# Delinking of license for networks from delivery of services by way of virtual network operators'

**Background:**

Our Successive Governments since independence neglected Telecommunication infrastructure development in the country. Priorities set for development did not include this sector. Realization that Telecom sector too was essential for economic growth and employment generation came too late. By the time the population had increased many fold, technology had undergone dramatic changes and had leapt forward to an extent that we are now finding extremely difficult to catch up due to neglect of decades.

It is a well known fact that in a deprived society with meager means for affording expensive things "**Sharing**" is an ideal mechanism for optimum utilization of resources. For reasons explained in para 21 of the consultation paper successive Governments of the day felt that by restricting the Licensees to share their passive and active infrastructure they could force them to invest in creating a world class, truly so called Carrier grade infrastructure. Provision for a new class of infrastructure provider Licenses were also made so that some players could invest in a business which obviously had long gestation period and needed deep pockets; coupled with lot of other risks. It dawned on the Govt. after decades that a business entity prefer investment only where there is a quick return. Licensees therefore preferred to create infra only in those areas where there was possibilities of higher revenue, higher margins and in technology that could provide quickest connectivity, quickest acquisition of customers who could yield better ARPU. There was no wrong doing by service providers as it was a natural business phenomenon but the policy makers in the higher echelons of the govt. remained oblivious to it which resulted in to skewed growth of the sector leaving large areas of the country uncovered, partially covered, poorly covered with an appropriate infrastructure to the woes of the nation. Dreams of an exclusive growth, Penetration of broadband internet to the hinterland of the country that could give a boost to GDP, create employment, generate weath without using the natural resources of the Country (with the exception of Spectrum) and bringing better facilities of health, education, governance, law & Order and giving the people opportunities to earn their living with self respect and not depending on "doles".

The mistakes made in the past were apparent; but realization has come late. Better late than never. "**Sharing**" is the panacea for some of the ills till we are able to find more resources to create an infrastructure which is most appropriate for our nation. Sharing the existing assets of all service providers (TSPs, ISPs, MSOs; Digital Platform operators included, IP I & IP 2 Licensees etc) will increase penetration fast, enhance utilization of services and applications, dissemination of information/ knowledge and generate higher revenues for these service providers thus enabling them to reinvest in expanding their infrastructure. Not to say the least that nothing more shall be required by the govt. of the day to remedy the situation.

Sharing of Local loop (unbundling of the local loop), sharing of OSP infrastructure, Sharing of Spectrum, freely interconnecting and carrying each other's traffic on the regulated terms are some of the necessities that both government and service providers need to realize and practice. Govt. should not impose restrictions on "Sharing" ; rather it should facilitate the same. It should off course ensure that unethical trade practices do not flourish, discriminatory and unhealthy trades of the resources obtained from the Govt. are not undertaken and an honest eco system is created.

It has been observed in the past that Service Providers have been resorting to outsourcing of a large number of their services to other private agencies which have not obtained any License from the Govt. for such services since such services do not require any License. For example, backend IT Operations, Billing, Bill distribution, Maintenance of Network and other infrastructure. A lot of independent application service providers started using their infrastructure which was expected and welcome move. It created more indirect employment.

The outsourcing ecosystem brings out a new and much superior opportunity to increase the penetration of Telecom Services in the country. It shall not only open up the sector for a widely distributed investment opportunities at Micro, small and medium levels. It shall create huge employment opportunities without overburdening the Licensed Service Providers. This is by way of appointing franchisees by the respective Licensed Service Providers in very small/ small geographies; say in a village or a cluster of village, in a mohallah/ gated community a typical area/ colony of a town or city. Such franchisee may create his own infrastructure on terms as agreed between the parties under the terms of License of the existing service provider. Take for example BBNL case where it is planning to reach to 250,000 gram Panchayats with just one node but no connectivity to the end users. Franchisee can provide the Passive part of the network; e.g. Fiber in the last mile. This franchisee is expected to provide much superior customer service because he would be known and close to customer than a behemoth service provider.  Quality both in terms of technical performance and delivery of service shall rest with the Licensed Service Provider which he will have to ensure and shall be responsible to the regulator in any case. Such Franchisee shall **need no License, shall not be obliged to pay any CAGR, shall not be**

**subjected to any hassles of a Licensing regime. If at all needed they will have to register with the Govt./ Regulator and sign an agreement to follow a code of conduct, statutory laws pertaining to legal interception, security and some such necessary provisions which can not be avoided.** These Franchisees should be outside the purview of what is being envisaged to classify the operators as NSO and SDO. In fact these MSME may or may not have any Network in place. For example TSPs/ ISPs can appoint a Cable TV service Provider to provide the complete portfolio of their services over its network; or for that matter there could be absolutely new entrant who is willing to work under the License of the Principal service provider as an outsourced agency. It may be appreciated that beside the infrastructure and the technology businesses are carried in many different ways. Network owners may outsource operations, business development, Subscriber management, revenue collection etc to any one who will run it on the Licensed service provider and yet in such cases the service delivery shall still be considered to be from the Licensed Service Provider. However if theout sourced agency deliver the services under his own brand and uses the infrastructure of multiple Licensed service prodders then he would be truly a virtual Network operator. Thus there would be a new category of VNO: The Franchisee VNO. The definition of VNO in the document is therefore required to be modified to accommodate this concept.

License Raj in the country has been the mainstay of corruption and must go as the nation is fed up. To the extent it is unavoidable for genuine reasons, safeguards must be built in. License should be hassle free, should be distributed on a non discriminatory basis, entry barriers if required should be thoroughly examined by regulator and publicly debated. The wider and long term benefits that would accrue due to wide spread use and deeper penetration of broadband should prevail upon the desire to make quick buck for the exchequer. Keeping this principle in mind and the back ground as described above, we would like to submit our response to the issues highlighted in the consultation paper hereunder.

The responses are given point wise:

1. Para 21: It was a mistake to restrict sharing of infrastructure. (Both passive and active; spectrum included). Realization came late and that too partial correction in the form of sharing the towers and related facilities. **Delinking infrastructure from the Service delivery is OK but should not become a mandatory condition for Licensing. Any entity seeking a License or those who already have a License should not be told to either seek an NSO License or an SDO License**. All the existing License holders of the previous regime or under the new UL regime should be allowed to continue to provide services as per their Licensing Conditions. Provisions however can be made for including a new Service category in the UL regime for those desirous of confining themselves to be either an NSO or an SDO. Indeed an NSO should be free to be an SDO without specifically asking for an SDO License. Hence an NSO

License should in fact be an NSO+SDO License where as an SDO License could confine to service delivery only. There shall however be incidences where the SDO may have to add/ install some part of infrastructure in the last mile to complete the connectivity in case there are gaps in the NSO infrastructure and SDO is keen to acquire the customer. Such additions/ alterations of the NSO infrastructure need not be construed as build out of infra by the SDO. Safeguards of such situations need to be built in the guide lines/ rules.

2. These Service Delivery providers would be required to lease, hire, avail the infrastructure from one or more than one Network owners (TSPs, ISPs, MSOs, LCOs etc) in one or more than one geographical areas not coinciding with the old classifications of SDCA and/ or circle. The difference between the Franchisee and the SDO Licensee would be that a Franchisee shall be appointed by one Licensed Service provider in the area(s) covered by his License where as an SDO would be free to tie up with as many Service providers as his business needs would require. A very liberal regime is required.

Para22: Frequent changes in License regime are undesirable. Govt. should refrain. There is a need to add a provision in the existing UL scheme for someone to obtain an SDO License to become a VNO. It should be appreciated that we have many type of Networks and many kind of infrastructures and therefore the guidelines should be across the board. For Example:

1. An Entrepreneur comes to an understanding with some GSM service providers on revenue share basis in some geographical areas, leases BW from some ISPs, installs WAPs in some LCO area uses his network for back haul and launches a service under his brand name. He could therefore seek an SDO License under modified/ revised UL.

2. Some other entrepreneur is interested in a fixed line service and wants to create an Access Network in a geographical area which could be utilized by any or all. Today some companies have already created such infrastructure in MDUs, gated communities and are poised to do so in new townships. Indeed the potential for largest FDI in India is in building FTTx Networks. Such people could seek an NSO License under a revised UL. It would still be better if they have the liberty to launch their chosen service without seeking an additional License.

3. Another Entrepreneur would like to lease the network of a VSAT service License holder for a couple of hours in the evening to distribute entertainment (say Cine films) to clubs, Village chaupal, mini makeshift cine theatres in rural or hinterland India. Another may happens to be a big film distributor and wants to distribute his films direct to Cinema. How do we wish to handle these cases? In the first instance the size of the business will not be small but probably young startups will venture in, whereas the other would be large. Both may be covered under UL regime if it could be properly modified.

4. There are innumerable services that the entrepreneurs can launch over other's infrastructure. All these need not require an SDO License. What services will require an SDO License should be identified with a rationale behind it.

Para23: Yes, there are definite possibilities. The point is whether there is a need to have a License for every service. We should avoid Licensing and hassles connected with it to the extent it can be legally done Instead registration process should be introduced which has many advantages and can be done on Line without a Govt. functionary getting involved face to face with the applicant unless there is a complaint of some kind. A few examples mentioned above are indicative. Multiple service providers can deliver services over the same infrastructure unless the infrastructure gets utilized uto its 100% capacity.

Para 24: Unless the infrastructure reaches its full 100% capacity it can be put to use. Whether the Licensee uses it himself or allows a Franchisee, an outsourced agency or a VNO to use it to deliver different kind of services should be lrft to the Licensee. Whenever and wherever there is a capacity crunch Govt. should come to his rescue to facilitate that the services to the public are not hindered. The process for such facilitation should be transparent, non discriminatory and not at the cost of someone else. Govt. in such cases must act timely and wisely. Issue of spectrum shortage has been known and yet it has not been addressed in a time bound manner, nor has it been debated publicly among the professionals to find viable solutions. Answer to the pointed question is Yes.

Para 25: Para 4 of the DOT letter is quite clear. DOT has requested for TRAI to give its recommendation for delinking of License for Network with delivery of service by way of Virtual Network operators etc including related issues. Our suggestions to TRAI is to tell the Govt. that a complete deinking is neither possible nor desirable. It will not be in the interest of the Nation to have a completely new Licensing regime. Provisions for including VNOs/ SDOs should be made by amending the existing provisions in the recently introduced UL regime.

Para 26: Suggestions to the related issues are given hereunder for each issue mentione in sub para's:

1. Roll out obligations to NSO within the the geographical limits for which the License has been sought and granted need to be revisited. Other than TSPs there several Licensees. There should be uniform and/ or similar policy for all. The SDOs shall not be able to meet out the TSPs roll out obligation. Moreover SDO will be using several NSOand hence can not meet everybody's roll out obligation NSO shall not have only one franchisee orjust oneSDO for each of his circle/ geographical area. Infact treating an SDO at par with a TSP for granting a License will jeopardize the very purpose of having a VNO eco system and achieving a "Digital India" dream. SDOs/ VNO should be free to seek their desired area of operation and provide service. How can a small entrepreneur be asked to meet a roll out obligation. NSOs Licenses as suggested in

earlier para's should be ipso facto service delivery operators at their sole option. Total delinking of NSO & SDO will be disastrous. Hope wiser Counsels shall prevail. We need to create more opportunities for generating wealth by optimum utilization of the assets already created and being created, rather than creating problems. We want Licenses or Permissions be granted to SDOs/ VNOs in addition to those who have infrastructure with spare capacity  or those who wish to create infrastructure in pockets/ areas/ domains where it is either nonexistent or deficient in one way or the other. Such NSOs as mentioned above will have limited geographical area and will have obligations to roll out in that geographical area e.g. a district/ a block  or old SDCA could be a minimum.

2.  TRAI should provide guide lines and model conditions of the agreements. It can leave it to NSO and VNO to come to commercial agreement which should take care of spectrum usage charges which SDO/ VNO should share in case spectrum is shared with VNO. The agreement conditions should be regulated and should take care of security aspects, legal interception, audit of subscriber management system to protect end consumer rights etc

3.  Yes, this will be the case. There will be no issue if the SDO/ VNO Licensing is kept simple.

4.  NSO will be granted the spectrum and hence will be responsible to Govt. for usage charges. NSO will settle with the SDO/ VNO as to how much he should pay. TRAI can set an upper limit  if it can reasonably demonstrate after a thorough study of various aspects of the issues involved; otherwise it should be left to market forces to determine it.

5.  Yes. Numbering Scheme may have to be worked out. In case of a Franchisee VNO the TSP can continue the existing numbering system and still be able to  manage the franchisee subscriber.

6.  Lawful interception should continue as at present. In the new scheme too NSO would be able to help the security agencies as it will own and operate the network. However SDO/ VNO shall also be liable to help the agencies as and when required. Hence both should be liable to help.

Para 27. Notwithstanding as to what happened in the past MVNO should be treated in the same way as any other VNO. Since MVNO shall be using spectrum they will pay the usage charges as agreed between them and the TSP/ NSO. It is not only in the case of conventional cellular operators but tomorrow all wireless service operators may like to share their infrastructures with SDO/ VNO and hence MVNO should be treated under the same revised UL regime as others.

Para 28: Licensing for the OTT is a very complex issue. It needs to be dealt separately. OTT first need to be defined.  OTT involves content distribution over Internet which is not regulated and is not subject to any laws of our land. In the present circumstances there seems to be no possibility to bring it under the UL scheme. In fact no License can bring any

effective control Unless a global consensus is evolved which is near impossible due to diverse ethical/ moral values of the comity of Nations. Answer to the pointed question is "NO". Even for those who are and those who will in future provide content over the internet from servers located in India. Content regulation for local content providers must be dealt with separately.

For kind consideration of TRAI please.