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Response to TRAI Consultation Paper on Review of Scope of
Infrastructure Providers Category – I (IP-I) Registration

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NASSCOM RESPONSE TO TRAI CONSULTATION PAPER ON REVIEW OF SCOPE OF INFRASTRUCTURE PROVIDER CATEGORY-I (IP-I) REGISTRATION

The regulatory framework for ‘Infrastructure Providers’ (which include IP-1 and the erstwhile category of IP-II) was initially set up with the intention of creating a dedicated set of players in the market, independent from the incumbent Telecom Service Providers (“**TSPs**”) focussed on telecom infrastructure. Eventually IP-II registration (which allowed for the provision of active telecom infrastructure) was phased out and only IP-I (which allowed for the provision of passive infrastructure) was retained and currently the sharing of active infrastructure is only permitted by licensed TSPs. Despite only being allowed to provide passive infrastructure, IP-1 providers (especially tower operators) eventually emerged as important providers of telecom infrastructure.

The preamble to the National Digital Communications Policy – 2018 (“**NDCP-2018**”) in fact recognizes that *“Given the sector’s capital-intensive nature the Policy aims to attract long-term, high quality and sustainable investments. To serve this objective, the Policy further aims to pursue regulatory reforms to ensure that the regulatory structures and processes remain relevant, transparent, accountable and forward-looking. Additionally, the Policy aims to remove regulatory barriers and reduce the regulatory burden that hampers investments, innovation and consumer interest.”*

Given the telecom sector’s critical national importance and capital-intensive nature, the NDCP-2018 has also identified the ‘Creating a Robust Digital Communications Infrastructure’ as a central objective.

Therefore, in this backdrop, we believe it is a welcome initiative by the TRAI to attempt to reform and re-assess the regulatory framework for the provision of telecom infrastructure.

As the largest trade association of the Indian Information Technology (“**IT**”) and Business Process Management (“**BPM**”) industry we appreciate this opportunity to provide our comments on this important issue which has had a wide-ranging impact on the USD 177 billion Indian IT-BPM industry.

We have provided responses to the questions raised in the CP and we would appreciate if you would consider the same while preparing the TRAI’s recommendations on this subject.

1) Should the scope of Infrastructure Providers Category – I (IP-I) registration be enhanced to include provisioning of common sharable active infrastructure also?

Response:

Yes. The scope of IP-I registration should be enhanced to include provisioning of common shareable active infrastructure also.

As stated by TRAI on paragraph 4.5 of the CP the Indian Market, the proportion and success stories of passive infrastructure sharing are much more than active infrastructure sharing. In such a scenario, infrastructure creation by standalone companies needs to be promoted to boost the telecom infrastructure and to reduce the cost of capital for service providers. In light of the same, and since deployment of 5G will require massive investments in active infrastructure, allowing IP-1 to provide active infrastructure to TSPs would also TSPs to choose from a wider variety of infrastructure. It will also add to more competition in this space.

2) In case the answer to the preceding question is in the affirmative, then

i) What should be common sharable active infrastructure elements which can be permitted to be owned, established, and maintained by IP-I for provisioning on rent/lease/sale basis to service providers licensed/ permitted/ registered with DoT/ MIB? Please provide details of common sharable active infrastructure elements as well as the category of telecommunication service providers with whom such active infrastructure elements can be shared by IP-I, with justification.

Response:

Given the fast paced growth of technology, it is suggested that the list of common shareable infrastructure elements should not be pre-defined. Instead, any new infrastructure element that may be created should be automatically permitted for sharing. Infrastructure elements as identified by TRAI in the CP such as towers, antenna, feeder cable, BTS (eNodeB/gNodeB), Radio Access Network, transmission system for data (on Microwave or OFC), wired access (FTTX) network, IBS systems and any other equipment/accessories needed to provide such infrastructure should be included by default as shareable infrastructure.

If sharing of specific infrastructure is sought to be restricted by TRAI/DoT for any reason (such as national security), then an exclusion list can be created for such few infrastructure elements that may be excluded for sharing.

ii) Should IP-I be allowed to provide end-to-end bandwidth through leased lines to service providers licensed/ permitted/ registered with DoT/ MIB also? If yes, please provide details of category of service providers to it may be permitted with justification.

And

iii) Whether the existing registration conditions applicable for IP-I are appropriate for enhanced scope or some change is required? If change is suggested, then please provide details with reasoning and justification.

Response: Currently, the provision of telecom connectivity constitutes a large part of the costs of IT/ITeS companies. This is particularly true for those companies which have several interconnected physical locations, where a large portion of their total bandwidth requirement is exclusively for internal communication. However, IT/ITeS companies are constrained to seek such services for private interconnectivity only from licensed TSPs and Internet Service Providers (“**ISPs**”).

An enhancement of the scope of IP 1 registration to include the provision of end to end bandwidth for the purposes of intra-organisation connectivity would lead to a two-fold benefit:

- (i) it will improve the competitiveness of IT/ITeS service providers, cloud service providers, data center operators etc. thus, encouraging the provision of such services from India; and;
- (ii) an increased customer base for IP-1 operators will improve revenue generation, thus encouraging increased spending on telecom infrastructure across the country

At the same time such enhancement would also enable:

- (i) the TSPs to concentrate on their core competency of providing telecommunication services to the end-users; and
- (ii) the IP-1 to invest and create active infrastructure, as well as, passive infrastructure.
- (iii) increased competition in the provision of active infrastructure services to TSPs would also lead to a trickle-down effect of reducing costs for end-customers.

It is also pertinent to note that in NDCP-2018 the Department of Telecommunications (“**DoT**”) clearly recognizes on page 7 paragraph 1.1 (f) that for establishing a “national broadband mission” there is a need to “*encourage and facilitate sharing of active infrastructure by enhancing the*

scope of Infrastructure Providers (IP) and promoting and incentivizing deployment of common sharable, passive as well as active, infrastructure”.

Accordingly, we suggest that the scope of IP-1 registration be enhanced to include the provisioning of active infrastructure including the provision of end to end connectivity for captive usage.

We clarify that the delivery of internet bandwidth would continue to remain with the TSPs/ISPs, and only *private interconnectivity by use of active infrastructure would be included within the scope of the IP-1 registration.*

Given that IP-1 registration holders would still not be permitted to provide external connectivity that is “*generally available to the public*” and “*designed to transmit data to and receive data from all or substantially **all endpoints on the Internet.***” (as per the definition of “Internet Access Service” under the Unified License; Emphasis supplied), the risk borne by IP-1 registration holders would be significantly lower than that borne by TSPs/ISPs.

Therefore, provision of such connectivity can be included within the scope of the existing IP-1 registration framework, subject to minimal compliances and light touch regulation which are proportional to the minimal risk involved with the services. Suitable amendments could also be considered to the Indian Telegraph Rules and the Unified License for this purpose.

iv) Should IP-I be made eligible to obtain Wireless Telegraphy Licenses from Wireless Planning and Coordination (WPC) wing of the DoT for possessing and importing wireless equipment? What methodology should be adopted for this purpose?

Response:

The industry would surely favour the facility for IP-1 operators to obtain Wireless Telegraphy Licenses for possessing and importing wireless equipment.

v) Should Microwave Backbone (MWB) spectrum allocation be permitted to IP-I for establishing point to point backbone connectivity using wireless transmission systems?

Response:

The industry would surely favour the facility for IP-1 Operators to obtain Microwave Backbone (“**MWB**”) spectrum.

3) In case the answer to the preceding question in part (1) is in the negative, then suggest alternative means to facilitate faster rollout of active infrastructure elements at competitive prices.

Response:

No further comments

4) Any other issue relevant to this subject.

Response:

No further comments