 20-281/2010-AS-I(Vol-II)(Pt) dated 10th Oct. 2011

DoT vide its letter referred above had requested TRAI to recommend the Unified Licence guidelines including, interalia, recommendations on First Come First Serve (FCFS), entry/eligibility conditions, validity period, PBG, FBG etc. TRAI was also requested to recommend modalities & guidelines for enabling existing UAS/CMTS/ISP/NLD/ILD/GMPCS licensees including IP-I providers to migrate to National/Service Area level Unified Licence.

2. In this regard, TRAI issued the Draft Guidelines for Unified Licence/Class Licence and Migration of Existing Licences on 10.02.2012 for the comments of the stakeholders.

3. Based on the analysis of the comments received from the stakeholders and its own analysis, the Authority has finalised its recommendations which are enclosed herewith.
4. In keeping with the practice, a copy of this letter, along with enclosures, is being placed on the website of TRAI www.trai.gov.in
5. This letter issues with the approval of the Authority.

Yours faithfully,


N. Parameswaran

(N. Parameswaran)

Secretary-in Charge

Encl: as above



Telecom Regulatory Authority of India
(IS/ISO 9001-2008 Certified Organisation)



Recommendations on
Guidelines for Unified Licence/Class Licence
and
Migration of Existing Licences

New Delhi 16th April, 2012

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Chapter-I

Background

1. TRAI in its recommendation on “Spectrum Management and Licensing Framework” dated 11th May 2010 had recommended that all future licences should be Unified Licences and that spectrum be delinked from the licence. Presently in India, there is a service specific licensing regime in the sense that apart from access service licence, there are separate licences for different telecom services viz NLD, ILD, VSAT, IP-1, ISP, GMPCS, PMRTS etc. For offering different types of telecom services the service providers are required to obtain different licences. In view of the fact that the convergence of markets and technologies is forcing realignment of the industry and is blurring the distinction between different networks and services, the Authority recommended that the current licensing framework should be replaced by a new Unified Licensing regime as below:
 - a. Unified licence covering UASL/CMTS, NLD, ILD, Internet, IP-I and GMPCS;
 - b. Class licence covering VSAT services;
 - c. Licensing through Authorisation covering PMRTS, Radio Paging and Voice Mail/Audio Tex/Unified Messaging Service; and
 - d. Broadcasting licences.
2. DoT vide its letter dated 10th October 2011, requested TRAI to recommend the Unified Licence guidelines including, inter alia, recommendations on entry/eligibility, PBG, FBG etc. TRAI was also requested to recommend modalities & guidelines for enabling existing UAS/CMTS/ISP/NLD/ILD /GMPCS licensees including IP-I providers to migrate to National/Service Area level Unified Licence.

3. TRAI, vide its letter dated 03rd November 2011 had informed DoT that it is separately drawing up the detailed conditions of a Unified licence and shall furnish the guidelines through an appropriate consultation process.
4. The draft guidelines for Unified and Class Licence were placed on TRAI website on 16th January 2012, for comments of stakeholders. Subsequently, the draft guidelines for migration of existing Licences to the Unified licensing Regime were also prepared. While framing the guidelines for migration, the draft guidelines for Unified and Class Licence and issues raised therein also underwent some modification. Therefore, a comprehensive document consisting of the draft guidelines for Unified/Class Licence and migration of existing Licences were placed by TRAI on its website on 10th February 2012 for the comments of the stakeholders. **(Annexure)**
5. In response to the draft guidelines, comments were received from 36 stakeholders. Chapter II deals with the various issues raised by the stakeholders.

Chapter-II

Guidelines for Unified Licensing Regime

A. Framework of Unified and Class Licence

- 2.1. In the framework of Unified Licence, it was proposed that there shall be three levels of Unified Licence; National level, Service area level and District level. Some of the stakeholders, mainly the access service providers, expressed reservations against the provision of District level Unified Licence. They felt that this would lead to excessive fragmentation as well as problems in monitoring and enforcement. These stakeholders argued that looking at the large number of Districts, such licenses would be difficult to administer in terms of allocation of resources by the licensor like Number Series allocation, Signalling Point Code (SPC) allocation etc. According to them, the District level license is likely to pose interconnection issues with other District/Service area/National level licenses. In their opinion, the viability of business case for a licensee at District level is also expected to be difficult and they pointed out that it was for these reasons that the district level licensing for ISP services which was earlier introduced as Cat 'C' ISP licence, had been abolished. One of the stakeholders contended that the District area Unified Licence may have to be introduced with utmost care to restrain 'fly-by-night' entities from taking the licence and getting away with the customers' money by closing down the services at random.
- 2.2. The Authority has carefully analysed the concerns. As regards the risk of excessive fragmentation, this has not been elaborated by the stakeholders. This issue can be looked at in terms of spectrum and other physical network resources. As far as spectrum is concerned, the issue of fragmentation may not arise as there is no spectrum involved in district level licences. Other physical network resources, in any case, are planned for district and even sub-district level so there is no issue of fragmentation here as well.

- 2.3. Interconnection is another area where some of the stakeholders have shown some apprehension. In case of district level operation provision of interconnection may look complex but is not intractable. If one visualises interconnection of each district level network with a large number of service providers to route inter-district calls then the system may seem to be complicated and expensive. However, the problem can be solved by transiting traffic through other operators with national presence or circle wide presence under an enabling regulatory regime then the problem ceases to exist.
- 2.4. From the point of view of allocation of numbering resources, it may be mentioned that in its recommendations made on 20.8.2010, TRAI has already recommended ways to enhance numbering resources to cater for 40 years or more without going to 11 digit plan for mobile services. The numbering scheme is already SDCA based. Allocation of numbering sub-series and appropriate depth of analysis would take care of numbering resources.
- 2.5. The desirability of introduction of the district level licence has to be seen in the overall context of the development of telecommunications in India and what the country aspires to achieve. The rural-urban telecom divide is a worrisome reality that needs to be tackled. While we can credit ourselves for the impressive performance in achieving about 950 million voice connections riding on a high growth rate of cellular mobile services, the distribution of these is definitely not something to take pride in. Only about half of these connections are in rural areas which account for 72% of the total population. At about 38%, the rural teledensity remains just about one fifth of the urban teledensity of 169%. Rural-urban gap in terms of last mile connectivity is in some ways akin to dearth of roads, power, water, sanitation system and health management. It creates a divide where, compared to urban areas, rural areas have little or no telecommunication facilities. At best many rural areas may just have a shared community phone.

- 2.6. Given the lack of telecom facilities and the importance of their development, providing telecommunications to the rural areas and bridging the urban-rural divide has been the objective of the Government for long. Taking strong cognisance of this, in its May 2010 recommendations on “Spectrum Management and Licencing Framework” the Authority noted that the existing roll out obligations were very lenient and urban centric. The service providers were mandated to provide coverage only in the district headquarters or major towns as a result of which, even 15 years after the introduction of mobile service in the country, the rural teledensity was low. Concerned with the prevailing situation the Authority recommended imposition of rural rollout obligations with a system of penalties and rewards for ensuring compliance.
- 2.7. Besides the gap in basic telecom facilities, a huge digital divide exists between rural and urban areas. This limits the capability of population in the deprived regions in using the information and communications technologies like the Broadband for a wide variety of activities. Like railroads and highways, broadband accelerates the velocity of commerce, reducing the costs of distance. Like electricity, it creates a platform for creativity to lead in developing better ways. Like telephony and broadcasting, it expands our ability to communicate, inform and entertain. It creates infrastructure for industrial growth, social development, new business opportunities, increased employment and infotainment. Broadband is a platform to create high performance country-wide facilities like health care, education, energy, job training, civic engagement, government performance and public safety. Despite these advantages there are still critical issues that slow the progress of availability, adoption and utilization of broadband.

- 2.8. A number of studies have shown why countries have to strive to bridge the “digital divide”. Eggleston et al (2002)¹ show how telecommunication infrastructure can create a “digital provide” by making markets efficient through information dissemination to isolated local residents and improve the living standards of the world’s poor, which in turn accelerates growth. A 2009 study by management consultants, Booz & Company found that “10% higher broadband penetration in a specific year is correlated with 1.5% greater labour productivity growth over the following five years.” McKinsey & Company estimates that “a 10% increase in broadband household penetration delivers a boost to a country’s GDP that ranges from 0.1 percent to 1.4 percent.”
- 2.9. In view of the documented importance of growth of broadband, it is of concern to note that India has just about 13.54 million Broadband connections at the end of February 2012 as against the target of 20 million broadband subscribers by 2010, set by the Broadband Policy 2004 and 75 million by 2012 as envisaged in the TRAI recommendations on the National Broadband Plan. Broadband penetration in India is low despite the fact that 154 service providers are providing broadband services. The net broadband addition per month is just 0.1 to 0.2 million in contrast to 10 million mobile connections per month. The broadband penetration is just about 1.15%. Presently most of the broadband proliferation is taking place in the urban areas with only about 5% of the total broadband connections being in rural areas.
- 2.10. The Authority is of the opinion that the slow growth of broadband in the country is primarily due to inadequate infrastructure for providing broadband both in rural and urban areas. Broadband connections can be provided through wireline or wireless technologies. At present about 85.12% of total broadband connections in India are through Digital Subscriber Line (DSL) technologies over copper pairs, which are limited in

¹ Eggleston, K., Jensen, R. and Zeckhauser, R. (2002) Information and Communication Technologies, Markets and Economic Development, in: Kirkman, G. (Eds.) The Global Information Technology Report: Readiness for the Networked World, 62-74, Oxford University Press

number and geographical spread. Proliferation of copper pairs is not taking place on account of several reasons including high cost, maintenance issues and relative lack of competition in the landline segment. In developed countries wireline teledensity was high when the broadband was introduced making it a primary method of providing broadband. In addition the cable proliferation in these countries is also high making it a suitable media for providing broadband connections.

2.11. Provision of broadband through wireless has limitations. The bandwidth offered by prevalent wireless technologies is shared among the users active in a cell, making it difficult to offer high bandwidth required by many applications in rural and urban areas. As noted in the recommendations on National Broadband Plan, in rural areas applications like e-health, tele-education other services would require bandwidth in the range of 3-4 Mbps. In urban areas applications like video streaming, HDTV and 3G gaming would push up the requirement to 8 Mbps or more in future. In such a scenario wireless broadband cannot be the sole means of broadband proliferation in rural and urban areas. In addition, increasing broadband traffic will give rise to greater requirement of scarce spectrum. Demanding applications and smart devices also put a severe strain on the available spectrum. According to a study about 70% of wireless traffic is generated indoors resulting in wasteful use of spectrum. The choice therefore shifts to optical fiber and cable as important media for proliferation of broadband.

2.12. Optical fibre networks being cost effective, resilient, robust, supporting low latency and easily upgradable are being perceived as long term solution to support enormous bandwidth requirement in the core, aggregation and access networks. In its recommendations on the National Broadband Plan released on 8th December 2012, TRAI proposed establishment of a National Broadband Network, which will be an open access optical fibre network extending upto the villages. The National Broadband plan envisages a National level Agency for planning, coordination and implementation of National Broadband network. An

agency has already been set up by the Government to create National Fiber Optic Network in the country.

2.13. Cable TV in India is widespread and growing. There are approximately 90 million cable homes, which are expected to grow to 103 million by 2014. Digitalisation of cable TV network, therefore, offers a good opportunity for proliferation of broadband connections. TRAI had recommended to the Government for complete digitization with addressability of the cable TV services sector in a phased manner in its recommendations dated 5th Aug 2010. These have been accepted and acted upon by the Government subsequently. December 2014 has been decided as the date for complete analog switchoff.

2.14. A national or a circle level operator would have a dispersed focus and cannot plan with same intensity for each and every district. The overall objective of planning and allocation of resources for such an operator would be to optimize on a national or circle basis as the case may be. A district level licensee, on the other hand, could focus on spreading services all over the district and would be able to do so in much lower outlay as compared to what national/circle level operators would do for their service areas. A district level operator can also focus well on the requirement of the 'local' population taking care of local tastes, preferences, culture and language options. Besides, agility is an important aspect of business today. It is difficult for a national or circle level operator to react fast to situations within every district which can be done by a district level operator. A district level operator can easily provide applications, content and services suited to local needs.

2.15. That operations are viable at district level is indicated by a number of factors. Studies have shown that nearly 70% of the outgoing traffic from rural areas is meant for a destination within the district. Of this only 20% traffic goes to another district and hardly 10% to another State. International calls represent less than 1% of the traffic. The district level service provider may also act as an MVNO to open new streams of

revenue. Thus with a combination of efficient network planning, proper utilisation of resources, a good bundle of services the district level operator can run a viable business.

2.16. Finally it is worth mentioning that introduction of any new regime throws up new challenges and opportunities. So is the case with the district level unified licences. As explained above the challenges can be met with appropriate policy and regulatory interventions. At the same time the ensuing opportunities more than justify introduction of such a licencing regime. Such licences will spur local initiatives in creation of broadband infrastructure and introduction of innovative services. There is a possibility of smaller players like cable operators and infrastructure providers coming in. This would lead to larger infrastructure creation and introduction of newer technologies in the network. It should also lead to better utilisation of fiber backhaul and aggregation network planned to be set up by the National Broadband Plan. All these would translate into higher broadband penetration, greater contribution of telecom to Indian economy, fair and equitable access to the triple-play network within communities at district level and more affordable services to the customers. It is expected that with the inception of a district level licence, we would see country wide availability of a wide range of services within the next 2-3 years. It is in this context that the Authority strongly recommends introduction of a district level licence.

B. Service Area

2.17. On the definition of service area, one of the stakeholders was of the opinion that the geographical boundaries for few service areas like Delhi, Mumbai and Haryana are defined on the basis of Telephone Exchanges. The geographical area under a service area license based on telephone exchange is not clear and lead to confusion and innumerable disputes. For example it is not clear which part of Gurgaon fall under Delhi or Haryana circle. Therefore, it was suggested that all the service areas

should be clearly defined in terms of constitutional boundaries and not on the basis of telephone exchanges.

- 2.18. The Authority examined the current definitions of various service areas and is of the opinion that defining the service areas based on the well defined norms like district/municipal boundaries would be more appropriate than definition based on telephone exchange areas. Accordingly, the definitions of the some of the existing service areas viz. Haryana, Punjab, Tamilnadu, UP (W), Delhi, Kolkata and Mumbai have been suitably modified.

C. Eligibility Conditions

FDI Provisions

- 2.19. On the issue of limit on the total foreign equity in the applicant company, a number of stakeholders suggested that the foreign investment policy should be in line with consolidated FDI policy prescribed by Department of Industrial Policy Promotion in 2011 and any future changes/modifications to the policy. They were of the view that instead of prescribing a FDI limit in the licence, the same should be governed via the FDI policy of the Government and the changes therein.
- 2.20. The Authority agrees with the views expressed by the stakeholders and, the clause 2.2 of eligibility conditions has accordingly been modified.

Networth Requirements

- 2.21. On the issue of the networth requirement of the applicant company, some stakeholders commented that the networth requirements proposed under the Unified Licence should take into account the networth of both the applicant company as well as the net worth of the promoters who have an equity stake of 10% or more in the total equity of the company. A few stakeholders were of the view that these levels of net worth would make it difficult for some entrepreneurs to qualify, and need to be reviewed for downward revision.

2.22. In the UAS licence, the networth requirement is Rs.100 crore for each Category 'A' service area, Rs.50 crore for each Category 'B' service area and Rs.30 crore for each Category 'C' Service Area. In comparison to the above, in the Unified Licence, the networth requirement is only Rs. 25/2.5/0.25 crore for National level/Service area level/District level licences. The Authority is of the view that in order to ensure that only serious players apply for licence, the applicant company should have a minimum of prescribed networth by itself. Therefore, the Authority recommends that in case of Unified Licence, only the networth of Applicant Company shall be considered.

Entry fee

2.23. Regarding the entry fee for the Unified Licences, some of the stakeholders, mainly NLD/ILD/ISP operators were of the opinion that entry fee of Rs. 20 crore is too high for the standalone operators and would pose major financial implications for existing standalone vertically non-integrated operators. They were of the view that while it is important to have an entry fee to deter non-serious players, it is equally important to ensure that the existing service providers (who plan to ensure status quo) are not placed in a worse off situation. Some of these stakeholders were also of the opinion that in case an existing migrated unified licensee wishes to enhance its current scope of service / geographical area of operation, the concept of "pay as you use" should be considered while imposing an entry fee.

2.24. Another view was that the concept of entry fee is generally applicable for new entrants, who plan to secure a particular license for the first time or those who plan to add additional services under the scope of current licenses. Therefore, it was contended that one time entry fee for new entrants in Unified License (UL) should be charged to cover the cost of administering and monitoring the Licences granted from time to time and also to deter non-serious players from taking the Unified Licence. It was

further contended that the existing UASL should not be required to pay any additional charge / fee for migration to UL.

- 2.25. One suggestion received was that since categorization of circles/districts for entry fee purposes was called for at the time of introduction of Mobile Telephony Services in the early 90's and now that all circles/districts, by and large are at the same level of Telecoms Development, and offer equal opportunities of business growth, therefore, there is no need for different categories.
- 2.26. The Authority has examined the views expressed by various stakeholders and has decided to revise the entry fee proposed in the draft guidelines downwards. Accordingly, the Authority recommends a uniform one time non refundable Entry fee of Rs. One crore for all service areas except Jammu & Kashmir and North East service areas where it will be Rs. Fifty lakh. For National level Unified Licence and District level Unified Licence, the Entry fee will be Rs. Fifteen crore and Rs. Ten lakh respectively. The Authority also agrees with the suggestion that the concept of different categories of service areas is no longer relevant. Accordingly, the distinction between service areas is proposed to be done away with.

D. Scope of the Licence

- 2.27. On the issue of scope of the licence, most of the stakeholders were in agreement with what was proposed in the guidelines. However, on the restriction on PSTN and VoIP/IP telephony connectivity and restriction on the interconnectivity between public network / PSTN and leased circuits /CUGs, some stakeholders had different views.
- 2.28. Regarding restriction on the interconnectivity between public network / PSTN and leased circuits /CUGs, the stakeholders, mostly those who are providing enterprise solution, were of the view that in the fast changing telecom scenario, which is moving towards convergence of various services / networks, there does not appear any need for this artificial

barrier / restriction and this restriction appears to be in contradiction of the spirit of unification of telecom services.

2.29. The Authority observed that in the present scenario, Unified Access Service providers are permitted to provide Internet telephony, whereas there are certain restrictions on ISPs for providing Internet Telephony. ISPs can provide the Internet Telephony only as defined below:

- a) PC to PC; within or outside India
- b) PC / a device / Adapter conforming to standard of any international agencies like- ITU or IETF etc. in India to PSTN/PLMN abroad.
- c) Any device / Adapter conforming to standards of International agencies like ITU, IETF etc. connected to ISP node with static IP address to similar device / Adapter; within or outside India.

Also ISP licensee is not permitted to have PSTN/PLMN connectivity. Voice communication to and from a telephone connected to PSTN/PLMN and following E.164 numbering is prohibited in India.

2.30. TRAI in its recommendations on “Issues related to Internet Telephony” dated 18th August 2008 had recommended that:

“Internet telephony maybe permitted to ISPs with permission to provide Internet telephony calls to PSTN/PLMN and vice-versa within country. Necessary amendments may be made in the licence provisions”

2.31. In view of the above, the Authority is of the opinion that Internet telephony should be allowed without any restrictions to Unified Licensee as is permitted in the UAS licence. Accordingly, Internet telephony has been included in the scope of the Unified Licence.

2.32. Regarding restriction on the interconnectivity between public network / PSTN and leased circuits /CUGs, the Authority is of the opinion that in view of the security requirements and to prevent the possibility of carriage of international traffic through leased circuits, the present restrictions proposed in the guidelines are required.

E. Renewal of Licences

2.33. In the draft guidelines, provision has been made for renewal of the licences after the expiry of their prescribed validity period. In their response, some of the stakeholders have suggested that the term renewal may be replaced with extension as the term used in the present license is “extension”.

2.34. This issue was examined earlier in the context of a reference from DoT dated 10th October 2011. The Authority, in its response dated 03rd November 2011 to DoT, has mentioned that

“.....there is neither the concept of automatic extension nor is it incumbent to extend the licence as it exists on the day of expiry of the current term. This extension is ‘if deemed expedient’ and ‘on terms to be mutually agreed upon’. This effectively renders the extension to be a renewal even if the term ‘extension’ is used.”

2.35. In view of the above, the Authority recommends using the phrase “Renewal of Licences”.

F. Suspension/revocation/termination/Surrender of Licence

2.36. In the draft guidelines, Clause 9.1 states- “There shall be a non-obstante clause in the licence which confers powers upon the Licensor to suspend, revoke or terminate the license, in whole or in part”.

2.37. In their response, some of the stakeholders opposed the non-obstante clause in the draft guidelines conferring the powers upon the Licensor to suspend, revoke or terminate the licence, in whole or in part. These stakeholders stated that under the existing regime, the non-obstante clause in the license confers powers upon the licensor to cancel the license under certain defined circumstances; further these circumstances are clearly laid down in the licenses. They further argued that, there is also a provision for notice of 60 days to be given by the licensor, which is in consonance with the principles of natural justice; therefore, unfettered powers cannot be given under the license agreement to licensor. Some

stakeholders were in favour of having such a clause only to meet national emergency.

2.38. The Authority examined the views expressed by various stakeholders. Agreeing with the opinion of some of the stakeholders, Clause 9.1 in the guidelines of Unified Licence and Class Licence has been suitably modified.

G. Penalty

2.39. Presently most of the licences provide for imposition of penalty upto a maximum of Rs. 50 crore. In the absence of any laid down guidelines, the service providers are often imposed the maximum penalty for minor violations. In order to streamline the process and to ensure that the service providers are not unduly penalised, the Authority had, in the draft guidelines, proposed imposition of penalty based on the type of violation – minor and major and the type of licence- National level, Service area level and District level. Additionally, the Authority had also invited comments from the stakeholders regarding the actions that should be classified as minor and major violations and the factors that should be taken into consideration while determining the actual amount of penalty.

2.40. On the issue of penalty, the majority of the stakeholders were of the opinion that the penalty imposed should be commensurate with injury/ damage suffered by the Licensor/ Central Government and the penal provisions in the license agreement should only be applied in case of a wilful breach and not in case of inadvertent lapses/impossibility. Some stakeholders argued in favour of a proper hearing and giving sufficient time to the telecom service providers to defend their case before imposing any penalty. Some were of the opinion that the amount of penalty proposed is too high.

2.41. One stakeholder commented that that it is not the type of licence but the nature of violation which should determine the level of penalty. It was suggested that only violations which are detrimental to the security of the

state should attract a penalty; whereas for any other violation, if it leads to financial benefit to the licensee, the amount so amassed by the licensee should be recovered. The stakeholder was of the view that there should be no penalties for minor violations and penalties may be imposed only in cases of proven gross negligence and/or intentional violations, after affording opportunity to the licensee for his defence.

2.42. Another stakeholder opined that the penalty regime needs to be fair and transparent and linked to actual losses caused and not ad hoc. Another suggestion received was that major/ minor violations cannot be defined in advance. It was stated that the penalties should be minimum and should be applicable only in extreme situations where there is threat to national security is observed. Some of the stakeholders also suggested formation of a Standing Committee with representatives from DoT, TRAI and Industry to look into the matters of violation.

2.43. The Authority, after examining the suggestions given by the stakeholders, agrees with the contention that it is not the type of licence but the nature of violation that should determine the level of penalty. The Authority is also of the opinion that the quantum of penalty should also depend upon the number of time a service provider has violated the licence conditions. Accordingly, the Authority has modified the relevant clause by linking the amount of penalty with the number of occurrences of the violation. The maximum penalty amount is brought down from Rs. 50 crore to Rs. 10 crore. Additionally, based on the suggestions given by the stakeholders, the Authority has also laid down broad guidelines for categorising major and minor violations.

H. Financial Conditions

Licence Fee and Spectrum Usage Charges

2.44. In their response on the issue on Licence Fee and Spectrum Usage Charges, a number of stakeholders have advocated for change in the definition of Gross Revenue (GR) and Adjusted Gross Revenue (AGR).

Their main contention was that the GR/AGR should include revenue from only telecom services i.e. only from licensed activities.

- 2.45. Some stakeholders were of the view that the revenue paid to any other Telecom Service Provider for obtaining the input services such as IUC/Roaming/Bandwidth/International Bandwidth Connectivity/Last Mile etc. should be excluded/ deducted while arriving at the AGR. One stakeholder opined that in case the IP-I service providers are being brought under licensing, there should be no licence fees on the revenues earned by the licensee for the provision of IP-1 Services or alternatively, the costs incurred (revenue passed to IP-I Service Providers) by the Telecom Service provider be allowed as deduction while calculating AGR. This would avoid imposition of double licence fees.
- 2.46. The issue of double taxation was examined by the Authority while framing its response dated 3rd November 2011 to DoT. It was recommended that-

“Normally, the issues relating to double taxation arise in respect of situations involving the territory of more than one state -- cross-border situations. Bringing the IP-I under the licensing regime and consequential charge of licence fee will not give rise to the issue of double taxation under the Indian Income Tax Act. As per the existing tax provisions, the payments made by the Telecom service providers, to the IP-I companies/persons for infrastructure services, are deductible expenditure from their income and such receipts are taxable in the hands of IP-I persons as their income. Therefore, there appears to be no issue of double taxation under the Indian income tax law. However, the Department of Telecommunications might also consult with the Ministry of Finance and take a final decision.

The Authority is of the view that in the present licensing regime it would not be justifiable to allow either the Access providers or the IP-I providers to deduct rental charged for leasing of towers and dark fibre from their Gross Revenue for the purpose of arriving at AGR. ISPs and NLDs also take the last mile/bandwidth on lease from other service providers, and are not eligible for such deduction. If rental for leasing of towers / dark fibre is made eligible for deduction, a claim for similar deduction would also arise from ISPs and NLDs. Further, many of the Access providers are resorting to outsourcing of different kinds of infrastructure and ancillary services, and stretching the argument further, claims may arise in future for deduction of almost any of these types of expenditures. DoT may however, need to

examine, in consultation with TRAI, the details of items which would constitute the AGR of IP-I category”

- 2.47. On the spectrum usage charge, one view was that since the unified licensee will be providing a bouquet of services which may or may not require spectrum for provision of services, it should be ensured that WPC Charges are levied only on the revenue from services provided using the Access Spectrum. The revenue from services which do not utilize the spectrum should not be subjected for payment of any WPC. Another stakeholder was of the view that since the spectrum will be bought at the market price, there should not be any spectrum usage charges.
- 2.48. On the issue of licence fee, a number of stakeholder suggested that there should be a uniform licence fee of 6% of AGR. Some of the stakeholders were of the opinion that the license fee should not be subject to any presumptive AGR or subject to minimum entry fee requirement. One of the stakeholders suggested that while computing the License fees, the revenue from pure Internet access services should be excluded from the calculation of Adjusted Gross Revenue earned.
- 2.49. The Authority examined the submissions of various stakeholders. On the issue of definition of AGR, the Authority recommends that only the revenue from the wireless services shall count towards AGR calculation for the limited purpose of calculation of spectrum usage charge. The spectrum usage charge will continue to be determined on service area basis, and should be levied only in respect of those service areas, where the Licensee holds any access spectrum. Regarding the revenue which shall be taken into account for calculating GR/AGR for levying of licence fee, the Authority is of the opinion that at this stage, it does not propose any change in the definition of GR/AGR as the issue requires deeper study.

I. Interconnection

- 2.50. On the issue of interconnection between various service providers, one of the stakeholders was of the view that a basic framework is required to be

prescribed in the Guidelines on Unified Licensing Regime with respect to -
(a) Points of interconnection for National Level Unified Licensee interconnecting with other National level as well as Service Area level Unified Licensee; (b) point of interconnection for district level Unified Licensee with another District level/Service area/National level Unified Licensee; and (c) point of interconnection of National Level/Service Area level/District level Unified Licensees with the existing Unified Licensee (restricted). It was further opined that the call routing arrangement as it exists will also need a change as it may be different among the National level Unified Licensees, different for a National level Unified Licensee & service area/ District level Unified Licensee and different among Service area level licensee.

- 2.51. A stakeholder was of the view that Interconnection charges should be cost-based and it should be based on equity, non-discrimination and level playing field. It was of the view that LDCA based interconnection regime should be adopted under the Unified License Regime and the choice of Network architecture should be left to the service provider.
- 2.52. One stakeholder submitted that the issue of TRAI jurisdiction regarding interconnection has been pending in Courts. It was of the view that issues like competition in the intra circle calls from mobile to fixed line, port charges etc could not be sufficiently addressed on account of challenges to the jurisdiction of the Authority. Therefore, it was suggested that the introduction of the unified licensing regime is a good opportunity to explicitly clarify this issue and put to rest the subsisting ambiguities on this issue.
- 2.53. A number of stakeholders in their responses have suggested that a consultation paper on interconnection, call routing, numbering scheme and any change in the existing scheme of NLD/ILD concept may be issued separately so that the revised interconnection framework is put in place along with the implementation of Unified Licensing Regime.

2.54. The Authority is of the view that, as per the TRAI Act, the issues relating to interconnection are in the domain of TRAI and will be addressed from time to time.

J. Cross Holding Restrictions

2.55. On the issue of cross holding restrictions, one of the stakeholders was of the view that in the year 2003, when the substantial equity prohibition clause was introduced in CMTS/UAS/BSO licenses, an exception was made for existing companies in the same group holding licences in same service area. Therefore, it was suggested that there is a need to issue group wise licences and all the telecom companies in that group can make use of that licence, thus providing lot of flexibility to companies in the same group. Another stakeholder, one of whose companies holds NLD/ILD/ISP licence alongwith UAS licence for few service areas while its other group companies are holding UAS licences for different service areas, was of the view that on migration to Unified Licensing regime, a situation will arise that a Group Company will have All India Unified License that will overlap with the Service Area Unified Licenses of its other Group Entities for the respective Service Areas. It was further stated that this overlap of licenses which is occurring due to legacy issues should not create any inadvertent conflict /violation of existing laws/provisions, in particular, to the substantial equity restrictions that exist under the UAS license. It was of the opinion that in order to ensure 'no worse off' principle, the substantial equity restrictions should be waived/removed in case of unified licenses. The stakeholder further suggested that such restriction should instead be applied to spectrum holdings so as to clearly stipulate that no entity can bid/apply for spectrum in a service area where its other group company has already been allocated/assigned spectrum, i.e. the spectrum assignment is restricted to only one company in a service area. Some of the stakeholders suggested that the restriction of cross holding should be applied only in respect spectrum holdings.

2.56. The Authority recognises that by bringing NLD/ILD under the Unified Licensing Regime, creating a National level and Service area level Unified Licence may result in situation wherein a company/promoter have substantial equity holding in a National level licensee and a Service area level Unified Licensee. This would be in violation of the relevant clause in the draft guidelines. The Authority is of the view that the restrictions on cross holding in more than one Licensee Company in the same service area should be applied only for allocation of spectrum.

2.57. The Authority has also noted that when the UAS licence regime was introduced in November 2003, some of the companies who were holding both Basic and CMTS licences in the same service area were given exemption from the cross holding restriction. The relevant note in the UAS licence is as below:

“Clause 1.4(ii) shall not be applicable to Basic and Cellular Licensees existing as on 11.11.2003, and in case one of them migrates to UASL it shall not be necessary to surrender the other License. Further, Basic and Cellular Licensees existing as on 11.11.2003, shall not be eligible for a new UASL in the same service area either directly or through it’s associates. Further, any legal entity having substantial equity in existing Basic / Cellular licensees shall not be eligible for new UASL.”

2.58. In order to ensure the principle of ‘no worse off’ on migration to Unified Licensing Regime, the Authority recommends continuation of the exemption from cross holding restrictions to such companies. Accordingly, after examining the comments of the stakeholders, the relevant Clause 29 of the guidelines of Unified Licence has been suitable modified.

K. Migration of Existing Licence to Unified Licence

2.59. Regarding the proposed rebate on the entry fee on migration to Unified licensing Regime, some stakeholders argued that in case of NLD & ILD licences, which were granted licences during the period 2001-2005 the entry fee was Rs 100 Crore /Rs 25 Crore for NLD/ILD license respectively. Therefore, they were of the opinion that the pro- rata adjustment would be based on higher entry fee prevalent at that time so

that these existing Licensees will get the due credit for the earlier stipulated higher entry fee. These stakeholders claimed that for the ILD license granted during the period 2001-2005, the pro-rata adjustment would work out as Rs 1.25 Crore per year for remaining period of the validity of the License whereas for NLD License granted during the said period, the pro-rata amount would be Rs 5 Crore per year for remaining period of the validity of the License.

2.60. The Authority does not agree with the above contention as it is of the view that the rebate in the entry fee on migration to the Unified Licencing regime should only be given on the basis of the present entry fee of NLD/ILD licences.

2.61. Regarding the issue of inclusion of IP-I providers in the Unified Licensing regime, some stakeholders, who were against the proposal of bringing IP-I companies under the ambit of licensing regime, contended that IP-I companies should not be treated in the same manner as those companies which are engaged in active telecom/ voice/ data business as there is difference in the Nature of Business. In their view, the business of IP-I companies is more in the nature of a support service to the active telecom business by providing services and infrastructure (such as, towers, dark fibre, right of way, buildings, duct space and DG sets) to the telecom companies. It was their contention that unlike the licenses for UAS, CMTS, Internet, NLD, ILD and GMPCS, which are granted under Section 4 of the Indian Telegraph Act, 1885, the permission granted to IP-I companies is in the nature of a registration and is not a license under section 4 of the Indian Telegraph Act, 1885. The stakeholders further argued that bringing IP-I into licensing framework would amount to reduction of the existing limit of 100% for IP-I companies out of which beyond 49% prior approval of FIPB is needed.

2.62. Some stakeholders were of the view that there would be practical problems in the implementation of the proposal as at present, there are approximately 350 IP-I registered companies in the market and most of

them are either pure passive infrastructure companies, or companies engaged in other businesses including IP-I business and have no connection with the active telecom business.

2.63. The contention of some stakeholders that the IP-I companies provide only the passive infrastructure such as dark fibre, duct space, tower, building etc and unlike the licences for UAS/CMTS/NLD/ILD, which are granted under section 4 of the Indian Telegraph Act 1885, the permission granted to IP-I companies is in the nature of a registration and it is not a licence under the Act was examined earlier by the Authority while framing its recommendations on “Spectrum Management and Licensing Framework” dated 11th May 2010 and recommendations on “Issues related to Telecommunications Infrastructure Policy” dated 12th April 2011. However, in view of the reasons given below, TRAI had recommended that Infrastructure Provider-I (IP-I) category should also be brought under Unified Licensing regime. Subsequently, in its response dated 03rd November 2011 to DoT, TRAI had reiterated the same.

2.64. The reasons for bringing IP-I under licensing regime were as below:

- By licensing them, they can also be permitted to provide both passive and active infrastructure, independent of the service providers. This will facilitate faster roll out and reduction in the capital expenditure on the part of the service providers.
- Most of the infrastructure works especially erection of towers is being done by IP-I. For erecting towers these companies require permissions from local authorities or the private owners as the case may be. Currently, tower providers are facing restrictions from different local bodies and are being subjected to local regulations which are not uniform. Bringing them under the licensing regime would facilitate a more orderly development. Moreover, these IP-I companies will also establish active infrastructure for which again Right of Way (RoW) permissions will be required wherever necessary. Government vide its notification issued on 24th May

1999, in exercise of provision under Section 19B of the Indian Telegraph Act, 1885 had permitted the private licensees who are issued licence under Section 4 of the Act to seek RoW from any person including local authorities. Since IP-Is have not been issued licence under Section 4, these companies cannot seek RoW as provided in the Indian Telegraph Act, 1885. Therefore, these IP-I companies are required to be brought under licensing regime so that they could also be able to seek RoW for deployment of infrastructure.

- As per the Indian Wireless Telegraphy Act, 1933 Government authorisation/licence is required even to deal and/or possess any wireless telegraphy/telecommunication equipment/apparatus etc. Presently, an IP-I is not permitted to setup/ install Radio Access Network of its own, as it has not been assigned access spectrum and accordingly not granted the Wireless Telegraphy (WT) licence. This limit the scope of IP-I to install radio equipments. Once licensed, IP-I providers can be issued wireless telegraphy licence.
- Bringing IP-I will facilitate the installation and maintenance of complete Radio Access Network by the infrastructure providers for use of the access providers, along with spectrum for providing backhaul through microwave systems which can be offered to service providers on sharing basis. This will also facilitate setting up of complete Tower site (active & passive components along with wireless equipment) by infrastructure providers, which they can offer to the prospective telecom operator on lease. The Telecom operators having the UAS/CMTS licence along with the WT licence can approach such licensees to just connect its MSC to the respective tower site, complete in all respect, on mutually agreed terms.
- The Authority noted that major telecom companies are forming IP-I companies and hiving off their existing telecom tower assets to such IP-I companies, prime motive being reduction of attendant

incidence of licence fee on revenues earned from sharing of their telecom infrastructure. It was further noted that it is possible that the entrepreneurs may adopt novel accounting methods to minimize the incidence of licence fee etc. and it was necessary to ensure certain minimum conditions like transparency, separation of accounts and non-discriminatory treatment provisions introduced through licensing regime. By bringing IP-I companies under the licensing regime, the scope for arbitrage will also be significantly reduced.

- As per the industry figures, the total revenue of the major IP-I companies is around Rs. 23,580 crore in the year 2010-11 and it is expected that there will be an average annual growth of around 11.4% in the revenues of these companies. Presently, these IP companies are not paying any licence fee to the Government. In case, these companies are brought under the licensing regime, then @8% annual licence fee, the Government will get a revenue of around Rs. 1900 crore per year.
- Bringing IP-I providers under licensing will be beneficial to the country and consumers as this will result in generating more revenue to the Government in terms of licence fee, apart from providing more efficient services to the consumers due to faster roll out. Moreover, increased infrastructure sharing- both active and passive, will also result in bringing down the overall cost of telecom services.

2.65. Therefore, the Authority reiterates its recommendation that IP-I shall be covered under Unified Licence. The existing IP-I providers would be required to take the Unified Licence as soon as the same comes into being and the conditions in the Unified Licence will apply to IP-I provider too. IP-I shall have to pay the prescribed entry fee to take the Unified Licence.

2.66. Regarding the submission of some stakeholders that out of approximately 350 registered companies, a number of them are companies engaged in

other businesses including IP-I business and have no connection with commercial telecom services, the Authority agrees that those IP-I companies who are not engaged in activities relating to commercial telecom services should not be mandated to take unified licence. Accordingly, the Authority is recommending that only those IP-I companies who either wants to provide telecom services themselves or are in the business of selling/leasing/renting their passive/active infrastructure to other telecom licensees should be brought under Unified Licensing Regime. In respect of other IP-I companies, the Authority is recommending that such companies should take 'Licence through Authorisation'.

2.67. In the Unified Licensing Regime, spectrum has been delinked from the Licence. In such a scenario, the Authority recommends that TRAI should be entrusted with the function of granting all types of Unified licences. Accordingly, the revised 'Guidelines for Unified Licence/Class Licence and Migration of Existing Licences' are placed as **Appendix** to this document.



Telecom Regulatory Authority of India
(IS/ISO 9001–2008 Certified Organisation)



Guidelines for Unified Licence/Class Licence
and
Migration of Existing Licences

New Delhi 16th April, 2012

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I. Guidelines for Unified Licence

A. Unified Licence

1. Framework

- 1.1 There shall be three levels of Unified Licence: National level, Service area level and District level. The Applicant Company can apply either for National level Unified Licence or Service area level Unified Licence or District level Unified Licence. Only Service level Unified Licence will be given for Metro areas of Delhi, Mumbai and Kolkata.
- 1.2 For the purpose of the Unified Licence, the service areas shall be as listed in Annexure –I.
- 1.3 A company can apply for Unified Licence in more than one service area or district. However, if a company desires to apply for Unified Licence in more than four districts in a service area, it has to apply for Service area level Unified Licence.
- 1.4 Subject to fulfilment of relevant eligibility conditions, Licence shall be issued on non exclusive basis, without any restriction on the number of licences.
- 1.5 In addition to a Unified Licence, TRAI reserves the right to award/allocate Licences to offer specific services like Mobile Number Portability (MNP) services and such other services as may be decided by TRAI from time to time.
- 1.6 At the time of applying for Unified Licence, no access spectrum will be given. A holder of Unified Licence, other than District level Unified Licence, may separately obtain spectrum as per the prevailing policy.

2. **Eligibility Conditions**

- 2.1 The applicant must be an Indian company, registered under the Indian Companies Act 1956.
- 2.2 The Applicant Company shall have to be in compliance with the Provisions applicable for existing Unified Access Service licence in the Consolidated FDI Policy 2011 issued by Department of Industrial Policy and Promotion and such modifications to the policy as may be issued from time to time. The relevant provisions are placed at Annexure-II.
- 2.3 FDI shall be subject to laws of India and not the laws of the foreign country/countries.
- 2.4 The Applicant Company shall have a minimum networth as well as paid up equity capital of Rs. 25 crore for National level Unified Licence, Rs 2.5 crore for each Service area level Unified Licence and Rs. 25 lakh for each District level Unified Licence on the date of application and shall submit a certificate to this effect (provided by the Company Secretary/ Statutory Auditors of the applicant company) along with the application. The networth of promoters shall not be counted for determining the networth of the company In case of acquiring Unified Licence in any other licence area, the Licensee shall maintain additional net-worth and paid up equity as prescribed for that service area/district also. The net worth requirement for Unified Licence is summarised below –

Table – Minimum Net-worth requirement for various Unified Licences

Type of Licence	Net-worth and Paid up equity requirement	Total Minimum Net-worth and Paid up equity required for more than one Licence areas
National level Unified Licence	Rs 25 Crore	
Services area level Unified Licence	Rs 2.5 crore for each service area.	(Rs. in crore) 2.5 x Number of service areas for which either LOI/ Licence have been issued and applied for in the name of applicant.
District level Unified Licence	Rs. 25 lakh for each district.	(Rs. in lakh) 25 x Number of districts for which either LOI/ Licence have been issued and applied for in the name of applicant.

3. Application Procedure

- 3.1 The Applicant Company shall pay a non refundable processing fee of Rs. 100,000 (Rs. One Lakh) for National level Unified Licence, Rs. 50,000 (Rs. Fifty Thousand) for Service area level Unified Licence and Rs 15,000 (Rs. Fifteen Thousand) for District level Unified Licence.
- 3.2 The Applicant Company shall submit the application in the prescribed Application form for each licence area separately.
- 3.3 Incomplete application is liable to be rejected and the processing fee will not be refunded.
- 3.4 The complete application shall ordinarily be decided, within 60 days of the submission of the application and the applicant company shall be informed accordingly.
- 3.5 TRAI reserves the right to accept or reject any application without assigning any reasons.

- 3.6 In case the applicant is found to be eligible for grant of Unified Licence, a Letter of Intent (LOI) will be issued. The applicant shall be required to deposit Entry Fee and submit Bank Guarantee / other documents and sign the licence agreement within a period as mentioned in the letter(LOI) from the date of issue of the letter (LOI) failing which the offer of grant of licence shall stand withdrawn at the expiry of permitted period.
- 3.7 The Applicant Company will be required to pay one time non-refundable Entry Fee before signing the license agreement, based on Letter of Intent (LoI).

4. **Entry Fee**

- 4.1 One time **non refundable** Entry Fee for Unified Licence shall be:
- a. Rs. 15 (Fifteen) crore for National level Unified Licence;
 - b. Rs. 1 (One) crore for each Service area level Unified Licence except for Jammu & Kashmir and North East Service areas where Entry fee will be Rs. 50 (Fifty) lakh each.
 - c. Rs. 10 (Ten) lakh for each District level Unified Licence.
- 4.2 While granting a National level or Service area level Unified Licence, Entry fee already paid for the service area level licences or district level licences will be adjusted on *pro rata* basis for the balance validity period of such Licences at hand against the Entry Fee for the National level or Service area level Unified Licence. However, where the sum of Entry Fee already paid exceeds the Entry Fee to be paid, there will be no refund of the Entry Fee.

5. **Scope of the Licence**

- 5.1 Subject to Clauses f and g of Clause 5.1 and Clause 5.2, Unified Licence will be service and technology neutral and the Unified Licensee shall be permitted to provide any telecom service, as

defined below on a non-exclusive basis, anytime, anywhere, using any technology within its licence area as prescribed below:

- a. Collection, carriage, transmission and delivery of voice and/or non-voice messages over Licensee's network in the designated licence area and includes provision of all types of access services. Unified licensee can also provide Internet Telephony, Internet Services including IPTV and Broadband Services including triple play i.e. voice, video and data. The Licensee shall be free to enter an agreement with other service provider in India or abroad for providing roaming facility to its subscriber under full mobility service unless advised / directed by TRAI otherwise.
- b. Unified Licensee can provide dark fibres, Right of Way, duct space, towers on lease / rent / sale basis to the licensees of telecom services on mutually agreed terms and conditions. The Licensee will also be allowed to install and share active network limited to antenna, feeder cable, Node B, Radio Access Network (RAN) and transmission systems and to seek SACFA siting clearance for erecting towers with or without agreement with licensed Service Providers.
- c. Unified Licensee can provide Voice mail, Audiotex, Videotex, UMS, Radio paging and PMRTS.
- d. Unified Licensee is permitted to provide leased circuit within its licence area. Public network is not to be connected with leased circuits/CUGs.
- e. A Unified Licensee shall be permitted to offer any/all services covered under 'Class licence' and 'Licensing through Authorisation' but not vice-versa.
- f. The Licensee cannot provide any other service which otherwise

require a separate licence.

- g. The Licensee cannot provide broadcasting services, for which a separate licence / registration is required as per Cable TV Act 1995 and guidelines for DTH Licence issued by Ministry of Information and Broadcasting.

5.2 The services which a Unified Licensee can offer will be as below:

- a. National level Unified Licence shall permit the Licensee to offer any or all of the telecom services mentioned in Clause 5.1 in any/all service areas; GMPCS, NLD and ILD services and Resale of IPLC.
- b. Service area level Unified Licence shall permit the Licensee to offer any or all of the telecom services mentioned in Clause 5.1 except National Long Distance (NLD), International Long Distance (ILD), Global Mobile Personal Communication by Satellite (GMPCS) services, Resale of IPLC and services covered under Class Licence.
- c. District level Unified Licence shall permit the Licensee to offer any or all of the telecom services mentioned in Clause 5.1 in the district for which licence is given. However, a District level Unified licensee shall not be permitted to offer NLD, ILD, GMPCS, VSAT & Resale of IPLC, INSAT-MSS and wireless access service. Also, these Licensees would not be entitled for assignment of spectrum resources for access services. District level Unified Licence will not be given for Metro areas of Delhi, Mumbai and Kolkata.

(Note – The definitions of various services mentioned above are as given in Annexure III)

6. Ownership of Licensee Company

6.1 The Licensee shall ensure that all the conditions mentioned in Clause 2 (eligibility conditions) are maintained during the currency of the Unified Licence.

6.2 The Licensee shall declare the Indian & Foreign equity holdings (both direct and in-direct) in the Licensee Company and submit a compliance report regarding compliance of FDI norms and security conditions on 1st day of January and 1st day of July of every year to TRAI. This is to be certified by the Company Secretary or Statutory Auditor of the Licensee Company.

7. Duration of Licence

7.1. The validity period of a Unified Licence will be for a period of 20 years.

8. Renewal of Licence

8.1. Renewal – TRAI may renew, if deemed expedient, the period of Unified Licence by a period of 10 years at one time upon the request of the Licensee on terms mutually agreed. The decision of TRAI shall be final in this regard.

8.2. On renewal, Unified Licensee will be required to pay a Renewal Fee which will be as notified by TRAI.

9. Suspension/revocation/termination/Surrender of Licence

9.1. TRAI reserves the right to suspend the operation of this Licence in whole or in part, at any time, if, in its opinion, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the Telegraph.

Provided that TRAI, if the situation so warrants, dispense with the issue of notice prior to such suspension. The decision of the TRAI in this regard shall be final and binding.

9.2. TRAI may, without prejudice to any other remedy available for the breach of any conditions of licence, by a written notice of 60 Calendar days from the date of issue of such notice to the licensee at its registered office, terminate this licence under any of the following circumstances:

- (i) If the LICENSEE:
 - a) fails to perform any obligation(s) under the licence including timely payments of fee and other charges due to the Government;
 - b) fails to rectify, within the time prescribed, any defect/deficiency/correction in service/equipment as may be pointed out by the TRAI/DoT;
 - c) fails to comply with FDI norms;
 - d) goes into liquidation or is ordered to be wound up;
- (ii) for non-compliance of any or all terms and conditions of the licence.

Provided that the order terminating the Licence shall take effect only on expiry of 60 calendar days from the date of issue of such order.

9.3. Licensee may surrender the Licence, by giving notice of at least 60 Calendar days in advance. Unless the surrender notice is rejected by TRAI within 30 days of the date of receipt of the notice, the effective date of surrender of Licence will be 61st Calendar day counted from the date of receipt of such notice by TRAI.

10. Penalty

10.1. TRAI may impose financial penalty (as detailed below) based, for each violation of the terms and conditions of licence agreement:

No. of times	Minor violation	Major violation
1st	1 lakh	10 lakh
2nd	5 lakh	50 lakh
3rd	25 lakh	2.5 crore
4th	25lakh	5 crore
5 th and subsequent violations	25 lakh	10 crore

10.2. Before deciding the imposition any penalty, proper opportunity will be given to Licensee to present its case.

10.3. For categorising a violation as minor or major, the guiding principles shall be

- Whether the violation is committed deliberately or inadvertently;
- Whether the violation is committed repeated violations;
- Whether the licensee is prompt in taking corrective action;
- The amount of loss to the exchequer;
- What kind of benefits were derived by licensee due to the violation;
- Whether the violation was restricted in a service area or was across a number of service areas;
- Whether the violation / breach carried out in its network by a third party beyond the control of the operator;
- Whether the violation has an impact on the end-user(s) and /or other licensee(s) business.

10.4. Notwithstanding the above, the following violations be always be categorised as major violations;

- i Violation resulting in threat to the security of nation,
- ii Violation resulting in heavy revenue losses to the Government.
- iii Wilful and illegal conduct of the Licensee outside the framework of terms and Conditions of the Licence.

Financial Conditions

11. Fees payable

11.1. **Entry Fee** – One time non refundable Entry Fee as detailed in Clause 4 of these guidelines.

11.2. **Licence Fee** – An annual Licence Fee as a percentage of Adjusted Gross Revenue (AGR) shall be applicable. From the second year of the effective date of the Unified Licence, this Licence Fee shall be subject to minimum of 10% of the Entry Fee paid.

11.3. **The Fee/royalty payable towards Wireless Planning and Coordination Wing (WPC):** In the event of a Unified Licensee being given spectrum, WPC Charges shall be payable at such time and in such manner as the WPC Wing of the DoT may prescribe from time to time.

12. Bank Guarantee

12.1. Each holder of a Unified Licence shall be required to submit a Financial bank Guarantee (FBG). The FBG shall be equivalent to the Licence Fee payable for two quarters. The minimum annual Licence Fee is 10% of the entry fee. Therefore, for new entrants, initially FBG shall be for an amount of Rs. 75 (Seventy Five) lakh for National level Unified Licence, Rs. 5 (Five) lakh for each Service area level Unified Licence except J&K and North East Service area

where the initial FBG will be 2.5 lakh each and Rs. 50,000 (Fifty thousand) for each District level Unified Licence. The amount of FBG shall be reviewed on six monthly basis by TRAI and subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to Licence Fee for two quarters and other dues not otherwise securitized and any additional amount as deemed fit by the TRAI/DoT.

13. Merger of Unified Licences

13.1 Merger of Unified Licences may be permitted as per guidelines issued by DoT from time to time.

General Conditions

14. Change in the name of the Licensee Company shall be permitted in accordance with the provisions under the Indian Companies Act, 1956.
15. The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 as modified or replaced from time to time.
16. The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time.
17. The Licensee shall be responsible for, and is authorized to own, install, test and commission all the applicable systems for providing the services.
18. The Licensee shall make its own arrangements for Right of Way (ROW).
19. Licensee shall make its own arrangements for all infrastructure involved in providing the service and shall be solely responsible for installation, networking, operation and commissioning of necessary equipment and systems, treatment of subscriber complaints, issue of

bills to its subscribers, collection of its component of revenue, attending to claims and damages arising out of his operations.

20. The Licensee shall provide the details of the technology proposed to be deployed for operation of the service. The technology should be based on standards issued by ITU/TEC or any other International Standards Organization/ bodies/Industry. Unified Licensee is permitted to provide, service by utilizing any type of network equipment, including circuit and/or packet switches that meet the relevant International Telecommunication Union (ITU) /Telecommunication Engineering Center (TEC) / International standardization bodies such as 3GPP/3GPP-2/ETSI/IETF/ANSI/EIA/TIA/IS.
21. In case of provision of bandwidth by the Licensee through the satellite media, the Licensee shall abide by the prevalent Government orders, directions or regulations on the subject like satellite communication policy, V-SAT policy etc.
22. Sharing of active/passive infrastructure shall be as per the guidelines issued by TRAI from time to time.
23. The Licensee shall adhere to the National Numbering plan, National Frequency Allocation Plan and any other plan issued by Department of Telecommunications and technical standard as prescribed by TRAI, from time to time.
24. The Licensee providing access service, shall provide independently or through mutually agreed commercial arrangements with other Service Providers, all public utility services including Toll Free services namely police, fire, ambulance or any other emergency number as may be specified by the DoT/TRAI from time to time. While providing emergency services such as police, fire, ambulance etc. it shall be ensured that such calls shall be delivered to the control room of the concerned authority for the area from where call is originated.

25. **Interconnection**

- 25.1. It shall be mandatory for the Unified Licensee to provide interconnection to all eligible Telecom Service Providers (eligibility shall be determined as per the service provider's Licence agreement and TRAI's determination/orders/regulations issued from time to time) to ensure that the calls are completed to all destinations. TRAI may intervene in the matter of interconnection between two service providers.
- 25.2. The interconnection with a telecom service provider shall have to be withdrawn, in case of termination of the licence of the Telecom service provider, within one hour or within such time as directed by the TRAI in writing, after receiving intimation from the TRAI in this regard.
- 25.3. The terms and conditions of interconnection including, *inter alia*, standard interfaces, points of interconnection and technical aspects will be subject to compliance of prevailing regulations, directions and determinations issued by TRAI from time to time.
- 25.4. 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.

26. **Quality of service**

- 26.1. 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 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.

27. **Security Conditions**

27.1. The Licensee shall comply with the security conditions *inter alia* relating to inspection of the installation/establishments, audit of networks, security of the network, restriction on employment of foreign nationals, transfer of information outside the country, remote access, monitoring of networks, confidentiality of information relating to subscriber data and any other condition imposed by DoT/TRAI from time to time.

B. Additional Guidelines for Spectrum assignment associated with Unified Licence

28. The net worth requirement for those Unified Licensees who may apply for assignment of spectrum will be in addition to what is mentioned in Clause 2.3 above. The promoters of the Applicant Company shall have a combined net-worth of Rs. 100 crore/ Rs. 50 crore/ Rs. 30 crore for Category A, B and C Service areas respectively. The Applicant Company shall have a minimum paid up equity capital equal to one-tenth of net-worth prescribed above and shall submit a certificate to this effect (provided by the applicant's Company Secretary) while applying for the spectrum.

29. Allocation of access spectrum will be made service area-wise. In the event a Licensee, or a single company/ legal person having substantial equity in the Licensee company, has substantial equity of more than 10%, directly or indirectly, in any other Licensee in the same service area, access spectrum can be bid for, by only one of such Licensee. In the event one of such Licensee has already been allocated access spectrum, only such Licensee will be entitled to bid for the additional spectrum in that service area. In the event both the Licensees have been allocated access spectrum, only one of them will be entitled to bid for the access spectrum.

Provided that this shall not be applicable to Licensees which were covered by the Note under Clause 1.4 of the UAS licence conditions.

30. The Performance Bank Guarantee (PBG) and additional Financial Bank Guarantee (FBG) shall be as prescribed at the time of assignment of spectrum.
31. The Fees, charges and royalties for the use of spectrum and also for possession of Wireless Telegraphy equipment shall be separately securitised by furnishing FBG of an amount equivalent to the estimated sum payable annually in the proforma given in licence agreement, to WPC, valid for a period of one year, renewable from time to time till final clearance of all such dues.
32. The Renewal Fee discussed in Clause 8 above does not cover the value of spectrum, which shall be paid for separately.
33. Unified Licensees who will be assigned spectrum, will be required to comply with roll out obligations as applicable, with attendant incentives and penalty as linked to allotment of that particular spectrum block as may be specified at the time of allotment of spectrum or as may be specified from time to time.
34. The Licensee shall pay spectrum usage charges in addition to the Licence Fees on revenue share basis as notified separately from time to time by the WPC Wing. For the limited purpose of levying spectrum charges, only the revenue from the wireless services shall count towards AGR calculation. It will continue to be determined on service area basis, and shall be levied only in respect of those service areas, where the Licensee holds any access spectrum.
35. For use of space segment and setting up of the Earth Station etc., the Licensee shall directly coordinate with and obtain clearance from Network Operations and Control Centre (NOCC) under DoT, apart from

obtaining SACFA clearance. The clearance from other authorities as specified from time to time shall also be obtained by the Licensee.

II. Guidelines for Class Licence

1. Framework

- 1.1 Subject to fulfilment of relevant eligibility conditions, Class Licence shall be issued on non exclusive basis, without any restriction on the number of entrants in a licence area.
- 1.2 Class Licence will be issued only on National level basis.

2. Eligibility Conditions

- 2.1 The applicant must be an Indian Company, registered under the Indian Companies Act 1956.
- 2.2 The Applicant Company shall have to be in compliance with the provisions applicable for existing Unified Access Service licence in the Consolidated FDI Policy 2011 issued by Department of Industrial Policy and Promotion and such modifications to the policy as may be issued from time to time. The relevant provisions are placed at Annexure-II.
- 2.3 FDI shall be subject to laws of India and not the laws of the foreign country/countries.
- 2.4 (a) The details of the equity holdings in the Applicant Company should be disclosed by the company as follows:

Sl. No.	Name of Promoter/Partner	Indian/ Foreign	Equity %	Net Worth
1.				
2.				
3.				

(b) Details of equity holding of the Promoter/Partner Indian Companies of the Applicant Company should be disclosed by the applicant company, as follows:

Sl. No.	Name of Promoter/Partner	Indian/ Foreign	Equity %	Net Worth
1.				
2.				
3.				

3. Application Procedure

- 3.1 The Applicant Company shall pay a non refundable processing fee of Rs. 25,000 (Rs. Twenty Five Thousand) for Class Licence.
- 3.2 The Applicant Company shall submit the application in duplicate in the prescribed Application form.
- 3.3 Incomplete application is liable to be rejected and the processing fee will not be refunded.
- 3.4 The application shall ordinarily be decided, within 60 days of the submission of the application and the applicant company shall be informed accordingly.
- 3.5 TRAI reserves the right to accept or reject any application without assigning any reasons.
- 3.6 In case the applicant is found to be eligible for grant of Class Licence, a Letter of Intent (LOI) will be issued. The applicant shall be required to deposit Entry Fee and submit Bank Guarantees / other documents and sign the licence agreement within a period as mentioned in the letter(LOI) from the date of issue of the letter (LOI) failing which the offer of grant of licence shall stand withdrawn at the expiry of permitted period.

3.7 The Applicant Company will be required to pay one time non-refundable Entry Fee before signing the license agreement, based on Letter of Intent (LoI).

4. **Entry Fee**

4.1 One time **non refundable** Entry Fee for each category of Class Licence shall be Rs. 30 (Thirty) lakh.

5. **Scope of the Licence**

5.1. Class Licence will be technology neutral and is granted to provide designated service on a non-exclusive basis.

5.2. VSAT service and INSAT-MSS Reporting Service will be covered under Class Licence. However, TRAI reserves the right to include any other service under Class Licence on recommendations of TRAI.

(Note – The definitions of various services mentioned above are as given in Annexure III)

6. **Ownership of Licensee Company**

6.1 The Licensee shall ensure that all the conditions mentioned in Clause 2 (eligibility conditions) are maintained during the currency of the Unified Licence.

6.2 The Licensee shall declare the Indian & Foreign equity holdings (both direct and in-direct) in the Licensee company and submit a compliance report regarding compliance of FDI norms and security conditions on 1st day of January and 1st day of July to TRAI. This is to be certified by the Company Secretary or Statutory Auditor of the Licensee Company.

7. Duration of Licence

7.1 The validity period of a Class Licence will be for a period of 20 years.

8. Renewal of Licence

8.1 Renewal – TRAI may renew, if deemed expedient, the period of Class Licence by a period of 10 years at one time upon the request of the Licensee on terms mutually agreed. The decision of TRAI shall be final in regard to renewal of licence.

8.2 On renewal, Class Licensee will be required to pay a Renewal Fee which will be as notified by TRAI from time to time.

9. Suspension/revocation/termination/Surrender of Licence

9.1 TRAI reserves the right to suspend the operation of this Licence in whole or in part, at any time, if, in the opinion of TRAI, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the Telegraph.

Provided that TRAI may, if the situation so warrants, dispense with the issue of notice prior to such suspension. The decision of TRAI in this regard shall be final and binding.

9.2 TRAI may, without prejudice to any other remedy available for the breach of any conditions of licence, by a written notice of 60 Calendar days from the date of issue of such notice to the licensee at its registered office, terminate this licence under any of the following circumstances:

- (i) If the LICENSEE:
 - a) fails to perform any obligation(s) under the licence including timely payments of fee and other charges due to the Government;
 - b) fails to rectify, within the time prescribed, any defect/deficiency/correction in service/equipment as may be pointed out by the TRAI/DoT;
 - c) fails to comply with FDI norms;
 - d) goes into liquidation or is ordered to be wound up;
- (ii) on recommendation by TRAI for termination of licence for non-compliance of any or all terms and conditions of the licence.

Provided that the order terminating the Licence shall take effect only on expiry of 60 calendar days from the date of issue of such order.

9.3 Licensee may surrender the Licence, by giving notice of at least 60 Calendar days in advance. Unless the surrender notice is rejected by TRAI within 30 days of the date of receipt of the notice, the effective date of surrender of Licence will be 61st Calendar day counted from the date of receipt of such notice by TRAI.

10. **Penalty**

10.1 TRAI may impose financial penalty, for violation of terms and conditions of licence agreement.

No. of times	Minor violation	Major violation
1st	1 lakh	10 lakh
2nd	5 lakh	50 lakh
3rd	25 lakh	2.5 crore
4th	25lakh	5 crore
5 th and subsequent violations	25 lakh	10 crore

10.2 Before deciding the imposition any penalty, proper opportunity will be given to licensee to present its case.

10.3 For categorising a violation as minor or major, the guiding principles shall be

- Whether the violation is committed deliberately or inadvertently;
- Whether the violation is committed repeated violations;
- Whether the licensee is prompt in taking corrective action;
- The amount of loss to the exchequer;
- What kind of benefits were derived by licensee due to the violation;
- Whether the violation was restricted in a service area or was across a number of service areas;
- Whether the violation / breach carried out in its network by a third party beyond the control of the operator;
- Whether the violation has an impact on the end-user(s) and /or other licensee(s) business.

10.4 Notwithstanding the above, the following violations be always be categorised as major violations;

- i Violation resulting in threat to the security of nation,
- ii Violation resulting in heavy revenue losses to the Government

- iii Wilful and illegal conduct of the Licensee outside the framework of terms and Conditions of the Licence.

Financial Conditions

11. Fees payable

- 11.1 **Entry Fee** – One time non refundable Entry Fee as detailed in Clause 4.
- 11.2 **Licence Fee** – An annual Licence Fee as a percentage of Adjusted Gross Revenue (AGR), as defined in the licence agreement shall be applicable. From the second year of the effective date of the Unified Licence, this Licence Fee shall be subject to minimum of 10% of the Entry fee paid.
- 11.3 **The Fee/royalty payable towards Wireless Planning and Coordination Wing (WPC):** In the event of a Unified Licensee being given spectrum, WPC Charges shall be payable at such time and in such manner as the WPC Wing of the DoT may prescribe from time to time.

12. Bank Guarantee

- 12.1 Each holder of a Unified Licence shall be required to submit a Financial bank Guarantee (FBG). The FBG shall be equivalent to the Licence Fee payable for two quarters. The minimum annual Licence Fee is 10% of the Entry Fee, therefore, for new entrants; initially FBG shall be for an amount of Rs. 1.5 lakh. The amount of FBG shall be reviewed on six monthly basis by TRAI and subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to Licence Fee for two quarters and other dues not otherwise securitized and any additional amount as deemed fit by the TRAI/DoT.

13. Merger of Class Licences

13.1 Merger of Class Licences may be permitted as per guidelines issued by DoT from time to time.

General Conditions

14. Change in the name of the Licensee Company shall be permitted in accordance with the provisions under the Indian Companies Act, 1956.
15. The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 as modified or replaced from time to time.
16. The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time.
17. The Licensee shall be responsible for, and is authorized to own, install, test and commission all the Applicable system for providing the Services under this Licence agreement.
18. The Licensee shall make its own arrangements for Right of Way (ROW).
19. The Licensee shall make its own arrangements for all infrastructures involved in providing the service and shall be solely responsible for installation, networking, operation and commissioning of necessary equipment and systems, treatment of subscriber complaints, issue of bills to its subscribers, collection of its component of revenue, attending to claims and damages arising out of his operations.
20. The Licensee shall provide the details of the technology proposed to be deployed for operation of the service. The technology should be based on standards issued by ITU/TEC or any other International Standards Organization/ bodies/Industry. Class licensee is permitted to provide,

service by utilizing any type of network equipment, including circuit and/or packet switches that meet the relevant International Telecommunication Union (ITU) /Telecommunication Engineering Center (TEC) / International standardization bodies such as 3GPP/3GPP-2/ETSI/IETF/ANSI/EIA/TIA/IS.

21. In case of provision of bandwidth by the Licensee through the satellite media, the Licensee shall abide by the prevalent Government orders, directions or regulations on the subject like satellite communication policy, V-SAT policy etc.
22. Sharing of active/passive infrastructure shall be as per the guidelines issued by TRAI from time to time.
23. The Licensee shall adhere to the National Numbering plan, National Frequency Allocation Plan and any other plan issued by Department of Telecommunications and technical standard as prescribed by TRAI, from time to time.

24. Interconnection

- 24.1 Eligibility for interconnection shall be determined as per the service provider's Licence agreement and TRAI's determination/orders/regulations issued from time to time. TRAI may intervene in the matter of interconnection between two service providers.
- 24.2 The interconnection with a telecom service provider shall have to be withdrawn, in case of termination of the licence of the Telecom service provider, within one hour or within such time as directed by the TRAI in writing, after receiving intimation from the TRAI in this regard.
- 24.3 The terms and conditions of interconnection including *inter alia* standard interfaces, points of interconnection and technical

aspects will be as mutually agreed between the service providers, subject to compliance of prevailing regulations, directions and determinations issued by TRAI from time to time.

24.4 Interconnections restrictions applicable for VSAT network with other networks:-

- a. Interconnection with PSTN - Not permitted
- b. Network of other VSATs – Interconnection shall be permitted through the Hub on case to case basis, wherever the CUG nature of the network is not violated.
- c. Terrestrial data lines leased by customers of VSATs – Interconnection shall be permitted on case to case basis, wherever the CUG nature of the network is not violated.
- d. Terrestrial data lines of a public nature: - Interconnection shall be permitted through the Hub, provided it is connected to a public data network such as Internet/ INET.
- e. Overseas office of the CUG for data transfer purposes:- Interconnection shall be permitted on a case to case basis subject to the condition that the connection should be between the hub and the server of the overseas office through a leased line passing through an international gateway which can be monitored for security purposes.
- f. WAN Operators :- Interconnection shall be permitted on case to case basis, wherever the CUG nature of the network is not violated.
- g. Internet/INET :- The hub of VSAT Licensee shall be allowed to be connected to an internet node of his choice through a lease line taken from Telecom service provider who is authorised to sell bandwidth/ leased line. Similar inter-connection of the Hub with INET is also permitted.

- h. Other media to provide for redundancy :- Switchover between a terrestrial CUG network and a VSAT based CUG network belonging to the same licensee shall be permitted for redundancy purpose.
- i. Interconnection of CUGs :- Inter-connection between CUGs, where the CUG nature of the network is not violated, will be permitted on a case to case basis.

25. **Quality of service**

25.1 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 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.

26. **Security Conditions**

26.1 The Licensee shall comply with the security conditions relating to, *inter alia*, inspection of the installation/establishments, audit of networks, security of the network, restriction on employment of foreign nationals, transfer of information outside the country, remote access, monitoring of networks, confidentiality of information relating to subscriber data and any other condition imposed by the DoT/TRAI from time to time.

III. Licensing through Authorisation

1. Subject to fulfilment of relevant eligibility conditions, Licence shall be issued on non exclusive basis, without any restriction on the number of licences.
2. The applicant must be an Indian company, registered under the Indian Companies Act 1956.
3. The Applicant Company shall pay a non refundable processing fee of Rs. 15,000 (Rs. Fifteen Thousand).
4. Complete application shall be decided, within 30 days of the submission of the application and the applicant company shall be informed accordingly.
5. TRAI reserves the right to accept or reject any application without assigning any reasons.
6. The Licence will be service and technology neutral. Licensee shall be permitted to offer Voice Mail Service, Audiotex, Videotex, Unified Messaging Service and other value added services within its licence area using the network of Unified Licensee on mutually agreed terms and conditions. The Licensee shall be permitted to install dark fibers, duct space and towers, subject to the condition that these shall not be used for activities relating to commercial telecom services. The operation and tariff for the traffic passed through Unified Licensee network resources shall be as per the prevailing rules and regulations of TRAI.
7. Licensee shall be required to pay an annual Licence Fee of Rs. 10,000 (Rs. Ten Thousand Only).
8. The Licensee shall make available, on demand, to the person authorised by the TRAI/DoT, full access to their

equipments/network for technical scrutiny and for inspection, which can be visual inspection or an operational inspection.

9. As and when required, the Licensee shall provide access of their systems to the security agencies for monitoring purpose. The Licensee shall be required to maintain call data records of all the specified calls handled by the system and system log at specified periodicity. TRAI reserves the right to call for these system logs on demand and also inspect them at site.
10. TRAI reserves the right to revoke/terminate/suspend the Licence in whole or in part, at any time, if, in the opinion of the TRAI, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the Telegraph.
11. Licensee may surrender the Licence, by giving notice of at least 30 Calendar days in advance.
12. The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 as modified or replaced from time to time.
13. The Licensee shall furnish to TRAI, on demand, in the manner and as per the time frame such documents, accounts, estimates, returns, reports or other information in accordance with the rules/orders as may be prescribed from time to time. The Licensee shall also submit information to TRAI as per any order or direction or regulation issued from time to time under the provisions of TRAI Act, 1997 or an amended or modified statute.
14. The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time.

IV. Migration of Existing Licence to Unified Licence

1. On coming into force of the Unified Licence, all the existing licences issued under Section 4 of the Indian Telegraph Act 1885 shall stand automatically converted to the Unified Licence. This will be the Unified Licence (restricted). Necessary amendments shall be made by TRAI under intimation to the Licensee.
2. On conversion, the validity of the Unified Licence (restricted) shall be same as the validity of existing licence.
3. The conditions of Unified Licence (restricted) shall be the same as existing licence.
4. The services under such a licence will be restricted to the service(s) that the Licensee could offer and to the service area(s) permitted under the existing licence. In case an existing licensee after conversion to Unified Licence (restricted) wishes to provide services permitted within the scope of service under Unified Licence but which are not covered under its old licence, then it will have to apply for Unified Licence.
5. For conversion to the Unified Licence (restricted), there shall be no additional entry fee to be paid by the licensee.
6. A holder of Unified Licence (restricted) shall have the option to apply for and migrate to a Unified Licence.
7. In the event a holder of Unified Licence (restricted) desires to expand/alter the service(s) offered or service area(s) of operations, it shall be required to migrate to Unified Licence and pay the prescribed entry fee.

Illustration: A company 'A' has All-India licence for NLD and ILD, ISP (Category B) and CMTS/UAS Licences for service areas 2 & 3 as given in the Table below. After coming into force of Unified Licence framework, these licences shall get converted to Unified Licences

(restricted) i.e. the scope of service of each new Unified Licence will continue to be the same as the existing licence. However, if the Company wishes to provide any other service permitted under Unified Licence, say ISP on all India basis or access services in LSAs other than service areas 2&3, then it will have to apply for migration to National level Unified Licence and will also have to pay the prescribed entry fee and fulfil all eligibility conditions as given in the Guidelines for Unified Licence.

Unified Licences (restricted) – 6 licences

Licence	All India	LSA-1	LSA-2	LSA-3	LSA-21	LSA-22
CMTS/UASL			✓	✓			
NLD	✓						
ILD	✓						
ISP			✓	✓			

After migration to Unified Licence – 1 Unified Licence

Licence	All India
CMTS/UASL	✓
NLD	✓
ILD	✓
ISP	✓
All other Services defined in the scope of Unified Licence.	✓

8. In respect of 6 and 7 above, the Entry Fee already paid, in case of NLD/ILD/UAS /CMTS licence only, will be adjusted on *pro rata* basis for the balance validity period of the existing Licence as per formula given in the table below. However, in cases where the Entry Fee already paid exceeds the Entry Fee to be paid now for migrating to Unified Licence, there will be no refund of the Entry Fee.

Type of Existing Licence	Migration to	Rebate
ILD/NLD	National level	Rs 12.5 lakh x No of years remaining for existing NLD/ILD Licence validity.
UASL/ CMTS	Service area level	Rs 10 lakh, 5 lakh and 2.5 lakh for Metro/Cat A, Cat B and Cat C service areas respectively x No of years remaining for existing UASL/CMTS Licence validity.
UASL /CMTS in various service area	National level	Rs 10 lakh, 5 lakh and 2.5 lakh for Metro/Cat A, Cat B and Cat C service areas respectively x No of years remaining for existing UASL/CMTS Licence validity subject to maximum limit of Rs. 15 crore.

9. On migration to the Unified Licence, the validity of the licence shall be 20 years.
10. On expiry of the validity of the Unified Licence (restricted), the licensee shall be required to take a Unified Licence.
11. IP-I shall be covered under Unified Licence. The existing IP-I providers would be required to take the Unified Licence as soon as the same comes into being and the conditions in the Unified Licence will apply to IP-I provider too. IP-I shall have to pay the prescribed entry fee to take the Unified Licence. Only those IP-I companies who either wants to provide telecom services themselves or are in the business of selling/leasing/renting their passive/active infrastructure to other telecom licensees would be required to take the Unified Licence. IP-I companies, who are not engaged in activities relating to commercial telecom services, would be required to take 'Licence through Authorisation'.
12. In the event a holder of Unified Licence (restricted), having spectrum, obtains a Unified Licence, it will continue to retain the spectrum assigned for the remaining validity period of the existing Licence. In case of 3G /BWA spectrum holders, the spectrum assigned will be retained for the period for which the spectrum blocks have been assigned. In both the above cases, the Unified Licensees shall be allowed to provide all services permitted under the Unified Licence, without however changing the channel plan of the allocated spectrum. The Licensee holding access spectrum shall be required to maintain the net-worth and paid up equity as per

existing licence, in case these are higher than the amount prescribed in the Unified Licensing Regime.

13. Roll out obligations, if any, linked with the existing service providers shall remain applicable even after migration to Unified Licence Regime and shall be subject to changes/modifications from time to time.

V. Migration of Existing Licence to Class Licence

1. On coming into force of the Class Licence, all the existing licences issued, under Section 4 of the Indian Telegraph Act 1885, issued for VSAT and INSAT-MSS shall stand automatically converted to the Class Licence. This will be the Class Licence (restricted). Necessary amendments shall be made by TRAI under intimation to the Licensee.
2. An existing Licensee, on migration to a Class Licence (restricted), will continue to be governed by the same conditions and the validity period as per the existing licence. It shall also be entitled to retain the spectrum assigned, if any, for the validity period of the existing Licence.
3. The holder of a Class Licence (restricted) shall be entitled to migrate to a Class Licence or a Unified Licence.
4. On migration, the existing licensee will be required to pay Entry Fee as prescribed for the Class Licence or Unified Licence. Entry Fee paid earlier will be adjusted on *pro rata* basis for the balance validity period of the existing Licences as per formula given in table below. However, in cases where the Entry Fee already paid exceeds the Entry Fee to be paid now for migrating to Class Licence or Unified Licence, there will be no refund of the Entry Fee.

Type of Existing Licence	Rebate
VSAT	Rs 1.5 lakh x No of years remaining for existing Licence validity

5. On migration to the Class Licence, the validity of the licence shall be 20 years.
6. Roll out obligations, if any, linked with the existing service providers shall remain applicable even after migration to Class Licence and shall be subject to changes/modifications from time to time.

Annexure I**SERVICE AREA (TELECOM CIRCLES/ METROS) AND THE AREAS COVERED BY THEM FOR THE PURPOSE OF THIS LICENCE**

Sl. No.	Name of Service Area	Areas covered
1	Delhi Service Area	National Capital Territory (NCT) of Delhi and municipal areas of Ghaziabad, Faridabad, Noida and Gurgaon
2	Mumbai Service Area	Municipal Areas of Mumbai, New Mumbai and Kalyan.
3	Kolkata Service Area	Municipal Area of Kolkata and Chandernagore.
4	Andhra Pradesh Service Area	Entire area falling within the State of Andhra Pradesh and Yanam which is in Union Territory of Pondicherry.
5	Assam Service Area	Entire area falling within the State of Assam.
6	Bihar Service Area	Entire area falling within the State of Bihar and State of Jharkhand.
7	Gujarat Service Area	Entire area falling within the State of Gujarat and Union Territory of Daman and Diu, Silvassa (Dadra & Nagar Haveli).
8	Haryana Service Area	Entire area falling within the State of Haryana except the municipal area of Faridabad and Gurgaon.
9	Himachal Pradesh Service Area	Entire area falling within the State of Himachal Pradesh
10	Jammu & Kashmir Service Area	Entire area falling within the State of Jammu & Kashmir.
11	Karnataka Service Area	Entire area falling within the State of Karnataka
12	Kerala Service Area	Entire area falling within the State of Kerala and Union Territory of Lakshadweep and Minicoy.
13	Madhya Pradesh Service Area	Entire area falling within the State of Madhya Pradesh and State of Chhattisgarh.

14	Maharashtra Service Area	Entire area falling within the State of Maharashtra and Union Territory of Goa, excluding areas covered by Mumbai Metro Service Area.
15	North East Service Area	Entire area falling within the States of Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Manipur and Tripura.
16	Orissa Service Area	Entire area falling within the State of Orissa.
17	Punjab Service Area	Entire area falling within the State of Punjab and Union territory of Chandigarh
18	Rajasthan Service Area	Entire area falling within the State of Rajasthan.
19	Tamilnadu Service Area	Entire area falling within the State of Tamilnadu and Union Territory of Pondichery, except Yanam which is covered in Andhra Pradesh service area.
20	Uttar Pradesh (East) Service Area	Entire area covered by Eastern Uttar Pradesh with the following as its boundary districts towards Western Uttar Pradesh: Shahjahanpur, Farrukhabad, Kanpur and Jalaun.
21	Uttar Pradesh (West) Service Area	Entire area covered by Western Uttar Pradesh with the following as its boundary districts towards Eastern Uttar Pradesh: Pilibhit, Bareilly, Badaun, Etah, Mainpuri and Etawah. It will exclude the municipal area of Ghaziabad and Noida. It will also include State of Uttaranchal.
22	West Bengal Service Area	Entire area falling within the Union Territory of Andaman & Nicobar Islands and area falling within the State of West Bengal and the State of Sikkim excluding the areas covered by Kolkata Metro Service Area.

Annexure-II

Sl.No.	Sector/Activity	% of FDI Cap/ Equity	Entry Route
6.2.15	<p>Telecom Services</p> <p>Investment caps and other conditions for specified services are given below. However, licensing and security requirements notified by the Department of Telecommunications will need to be complied with for all services.</p>		
6.2.15.1	(i) Telecom Service	74%	<p>Automatic up to 49%.</p> <p>Government route beyond 49% and up to 74%</p>
6.2.15.1.1	<p>Other conditions:</p> <p>1) General Conditions:</p> <p>(i) This is applicable in case of Basic, Cellular, Unified Access Services, National/ International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS) and other value added Services.</p> <p>(ii) Both direct and indirect foreign investment in the licensee company shall be counted for the purpose of FDI ceiling. Foreign Investment shall include investment by Foreign Institutional Investors (FIIs), Non- resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs) and convertible preference shares held by foreign entity. In any case, the `Indian` shareholding will not be less than 26 percent.</p> <p>(iii) FDI in the licensee company/Indian promoters/investment companies including their holding companies shall require approval of the Foreign Investment Promotion Board (FIPB) if it has a bearing on the overall ceiling of 74 percent. While approving the investment proposals, FIPB shall take note that investment is not coming from countries of concern and/or unfriendly entities.</p>		

	<p>(iv) The investment approval by FIPB shall envisage the conditionality that Company would adhere to licence Agreement.</p> <p>(v) FDI shall be subject to laws of India and not the laws of the foreign country/countries.</p>
	<p>(2) Security Conditions:</p> <p>(i) The Chief Officer In-charge of technical network operations and the Chief Security Officer should be a resident Indian citizen.</p> <p>(ii) Details of infrastructure/network diagram (technical details of the network) could be provided on a need basis only to telecom equipment suppliers /manufacturers and the affiliate/ parents of the licensee company. Clearance from the licensor (Department of Telecommunications) would be required if such information is to be provided to anybody else.</p> <p>(iii) For security reasons, domestic traffic of such entities as may be identified /specified by the licensor shall not be hauled/routed to any place outside India.</p> <p>(iv) The licensee company shall take adequate and timely measures to ensure that the information transacted through a network by the subscribers is secure and protected.</p> <p>(v) The officers/officials of the licensee companies dealing with the lawful interception of messages will be resident Indian citizens.</p> <p>(vi) The majority Directors on the Board of the company shall be Indian citizens.</p> <p>(vii) The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO), if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required periodically on yearly basis. In case something adverse is found during the security vetting, the direction of MHA shall be binding on the licensee.</p> <p>(viii) The Company shall not transfer the following to any person/place outside India:-</p> <p>(a) Any accounting information relating to subscriber (except for international roaming/billing) (Note: it does not restrict</p>

	<p>a statutorily required disclosure of financial nature) ; and</p> <p>(b) User information (except pertaining to foreign subscribers using Indian Operator's network while roaming).</p> <p>(ix) The Company must provide traceable identity of their subscribers. However, in case of providing service to roaming subscriber of foreign Companies, the Indian Company shall endeavor to obtain traceable identity of roaming subscribers from the foreign company as a part of its roaming agreement.</p> <p>(x) On request of the licensor or any other agency authorised by the licensor, the telecom service provider should be able to provide the geographical location of any subscriber (BTS location) at a given point of time.</p> <p>(xi) The Remote Access (RA) to Network would be provided only to approved location(s) abroad through approved location(s) in India. The approval for location(s) would be given by the Licensor (DOT) in consultation with the Ministry of Home Affairs.</p> <p>(xii) Under no circumstances, should any RA to the suppliers/manufacturers and affiliate(s) be enabled to access Lawful Interception System(LIS), Lawful Interception Monitoring(LIM), Call contents of the traffic and any such sensitive sector/data, which the licensor may notify from time to time.</p> <p>(xiii) The licensee company is not allowed to use remote access facility for monitoring of content.</p> <p>(xiv) Suitable technical device should be made available at Indian end to the designated security agency /licensor in which a mirror image of the remote access information is available on line for monitoring purposes.</p> <p>(xv) Complete audit trail of the remote access activities pertaining to the network operated in India should be maintained for a period of six months and provided on request to the licensor or any other agency authorised by the licensor.</p> <p>(xvi) The telecom service providers should ensure that necessary provision (hardware/software) is available in their equipment for doing the Lawful interception and monitoring from a centralized location.</p>
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- (xvii) The telecom service providers should familiarize/train Vigilance Technical Monitoring (VTM)/security agency officers/officials in respect of relevant operations/features of their systems.
- (xviii) It shall be open to the licensor to restrict the Licensee Company from operating in any sensitive area from the National Security angle.
- (xix) In order to maintain the privacy of voice and data, monitoring shall only be upon authorisation by the Union Home Secretary or Home Secretaries of the States/Union Territories.
- (xx) For monitoring traffic, the licensee company shall provide access of their network and other facilities as well as to books of accounts to the security agencies.
- (xxi) The aforesaid Security Conditions shall be applicable to all the licensee companies operating telecom services covered under this circular irrespective of the level of FDI.
- (xxii) Other Service Providers (OSPs), providing services like Call Centres, Business Process Outsourcing (BPO), tele-marketing, tele-education, etc, and are registered with DoT as OSP. Such OSPs operate the service using the telecom infrastructure provided by licensed telecom service providers and 100% FDI is permitted for OSPs. As the security conditions are applicable to all licensed telecom service providers, the security conditions mentioned above shall not be separately enforced on OSPs
- (3) The above General Conditions and Security Conditions shall also be applicable to the companies operating telecom service(s) with the FDI cap of 49%.
- (4) All the telecom service providers shall submit a compliance report on the aforesaid conditions to the licensor on 1st day of July and January on six monthly basis.

DEFINITIONS

Global Mobile Personal Communication by Satellite (GMPCS) Services:

GMPCS Service means Global Mobile Personal Communications by Satellite Service and shall include the tele-services, bearer services and supplementary services as defined by ITU. The GMPCS system is defined as "any satellite system (i.e. fixed or mobile, broad-band or narrow-band, global or regional, geo-stationary or non geo-stationery, existing or planned) providing telecommunication services directly to end users from a constellation of satellites." (in accordance with the GMPCS-MOU)

INSAT Mobile Satellite System (INSAT-MSS) Reporting Service:

“INSAT Mobile Satellite System Reporting Service” is a one way satellite based messaging service available through INSAT. The basic nature of this service is to provide a reporting channel via satellite to the group of people, who by virtue of their nature of work are operating from remote locations without any telecom facilities and need to send short textual message or short data occasionally to a central station. This service provides one way message reporting (transmit only) facility from anywhere in India.

International Long Distance (ILD):

The ILD Service is basically a network carriage service (also called Bearer) providing International connectivity to the Network operated by foreign carriers.

International Private Leased Circuit (IPLC):

IPLC is defined as point to point non-switched physical connections/transmission bandwidth from India to destination country.

Internet Access:

Internet access means use of any device/technology/methodology to provide access to internet including IPTV and all content available without access restriction on Internet including web hosting, web-colocation but it does not include service provider's configured Closed User Group Services (VPN).

Internet Telephony: Internet Telephony means “transfer of message(s) including voice signal(s) through public internet.”

National Long Distance (NLD) Service: refers to the carriage of switched bearer telecommunication service over a long distance network i.e. a network connecting different Short Distance Charging Areas (SDCAs).

Public Mobile Radio Trunk Service (PMRTS): PMRTS is defined as:

(i) a two way land mobile service in which users communicate among themselves through a pair of radio frequencies out of a pool in a designated frequency band , assigned to the system and

(ii) the pair of frequencies is allocated on placement of call request and returned to the pool on completion of call and

(iii) the communication usually takes place through repeater station (also called base station). Once user is assigned a channel (a pair of frequencies) by the system, no one else can interfere with the communication.

Resale of IPLC: means provision of end to end IPLC between India and country of destination, taking international bandwidth from any of the ILD Service provider licensed under Section 4 of Indian Telegraph Act, 1885.

Unified Access Services (UAS): UAS means telecommunication service provided by means of a telecommunication system for the conveyance of messages through the agency of wired or wireless telegraphy. The Unified Access Services refer to transmission of voice or non-voice messages over LICENSEE’s Network in real time only. SERVICE does not cover broadcasting of any messages voice or non-voice, however, Cell Broadcast is permitted only to the subscribers of the service. The subscriber (all types, pre-paid as well as post-paid) has to be registered and authenticated at the network point of registration and approved numbering plan shall be applicable

VSAT: “VSAT” means Very Small Aperture Terminal. The VSAT SERVICE means closed user group domestic Data Network via INSAT Satellite System using VSAT

Information note to the Press (Press Release No 75/2012)

For Immediate release

Telecom Regulatory Authority of India

TRAI Releases Recommendations on 'Guidelines for Unified Licence/Class Licence and Migration of Existing Licences'

New Delhi, 16th April, 2012- The Telecom Regulatory Authority of India (TRAI) has today issued its recommendations on the **“Guidelines for Unified Licence/Class Licence and Migration of Existing Licences”**.

In its recommendations on “Spectrum Management and licensing Framework” dated 11.05.2010, TRAI has recommended that all future licenses should be unified licenses and that spectrum be delinked from the licence.

Vide its letter dated 10th October 2011, DoT had requested TRAI to recommend the Unified Licence guidelines including, *inter alia*, recommendations on entry/eligibility, PBG, FBG etc. TRAI was also requested to recommend modalities & guidelines for enabling existing UAS/CMTS/ISP/NLD/ILD/GMPCS licensees including IP-I providers to migrate to National/Service Area level Unified Licence.

In this regard, the draft 'Guidelines for Unified Licence/Class Licence and Migration of Existing Licences' were placed on TRAI website on 10th February 2012, for comments of stakeholders. All the comments received from the stakeholders were posted on the TRAI website. Based on comments received in the consultation process and its own analysis, the Authority has finalised its recommendations in this regard.

In the framework of Unified Licence, it has been recommended that there shall be three levels of Unified Licence; National level, Service area level and District level. One time non refundable Entry Fee for Unified Licence shall be (a) Rs. 15 (Fifteen) crore for National level Unified Licence; (b) Rs. 1 (One) crore for each Service area level Unified Licence except for Jammu & Kashmir and North East Service areas where Entry fee will be Rs. 50 (Fifty) lakh each, and (c) Rs. 10 (Ten) lakh for each District level Unified Licence.

In the new Licensing Regime, as the spectrum has been delinked from the Licence, it has been recommended that TRAI should be entrusted with the function of granting all types of Unified licences.

The recommendations are available on TRAI's website www.trai.gov.in

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(N. Parameswaran)

Secretary in charge, TRAI