Annexure A

IDEA CELLULAR RESPONSE ON TRAI CONSULTATION NOTE ON
EASE OF DOING TELECOM BUSINESS IN INDIA, 13th MARCH 2017

Preamble

We welcome this latest initiative by the Authority to identify the bottlenecks, obstacles or hindrances that are making it difficult to do telecom business in India and thus, require regulatory intervention.

It is well acknowledged that "Ease of doing business" is one important factor that contributes towards building a mature investment climate. The Hon'ble Prime Minister has already shared his vision and commitment to adopt policies that would catapult India to a spot in the top 50 ranks of the World's Bank Ease of Doing Business rankings. A high ease of doing business requires an enabling regulatory environment with better and simpler Regulations for businesses.

The Telecom Industry worldwide is characterized by high investments. In India, the Industry has over the years made significant investments in the sector and these have borne immense benefits through the rapid adoption of mobile telecom services. From a low single digit penetration to a respectable 70% where the primary beneficiary has been the public, is a journey that has been fraught with ups and downs, entries and exits, and continues to create issues that require urgent solutions. In these circumstances, the 'ease of doing business' is a critical component where the cost of compliance needs to be reviewed and the environment improved to allow the industry to take the next leap in a truly digital world.

It is also submitted that the Telecom service providers, through their investments, robust network roll-outs and tariffing innovations have been important pillars of telecom growth journey and hence the Authority needs to ensure that these strengths are fully leveraged to attain broadband data growth by creating an enabling Regulatory environment. At the same time, the Indian telecom industry is at a critical juncture in its evolution. The sector is gradually metamorphosing from a pure voice market to a mix of both voice and data services. Providing broadband to all, therefore, will require a significant expansion of service providers' networks, with substantial investments in infrastructure development. Idea Cellular remains committed to drive this transformation and will continue to make serious, large scale investments in the sector.

We thus welcome the Authority's view that promoting "ease of doing business" is amongst its priority work items for promoting unhindered growth of the telecom sector. We are fully confident that this consultation will result in the Authority suggesting effective mechanisms to ease the business activity in the telecom sector, thereby providing fillip to the growth of Broadband and telecom in India.

At this point, it is pertinent to take note of the current Telecom environment in the country, specifically, the Deteriorating financial health of mobile telephony industry

1. **The mobile telephony services industry is under severe financial constraints**, as can be seen from the table below. (Source: Annual reports & Ministry of Corporate Affairs Annual filings, based on consolidated figures).

Financial health of the mobile telephony industry in India (Figures INR Crores)

Operator	EBIT (FY16)	ROA (FY16)	Gross Block + CWIP	GB+CWIP Addition (FY16)	Net Debt	EBIT Q3FY17 (Annualised)	ROA (Q3FY17)
Idea Cellular Limited*	6,379	11.1%	104,775	40,474	49,138	801	1.0%
Bharti Airtel Limited	16,622	10.4%	264,585	46,672	97,395	14,699	7.9%
Vodafone India Limited	5,358	6.2%	145,742	36,473	48,135	-	-
Reliance Communication Limited	3,222	4.8%	128,472	14,422	42,803	162	0.2%
Tata (TTSL+TTML)	19	0.1%	44,438	4,120	43,376	-	-
MTNL	(1,558)	-15.2%	27,675	110	17,740	-	-
BSNL	(3,355)	-7.5%	173,739	2,668	6,848	-	-
Telenor	(1,750)	-28.7%	8,593	966	5,482	-	-
Aircel	(513)	-2.2%	40,511	4,758	43,746	-	-
MTS	(905)	-14.6%	8,858	184	4,556	-	-
RJIO	(22)	0.0%	119,532	46,209	65,019	-	-
	23,496	4.1%	1,066,920	197,047	424,238		

** Q3FY17 RoA for Idea is calculated on Idea + subsidiaries basis*

^ Net Debt as at Q3FY17 for Idea, Bharti & RCom; estimated basis March 16 reported + October 2016 auction commitment for Vodafone (post equity infusion of Rs. 47,700 Crores), Tata, RJio & Aircel; as at March 16 for MTNL, BSNL, Telenor, MTS

2. Several existing factors, such as high spectrum pricing and high taxation levels along with a falling tariff environment continue to negatively affect the profitability of the retail mobile telephony industry in India.

3. High spectrum prices and rising debt levels:

a) Due to multiple factors such as high reserve prices, auction design and the need to necessarily renew spectrum for business continuity, the spectrum prices in India have become high and are amongst globally highest. This high pricing of spectrum has resulted in Indian TSPs committing nearly INR 350,000 crores in the six auctions conducted so far.

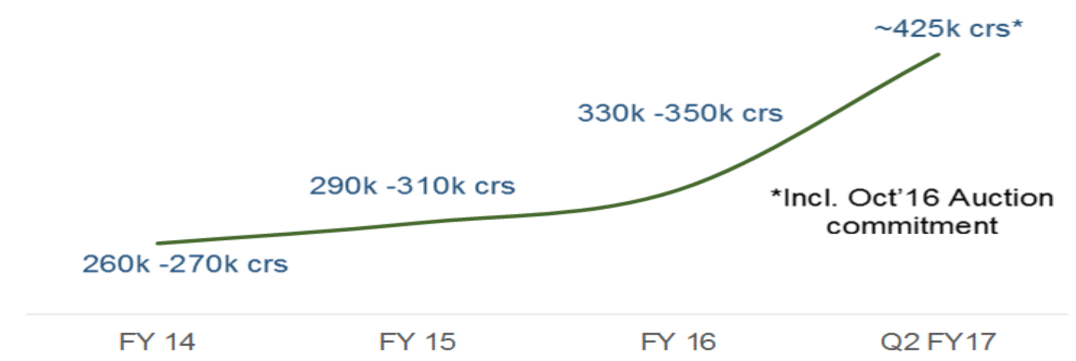
Operator wise commitment for spectrum acquisition in auctions held so far

Operator	Payout						Total Auction Payout* (Rs. Cr)
	May'10	Nov'12	Feb'13	Feb'14	Mar'15	Oct'16	
Airtel	20,522	9		18,530	29,130	14,244	82,435
Vodafone	11,618	1,128		19,645	25,960	20,279	78,629
Idea	5,769	2,031		10,424	30,138	12,798	61,160
RJIO	12,848	0		11,054	10,078	13,672	47,652
BSNL/MTNL	18,340	0		0	0	0	18,340
Tata	5,864	0		0	7,851	4,619	18,335
RCOM	8,585	0		163	4,299	65	13,112
Aircel	9,937	0		210	2,250	112	12,509
Uninor	0	4,018		845	0	0	4,863
MTS	0		3,639	0	0	0	3,639
Videocon	0	2,221		0	0	0	2,221
Others	1,521	0		0	0	0	1,521
Total	**95,004**	**9,408**	**3,639**	**60,871**	**1,09,705**	**65,789**	**3,44,416**

**The above table excludes the value of surrendered BWA spectrum by BSNL / MTNL in 8 circles, and an estimated gross amount of over Rs. 13,000 crores as per media reports on account of spectrum trading deals.*

b) Such high spectrum commitments have resulted in increasing debt for the industry, which has grown from ~INR 270,000 crores in FY14 to ~INR 425,000 crores currently. The following chart depicts the fast rising trend of industry debt.

Trend of Industry Debt (in INR '000 crores)



c. High levels of taxation have increased the costs of TSPs. There are various taxes e.g. a) Licensee fees of ~8%, (b) Spectrum Usage charges of ~5% (c) Service tax @ 15% (d) Charges for usage of microwave (access and backbone) spectrum (e) custom duty of 10% for 4G equipment. With the cumulative impact of the taxation as high as 30%, telecom remains one of the most highly taxed sectors in India.

In view of the above, it is necessary that the TRAI create an enabling environment for the telecom business to recover and take lead in meeting the vision of Digital India.

It is submitted that the Authority has rightly identified that various processes that a telecom licensee is required to go through need to be simplified and combined to the extent possible to economize on efforts on part of the Telecom Service Providers (TSPs) as well as the Government. Such an exercise is bound to naturally lead to valuable savings on resources, paperwork and man-hours thereby promoting overall efficiency of investments and networks.

While on one hand there is considerable emphasis to roll out various initiatives such as Digital India, on the other hand many age old policies and processes continue to prevail which slowdown the expansion of business.

Therefore, we believe that immediate attention is required to review various TRAI Regulations, Licensing & M&A policies, processes at DoT & other Government organizations; the same will lead to faster and efficient rollouts, optimum utilization of resources, clearances, , considerable cost savings, thereby helping the digitization initiatives.

Some of the processes and Regulatory/policy issues which should be reviewed for enabling a more meaningful contribution by the telecom industry are listed below under the following heads:

A. **LICENSING RELATED ISSUES**
B. **ACCOUNTS AND FINANCE RELATED ISSUES**
C. **WPC & SPECTRUM ISSUES**
D. **TRAI RELATED ISSUES**
E. **OTHER SUGGESTIONS**

Further details on all the above-mentioned items are as follows:

A. LICENSING RELATED ISSUES:

1. Reduction in Regulatory Levies:

a. Elimination or reduction of USOF levy tied to achievement of rural penetration :

It is well known that the real purpose of the USOF was that it would drive resource flows (investment) to areas where the private sector would be reluctant to invest. Thus, two sources of investment were envisaged: private flows and USOF flows. However, the fact is that the high USOF levy has not achieved the stated purpose of filling the investment gap in the development of telecom services in underserved areas, and huge amounts collected from operators under the USOF remain unutilized.

As per publicly available data, out of the nearly INR 80,000/- crores collected for the USOF between FY2003 to FY2017 (Provisional), nearly INR 47,000 /- crores remained unutilized as on October 31, 2016, which represents 58% of the USO corpus collected by the Government. It is therefore submitted that If USOF flows have not served their purpose, their very *raison d'être* is debatable. Even the amount that has been spent has served no useful purpose and we have ourselves withdrawn from USOF sites in Madhya Pradesh after the due period due to issues around quality and maintenance and moved to private sector sites which are efficiently run.

Further, it is submitted that the USO contribution @ 5% is very high and is perversely obstructing rural roll out instead of encouraging it, as the private operators, though wanting to roll out extensively in the rural belts are not able to do so at the desired pace, being heavily burdened because of the high debt they are having to service on account of spectrum buyouts and continuous capacity augmentations.

We urge that the USO contribution figure be dropped immediately to 1% for licensees who have achieved more than 90% roll-out in the given service area with the ultimate objective to phase it out completely over the next 2-3 years, in line with the TRAI Recommendations. Alternatively, the Government may consider suspending collection of USO levy for such period of time that the USO fund is not completely / nearly completely utilized. If required, it can be re-started later.

We also feel that there is a need to bring in radical changes in the way the USOF is administered so that the USOF is optimally and economically utilized for schemes connected with backhaul and alternate energy to ensure 100% uptime for off-grid towers, etc.

b. **Reduction of Spectrum Usage Charges (SUC):**

Firstly, the concept of SUC was relevant when spectrum was given out on an administrative basis. Now that spectrum is auctioned under a free market mechanism, there remains no rationale for continuing with SUC.

Further, is submitted that the Authority had in the year 2013 recommended that the SUC for all auctioned spectrum be at a flat rate of 3% of AGR of wireless services as the then regime was very complex and presented a wide array of rates giving different treatment to different technologies, which, in turn, led to charges of discriminatory treatment and specific advantage to certain operators.

The Industry then made various representations to the DoT requesting it to accept TRAI's Recommendations for implementation of a single ad valorem rate of 3% across all spectrum bands along with a graded reduction to 1% of revenues over the next 1-2 years.

In 2016 the Government fixed the SUC at 3% for future auctions and decided to apply a weighted average methodology for all existing spectrum allocations with a floor of 3%.

In view of the above, we now request that the TRAI may kindly reconsider the relevancy of having SUC (in an era where spectrum is taken in auctions) or in alternate recommend reduction of SUC to a uniform rate of 1% of revenues over the next 1-2 years.

2. Review of spectrum caps

Current policy on spectrum caps has been a legacy and was relevant at the time when spectrum was scarce and there were as many as 14 operators in a circle competing for limited spectrum. In that scenario spectrum caps ensured that every licensee had sufficient spectrum. During 2010 spectrum auction, the demand for spectrum was much higher than the spectrum available. **However, with passage of time the industry has consolidated in line with global trends and we have seen that there is sufficient spectrum available with the government for any licensee who needs more spectrum.** This is evident from the trend of spectrum auctions as shown below –

Month / Year	Band	Spectrum Put to Auction	Unsold Spectrum
May'10	2100 / 2300 MHz	1590	-
Nov'12	1800 MHz	590	335
Mar'13	800 MHz	190	130
Feb'14	900 / 1800 MHz	862	156
Mar'15	800 / 900 / 1800 / 2100 MHz	942	105
Oct'16	700 / 800 / 900 / 1800 / 2100 / 2300 / 2500 MHz	3790	2550

Further, given that all the auctioned spectrum is liberalized and operators can deploy any technology as per their requirement, **we would like to submit the following** –

- **Spectrum should be categorised as follows for the purpose of defining caps** -
    - Sub 1 GHz spectrum (700 MHz / 800 MHz/ 900 MHz)
    - Supra 1 GHz FDD spectrum (1800 MHz / 2100 MHz)
    - Supra 1 GHz TDD spectrum (2300 MHz / 2500 MHz)

Spectrum Cap of 50% should be applied to the above categories i.e. any operator should be allowed to hold 50% of the combined spectrum quantum in any category. This will allow much efficient use of the spectrum due to lower spectrum fragmentation.

- **However, in case there is an issue in implementing the above suggestion, at least the following should be considered:**

    - Spectrum available (including current allocation) in 800 MHz and 900 MHz spectrum is less than 20 MHz in most of the circles. With evolution of technology spectrum is required in multiples of 5 MHz for deploying 3G or 4G technologies. Hence, if we take the example of a circle where 18.6 MHz of 900 MHz is available (11 out of 22 circles have 18.6 MHz of 900 band available), then the cap would be 9.3 MHz. If one operator has 9.3 MHz, then it will be able to effectively use only 5 MHz. Out of the remaining 9.3 MHz one other operator will be able to use only one carrier of 5 MHz efficiently. Hence, in this scenario out of 18.6 MHz 10 MHz spectrum will be utilised efficiently and the remaining 8.6 MHz spectrum will either be wasted or utilised in an inefficient manner.

    - **Hence in case of 800 MHz and 900 MHz spectrum, we suggest that the spectrum cap should be set as 'Total available spectrum less 5 MHz'.** In this case also at least 2 operators will be able to have the spectrum and at least 3 carriers of 5 MHz can be carved out (as against 2 carriers in the current specified cap) and result in much more efficient use of spectrum. In fact globally the 900 MHz band covers 2 x 25 MHz and efforts should be made to have the entire 25 MHz band available for commercial use, so that 5 carriers (2 x 5 MHz each) are available for deploying new technologies in 900 MHz band.

- Currently the spectrum cap for 2300 band is 30 MHz (50% of 60 MHz already auctioned) and for 2500 band it is 20 MHz (50% of 40 MHz already auctioned). Hence, in case of holders of 2500 band, if they already have 20 MHz they will be forced to buy 2300 band, if available instead of 2500 MHz. This will then be very inefficient as compared to them using only one frequency band for TDD LTE, they will be forced to use two bands for TDD LTE, which will result in much higher Capex and will be inefficient.

- 2300 MHz and 2500 MHz frequency spectrum is to be used by all operators for the purpose of addressing the capacity needs. **Therefore, the 50% spectrum cap should be applied on the combined quantum of spectrum in 2300 & 2500 MHz band. In case this is not doable, then the spectrum cap for 2500 band should be kept same as 2300 band at all times (currently 30 MHz).**

3. Review of Merger & Acquisition Guidelines

M&A Guidelines, were designed in an era of multiple operators, and prior to introduction of spectrum trading, sharing & liberalization norms. However, current dynamic situation in the Industry requires, various changes to existing M&A guidelines. These suggestions are as below:

S. No.	Clause of M&A Guideline Dt. 20.02.2014	Subject	Suggestion
1	**3(b)**	Consent from Licensor	Timeline for DOT's consent for merger to be maximum 30 days post NCLT approval as the NCLT order is mandatorily required to be filed with ROC within 30 days from the date of NCLT order under the provisions of Companies Act, 2013. **If such approval is not explicitly given, there should be provision for deemed approval by DoT on expiry of 30 days.** **It may be noted that the licensee is required to file the scheme of arrangement with DoT after it is filed at NCLT. DoT can engage with the licensee to clarify any point during the NCLT processing period so that approval can be processed by DoT with-in 30 days.**

2	3(h)	Determination of market share (Subscriber)	• Only subscriber base should be the criteria as this is in line with para 2.2.1 of TRAI's Recommendations to government dated 27th October, 2003. Further, AGR is not representative of market share as o AGR includes non-telecom revenue o Some operators are offering free services and value of these services is not part of AGR. • As per the current M&A guidelines, to determine the subscriber market share cap of 50%, the EDR / VLR data as of 31st December or 30th June will be considered. However, post-merger or acquisition or amalgamation, if the market share of resultant entity in any service area exceeds 50%, then the resultant entity should reduce its market share to the limit of 50% with-in one year from the date of approval. **It should be made clear that If the subscriber market share for any of the month during the window of one year (in which the market share is to be reduced) falls to or below 50%, it should be deemed that the resultant entity has reduced its market share to the limit of 50% and has satisfied the condition of market share limit.**
3	3(h)	Determination of market share (AGR)	• In case AGR is used for determining market share then include revenue on a presumptive basis if services are offered free based on number of subscribers and average industry ARPU • Also, AGR of ISPs (excluding captive use) should be included for market share purpose since telecom industry is becoming data centric. • For AGR market share caps, It should be made clear that if the AGR market share for any one of the quarters during the window of one year (in which the market share is to be reduced) falls to or below 50%, it should be deemed that the

			resultant entity has reduced its market share to the limit of 50% and has satisfied the condition of market share limit.
4	3(k)	Spectrum Cap	Issue addressed above
5	3(l)	Excess Spectrum	• Excess spectrum surrendered by a licensee should be auctioned within a defined time frame & proceeds refunded to the surrendering licensee. • To the extent excess spectrum remains unsold in such an auction, entities should be allowed to retain the excess spectrum. • The licensee holding any excess spectrum should be allowed use of such spectrum till the time the auction is completed. This will be in public interest since a valuable resource like spectrum will be fully utilized and not stay idle.
6	3(i) & 3 (m)	DoT demands	Issue addressed separately below
7		Spectrum Harmonization	Licensor should facilitate harmonization of the spectrum of the merging entities in a time bound manner say, within 3 months from the effective date of merger.

Submissions related to Clause 3(i) & 3(m)

Currently Clause 3 (i) and 3 (m) provide as under and we suggest that these should be amended to bring clarity and make it less onerous for the parties to the merger and facilitating M&A in the Industry.

Clause 3 (i)

This clause provides that "*If a transferor (acquired) company holds a part of spectrum, which (4.4 MHz/2.5 MHz) has been assigned against the entry fee paid, the transferee (acquiring) company (i.e. resultant merged entity), at the time of merger, shall pay to the Government, the differential between the entry fee and the market determined price of spectrum from the date of approval of such*

arrangements by the National Company Law Tribunal/Company Judge on a pro-rata basis for the remaining period of validity of the license(s)."

Suggestion

This should be changed from the "date of NCLT / Company judge approval" to "date of DoT approval", as the spectrum cannot be used as liberalized till DoT gives its approval.

Clause 3 (i) and 3 (m) – multiple extracts

3 (m) – "*However, the demands except for one time spectrum charges of transferor and transferee company, stayed by the Court of Law shall be subject to outcome of decision of such litigation. The one time spectrum charge shall be payable as per provisions in para 3(i) above of these guidelines*."

3 (i) – "*In the event of judicial intervention in respect of the demands raised for one time spectrum charges in respect of the spectrum holding beyond 4.4 MHz in GSM band/2.5 MHz in CDMA band before merger in respect of transferee (i.e. acquiring entity) company, a bank guarantee for an amount equal to the demand raised by the department for one time spectrum charge shall be submitted pending final outcome of the court case*."

3 (m) also provides – "*All demands, if any, relating to the licences of merging entities, will have to be cleared by either of the two licensees before issue of the permission for merger/ transfer of licenses/authorisation. This shall be as per demand raised by the Government/ licensor based on the returns filed by the company notwithstanding any pending legal cases or disputes. …. However, the demands …. stayed by the Court of Law shall be subject to outcome of decision of such litigation*.

Ambiguity

While Clause 3 (m) states that OTSC (One time spectrum charges) for transferor and transferee company will be payable as per provisions of 3 (i), Clause 3 (i) talks only about OTSC of transferee company and not about transferor company.

Also the provisions are onerous.

Suggestions - Our suggestions are as under :

1. The transferee company is the continuing entity and there is no change in its legal status except that it is acquiring another entity. In light of this, no additional burden should be placed with respect to the litigated dues of the transferee company on account of merger.

2. The transferor company is the one which will cease to exist in most cases and hence the following is recommended in this regard –

a. If there are any demands against the transferor company which are stayed by the Court of Law, then no further action should be required by the transferor company as in any case

- Stay is granted on merits of the case
- Transferee company is assuming the liabilities of the transferor company
- The demands …. stayed by the Court of Law shall be subject to outcome of decision of such litigation.

b. If any demand is under litigation at a judicial forum and no stay has been granted, the transferor company should be allowed to provide a bank guarantee to securitize such demand.

4. Issues around Subscriber re-verification, Activation and E-KYC

At the outset, it is submitted than any re-verification through E-KYC shall require longer time frame considering the large base and the logistical issues involved for an exercise of such magnitude. Accordingly, it is requested that the timelines should be reviewed keeping the same in consideration.

i. As of now, the E-KYC process allows verification and re-verification of existing customers only for customers with identity belonging to the same LSA. It is submitted that e-KYC being a safe and secure way of verifying customers irrespective of their home location**, the activation through EKYC process should be allowed for outstation customers without the need for any local referee details.**

ii. Further, it is submitted that the **concept of Industry bulk customers should be done away** with in the absence of any mechanism with operators to identify "Industry Bulk"; the regulation should only mandate that any single operator is not allowed to have more than 9 connections on a single individual's name.

iii. We would also like to submit that **if during re-verification, the customer's Aadhaar address happens to belong to a place outside LSA, the TSP should be allowed to re-verify the customer** as customer's identity & traceability is established.

iv. It is submitted that the submission of cropped photograph for entire subscriber base repeatedly is highly time consuming and adds to E-waste as Hard Disks are submitted to TERM month on month.

It is thus recommended that **the requirement for submission of cropped photographs to the local TERM Cells should be only towards incremental subscribers**

v. It is also submitted that any **CAF compliance above 95% should be completely exempted from financial disincentives** as achieving 95% compliance is as a matter-of-fact an achievement in the current manual CAF compliance verification.

vi. **Finally, for migration from Pre to Post or Post to Pre, the process should allow use of the same SIM Card** as the same will be in customer's interest as well as the operator's interest due to the ease involved. This would also eliminate the e-waste and shall enhance customer satisfaction.

vii. **E-acquisition of Enterprise Business Customers and acceptance of optical/digital signatures:** It is submitted that most of the enterprises today are active on the digital media and use it for day to day transactions. In view of the same, it is submitted that E-acquisition of enterprise customers through on-line web portals/e-CAFs should be allowed in place of the current process of using hardcopy CAFs and other documents. Such a process will also be in line with the E-KYC enrollment meant for individual retail customers. Further, optical/digital signatures should be allowed for subscriber acquisition and execution of various contracts. This will ensure faster execution of contracts and subscriber acquisition processes.

viii. **E-collection and storage of all subscriber documentation: I**t is well acknowledged that real estate costs have gone up dramatically over the years. Warehousing of Subscriber Documents requires huge costs to be paid in the form of rentals for the space. It is thus submitted that in keeping with the digital agenda of the Indian Government and to cut down on wasteful expenditure involved in collection / transit / storage of hard copies , E-collection and storage of the subscriber documentations should be allowed by the concerned authorities instead of the existing mandate of storage in hard copies.

ix. Further, since Aadhaar penetration in states of Jammu & Kashmir, AS, Meghalaya, Mizoram, Nagaland, Arunachal Pradesh & Manipur is less than 70%, hence re-verification in these states shall be a big challenge. It is thus submitted that 100% re-verification by 06.02.18 would be extremely difficult and would need to be reviewed.

x. For the LSAs of Assam / NE/ JK

a. It is submitted that as per the current process for appointment of franchisees in Assam/ NE/J & K, licensees are required to take prior clearance for appointment of new franchisees / vendors from respective TERM Cell of DoT and for that purpose the respective TERM Cell adopts a process of police verification before issuance of clearance for appointment of any new franchisees / vendors. Through its letter dated 11.02.2016, the DoT has directed the TERM cells of these LSAs to do away with the requirement of police verification in case the existing franchisees / vendors have already been verified by Police Authorities and clearance has already been issued by TERM Cells. **It is requested that this process be enforced on the respective TERM Cells more efficiently and DoT institute a system of monitoring the enforcement of this process by the respective TERM Cells.**

b. It is also submitted that in cases where any reply is not received from the Police within a defined timeframe (say 10 days), the TERM Cells should allow onboarding of such a franchisee / vendor by the TSP.

c. Currently, a TSP is allowed to onboard a customer who has applied for a second connection only after local police verification. However, it is submitted that since the first connection is already allowed, the second connection too should be allowed and requirement for such police verification in the case of users requesting > 1 connection should be done away with.

5. **Revision of existing Penalty Structure:**

a. It is submitted that under the current circumstances, it has been observed that Interpretations / subjective decisions of TERM cells are very difficult for us to contest in our position as operators. As a result of such ambiguities and subjectivities in decision making, the current process of penalties imposed by TERM cells on lead to avoidable legal cases. We thus submit that **it is extremely critical that a centralized appellate mechanism for reviewing penalties imposed on TSPs be established at the DoT to take care of TSP grievances with respect to imposition of penalties.**

b. As a process, before any penalty is imposed on a TSP, there needs to be an assessment of the severity of the incident, its impact on the business environment / government revenues / other TSPs / third

parties / safety and security, etc. Only when it is established that the incident's severity is serious and that there has been a wilful disregard from the Licensee's end on account of security conditions (Breach of Security)/ Loss to the exchequer (Impact on other service area, Impact on National Policy, Revenue Loss to Govt., Economic Loss to Govt.) /Anti-consumer (Gain by Service Provider, Loss to third party, revenue gain by service provider) / (Impact on other service area), should there be a penalty.

c. It need to be kept in consideration that not all instances of non-compliance need to be slapped with a penalty. There ought to be a sense of moderation while reviewing all deviations. This is because at times, there are various externalities that are responsible for the deviation, and hence the deviations needs to be viewed in context of such factors for any objective evaluation. Each violation does not warrant a Rs. 50 crores penalty and thus a suitable matrix, linking the deviation to the severity of the incident, needs to be applied.

B. ACCOUNTS AND FINANCE RELATED ISSUES:

1. Definition of Revenue for License Fee (LF) and Spectrum Usage Charge (SUC)

a. As on date, there are significant differences between the licensor and the licensees in the perception of what constitutes revenue for the purpose of levy of LF (and SUC).

b. **It is reiterated that the revenue, for the purpose of calculation of LF, should be from the operation of the telecom license (activities for which an exclusive license has been granted under Indian Telegraph Act, 1885).** Revenue or Income from any activity which could be pursued independent of the license should be excluded from the purview of GR.

c. Furthermore, the revenue for the purpose of calculating the SUC should be only from those licensed telecommunication services which require spectrum. Any telecom revenue, which has no linkage with spectrum directly or indirectly, should not be subjected to SUC. **Thus, non-telecom incomes should not come under the purview of LF and SUC.**

d. Further, a quick comparison of the Indian regime of LF and SUC with that prevailing in other jurisdictions such as U.S., Australia, Singapore, Malaysia, Canada, etc. clearly establishes the fact that the levies in India are way higher than in all these jurisdictions. Most countries have either very low rate of levies or just recover the administrative cost from the TSPs. In striking contrast, the Indian dispensation is oriented towards generating resources for the exchequer.

e. While the matter continues to be under litigation in the Hon'ble Supreme Court and various High Courts for over a decade now, the TRAI has on various occasions and lately in 2015 stated that:

"The Applicable Gross Revenue (ApGR) would be equal to total Gross Revenue of the licencee as reduced by (i) revenue from operations other than telecom activities/ operations as well as revenue from activities under a licence/ permission issued by Ministry of Information and Broadcasting; (ii) Receipts from the USO Fund; and (iii) items of 'other income'"

"The Authority recommends that the Spectrum Usage Charges should be levied on AGR of respective telecom services which use access spectrum in operations or providing services."

f. **Further, the process for verification of deduction claim is extremely complex and leads to disputes for which there is no process of appeal in DoT.**

g. **Multiplicity of Audits -** The Authority is well aware that an Audit is a time consuming and tedious exercise that involves and blocks substantial resources at the end of the service provider. The TSPs already have to undergo quarterly and annual audits as per the laid down regulatory process, and such audits are sufficiently detailed to be able to pinpoint areas of non-compliance, if any. In view of the same, we believe that there is no need or capacity for any other audits and thus it is submitted that and there should not be any add-on audits in any given financial Year. Such an approach will enable substantial savings on efforts, time, manpower and other precious public resources.

With that background, we would like to make the following submissions to the Authority:

i. **To work towards constitution of a working group comprising of various stakeholders from DoT, TRAI, ICAI and Industry to finalize the definition of revenues (GR/AGR) for the purpose of calculation of LF and SUC.**

ii. **Setting up of a portal to simplify the process and have online verification of LF /SUC.** This portal can be set up on the same lines as the current portal maintained by NSDL for TDS. Further, there is a need to move to a system of single return filing on a National basis with audit and assessment also happening at one location instead of 22 different locations, as is the current practice.

iii. There is a need to **have a standard process for assessment of verification of deduction** claims so that there is no ambiguity.

iv. Introduction of a system of LFDS: DoT should develop an e-portal for the submission of LF and SUC, Electronic/ online filing of licensees' returns in line with the TRAI Recommendation dated 06.01.2015. Though TRAI had recommended a transition to the LfDS system, there has been little progress in this regard. **We request TRAI to kindly reiterate its Recommendations to DoT on LfDS and get the system at the earliest.**

2. Avoidance of double levy of regulatory fees:

a. There must not be any double taxation on industry, i.e., in case any licensee who is subject to payment of LF provides service under the license and earns revenue from another licensee, then such other licensee should be allowed to deduct such payment made to the first licensee from the Revenue of such other licensee to arrive at the AGR. However, as things stand today, the double levy exists as certain payments made for critical inputs like bandwidth charges, port and infrastructure sharing charges, etc. are not allowed as deductions while calculating AGR of the payee, whilst the same is subject to AGR in the hands of the receiving licensed entity.

b. Further, the telecom industry should also follow the time-tested principles behind GST; wherein such tax/levy is payable at each step of Input Services and thereafter is adjusted or set off against such tax/levy payable by the recipient of such service.

c. Accordingly, every provider of services, on which, as per license, is supposed to pay license fee to DOT, would charge the said license fee as a part of the invoice to the recipient of such services and deposit such license fee with DOT.

d. As a verification mechanism, a portal can be created where all licensees file relevant details of their invoicing to other licensees so as to make the verification process transparent and simple.

e. **Thus, like in the case of GST, the set-off of license fee paid on input services against license fee payable on output services should be allowed**

3. **Online Reporting and Payments**:

As on date, multiple returns and reports need to be filed with the DoT on a regular basis. In addition, some data reports are to be furnished under special circumstances, for e.g., at the time of disasters, etc. It is recommended that in keeping with the vision of Digital India, there is a need for DoT to introduce automation / online reporting of data from the TSPs. This will help in automatic generation of regular reports at the DoT end as per the specified format thereby facilitating quicker turnaround times and clarification seeking, if required. The TRAI has already been using such a model successfully and there is no reason why the same should not be replicated at the DoT end.

4. **Reduction in interest rates for delayed/short payment of License Fee:**

It is submitted that the regime of interest rates for delayed payment of license fee and SUC needs to undergo amendment in keeping with the changes in the financial markets. This is because the current interest rate levied for delayed payment of license fee is pegged at SBI PLR + 2%. However, from FY 2011 RBI vide its circulars RBI/2009-10/390x1 DBOD. No. Dir. BC 88 /13.03.00/2009-10 and RBI/2010-11/361 DBOD.No.Dir.BC.73/13.03.00/2010-11 has replaced Bank Prime Lending Rate (BPLR) system with the Base rate system**. Thus the PLR rate is no longer used and has now become redundant after the introduction of the concept of "Base Rate". In view of the same, the applicable rate to be considered in case of delayed payments needs to be the "base rate" and not the "prime lending rate."**

It is pertinent to mention here that the same has also been recognized by DoT in the NIAs for spectrum auctions including the recent spectrum auction where the SBI base rate of 9.3% has been used as IRR under deferred payment option.

5. **GST RELATED ISSUES** – There are several GST related issues and we would be providing details on these issues separately.

C. WPC & SPECTRUM ISSUES

1. **Import License for RF Equipment:**

   a. Presently, Import License is required to be taken by the TSPs from WPC to import any RF equipment, from outside the country. In the absence of the same, the consignment is not allowed clearance by the Customs.

   b. **With the bureaucratic process / hurdles resulting in such clearances taking over 1 or 2 months, the RF equipment continues to be held up by the Customs, thereby resulting in precious loss on the investment made and additional demurrage charges.**

   c. **Further, since the process requires licenses to be taken LSA wise, a Pan India operator cannot, even if it wants to import for pan India purpose, take advantage of the scale involved.** Thus essentially, the TSP has to go through the process of obtaining import licenses from the different RLOs (currently 5 in number) depending on the place of final deployment of the equipment. In addition, licenses need to be taken for all repeat imports too. Further, if any other operator has already imported the same equipment, even then the license needs to be taken by the operator importing the same. Ideally once the library of WPC is updated and approved for any individual item there should be absolutely no need for WPC licenses for those items thereafter.

   d. **In addition, the existing rules do not also allow for free movement of RF equipment from one LSA to the other, and prior permission is required to be taken.**

e. **We feel that such rules are retrogressive, adversely affect network planning, and should be discontinued in the overall interest of the Industry.**

f. **An alternative system of submitting periodic reports on the details of RF Equipment imported / planned to be imported can very well address the intimation requirement being fulfilled by the import licenses. We therefore believe that the existing system of seeking import licenses needs to be done away with at the earliest.**

g. **Exports and Imports take longer for clearances versus other countries where the average is just 1 or 2 days**.

h. **Rapidly evolving wireless networks, dynamic nature of the radio environment, explosive growth in wireless data traffic, and the scarcity of wireless network resources pose** non-trivial challenges for augmentation of existing networks. This means that availability of Customs Clearance 24x7 all around the year would be very beneficial as that would facilitate faster custom clearances and deployment of equipment. It will also ensure that resource wastage and idling due to unavailability of material because of long Customs holidays does not happen.

i. In addition, the following practices need to be highlighted. Examples : (a) Duty payment to be made on the 'same day' of the Bill of Entry approval; (b) Demurrage free period curtailed significantly at ports and airports resulting in this becoming an extra cost to be borne since in almost all cases even earlier we had to bear these costs due to delays and inefficiencies by Customs authorities.

In this regards, **our suggestions are as follows :**

a. Scrap the WPC import license & in lieu identify the equipment in white list, which can be updated at WPC website periodically. Custom duties can be leviable as applicable.

b. It is requested that in view of the fact that telecom services are essential and basic necessities' just like water and electricity, we feel that the Customs need to be advised take a more considerate view and increase the "Demurrage Free Period" to a more reasonable level along with doing away the need to make duty payment on the same day as Bill of Entry approval.

2. SACFA related Issues:

a. **Reduction in number of applications leading to cost Optimization**

i. SACFA was introduced with the basic purpose of ensuring aviation safety and ensuring non-interference with other communication systems. It is submitted that the issue of aviation safety is automatically addressed with one SACFA clearance for site /tower. There should thus be no requirement of additional antenna clearance for a SACFA cleared site / tower for putting up new antenna by the operator or if the same site / tower is used for hoisting antenna of some other operator who is sharing the site. **Hence such a requirement for additional SACFA clearance for the same site/tower location should be done away with. It is also submitted that the MW sites SACFA application parameters need to be merged with RF sites so as to avoid duplicity in filing.**

ii. Further, there should be no need to obtain SACFA clearance for each and every site deployed in the network as all sites do not affect the aviation safety and security aspects. In view of the same, it is suggested as follows:

- SACFA to be obtained only for those sites which are <3 Km from the nearest Airport and for the sites having height >40 m between 3-10 Km of the airport.

- Only intimation to be given to SACFA secretariat for sites <40 m height & distance >3 km from Airport and for the sites which are >40m in height but beyond 10 Km from the nearest Airport.

iii. There should be no need for filing hard copies of applications once 'Online' application is filed. This will enable faster clearances and faster roll-outs by the industry while also helping in the go-green initiative.

iv. On the same lines as that of EMF Compliance, the complete working of SACFA should be made paperless with a Portal similar to Tarang Sanchar. This will not only bring huge cost savings to the industry but would also optimize the overall work to be done and enhance work efficiency in terms of faster approvals at WPC.

v. For sites rejected by the SACFA members, a periodic (bimonthly /quarterly) SACFA meeting may be called by the Secretariat with relevant SACFA members and the affected service providers wherein rejected sites can be discussed as per pre-circulated agenda and the SACFA Secretariat may decide the case on merit.

b. Reduction in the SACFA Application Fee

i. Currently, Licensees have to pay Rs. 1000/- per application while applying for SACFA clearance through WPC online website/ TSP has to pay application fee separately for GSM and MW (link to link).

ii. In addition to the above, TSPs are mandated to take clearance for every antenna being added on any existing site/ tower for which SACFA clearance has already been obtained from WPC under the “Additional Antenna” category.

iii. **The current Application fee and its structure need to be reviewed.**

iv. It is suggested that WPC should charge a flat nominal amount per application (*say Rs 10 per application*) or alternately a lot size rate such as Rs 1000/- per 100 applications lot instead of each application to compensate the administrative / website maintenance charges.

c. **Single clearance for multiple technology application**

i. The dynamic technological environment in telecom makes it critical for the TSPs to keep upgrading their networks on an ongoing basis. Such interventions are also necessary to offer a superior telecom experience to the TSP customers. Thus TSPs keep deploying higher/advanced technological equipment on the existing towers, as and when necessary. Additionally tower sharing arrangements between TSPs lead to new equipment being put up on the towers for which there is already a SACFA clearance in place. **The current process requires taking SACFA clearance every-time such a deployment takes place**.

ii. It is submitted that in view of the cumbersome process of seeking approvals for each and every deployment, instead of multiple approvals for each application for a particular tower, one single clearance should be allowed to suffice.

3. Spectrum Issues:

a. Increase in RF transmit power from BTS

i. The current guidelines allow TSPs to transmit radio signals only at 20 watts power. The reason for the same can be traced back to history when GSM, operating with a channel bandwidth of 0.2 MHz, was the predominant technology.

ii. However, over time, the technologies have evolved, and unlike GSM where the transmitted power is concentrated in a bandwidth of 0.2 MHz, in case of 3G/4G (LTE), the power gets distributed over a much wider bandwidth, typically 5 MHz,

iii. Further, all 3G/4G technologies are operating in different frequency bands and the free space losses are different in different frequency bands.

iv. TSPs have been continuously requesting to be allowed transmission power from BTS to be in the range of 60-80 Watts power instead of the presently allowed 20 Watts. This is because a lower transmit power results in reduction in the network coverage and a consequent inefficient use of spectrum.

v. The radiated power from BTSs is already being monitored via the EMF guidelines, which prescribes the maximum power allowed to be received at any place.

vi. Further, while assigning BWA spectrum, DoT has already allowed transmission of a BTS output power ranging between 10 watts - 40 watts for different operators. This has resulted in creation of a non-level playing field that needs to be addressed.

vii. **However, for reasons mentioned above, we would like to propose that the transmit power of 80watts/Cell/Carrier shall be allocated for 3G/LTE for all transmission bandwidths as defined in 3GPP, while maintaining compliance to the EMF norms.**

b. Assignment of spectrum:

i. The dynamic technological environment in telecom makes it critical for the TSPs to keep upgrading their networks on an ongoing basis. In view of the same, and in order to provide a superior network experience to the customers, **we feel that the TSPs should be allowed to freely use the Spectrum as per their business and operational requirements including shuffling of carriers, change of Modulation, Data rate, FEC, etc. within their allocated spectrum whenever necessary.**

c. **WPC Clearance for Demo license**:

Global companies import products and solutions for demo purposes during exhibitions, events and for trials with customers. As of now, the demo license process is also complicated and requires submission to Local RLAs which then send physical applications for approval to DOT HQ. The overall time involved in obtaining a demo license generally runs into 5-6 weeks. It is submitted that the process of issuing demo licenses for non-commercial purposes / exhibitions / demos /events / trials be shortened and linked to time bound approvals.

D. TRAI RELATED ISSUES

1. Guiding Principles for Issuance of TRAI Regulations/ Directives/ Orders etc.

It is common fact that over the years, as the Technology and the telecom systems have grown in size and complexity, the gap between the requirements of the sector and some of the TRAI Regulations notified earlier as per the extant market conditions has widened. Infact, today one of the key challenges that confronts the policy makers and regulators is how to ensure that the laws remain

coherent, fair, and effective despite the often dramatic changes in the nature of the regulated markets, industries and technologies.

For reviewing of the Regulations/ Orders, we suggest the Authority enunciate certain guiding principles as under:

- **Ensure Regulatory certainty & predictability of policy regime.** For example, the intention of the Authority to prepone the IUC consultation (earlier regime of IUC have been in place for average of 3 to 5 years) are also not very clear. Typically no new data supporting the need for review has been shared.
- Regulations/ Orders needs to be Transparent
- **Institutionalize issuance of "Draft Regulations/ Orders/ Directives". Post consultation, these can be given final form.**
- Regulated entities should have the right of appeal of decisions
- Regulation should ensure the orderly growth of the telecom sector while balancing interests of both consumers and the TSPs.
- Regulations should be able to balance regulatory certainty with the flexibility necessary to address future changes in technology, market structure and government policy.
- **Each Public Consultation / Regulation should be accompanied with a regulatory impact assessment (RIA).**
- Consistency in application of the Regulation / Order.

2. TARIFF & OTHER OPERATIONAL ISSUES:

1. Introduction of M Bill enabling replacement of hard copy of mobile bill as default option for postpaid subscribers

a. Currently, the TRAI Regulations (46th amendment to the Telecom Tariff Order (TTO)) mandates service providers to provide a hard copy of the bill by default to the customer. An e-mail copy is allowed provided the customer has explicitly consented towards the same.

b. We are of the view that the requirement for offering a Paper bill should be done away with and it should be replaced with e-bill option as the default option. This will result in curtailing the unnecessary expenditure incurred on printing and delivering the paper bill and will also be in line with the Government's digital agenda. Alternatively, the bill can be viewed on Operators website/Operators App or on E-mail or abridged bill can be sent by SMS (M-bill).

c. The M-bill option would work fine for such customers who do not have an email account.

2. **Discontinuation of non-significant requirements mandated vide various TRAI Directions and Regulations:**

Various directions and guidelines issued by DoT/TRAI or any other concerned authority in the past which seem non-significant in current scenarios should be discontinued. Most of the below-mentioned issues have also been mentioned in our submission to the Authority as part of the Sub-Committee on "Consultation to Purge Regulations". We request the Authority to kindly review our below-mentioned submission along with the afore-mentioned submission.

A few such directions/guidelines are mentioned below:

a. **Currently, TSPs are mandated to publish postpaid tariff plans in format A & prepaid in format B along with the address of the website and the contact details of Customer Care Centres at least in one regional language newspaper of the service area and one English newspaper and repeat such publication at an interval of not more than six months.** Further, the information needs to be updated on the TSPs website and has to be available at POS and customer centre. It is submitted that Tariff plans being dynamic in nature, plans are regularly updated on TSP website. Newspaper Advertisements cannot account for such regular updations as the plan changes keep happening on a dynamic basis. Further, such a mandate is an avoidable additional cost for the TSP. It is thus submitted that this requirements should be done away with.

b. **Currently, customers are required to store consent logs against VAS for atleast a year**. This is again an unnecessary burden and it is suggested that the period of one year be reduced to three months to avoid unnecessary costs for storing the logs. Complaints, if any, come in the

first few days or at most in 3 months. There is no rationale for keeping the logs beyond 3 months.

c. **Currently TRAI mandates publishing and providing a copy of the Citizen Charter to each customer at the time of his enrollment to the service. The relevant clause is as follows:**

17. Citizen's Charter ----

(1) Every Service provider shall within sixty days of the coming into force of these regulations, publish a 'Citizen's Charter' containing various information:- (Regulation to be refer)

(2) The 'Citizen's Charter' shall be prepared in Hindi, English and the local language of each service area.

(3) The 'Citizen's Charter' shall be available for reference at every office of the service provider, Complaint Centre, at the sales outlets and on the website of the service provider.

(4) A copy of the 'Citizen's Charter' or its abridged version containing salient features such as terms and conditions of service, the Consumer Care Number, the General Information Number, contact details of Complaint Centre and the Appellate Authority, procedure and time limit for redressal of complaints and disposal of appeals shall be provided by the service provider to each consumer at the time of subscription for service.

We feel that this requirement is also an unnecessary cost. It is suggested that Instead of inserting the abridged version in the SUK, a one line can be added over under the CAF T&Cs, "For the telecom Consumer Charter, please visit the Customer Support section on our website".

d. **Currently TRAI TCPR mandates the following provisions in respect of the data services. The relevant clause is as follows**

10B. Activation or deactivation of data services-----

(1) No service provider shall activate or deactivate the data service on the Cellular Mobile Telephone connection of a consumer without his explicit consent:

Provided that nothing contained in this sub-regulation shall apply for usage of data service through Special Tariff Voucher or Combo Voucher or add-on pack till the expiry of the validity

period of such voucher or add-on pack, or on consumption of entire data by the consumer, whichever is earlier?

(2) Every Cellular Mobile Telephone Service provider shall provide toll free short code 1925 for receiving request of the consumer for activation and deactivation of data service

It is submitted that this requirement should be done away with for the convenience of customers. This is because data is a primary need in today's time of smart phones and information explosion. Further TSPs are already enrolling customers through e-KYC and with predominantly data plans/bundled plans taking consent through 1925 has become redundant.

e. **Current TRAI Requirements with respect to the tariff enrollment process are as follows**:

(*1) All access service providers shall, -------*

(A) provide, in the vernacular language where such plans are offered, in addition to in English and any other language being in use, the key tariff information to consumers on each tariff plan offered by them to the telecom consumers which shall include:

i) Title

ii) Rental/Fixed Fee

iii) Billing Cycle/Validity

iv) Free Call Allowance/Talk time

v) Tariff per Unit for:

a) Local Call

b) STD

c) ISD

d) SMS

e) National roaming

Based on our limited understanding, there is no explicit mention on keeping physical TEF signed & stored with us. We thus request that the TRAI clarify the requirement from its end so that there is ease in terms of ensuring the above-mentioned communication to customers..

In any case, the re-verification guidelines issued by DoT also state that once the customer is re-verified, the hard copy of the Customer Application Forms (CAF) has to be destroyed by the service provider and only electronic records are to be maintained.

It is further submitted that since the TRAI rules allow free migration of the customer across various tariff plans, based on the customer's requirement, the purpose of providing a hard copy of Tariff Enrollment Form at the time of subscriber acquisition gets defeated and should thus be discontinued. Further, the customers generally rely on website / posters / pamphlets to arrive the best fit for themselves.

f. **The Quality of Service Regulations states the following in respect of instances of overcharging by TSPs:**

6A. Procedure for auditing of call data records.----

(3) If the auditor notices the instance of overcharging, he shall report the instance of overcharging to the service provider, who shall, within fifteen days of receipt of such report, conduct an analysis to verify whether the observation of the auditor is correct and in case, the observation of the auditor is found to be correct, the amount overcharged from the customers shall be refunded to such customers within two months of the receipt of the report and an intimation to this effect shall be sent to the auditor and in case the observation of the auditor is found to be incorrect, the reasons for the same shall be communicated forthwith to the auditor.

6C. Consequence for failure of the service providers to submit audit report and action taken report -----

(1) If a service provider contravenes the provisions of sub-regulation (5) and sub-regulation (6) of regulation 6A, it shall, without prejudice to the terms and conditions of its licence, or the provisions of the Act or rules or regulations or orders made, or, directions issued, there under, be liable to pay an amount, by way of financial disincentive, not exceeding rupees one lakh per report for every week or part thereof during which the default continues, as the Authority may, by order, direct:

6D. Consequence for failure of the service providers to refund overcharged amounts to customers-----

(1) If a service provider contravenes the provisions of sub-regulation (3) of regulation 6A, it shall, without prejudice to the terms and conditions of its licence, or the provisions of the Act or rules or regulations or orders made, or, directions issued, there under, be liable to pay an amount, by way of financial disincentive, equivalent to the amount overcharged which was not refunded, as the Authority may, by order, direct:

6E. Consequence for failure to provide comments on audit observations in the Action taken report-----

(1) If a service provider fails to provide details of the action taken on the audit observations under sub-regulation (6) of regulation 6A or it has submitted details of action taken which it knows or believes to be false or does not believe to be true, it shall, without prejudice to the terms and conditions of its licence, or the provisions of the Act or rules or regulations or orders made, or, directions issued, there under, be liable to pay an amount, by way of financial disincentive, not exceeding rupees ten lakhs per action taken report, as the Authority may, by order, direct:.

We have the following comments on the various afore-mentioned clauses:

6A.

More time is required in view of the extraction of old, greater than 3 months old CDRs as they are not available online. Further, the refund period needs to be increased from 2 months to 6 months. The penalty should also be relaxed and be limited to refund to the customers only.

6A,6C & 6E

The Financial Disincentives mentioned herein need to be rationalized by the Authority. The Authority itself has said on several occasions its objective is not to generate revenue through financial disincentives.

6D.

This requirement is very onerous and punitive with impact in millions. It is submitted that once the refund of overcharges has been made by the operator, the need for paying a financial disincentive to the Authority should be done away with.

g. **The Quality of Service Regulations states the following in respect of instances of overcharging by TSPs:**

Excerpts from the relevant TRAI letter:

Instances of Overcharging and Undercharging - Mismatch in tariff plans reported v/s offered v/s website published v/s Newspaper published.
Consideration of TEF - Mismatch in tariff plans reported v/s offered v/s website published v/s Newspaper published

It is submitted that due to the dynamic nature of the market, the website has to keep reflecting the changes in the existing plans/new plans/packs. Thus for the purpose of the M&B audit, the current information on the website should not be the criteria to conclude the under/over-charging. Only TRAI filling should be considered to conclude the under/over-charging instance as the website screenshots of that time are submitted along with the Tariff Filing.

h. **MNP / QoS Benchmarks – 100% Achievement difficult**

It is submitted that TRAI has laid down 100% compliance on related to QoS and MNP. It needs to be appreciated that achievement of 100% compliance on any benchmark for any parameter is extremely difficult because of factors that are sometimes beyond an operator’s control and the complex IT & NWS architecture. **In view of the same, it is submitted that any financial disincentive / penalty should be levied only if compliance falls below 99%.**

3. **Issues around MNP Process:**

i. It is submitted that port withdrawal facility through SMS (managed by TRAI or MCH to make it operator agnostic) should be made available in order to empower the subscribers and leave the decision in their hands. Currently recipient operator either don’t get the information within 24

hours of request submission or don't action the port-withdrawal due to manual interventions required to stop a submitted port request, hence it is imperative that such SMS based facility is introduced which is operator agnostic and managed by independent third party.

ii. Further, as of now the TRAI considers AON from AO activation date. However, it is submitted that AON should be considered from usage date. This is a common issue across Industry and has also been highlighted to TRAI earlier.

iii. **For National MNP cases activated within the same operator (For e.g., Idea to Idea), the operator should be allowed to activate the number within 24 hours instead of current 4 days**.

iv. It is also submitted that the Monthly MNP Report is actually summary of MCH reports, hence TRAI can source these reports directly from the MCH team rather than sourcing it from the operators.

v. **Further, the Monthly Bulk report is a very cumbersome compilation as it needs manual update from all 22 circles. It may be worthwhile for TRAI to take a relook at changing the frequency of this report from monthly to half-yearly.**

4. **Issues around DND**:

It is submitted that over 85% of the DND violations by Unregistered Telemarketers are attributable to Voice. Unfortunately the TSPs can exercise no control over such promotions, unlike the SMS Spamming solutions deployed to curb UCC through SMS. **It is recommended that imposition of financial disincentives by TRAI should be only for SMS based UCC violation as per existing slabs / grid.**

E. OTHER SUGGESTIONS

High Interference due to installation of illegal Repeaters, Boosters, Jammers by Individuals/ Jail Authorities/ Colleges etc. and faulty leaky equipment of Cable TV operators

It is already on record that TSPs across various LSAs have been facing heavy interference due to illegal transmission by repeaters/boosters and faulty / leaky equipment of cable TV operators. This interference which is of a magnitude of -10 dbm to -50 dbm has been affecting quality of service parameters across various services offered by the TSPs and has even adversely affected launch of services from their end.

In view of the same, we would like to submit that the Government facilitate as follows:

i. Time bound resolution of identified Interference cases.

ii. To ban the sale of illegal repeaters and direct TERM/WMO wings to conduct checks and raids as required.

iii. TERM/WMO wings be empowered to seize/confiscate illegal Repeaters, Boosters, Jammers and faulty / leaky cable TV equipment causing interference

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