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To,

**Shri S T Abbas,
Advisor (NSL),**

Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
JawaharLal Nehru Marg,
New Delhi – 110 002.

Sub: Consultation Paper on “Enabling Unbundling of Different Layers Through Differential Licensing”

Dear Sir,

This is in reference to your above-mentioned consultation paper. In this regard, please find enclosed our response for your kind consideration.

Thanking You,

Yours' Sincerely,

For Bharti Airtel Limited



Rahul Vatts

Chief Regulatory Officer

Encl: a.a

**Bharti Airtel Limited's Response to TRAI's Consultation Paper on
"Enabling Unbundling of Different Layers Through Differential Licensing"**

At the outset, we would like to thank the Authority for providing us the opportunity to share our views on the TRAI's consultation paper on 'Enabling Unbundling of Different Layers through Differential Licensing'.

Telecommunications services in India have taken significant strides since the same were opened for private players way back in 1994. The last 25 years have seen several changes with:

- Licenses moving from fixed license fee regime to a revenue sharing regime in 1999.
- Unified Access Service (UAS) License was introduced, and the Cellular Mobile Telephony Service/ Basic Service Operator Licensees were given the option to migrate to UAS License in 2004-05.
- Enhancement to the licensing regime was brought by way of allowing dual technology in 2007-08.
- Delinking of the spectrum from the license in 2012 and allocation of access spectrum via spectrum auction
- Introduction of Unified License in 2013 wherein different licenses existent have been added as different authorizations under the Unified License.

All the changes introduced in the licensing regime to date have been incremental and did not, in any manner, reduce the scope of the authorizations held by the existing licensees. Further, the migration to the said license/ regime has always been optional, as per the operator's choice and never mandatory. This flexibility has ensured growth of services as well as certainty of licensing regime.

The continual and gradual evolution of telecom and licensing has enabled TSPs to make large investments in the last 20 years. Ensuring predictability & certainty in the licensing regime's basic edifice has resulted in the Industry investing over **INR 11.4 lakh crores** in setting up world-class mobile networks over the last 20 years and further committing around INR 3.68 Lakh Crores in acquiring the spectrum through a spectrum auction. The industry continues to invest further despite reeling under a daunting debt/liability burden of **INR 8.5 Lakh crores**.

It is worth mentioning that the return of these investments is realized over a long time, which is why the license period is 20 years, and the spectrum is also allotted to licensees for 20 years durations. There has been no dearth of investments in the sector even though returns are realized over a long period of time. The primary reason has been the certainty provided by the

licensing regime, which ensured that the basic licensing framework remained the same and this certainty has spurred investment.

Future technologies like 5G and the rollout of fiber densification are huge capex investments and these would require '**Regulatory Certainty**' to attract investments in the sector.

Therefore, there must be no fundamental change to the licensing regime, which in any case is working fine. The present consultation paper tends to profess a layered approach to licensing. **We firmly believe that the present licensing regime already supports a layered approach. The existing licensing regime consists of entities at different layers- such as Infrastructure Providers (IP-1) to deploy passive infrastructure, a Unified License to provide network and services, UL-VNO to provide services, and OSP/ M2M on the application part.**

Over the last few years, the industry has witnessed a considerable decrease in average revenue realization per subscriber per GB and an exponential increase in data usage per wireless data subscriber. Therefore, it is imperative that the existing licensing regime must be continued and incentives and enablers be provided to existing licensees to enhance the networks' coverage and capacity.

COVID-19 has cast a shadow on the Global and Indian economy and has demonstrated the importance of digital readiness. The Telecom industry has thus emerged as the invisible force behind keeping the citizens connected. The telecommunications sector in the country has facilitated a sharp rise in the use of digital tools, including video-conferencing, cloud computing, and electronic payments. Thus, we believe that, the immediate goal of the Government should be to strengthen the telecom infrastructure in the country and provide the Broadband services to all the citizens of the country.

It has been estimated that this will require enormous investments to the tune of **INR 200,000 crores over the next 2-3 years** for spectrum, technology, equipment, and fiber backbone. For generating such amount of investment, Government needs to provide incentives, reduce regulatory cost, provide appropriate Policy and Financial stimulus to the existing TSPs under the current licensing framework rather than changing the licensing regime itself.

In the backdrop of the above, our responses to the issues raised in the Consultation Paper are as below:

Q1. Do you agree that in order to attract investment and strengthen the service delivery segment, Network services layer and Service delivery layer needs to be separated by introducing specific license for Network Layer alone? Please justify your answer.

Bharti Airtel's Response:

In the consultation paper, TRAI has given the reference to the NDCP 2018, which envisaged unbundling as a strategy to catalyze investments and Innovations and to promote Ease of Doing Business. The objective of bringing about this change in the licensing structure to achieve the following objectives:

- i. Promote innovation
- ii. Attract investments
- iii. Promote sharing
- iv. Promote VNO access

However, we believe that the above contentions for the unbundling of licenses are far from the ground reality. Our submissions on the same are as below:

- **Innovation:** There has been no dearth of innovation in the Telecom Sector. In fact, telecom is one of the sectors that are now abreast of technological developments worldwide, and new products are being rolled out in the Indian market such as VoWiFi, bundled OTT offerings etc. Moreover, there is no empirical evidence of the premise that the present regime is an impediment to innovation and how the unbundling will help in catalyzing innovation in the sector.
- **Investments:** Indian operators have made extensive investments in acquiring spectrum and deploying infrastructure. The Industry has invested over **INR 11.4 lakh crores** in setting up world-class mobile networks over the last 20 years and further committed around INR 3.68 Lakh Crores in acquiring the spectrum through a spectrum auction. The industry has achieved more than 95% population coverage and aims to cover all the unconnected villages with the help of projects undertaken by USOF.
- **Sharing of resources:** The objective of introducing different licensing layers, as stated by TRAI in its Consultation paper, is to promote building a common telecom network/infrastructure and making more efficient utilization of telecom network/infrastructure. We believe that these objectives can be easily achieved without any alteration to the existing Unified Licensing Regime. Even today, telecom networks are being utilized at the highest levels as India is a unique telecom market in the world where a subscriber, at an average, consumes over 11 GB of data per month on mobile internet. Moreover, operators are already sharing their active and passive infrastructure to ensure optimum utilization. The sharing of active-passive infrastructure (incl. fiber sharing) has presented significant benefits for the industry, reducing their CAPEX requirements and focusing more on the customer experience with

faster network rollout. The sector has also witnessed the sharing of spectrum and active infrastructure amongst licensed TSPs.

Further, we see an imminent need to bring in parity for the licensed TSPs with the provisions made for VNOs by reviewing the 'pass-through charges'. Currently, for the payments being made by VNOs towards bulk/wholesale bandwidth, leased line and bandwidth charges, minutes and SMS, to licensed TSPs have been permitted as 'pass-through charges'. The Government should permit all kinds of payments (either fixed or variable) made by one TSP to another as 'pass-through charges' to avoid double taxation.

Incentivizing full sharing of the telecom network (incl. core infrastructure such as Switch, MSC, HLR, IN, etc.) amongst licensed TSPs with USAL/UL(Access/ NLD/ ILD/ISP/VSAT Authorization), without any incidence of double taxation, amongst these licensed TSPs. This would serve as a catalyst for full-filing the objectives of creating a seamless network layer by unlocking the true potential of the telecom infrastructure of existing licensed TSPs.

- **VNO Access is not successful:** The Unified Licensees are already sharing network resources with various VNOs and amongst each other on a non-discriminatory basis. We believe that the existing telecom market is hypercompetitive, and the existing tariffs are unsustainable for the Industry, affecting all the service providers- NSOs and VNOs, which may be the reason for the reluctance of new players to enter the market.

Therefore, there are no requirements of imposing any additional obligations on UL Licensees. We believe that the TRAI should address the low tariff-related issues, which is critical for the existing operators' sustainability.

Further, we believe that the Unbundling of the license is not required due to the following reasons:

- 1) **The existing licensing regime supports a layered approach:** The existing licensing regime consists of entities at different layers- such as Infrastructure Providers (IP-1) to deploy passive infrastructure, a Unified License to provide network and services, UL-VNO to provide services and OSP/ M2M on the application part.

Further, TRAI's recommendations on the enhancement of the scope of IP-1 recommends deployments of active infrastructure by IP-1. This also overlaps with the existing Unified License guidelines, wherein till now, only TSPs had the permission to deploy active infrastructure.

Most TSPs have now hived off their fiber infrastructure to separate IP-I companies to promote fiber sharing and building common fiber infrastructure. The sector has also witnessed the sharing of spectrum and active infrastructure amongst licensed TSPs.

The service layer licenses already exist in the form of Unified Licence (VNO), wherein VNO is not mandated to create any telecom infrastructure and act as a pure reseller as envisaged in the service layer.

Therefore, there is no need for any licensing structure changes by introducing separate network layer licenses.

- 2) **Regulatory Uncertainty:** The operators have invested significantly in the last few years, and it is worth mentioning that the return of these investments is realized over a long time. There has been no dearth of investments in the sector even though returns are realized over a long period of time. The primary reason has been the certainty provided by the licensing regime, which ensured that the license's basic fabric/ nature had remained the same, and this certainty has spurred investment. Any structural change in the licensing regime leads to Regulatory Uncertainty and will deter investors from investing in the future.
- 3) **Protection of Investments:** Preventing the NSOs from providing the services will make them dependent on the SDOs, who might or might not require a network. This will create an uncertain business environment for the NSOs as they will always be under the threat of the non-utilization of their network capacities by SDOs. The NSOs in such a business environment will be forced to provide the infrastructure at the terms and conditions of SDOs, which will deter the investments in the network by NSOs.

As stated above, Telecom requires long-term investment commitments from operators, and any alterations in the Regulatory regime by introducing proposed unbundling of licenses will adversely impact the curve of deployment of technology as the NSO will only invest once he sees substantial demand for a technology/ product. Without being an SDO, he will not be able to drive the consumption/ proliferation of technology. This bifurcation will have unintended consequences which will outweigh all the advantages, if any, of the unbundling of licenses

We believe that NSO should have the right to provide services in any regime; otherwise, they will be devoid of their right to control the monetization of their network and spectrum acquired by them. This will also result in increase in cost due to sub-optimal utilization as well as increase in compliance burden. To counter this situation, NSOs might resort to taking countermeasures such as imposing the onerous conditions on the VNOs, to protect their investments. This will make the services costlier for the end-users.

- 4) **Convergence:** The Unbundling of licenses will amount to moving away from unified licensing and convergence principles. Today's networks provide a converged platform for many services/ products. With the NSO being reduced to a network provider, it will have no interest in investing for products which get enabled at the core level e.g., VoWiFi

Therefore, the unbundling of Licenses is not in the interest of the Industry. On the contrary, we believe that to unlock the potential of the sector further, the following measures need to be taken:

- Light touch licensing is required for all. Onerous terms and conditions should be deleted to promote ease of doing business.
- Allow pass through to TSPs for payment made to other TSPs: We disagree with TRAI views in para 4.11 wherein it has stated that there is no need for allowing the payment made to another TSP for sharing of infrastructure as pass-through charges for computation of AGR. Not allowing pass through to TSPs for such transactions leads to a non-level playing field between TSPs and IP-1. Currently, IP-1 is not required to pay a license fee on the revenue earned by them by sharing the infrastructure with TSPs, whereas for the same sharing between two TSPs, both TSPs are required to pay license fee.
- **One Nation One license:** We should now move towards One Nation One License wherein an operator is allowed to have a single network on a Pan India to ensure efficient utilization of resources. This will require:
 - Enhancing the scope of UL-Access to Pan India Authorization with no restriction to route inter-circle calls via NLD network
 - Uniform SUC charges so that a single GR/ AGR can be formulated and due LF/ SUC is paid on the same.
 - GR/ AGR definition be suitably modified to ensure clarity and onerous obligations.
 - One GR/ AGR statement for Pan India access services

Therefore, we believe that there is **no requirement to introduce network-specific licenses** as the industry has already made sufficient investments in the sector for acquiring spectrum resources and enhancing networks and increasing their coverage footprint.

Q2. Should the Network Services Layer licensee be permitted to take the Service Delivery Category licenses and provide the service? If yes, what kind of restrictions and safeguards are required to be built, in order to protect the competition and innovation in service delivery segment? Please justify your answer.

Bharti Airtel's Response:

As stated in response to Q1, **we strongly believe that there is no requirement for establishing differential licenses** as the present regime is functioning well to serve the country's telecom requirements at most affordable tariffs. Most of the country's areas have been covered by mobile coverage, and USOF funded projects are already being executed to cover the uncovered areas. The active participation of the TSPs and other stakeholders in USOF projects has given impetus for faster realization of connecting every village with broadband connectivity and transforming India into a digitally empowered society and knowledge economy.

However, if the Authority still decides to introduce Network Service Layer Licenses, then Network Layer Licensees should be permitted to take the Service Delivery Category licensees. In the present scenario also Unified Licensees are performing both Network and Service layer functions, and no worse off should be ensured for the existing licensees.

The changes in the regulatory framework and the uncertainty would jeopardize or threaten the existing investments made by existing NSOs. The commitments towards long term investment needs would call for a stable regulatory environment for the existing NSOs, and alterations in the regulatory regime by introducing proposed unbundling of licenses will adversely impact the future technological investments.

Q3. Whether certain obligations should be imposed on the existing Unified Licensees, and other measures should be taken to encourage UL licensees to provide their network resources to VNO licensees particularly in mobile service segment? Please suggest the measures in detail.

Bharti Airtel's Response:

We disagree with contentions in the Consultation Paper that the Unified Licensees are reluctant to provide the network resources to VNOs as specified below in Section 2.4 of the consultation paper:-

"However, for mobile services, the VNOs are not picking up as the existing network operators, that is, Unified Licensees are providing the services to the subscribers themselves on retail basis;

and they could not find any commercial interest in providing the network services (bulk services) on a wholesale basis to VNO, who then can retail it to the subscribers”

The Unified Licensees are already sharing network resources with various VNOs and also amongst each other on a non-discriminatory basis. We believe that the existing telecom market is hypercompetitive and the existing tariffs are unsustainable for the Industry, affecting all the service providers- NSOs and VNOs, which may be the reason for the reluctance of new players in entering the market.

Therefore, there are no requirements of imposing any additional obligations on UL Licensees, and we believe that the TRAI should mandate floor tariffs for a limited period, which is critical for the sustainability of the existing operators.

Q4. In case network layer and service delivery layer are separated by creating separate category of licenses, as proposed in Q1;

a) What should be the scope for Network layer license and Service Category licenses?

&

b) Out of various responsibilities and obligations enumerated in Unified License, what should be the respective responsibilities and obligations of Network layer licensees and Service delivery category licensees? Please elaborate with justifications.

Bharti Airtel’s Response:

We firmly believe that **there is no change required in the existing licensing regime**. The current licensing regime should be continued.

The service category license proposed in the Consultation Paper already exists in the form of VNO. The scope of VNO services is already defined in Guidelines for VNOs and the UL-VNO Licensing conditions.

If it is still decided to introduce a new regime, then following (indicative list not exhaustive) could be the broad scope and responsibilities of respective licensees:

Network Layer Licensees:

- Creation of active and passive telecom infrastructure
- Access and Backhaul Spectrum acquisition
- Interconnection with networks of Network Layer Licensees
- Compliance with Network related TRAI Regulations (QoS, Interconnection)
- Network and Security related compliances (such as Lawful Interception)

Service Layer Licenses:

- Acquisition of customers
- All customer-related processes – KYC, Customer Complaint management, tariff, and billing
- Compliance with service-related TRAI Regulations

As stated above, Network layer Licensees should be allowed to take Service Layer Licenses also, and no worse off should be ensured for existing Licensees. The Network Layer Licensees should have the right to provide services in any regime; otherwise, they will be devoid of their right to control the monetization of their network and spectrum acquired by them. This will also result in increase in cost due to sub-optimal utilization as well as increase in compliance burden.

c) What mechanism should be put in place to regulate the access to network services of Network layer licensees by the service delivery Category licensees? Whether certain obligations should be imposed on Network layer licensees to provide the network resources in a time-bound, transparent and non-discriminatory manner?

Bharti Airtel's Response:

Please refer to the response for Q3, wherein we have clarified that there is **no need to put any obligation** on Unified Licensees to share their network with VNOs as the real reason for the non-entry of new operators is the stiff competition and unsustainable tariffs.

Given the above, we submit that there is no need to put any obligations on proposed Network Layer Licensees for sharing their network with service layer licensees.

d) What incentives (for example, lower license fee, lower SUC, etc.) could be provided to Network Layer licensees in the new unbundled licensing regime to encourage the investment in the Network layer? Please justify your answer.

Bharti Airtel's Response:

The investments in new technologies and network expansion by TSPs has created immense opportunities for various entrepreneurs and small providers to provide innovative services and seamlessly connect with their customers.

In the present regime, the TSPs need the following support from the government:-

- To give impetus for further sharing of network resources and reduce the cost of operations, all types of payments done by the seeker TSPs towards the provider TSP should be allowed to be deducted from gross revenue as **pass-through charges** while calculating the AGR.
- **Rationalization of taxes and levies.**
- **Reduce the spectrum usage charges (SUC)** (SUC to cover the administrative expenses only)
- **Exempt the levy of GST** on License Fees, Spectrum Usage Charges and Payment of Spectrum acquired in auctions.
- **Waiving off license fees** on all types of **wireline networks** (Copper Cable, FTTH, Cable TV network, Internet leased line etc.). This would give impetus for faster rollout of the broadband network.
- To **refund the unutilized input tax credit** immediately. Freeing up this trapped unutilized GST credit will enable telecom companies to channel the funds back into investment.
- Ensuring the timely provision of adequate MWA spectrum resources

We believe that the same incentives may kindly be extended to network layer licensees for encouraging investments in network infrastructure.

e) Whether the existing Unified Licensees should be mandated to migrate to the unbundled licensing regime, or the new regime should be introduced, while keeping the existing regime continued for existing licensees till the validity of their license, with an option of migration?

Bharti Airtel's Response:

We do not support and foresee the need to establish an unbundling regime since the **existing regime can fully support** the objective of creating a seamless network layer by unlocking the true potential of telecom infrastructure.

All the changes introduced in the licensing regime to date have been incremental and did not, in any manner, reduce the scope of the authorizations held by the existing licensees. Further, the migration to the said license/ regime has always been optional, as per the operator's choice and never mandatory. This flexibility has ensured growth of services as well as certainty of licensing regime.

If the government decides to implement such an unbundled regime, then there **should not be any mandatory migration** until the validity of existing licenses.

f) Whether existing VNO licensees be mandated to migrate to service delivery category licenses as per unbundled licensing regime?

Bharti Airtel's Response:

The licensing condition for the VNO licenses **is sufficient** and there is no need to create a new service delivery category licenses.

g) Whether service delivery category licensees be permitted to parent with multiple Network Service layer licensees? Please justify your answer.

Bharti Airtel's Response:

The VNO licenses are created by the delinking of the licensing of networks from the delivery of services to promote optimal utilization of networks and services. This creation of the VNO category under UL has established the service delivery category license, which effectively facilitated the resale at the service level.

We do not see any requirement to permit the service delivery category license to parent with multiple Network Service Layer licenses for Access services. The existing licensing provisions as applicable to different authorizations under VNO are sufficient and should be continued.

Q5. Any other issue related to the subject may be raised with suitable explanation and justification.

Bharti Airtel's Response:

No Comments