

08/08/2016

To,

Shri U K Srivatsava,

Pr. Advisor (Networks, Spectrum and Licensing) TRAI,

Jawaharlal Nehru Marg,

New Delhi 110002

Respected Mr. Srivatsava,

We welcome TRAI's initiative on requesting counter comments on the consultation paper on Voicemail/Audiotex/Unified Messaging Service licence. This consultation has opened up a valuable and interesting debate on the topic of value added application service providers. We thank you for giving us this opportunity to participate in this debate. We are fully confident that the authorities will make the right decision that enables a thriving telecom market in India.

Thanking you,

Shivakumar Ganesan

CEO

Exotel Techcom Pvt. Ltd.

Summary of counter comments

Most of the stakeholders who have advocated for abolishing a standalone licencing regime for content providers have the following comments:

Regulatory arbitrage:

The Telecommunication Interconnection Usage Charges (Eleventh Amendment) Regulations, 2015 (1 of 2015) dated 23rd February, 2015 seems to be basis of most arguments. We would like to submit that:

- The only form of TDM telephony available today is on Fixed line/PRI.
- Legitimate Audiotex providers were using PRI lines even before the MTC amendments came into effect.
- The purpose of the MTC amendment was to encourage the growth of wired line connections. PRI and ISDN lines don't help in broadband penetration and hence we request the authorities to remove PRI from MTC amendments to address the issue.
- The said arbitrage does not go away by simply abolishing a standalone licence for Audiotex or by including content services in UL (Access service)

National security/Security risk:

Audiotex licence holders already have prescribed conditions by the Government for the purposes of lawful interception. For example, please refer to clause 27.3 which reads as such:

Voice Mail/Audiotex/ Unified Messaging Services licensee shall provide a watchdog terminal with access limited to unfiltered CDR file to the licensor/designated monitoring agencies

Legitimate Audiotex providers already maintain a watchdog terminal and co-operate with the Govt. authorities for lawful interception to protect national security.

Illegitimate players:

The presence of illegitimate players is not an argument for abolishing Audiotex licence or including it in UL (Access). It is a basis for creating and empowering TERM cells.

Fly-by-night operators:

- An asset heavy Balance sheet is just one of the indicator of serious players.
- Founders/promoters from good backgrounds or with educational qualifications from premier institutions must be encouraged.
- It is a known fact that 99.96% of startups fail within the first four years of operations.
- The Govt. already encourages startups through the "Startup India, Standup India" initiative.

Principle of 'Same service, same rules'

Audiotex, voice mail, conferencing etc are application services and are not access or carriage services. Same service must have same rules, but these applications are not the same as access services.

Audiotex licence will derail efforts around UL(VNO)

All services covered under the scope of Unified licence fall under two categories:

- Access service
- Carriage service

Because Audiotex, voice mail, conferencing etc. are application services, this will not affect the efforts under UL (VNO).

Regulatory arbitrage due to Clause 2.1 (a) vi of UL licence agreement:

(vi) The Licensee may also provide Voice Mail/Audiotex/Unified Messaging services, Video Conferencing over its network to the subscribers falling within its SERVICE AREA on non-discriminatory basis. All the revenue earned by the Licensee through these services shall be counted towards the revenue for the purpose of paying License Fee under the LICENSE AGREEMENT.

There is no regulatory arbitrage. That Audiotex licence holders don't have to pay LF @ 8% is a myth. All the services used by Audiotex licence holders are obtained from authorized TSPs who already include the licence fees in the pricing offered to Audiotex providers.

Restrictions on Single operator for dial-out facility must be continued

- The Govt., through a series of amendments and notifications has already permitted all TSPs to share both active and passive infrastructure.
- In 2004, infrastructure sharing was not permitted and hence this clause was necessary.
- To create a level playing field, we humbly request the authorities to remove restrictions on single operator for dial-out facility. UL licensees are already permitted to share infra.

We have also addressed a few clarifications from specific comments below:

Counter comments on ASSOCHAM's responses:

With respect to the technical specification, it is submitted that current Audiotex license does not cover any conferencing service but the same has been included via a TEC specification. It may be appreciated that a TEC specification does not amount to any licensing condition and cannot change the scope of license.

The Amendments to the scope of the licence through letter No. 846-38/96-VAS(Vol.II/80 dated 26.08.2004) may be referred to conclude that conferencing service was included in the scope of this licence.

All current licensing clauses prescribing service specific conditions/prohibitions related to Audiotex Services should be incorporated in the UL (Access Services) including No point to point conferencing, no dial out, services not to be provided to bypass STD/ISD traffic etc.

UL (Access services) licensees are already permitted to offer audiotex services. Including clauses such as "point to point conferencing" would contradict with other provisions of UL (Access services).

We suggest that there should not be any separate standalone license for Voicemail / Audiotex/ Audio Conferencing / Unified Messaging Services or any other telecom services being provided under Section 4 of the Indian Telegraph Act.

We need to carefully deliberate whether Voicemail etc. can be covered under the provisions of section 4 of the Indian telegraph Act.

Counter comments on COAI's responses:

Revenue loss to TSPs: These entities are also converting an outgoing call into an incoming call and therefore, depriving the access operators of their legitimate call charges and thus causing huge revenue loss to access operators which ultimately is resulting in lesser payout to exchequer in the form of reduced license fee on revenues.

There is no loss to the exchequer. In this case, LF @ 8% is paid by operator B instead of operator A. In fact, revenues are doubled as one incoming call is converted to two outgoing calls that are conferenced. Finally, per UL (Access) all wireless access providers are already authorized to provide wired line access as well.

Clause 4.c

The combined reading of the above license conditions thus, obligate upon the Audiotex Licensee to confine its subscribers/customers paying for the services within the licensed service areas.

Please refer to clause 7.2 of the licence terms which reads:

"From outside the SDCA the service will be allowed to be accessed on STD calls basis. The Service Provider could install his equipment within the SDCA for which Licence is granted."