



VIL/AH/RCA/2024/014
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Advisor (Networks, Spectrum and Licensing)
Telecom Regulatory Authority of India,
4th, 5th, 6th & 7th Floor, Tower-F,
World Trade Centre, Nauroji Nagar,
New Delhi – 110029

Kind Attn: Shri. Akhilesh Kumar Trivedi

Subject: Comments on the TRAI's Consultation Paper on "The Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023" dated July 11, 2024

Dear Sir,

This is in reference to the TRAI's Consultation Paper on "The Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023" dated July 11, 2024.

In this regard, kindly find enclosed herewith comments from Vodafone Idea Limited on the above-said consultation paper.

We hope our comments will merit your kind consideration please.

Thanking you,
Yours sincerely,

For Vodafone Idea Limited


Anjali Hans
EVP – Regulatory, CSR & External Communications Head

Enclosed: As stated above



VIL Comments to the TRAI Consultation Paper on the “Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023” issued on 11.07.2024

At the outset, we are thankful to the Authority for giving us this opportunity to provide our comments to the TRAI Consultation Paper on “Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023” issued on July 11, 2024.

Preface

1. We appreciate the efforts made by TRAI in initiating such a comprehensive consultation on the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023. This is necessary for ensuring that the new regulatory framework is aligned with the Telecommunications Act, 2023. We hope that the new authorization framework will not only takes note of technological advancements and market dynamics, but will also help promote healthy competition, protect interests of consumers, encourage investments and reduce regulatory burden on the Telecom Service Providers (TSPs) and help achieve the Hon’ble Prime Minister’s vision of a robust Telecom Sector as outlined in the telecom reforms package of 15.09.2021.
2. The Telecommunications Act, 2023 was notified against the backdrop of telecommunication being recognized as a key driver of economic and social development, and importance of ensuring availability of affordable, reliable, secure and universal telecommunication services. The Act represents a major overhaul of the regulatory framework governing the telecom sector consolidating and amending the laws governing provision, development, expansion and operation of telecommunication services, telecommunication networks and telecommunication infrastructure. It is designed to address the evolving needs of the telecom industry, promote fair competition, enhance consumer protection, and support technological innovation.
3. The provisions related to Right of Way (RoW) and penalty under the Telecommunications Act, 2023 are landmark initiatives and should also be incorporated into the existing licenses, so that these can uniformly benefit both the existing licensees as well as the new authorized entities.
4. With regard to the issue raised in the consultation paper on introduction of a unified service authorization at National level for provision of end-to-end telecommunication services, we would like to submit that that an LSA-based licensing model, which has been in place for several decades is well accepted and understood. Introduction of a national level authorization needs a thorough understanding of the proposed framework, a careful impact assessment to evaluate the potential impact on existing operators, cost and revenue structures, industry financials, and market dynamics. In our view, such a step should only be considered after coming out with a separate detailed consultation on this matter with transparent stakeholder engagement. Hence, we suggest that this issue should not be considered at this stage.



5. In our view, the new authorization framework should reduce the cost burden on the sector, simplify compliances, encourage investments, improve ease of doing business and ensure level playing field. Such forward looking framework will be beneficial for all operators (under existing as well as new framework), Government and most importantly, the end users.

Executive Summary

1. **Contractual Nature of arrangement should remain unchanged:** Future licensing framework and Terms & Conditions of authorisations should maintain the existing essence of a bilateral contract.
2. The current unified licensing framework with separate service wise authorizations is well-established and well understood and is the outcome of significant evolution and adaptation to industry's needs and regulatory challenges.
3. **Transparent and Consultative process should be followed for prescribing any new Terms & Conditions under new authorization framework.**
4. **Terms & Conditions should continue to be a part of the Authorisation under the Telecommunications Act, 2023:** Existing Terms & Conditions as already provided under Unified License in UL general chapter + specific Authorisation under present framework should be put as T&C in Authorisation in the new framework.
5. **Extant guidelines on various aspects should be incorporated as part of Rules under the Telecommunications, Act 2023:** The conditions under current UL guidelines should be part of the Rules under new Act. The new framework /authorization should mention that any change in Terms & Conditions through amendment to authorisation or through Rules, should be done only after giving reference to TRAI (as under TRAI Act) and a detailed consultation process by TRAI.
6. Before adopting any framework based on International practices, a holistic and comprehensive understanding of the legal, licensing, financial, regulatory framework in other countries, is required to take a considered view and empower India to craft informed policies that gains from international experiences and foster a robust and dynamic telecom sector.
7. **Any Major Structural Changes to be avoided Considering the Timeframe Provided for Submission of Comments:** The short time period provided for submission of comments limits the ability of stakeholders to respond effectively to major changes being proposed in the Consultation paper. We believe that as a first step, the existing framework should be brought in line with the provisions of the Telecommunications Act. No wide-sweeping or structural changes should be considered at this stage.



8. **Introduction of Pan-India Service Area License for Unified Service Authorization at National Level should be considered by way of a separate consultation:** Introduction of a national level authorization needs a thorough understanding of the proposed framework, a careful impact assessment to evaluate the potential impact on existing operators, cost and revenue structures, industry financials, and market dynamics. There are concerns on level-playing field as well as several complex areas, which requires deliberations, understanding and market assessment. Such a step should only be considered after coming out with a separate detailed consultation on this matter with transparent stakeholder engagement. Hence, we suggest that this issue should not be considered at this stage.
9. In our view, **scope of Internet Service authorisation should not be enhanced to include provision of leased circuits/ VPNs.** ISPs are free to take respective Access/NLD/ILD authorisations for providing such services.
10. With regard to issues raised in the Consultation Paper pertaining to:
 - a. **Clubbing Scopes of some Authorizations:**
 - b. **Merging Scopes of extant**
 - i. **NLD and ILD Service authorization into single authorisation - Long Distance Service authorisation,**
 - ii. **GMPCS and Commercial VSAT CUG Service authorization into single authorisation - Satellite-based Telecommunication Service authorisation under new Act**
 - c. **Removing some Existing Authorizations**
 - d. **Changes in Respective Scopes of Service for each Service Authorisation**

These issues should be dealt through a separate exercise, delinked from present reference for aligning the licensing framework with provisions of the Act. This consultation should only be limited to the reference received from DoT and scope of licenses/authorisations should neither be changed nor merged at this stage.

11. With regard to the issues raised in the Consultation paper on:
 - a. **Merging Scopes of extant IP-I and DCIP authorization (as recommended by TRAI) into a single authorisation under the Telecommunications Act, 2023**
 - b. **Changes in scopes and T&C associated with DCIP Authorization, IXP Authorization, Content Delivery Network (CDN) Registration and Satellite Earth Station Gateway (SESG) License recently recommended by TRAI**

We suggest that TRAI should await DoT's final decision on its recommendations on these subjects and not decide any framework (under the Telecommunications Act, 2023) whilst its recommendations are still being considered by DoT.

12. **Introduction of New Authorisations or Sub-categories of Authorisations:** While there is no need for a new authorization, it would be prudent to increase the scope of Access Services Authorization to include OTT Communication services (OTT-CS) which, as per our understanding,



are covered under the new Telecom Act. This would align with the principle of 'same service, same rules' and definition of telecommunication services under the Act.

13. **Permitting Access Service VNOs to Parent with multiple NSOs holding Access Service authorisation for providing wireless access service:** We strongly urge TRAI that VNOs should not be permitted to parent to multiple NSOs in a single LSA as it would cause a significant arbitrage in favor of VNOs v/s TSPs. TRAI has already issued consultation on this matter.
14. For Adjudication of all disputes related to Terms and Conditions (T&C) of Authorisation, recourse to TDSAT should continue to be available to the Authorised Entities.
15. **Suggestions to Improve Ease of Doing Business:** Following to be addressed `both for new as well as existing framework:
 - a. **Centralized Assessment of Spectrum Usages Charges (SUC) for Access Service Providers:** Need to design and formulate a process to ensure harmonious application of SUC assessment in all LSAs through Centralized Assessment of SUC. This would facilitate SUC assessments within 12 months from end of financial year similar to the License fees assessment.
 - b. **Replacement of Affidavit to be submitted with quarterly payment of license fee and spectrum usage charges with a Self-Certificate (with similar content):** Should be applied for new authorisations under new Act as well as existing ones granted under the Indian Telegraph Act, 1885.
 - c. **Revision of existing formats of Statement of Revenue Share and License Fee for each license/authorization is not required.**
 - d. **Penalty:** The new Act carries provisions for penalties and categorizes civil penalties for breach of T&C under various sections and also lays down principles of proportionality and nexus. These principles are sufficient as guard rails and no ex ante categorization of types of violations are necessary.
16. **Fees and Charges: Changes may be made both in new authorisation framework as well as in the existing licenses/authorisations granted under Indian Telegraph Act, 1885:**
 - a. **Reduction in License Fees:** Reduce license fee (excluding USOF) from 3% to 1%.
 - b. **Abolition/Reduction in USO Levy:** Abolish USOF/DBN contribution or reduce the levy to 1% from the existing 5% OR utilize current USOF balance first and until then, put the collection of USO levy, in abeyance.
 - c. **GST Exemption on spectrum payments, LF and SUC:** Exempt spectrum payments, LF and SUC from GST.



17. **Migration of existing licensees to the new authorisation regime under the Telecommunications Act, 2023:** Principle of no worse off be ensured for existing licensees and in no case, they should be disadvantaged when transitioning to a new licensing framework. No step should be taken which can jeopardize the status or outcome of the entitlements of TSPs under the existing licenses or any matters pending before court of law.
18. **Entry fee and processing fee already paid for relevant authorisation(s) in case of migration:** No changes needed. If amounts prescribed are different, entry fee already paid by the service providers be provisioned (pro rata basis based on remaining tenure of license). Application processing fee of Rs 50,000 be applicable to migrate from existing to new.
19. Any new guidelines for transfer/merger of authorisations under new Act be formulated only once there is clarity on framework.
20. **T&C of security interest to be prescribed by Government:** The Companies Act and other laws provide for creation of security on moveable and immovable assets to secure borrowings. The large value in TSPs' balance sheet being spectrum, should be allowed to be created as security.

In addition to the above, kindly find below our question-wise comments for Authority's kind consideration:

Question-wise Comments

Q1. For the purpose of granting authorisations under Section 3(1) of the Telecommunications Act, 2023, whether the Central Government should issue an authorisation to the applicant entity, as is the international practice in several countries, in place of the extant practice of the Central Government entering into a license agreement with the applicant entity? In such a case, whether any safeguards are required to protect the reasonable interests of authorized entities? Kindly provide a detailed response with justifications.

VII Comments to Q1.

1. Contractual Nature of arrangement should remain unchanged

- a. In capex heavy sectors such as telecom, certainty in business models and contractual arrangements that give rights and responsibilities to both parties, clearly defining the rights and obligations, is essential. We are of the view that, while based on the Section 3 of the Telecommunication Act 2023, the license for any new entity or an existing licensee migrating to new framework and can be named as 'Authorisation' however, the contractual relationship of the Authorized entity and licensor should remain same as it is presently. The Telecommunications Act, 2023 also defines authorization as:



“(d) “authorisation” means a permission, by whatever name called, granted under this Act for—

- (i) providing telecommunication services;*
- (ii) establishing, operating, maintaining or expanding telecommunication networks; or*
- (iii) possessing radio equipment;*

- b. The present License is a contract between two parties (Telecom Service Provider and DoT) and any dispute on any term and condition can be challenged in the Hon’ble TDSAT by either party. Even any amendment to term and conditions in present license are either permitted in restricted cases eg. Matter of public interest, national security or proper conduct of telegraph act (Clause 5.1) or is carried out after a comprehensive consultation by TRAI and its recommendations to the DoT. This complete process provides reasonable and sufficient opportunity to a TSP to provide its views on any proposed subject. In our view, the new framework should also align with the essence of it being a bilateral contract and the terms and conditions should be prescribed after a thorough consultation involving all stakeholders.
- c. It is therefore required that even if the terms and conditions are to be prescribed through Rules, it should be done through a consultative and transparent approach, as is being followed at present through TRAI. Any approach to prescribe the terms and conditions of License/Authorisation unilaterally through Rules, would lead to unpredictability and uncertainty and would also undermine investor confidence.
- d. Therefore, the future authorisation / licensing framework and terms and conditions of the authorisations should maintain the existing essence of a bilateral contract, and any amendments in the terms and conditions should be by way of bilateral discussions/agreement.

2. Adjudication of disputes related to Terms and Conditions (T&C) of Authorisation

A. Before Telecommunications Act 2023

- a. The Department of Telecommunications grants the licenses under Section 4 of Indian Telegraph Act, 1885. Extract of the Telegraph Act given below:

4. Exclusive privilege in respect of telegraphs, and power to grant licenses.

1. Within [India], the Central Government shall have exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of [India]:

.....



- b. The license agreement is signed by both the Parties, and the terms and conditions governing the licensed activities were given in the license. As per the license agreement, the disputes between the parties are subject to jurisdiction of Hon'ble TDSAT. Extract of the license agreement given below:

15. Dispute Settlement:

All disputes relating to this License will be subject to jurisdiction of Telecom Disputes Settlement and Appellate Tribunal (TDSAT) as per provisions of TRAI Act, 1997 as amended from time to time. Dispute in any matter outside the domain of TDSAT will lie in the jurisdiction of competent Courts in NCT of Delhi only.

- c. Further, as per TRAI Act 1997 (before the Telecommunications Act 2023), the Section 14 stated as follows:

14. Establishment of Appellate Tribunal. — *The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal to—*

(a) adjudicate any dispute—

(i) between a licensor and a licensee;

.....

- d. From above, it is evident that the licensees were entitled to challenge any change in terms and conditions of license, before a technical-judicial body i.e. TDSAT.

B. After Telecommunications Act 2023

- a. Section 3 of The Telecommunications Act 2023 provides for grant of authorisation, as per following:

3. (1) Any person intending to—

(a) provide telecommunication services;

(b) establish, operate, maintain or expand telecommunication network; or

(c) possess radio equipment,

shall obtain an authorisation from the Central Government, subject to such terms and conditions, including fees or charges, as may be prescribed.

(2) The Central Government may while making rules under sub-section (1) provide for different terms and conditions of authorisation for different types of telecommunication services, telecommunication network or radio equipment.

.....

- b. Further Section 59(d) of the Telecommunications Act 2023 lays:



- i. Omission of the Section 14(a)(i) of the TRAI Act 1997 as given below.
- ii. Substituting paragraph (C) as given below.

14. Establishment of Appellate Tribunal. —The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal to—

(a) adjudicate any dispute—

(i) ~~between a licensor and a licensee;~~

(ii) between two or more service providers;

(iii) between a service provider and a group of consumers:

Provided that nothing in this clause shall apply in respect of matters relating to—

(A)

(B)

~~(C) the dispute between telegraph authority and any other person referred to in sub-section (1) of section 7B of the Indian Telegraph Act, 1885 (13 of 1885);~~

"(C) any disputes to be adjudicated by the Adjudicating Officer or the Designated Appeals Committee under the Telecommunications Act, 2023;

(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

(c) exercise jurisdiction, powers and authority conferred on—

(i) the Appellate Tribunal under the Information Technology Act, 2000 (21 of 2000); and

(ii) the Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008).]

(d) hear and dispose of appeals under section 39 of the Telecommunications Act, 2023.

.....

- c. Further Section 39 and 32 (1) of the Telecommunication Act 2023 states that:

39. Any person aggrieved by an order of the Designated Appeals Committee under section 36, in so far as it pertains to matters under sub-section (1) of section 32, or an order of the Central Government under sub-section (2) of section 32, may prefer an appeal to the Telecom Disputes Settlement and Appellate Tribunal constituted under section 14 of the Telecom Regulatory Authority of India Act, 1997, within a period of thirty days from the date on which a copy of the order is received by such authorized entity or assignee.

- d. Above clearly shows that disputes related to breach of any of the terms and conditions of authorisation can eventually be appealed at TDSAT, post the decision from adjudicating officer and Designated Appeals Committee. However, there is a need to bring in clarity that any dispute related to any term and conditions being imposed in future on an authorisation holder would also be subject to the same dispute resolution process and thereafter appeal to TDSAT.
- e. Considering above provisions of the Act, we request the Authority to recommend suitable conditions within the authorisation, which carry necessary provisions for addressing disputes including pertaining to any new term and condition/amendment related to an authorisation.



3. Current Framework is well-established and well understood over last 2 decades

The unified licensing framework in the country has been established for over last 2 decades – first as a unified access licensing regime and then as a unified licensing regime, reflecting significant evolution and adaptation to the industry's needs and outcome of regulatory challenges. The framework governs important aspects pertaining to telecom network and including regulatory compliances to ensure fair competition and protection of interest of consumers in the telecom sector.

4. Structural Changes to be Avoided Considering the Timeframe provided for Submission of Comments

a. Inadequate time for comprehensive consultation:

- i. Structural and wide-sweeping changes in regulatory/licensing frameworks which propels the sector, requires extensive multi-level consultations with all stakeholders. Given the extremely short time period provided for comments and counter-comments on this very important topic, we would like to submit that no structural/sweeping changes should be considered at this stage.
- ii. There is no doubt that there would be both pros and cons of such changes that have been proposed in the consultation for various authorizations; however, these will have to clearly articulated, debated and understood. Such a short timeline of less than a month to provide comments on such an extensive paper limits the ability of stakeholders to respond with any meaningful inputs, which is essential for informed policy-making.
- iii. Also, present telecom licensing framework covers comprehensive conditions related to technical, legal, financial and business aspects. Any major decisions without a comprehensive, considered and detailed consultation process may lead to unintended consequences as crucial details may get overlooked which could impact the effectiveness and fairness of the regulatory framework.
- iv. Further, the paper touches upon various structural reforms like change in scope of licensees, without any detailed background and analysis, and carries risk of causing huge irreparable impact to the existing robust sector and business plans of stakeholders.
- v. Comprehensive impact assessments, including economic analysis, market studies, and regulatory impact assessments, are necessary before implementing any wide-sweeping and long-term changes. A short consultation period may not allow sufficient time to conduct these assessments thoroughly, causing risks of decisions based on incomplete information/assessments.



- b. **Transparency and Accountability:** Any regulatory process requires adequate time for stakeholders to propose/review changes, understand their implications, and provide comments. This helps ensure accountability and promotes trust in the decision-making process.
- c. **Implementation Challenges:** Wide-sweeping changes often require adjustments in operational procedures, compliance requirements, and technology infrastructure for telecom operators. A rushed implementation without proper consultation can disrupt industry operations, disrupt level playing field and pose challenges in compliance.
- d. **Legal Certainty:** Stability and predictability in regulatory frameworks are crucial for fostering investment and innovation in the telecom sector. Any changes hastily made may create uncertainty among new and existing service providers and potentially deter their long-term investments.
- e. **Preserving Regulatory Continuity:** It is crucial to understand that regulatory framework in the telecom sector has typically evolved gradually to address emerging challenges and opportunities. Any abrupt decisions/changes would disrupt this evolutionary process and undermine the overall effectiveness of the regulatory framework.
- f. Hence, we submit that the short time period provided for such extensive consultation limits the ability of stakeholders to respond effectively to major changes being proposed in the Consultation paper. Considering the same, we strongly recommend against considering any wide-sweeping or structural changes in the licensing framework. We believe that as a first step, the existing framework should be brought in line with the provisions of the Telecom Act.

5. International frameworks

- a. Examining and understanding the international licensing framework for telecom sector in its entirety is crucial for a diverse country like India to prevent any misinterpretation or misunderstanding of its various facets and aspects.
- b. Each component of the existing/new framework contributes to the overall regulatory environment, impacting how telecommunications services are managed, operated, and expanded within the country.
- c. In essence, a holistic and comprehensive understanding of the legal, licensing, financial, regulatory framework in other countries, is required to empower India to craft informed policies that gains from international experiences and foster a robust and dynamic telecom sector. Such an approach will help in avoiding the pitfalls of narrow interpretations and ensure that India's telecom policies are comprehensive, forward-looking, and conducive to development of the country.



- d. Therefore, we strongly urge the Authority for a detailed examination and comprehensive deliberations on the International examples, about their legal, licensing, financial and regulatory frameworks.

Q2. Whether it will be appropriate to grant authorisations under Section 3(1) of the Telecommunications Act, 2023 in the form of an authorisation document containing the essential aspects of the authorisation, such as service area, period of validity, scope of service, list of applicable rules, authorisation fee etc., and the terms and conditions to be included in the form of rules to be made under the Telecommunications Act, 2023 with suitable safeguards to protect the reasonable interests of the authorised entities in case of any amendment in the rules? Kindly provide a detailed response with justifications.

And

Q3. In case it is decided to implement the authorisation structure as proposed in the Q2 above, -

- (a) Which essential aspects of authorisation should be included in authorisation documents?
(b) What should be the broad category of rules, under which, terms and conditions of various authorisations could be prescribed?
(c) Whether it would be appropriate to incorporate the information currently provided through the extant Guidelines for Grant of Unified License and Unified License for VNO, which included, inter-alia, the information on the application process for the license, eligibility conditions for obtaining the license, conditions for transfer/ Merger of the license etc., in the General Rules under the Telecommunications Act, 2023?
(d) What could be the broad topics for which the conditions may be required to be prescribed in the form of guidelines under the respective rules?

Kindly provide a detailed response with justifications.

VII. Comments to Q2 and Q3.

1. Current Framework is well-established and well understood over last two Decades

- a. The unified licensing framework in the country has been established for over last two decades, reflecting significant evolution and adaptation to the industry's needs and regulatory challenges. The framework governs important aspects pertaining to telecom network including regulatory compliances to ensure fair competition and protection of interest of consumers in the telecom sector. The existing framework has laid strong foundation for following key outcomes:
- b. **Stability and Continuity:** The framework has provided stability and continuity in regulating the sector for more than two decades. Being a capital-intensive sector, this continuity is crucial for the service providers as it provides predictability in regulatory requirements and fosters long-term planning and investment decisions.



- c. **Evolution and Adaptation:** Over the years, this framework has evolved and adapted to various technological advancements, market dynamics, and changing consumer needs. This adaptability is evident in the way terms and conditions are updated to incorporate new technologies like 4G, 5G, etc.
- d. **Regulatory Oversight:** A robust regulatory oversight mechanism is well established in the current scenario through the agencies like DoT and TRAI which monitor compliances considering the holistic approach of licensing conditions, consumer protection measures, and fair competition practices.
- e. **Spectrum Management:** The provisions for spectrum management, like allocation, pricing, and usage guidelines and methodology are very well defined in the existing framework. There are well set processes for Spectrum auctions, renewals, guidelines related to sharing, trading, leasing and surrender of spectrum, etc. which ensure efficient utilization of this scarce resource and promoting healthy competition among the spectrum holders.
- f. **Industry growth:** The existing framework has provided path for significant growth and development of the Indian telecom sector. It has facilitated the expansion of network coverage, improved service quality, and increased affordability of telecom services across the country for over a decade.
- g. **Alignment with International Standards:** The current framework well aligns with the international best practices and standards in telecom regulation which contribute to India's credibility in the global telecom market.

2. Contractual nature of Present framework gives clarity and certainty

- a. The present contractual arrangement between the Licensee (Operator) and the Licensor (DoT) gives clarity and certainty with regard to the rights and responsibilities of either party.
- b. It also provides a transparent consultative process under the aegis of an Independent Regulator, for bringing any change in the terms and conditions which govern the rights and obligations under the License or its Authorization.
- c. Most importantly, the existing framework is also Authorisation based and provides for terms and conditions governing the various telecommunication activities.

3. Guiding principles for framework under New Act

The formulation of framework under the New Act should be guided by following principles:



- a. Existing contractual rights and entitlements of the Parties should be not be changed. The existing arrangement of license agreement between the operators and DoT should continue, though the license agreement may be termed as “Authorisation”.
- b. Existing licensees should continue to have a choice to stay under the existing regime or migrate to the new regime.
- c. Existing terms and conditions should continue under the new authorizations, unless changes are required to align with the provisions of the Telecom Act, reduce costs and improve ease of doing business.
- d. Right of the Government to amend the contract should be subject to certain safeguards and transparent processes including adequate consultations with the concerned stakeholders as provided under existing framework.
- e. The change in T&C on which such permission is given needs to be clearly known and understood/accepted- - and can only be applied prospectively.
- f. To incorporate various current guidelines and prescribe them by way of Rules may be an appropriate approach. Only conditions which are part of UL guidelines like Eligibility, etc., should be part of the Rules.
- g. We strongly urge that the existing Unified License (Authorisations) based framework should continue, and it should continue to provide for detailed T&C, governing the respective telecommunication network and services, whereas the Rules should provide general conditions such as validity, service area, eligibility etc.

4. Terms and Conditions in Authorisation under the Telecommunication Act 2023

- a. In the present framework also, the T&C specific to a telecommunication activity are provided through Authorisations only under Unified License; and common T&C are provided through a separate chapter under Unified License.
- b. The most preferable way should be to put the T&C in UL general chapter + specific Authorisation under present framework, as T&C in Authorisation in new framework. This removes all the confusion, complications and challenges, while maintaining the existing time-tested and robust licensing framework.
- c. Based on above principles, following conditions should continue to be part of Authorisation under the Telecommunications Act, 2023:



- i. Ownership and Restriction on transfer of License, Merger
- ii. Scope of Authorisation
- iii. Financial Conditions
- iv. Commercial Conditions
- v. Technical Conditions
- vi. Operating Conditions
- vii. Security Conditions
- viii. Spectrum Allotment and Use
- ix. Network Interconnection
- x. Emergency and Public Utility services
- xi. Statement of Revenue and License Fee
- xii. Force Majeure
- xiii. Disputes Settlement regarding T&C
- xiv. Penalty, Suspension and Surrender

5. Terms and Conditions in Rules under the Telecommunication Act 2023

- a. As mentioned in point no. 3. above, the conditions under current UL guidelines should be part of the Rules under the Telecommunication Act 2023.
- b. Basis above, the conditions in Rules should include:
 - i. Duration of an Authorisation
 - ii. Service Area of an Authorisation
 - iii. General conditions as given under the extant guidelines dated 28.03.2016 for Grant of the Unified License
 - iv. Eligibility conditions like Minimum Equity, Minimum Network
 - v. Entry Fee, Bank Guarantee, Application Processing Fee
 - vi. Equity holding in other companies
 - vii. Security Clearance of officials of the Entity
 - viii. Migration / Renewal of Existing Licensees

6. Change to the T&C in Authorisation and Rules

- a. At present, any changes in T&C of license requires sending reference to TRAI, transparent consultation process by TRAI, obtaining recommendations from TRAI, back-reference if any, etc.
- b. Such safeguards and transparent consultative process must continue to be followed, before carrying out change in T&C of Authorisation document or of Rules; and the same should be explicitly prescribed in new framework i.e. both the Authorisation and in Rules.



7. Adjudicatory Forum:

- a. The license conditions provide the governing framework for the telecommunication activity/network/services and at present, the adjudicatory forum TDSAT is available to the Licensees w.r.t. any dispute between the licensor and licensee.
- b. In the new framework under the Telecommunications Act, 2023, the governing framework for the telecommunication activity/network/services will be through Authorisation document as well as Rules.
- c. Therefore, for continuity in the robust legal and licensing framework, the adjudicatory forum TDSAT should continue to be available to the Authorised Entities, for any dispute related to the provisions of Authorisation document and/or the Rules.

Q4. In view of the provisions of the Telecommunications Act, 2023, what safeguards are required to be put in place to ensure the long-term regulatory stability and business continuity of the service providers, while at the same time making the authorisations and associated rules a live document dynamically aligned with the contemporary developments from time to time? Kindly provide a detailed response with justifications.

VII Comments to Q4.

1. Terms and conditions of License/Authorisation should be clearly prescribed.
2. **Authorization must retain the essential essence of a bilateral contract.**
3. **Any change to the T&C in Authorisation or Rules should be only after transparent consultation through TRAI**
 - a. At present, any changes in T&C of license requires sending reference to TRAI, transparent consultation process by TRAI, obtaining recommendations from TRAI, back-reference if any, etc. In certain restricted areas like public interest, national security, the reference is not sent to TRAI before carrying out change in T&C of license.
 - b. **Such safeguards and transparent consultative process must continue to followed, before carrying out change in T&C of Authorisation document or of Rules; and the same should be explicitly prescribed in new framework i.e. both the Authorisation and in Rules.**
4. **Recourse to TDSAT should be available in case of any dispute related to Terms and conditions related to License/Authorisation:**



- a. The license conditions provide the governing framework for the telecommunication activity/network/services and at present, the adjudicatory forum TDSAT is available to the Licensees w.r.t. license conditions.
- b. In the new framework under the Telecommunications Act, 2023, the governing framework for the telecommunication activity/network/services will be through Authorisation document as well as Rules.
- c. **Therefore, for continuity in the robust legal and licensing framework, the adjudicatory forum TDSAT should continue to be available to the Authorised Entities, for the provisions of Authorisation document and Rules.**

Q5. In addition to the service-specific authorisations at service area level, whether there is a need for introducing a unified service authorisation at National level for the provision of end-to-end telecommunication services with pan-India service area under the Telecommunications Act, 2023? Kindly justify your response.

And

Q6. In case it is decided to introduce a unified service authorisation at National level for the provision of end-to-end telecommunication services-

- (a) **What should be the scope of service under such an authorisation?**
- (b) **What terms and conditions (technical, operational, security related, etc.) should be made applicable to such an authorisation?**
- (c) **Would there be a need to retain some of the conditions or obligations to be fulfilled at the telecom circle/ Metro area level for such an authorisation?**
- (d) **Should assignment of terrestrial access and backhaul spectrum be continued at the telecom circle/ Metro area level for such an authorisation?**
- (e) **Any other suggestion to protect the interest of other authorised entities/ smaller players upon the introduction of such an authorisation.**

Kindly provide a detailed response with justification.

VII Comments to Q5 and Q6.

1. Current LSA based Framework is well-established and well understood over two Decades:

- a. The telecom licensing framework with LSA based access services has been established for more than two decades, reflecting significant adaptation and maturity, basis which huge investments have also been made by the licensees.



- b. The framework governs various aspects such as spectrum allocation, licensing conditions, and regulatory compliances to ensure fair competition and protection of interest of consumers in the telecom sector.
- c. The LSA based access licenses, their corresponding networks and services are very well understood and deployed. Even the consumers understand this structure of circle-based services.
- d. Authorisation for a pan India access services is fraught with several high-level implications as well as granular linked aspects, that need to be comprehensively assessed, deliberated and understood, before any decision is taken to upset a well-established framework, which is understood by all stakeholders.

2. **Complex areas in LSA-wise authorisation v/s Pan-India authorisation for access services require comprehensive examination**

As mentioned above, there are several areas that are applicable for pan-India service areas for access services as such, it requires understanding and assessment through a comprehensive consultation, containing specific sections and questions on each of these aspects and how level-playing field will be ensured. Some of the areas interlinked between Access services with LSA as service-area v/s Access services with pan-India service area, are given as follows (please note that this list is indicative only and there is a need to comprehensively examine the detailed and exhaustive list):

- a. **Network design and deployments:** The network planning and deployment happens on each service area basis, considering the geography, population and various other metrics specific to a LSA. The network nodes are also planned considering the existing and future subscriber numbers, growth in traffic, regional and geographic factors etc.
- b. **No RF emission beyond service area:** Presently, the mobile networks are obligated to ensure that the customer gets the home network coverage within the service area only as such, the radio signals fades after the end of LSA geography.
- c. **Spectrum allocations:** The valuation of the spectrum has been derived on LSA wise basis only as such, the pricing of spectrum is also on LSA basis. Considering this, the access spectrum has always been auctioned, on LSA basis only.
- d. **Spectrum Usage Charge (SUC):** Presently, the SUC is being calculated as a percentage of the revenues (AGR) for a typical LSA. This percentage is weighted average of the SUC percentages defined for different access spectrum bands over a period of time.
- e. **National Long Distance (NLD) licenses and networks:** Under the present framework, the long-distance traffic (i.e. inter-LSA traffic) is to be mandatorily carried over NLD licensee's network.



There are 51 NLD licensees in the country as on 31.05.2024 (as per DoT's website) other than UL (NLD) VNO authorisation.

- f. **Mobile Number Portability:** The present norms provide for separate LRN for each TSP and each service area and regulation allows for both intra and inter service area MNP from one TSP to another TSP and there are separate system and downstream business processes to deal with the same.
- g. **Interconnection:** The interconnection norms specifies interconnection to be within the LSA as such, TSPs have established POIs within the LSA considering the existing and future growth in traffic. It also provides ease to a new licensee to seek interconnection within the same LSA where it has got the license, from interconnection provider TSP.
- h. **Quality of Services (QoS):** The present QoS framework applies on licensees on the basis of the basis of the service area given in their license (authorisation), and allows the tolerance levels to be calculated at LSA level.
- i. **Tariff:** The conditions in TTO'99 under the TRAI Act 1999 allows forbearance in the tariff regime. It gives entitlement to a TSP to launch 25 tariff plans per LSA. Similarly, all packages including Segmented offers are LSA based. Further, the tariff structure includes the local and STD calls/SMS, which in present case is defined based on the LSA mentioned in the license (Authorisation) of the originating and terminating TSP.
- j. **Internet telephony:** The Internet Telephony service has a restriction that it can be given within the service area mentioned in the specific license and roaming is not allowed.
- k. **Various Regulations of TRAI:** The present regulations, directions of the TRAI also apply on a service area mentioned in the license and hence, are tuned to the LSA based access licensees.

As is clear from above, there are huge number of complex areas which would be required to be examined for access services with a pan-India service area v/s the existing LSA based service area, from the perspective of level playing field, practical possibility, extent of change required and benefits from pan-India service area etc.

- 3. Considering the areas mentioned at point no. 2 above, we submit that there is a need to properly debate and address all issues. Therefore, it requires multiple rounds of comprehensive deliberations on different aspects, before Authority takes a final decision in this regard.
- 4. **Structural Changes to be Avoided Considering the Timeframe provided for Submission of Comments**



- a. **Inadequate time for comprehensive consultation:**
- i. Any structural and wide-sweeping changes in regulatory/licensing frameworks which propels the sector, requires extensive multi-level consultations with its stakeholders. Given the extremely short time period provided for comments and counter-comments on this comprehensive topic, we would like to submit that no structural/sweeping changes should be considered.
 - ii. There is no doubt that the pros and cons of such changes sought for various authorization will have to articulated, debated and understood. Such a short timeline of less than 30 days to provide comments on such an extensive paper limits the opportunity for meaningful input from these stakeholders, which is essential for informed policy-making.
 - iii. Also, telecom licensing framework includes comprehensive conditions related to technical, legal, financial and business aspects of each authorisation. Any major decisions following a speedy consultation process may lead to unintended consequences as crucial details that could impact the effectiveness and fairness of the regulatory framework may get overlooked.
 - iv. Further, the paper touches upon various structural reforms like change in scope of licensees, without any detailed background and analysis, and carries risk of causing huge irreparable impact to the rights and the entitlements of existing licenses and would greatly disturb the existing robust sector and business plans of stakeholders.
 - v. Comprehensive impact assessments, including economic analysis, market studies, and regulatory impact assessments, are necessary before implementing any wide-sweeping and long-term changes. A short consultation period may not allow sufficient time to conduct these assessments thoroughly, causing risks of decisions based on incomplete information/assessments.
- b. **Transparency and Accountability:** Any regulatory process requires adequate time for stakeholders to propose/review changes, understand their implications, and provide comments. This helps ensure accountability and promotes trust in the decision-making process.
- c. **Implementation Challenges:** Wide-sweeping changes often require adjustments in operational procedures, compliance requirements, and technology infrastructure for telecom operators. A rushed implementation without proper consultation can disrupt industry operations and pose challenges in compliance.
- d. **Legal Certainty:** Stability and predictability in regulatory frameworks are crucial for fostering investment and innovation in the telecom sector. Any changes hastily made may create



uncertainty among new and existing service providers and potentially deter their long-term investments.

- e. **Preserving Regulatory Continuity:** It is crucial to understand that regulatory framework in the telecom sector has typically evolved gradually to address emerging challenges and opportunities. Any abrupt decisions/changes would disrupt this evolutionary process and undermine the overall effectiveness of the regulatory framework.
6. These are substantive issues and the proposed framework will need to be properly articulated and thereafter debated as such issues cannot be addressed in this restricted timeframe without adequate and reasonable level of consultation, and without considering implications and impact on each facet of the proposed new license
 7. **The Telecommunication Act, 2023 doesn't mandate a Pan-India License/Authorization Structure:**
 - a. Pan-India license for unified service authorisation at National level for the provision of end-to-end telecommunication services with pan-India service area, is neither mandated under the Telecommunications Act nor was deliberated during the deliberations on the drafting of the Act.
 - b. Therefore, this should not be linked with the deliberations on moving the existing licensing structure to Authorisation structure or to the formulation of the Rules under the Act; and a separate comprehensive consultation exercise is necessary to deal with this topic.
 8. **There is no need for introducing a unified service authorisation at National level for the provision of end-to-end telecommunication services with pan-India service area at this stage.**
 9. **VIL submission:**
 - a. **Considering all above, we submit that the short time period provided for such extensive consultation, limits the ability to gather diverse perspectives, conduct thorough analysis, and ensure transparency and stakeholder engagement.**
 - b. **There are several complex areas, which requires deliberations, understanding and market assessment.**
 - c. **Therefore, we strongly urge the Authority to refrain from considering any wide-sweeping or structural changes in the licensing framework or recommending introduction of any pan-India license for unified service authorisation at National level for the provision of end-to-end telecommunication services, at this stage.**



Q7. Within the scope of Internet Service authorisation under the Telecommunications Act, 2023, whether there is a need for including the provision of leased circuits/ Virtual Private Networks within its service area? Kindly provide a detailed response with justifications.

And

Q8. In case it is decided to enhance the scope of Internet Service authorisation as indicated in the Q7 above, -

(a) What should be terms and conditions (technical, operational, security related, etc.) that should be made applicable on Internet Service authorisation?

(b) Any other suggestion to protect the reasonable interests of other authorised entities upon such an enhancement in the scope of service.

Kindly provide a detailed response with justifications.

VII Comments to Q7 and Q8.

- 1. We strongly urge the Authority not to include VPN and Leased circuits, which are part of other authorisations/license, into ISP services. The ISPs are free to take respective Access/NLD/ILD authorisations for providing such services.**
- 2. The internet services and Leased Line services (or VPN services) have separate network architecture and distinct service offerings.**
- 3. The ISP services are sold to consumers and enterprises while the NLD services are sold only to enterprises. The addressable markets for ISP services and NLD services are also different; hence, we strongly recommend to continue keeping these two services under different licensing categories.**
- 4. Leased line and VPN both are for private connectivity use cases by enterprises while Internet is for accessing publicly available content by consumers and enterprises.**
- 5. We would like to reiterate that given the extremely short time period provided by the TRAI to submit comments on this consultation paper, no wide-sweeping/structural changes should be considered w.r.t. the increase or clubbing of scope in different authorizations as these would have to be articulated, debated and analyzed through separate consultative process.**
- 6. Also, there is no specific reference from DoT on this issue.**

Q9. Whether there is need for merging the scopes of the extant National Long Distance (NLD) Service authorization and International Long Distance (ILD) Service authorization into a single authorisation namely Long Distance Service authorisation under the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.



And

Q10. In case it is decided to merge the scopes of the extant NLD Service authorization and ILD Service authorization into a single authorisation namely Long Distance Service authorisation under the Telecommunications Act, 2023, -

- (a) What should be the scope of service under the proposed Long Distance Service authorisation?**
- (b) What terms and conditions (technical, operational, security related, etc.) should be made applicable on the proposed Long Distance Service authorisation?**
- (c) Any other suggestions to protect the reasonable interests of other authorised entities upon the introduction of such an authorisation?**

Kindly provide a detailed response with justifications.

And

Q11. Whether there is need for merging the scopes of the extant GMPCS authorization and Commercial VSAT CUG Service authorization into a single authorisation namely Satellite-based Telecommunication Service authorisation under the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

And

Q12. In case it is decided to merge the scopes of the extant GMPCS authorization and Commercial VSAT CUG Service authorization into a single authorisation namely Satellite-based Telecommunication Service authorisation under the Telecommunications Act, 2023, -

- (a) What should be the scope of service under the proposed Satellite-based Telecommunication Service authorisation?**
- (b) What should be terms and conditions (technical, operational, security related, etc.) that should be made applicable on the proposed Satellite-based Telecommunication Service authorisation?**
- (c) Any other suggestion to protect the reasonable interests of other authorised entities upon the introduction of such an authorisation?**

Kindly provide a detailed response with justifications.

And

Q13. Whether there is a need for merging the scopes of the extant Infrastructure Provider-I (IP-I) and DCIP authorization (as recommended by TRAI) into a single authorisation under the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

And

Q14. In case it is decided to merge the scopes of the extant IP-I and DCIP (as recommended by TRAI) into a single authorisation under the Telecommunications Act, 2023, -



- (a) What should be the scope under the proposed authorisation?
- (b) What terms and conditions should be made applicable to the proposed authorisation?

Kindly provide a detailed response with justifications.

And

Q15. Whether there is a need for clubbing the scopes of some of the other authorisations into a single authorisation under the Telecommunications Act, 2023 for bringing more efficiency in the operations? If yes, in your opinion, the scopes of which authorisations should be clubbed together? For each of such proposed (resultant) authorisations, -

- (a) What should be the scope of the service?
- (b) What should be the service area?
- (c) What terms and conditions (technical, operational, security, etc.) should be made applicable?

Kindly provide a detailed response with justification.

VII Comments to Q9 - Q15.

1. We would like to reiterate that given the extremely short time period provided by the TRAI to submit comments on this consultation paper, no wide-sweeping/structural changes should be considered w.r.t. the scope and terms and conditions of various authorizations as these need to be articulated, debated and analyzed through separate consultative process on the basis of their services.
2. We would like to highlight that following aspects which should be considered before bringing any changes in the scope or terms and conditions of the authorizations:
 - a. **Contractual Commitments:** Existing authorizations and licenses are granted based on specific terms and conditions agreed upon between the Licensor and the Licensee. These terms and conditions form a contractual commitment that provide the licensees with predictability and stability for their investments and operations.
 - b. **Investment Certainty:** The TSPs make substantial investments in network infrastructure, technology upgrades, and service expansion based on the existing regulatory framework and authorized scope of operations. Any sudden changes to these authorizations could disrupt operators' investment plans and jeopardize the continuity of service delivery.
 - c. **Market Stability:** Maintaining the current scope and terms and conditions of authorizations promotes stability in the telecom market. Operators can better plan their business strategies and compete effectively when they have clarity on their authorized activities and obligations.
 - d. **Consumer Impact:** Changes in the scope or terms of authorizations may impact consumers by affecting service quality, coverage, and pricing. Stability in regulatory terms allows the service



- providers to focus on improving service delivery and meeting consumer expectations without distractions from regulatory uncertainties.
- e. **Regulatory Efficiency:** Constantly changing the scope or terms of authorizations requires regulatory resources for processing applications, conducting reviews, and managing compliance. By maintaining existing authorizations, regulatory authorities can allocate resources more efficiently towards other critical regulatory priorities.
 - f. **Legal Aspects:** Altering the scope or terms of authorizations could also lead to legal challenges as operators have invested based on existing agreements and expectations. Ensuring regulatory stability reduces the risk of litigation and legal disputes, thereby maintaining regulatory integrity.
 - g. **Industry Confidence:** A consistent regulatory approach that respects existing authorizations enhances investor confidence in the telecom sector. This confidence is essential for attracting investments needed to foster innovation, expand network coverage, and improve digital connectivity.
3. No changes should be made in the scope or other terms and conditions of existing authorizations as they support regulatory stability, investment certainty, market efficiency, consumer interests, and legal compliances. All these factors collectively contribute to a healthy and competitive telecom sector and make it capable to meet evolving technological and consumer demands effectively.
4. **NLD and ILD**
- a. Both NLD and ILD serve a separate market and different network scales and architectures.
 - b. Customer segment and their ask from NLD and ILD services are significant different for latency, packet drop and service uptime. The TRAI too imposes different regulatory requirements for ILD and NLD services. The regulated cost and structure are also different.
 - c. Merging their scope may carry substantial risk of unforeseen impact, unless it is comprehensively understood, deliberated and assessed through a separate consultative exercise.
5. **GMPCS and Commercial VSAT CUG:** Both these licenses serve a separate market requirement as such, merging their scope would not yield any material benefit but, may carry substantial risk of unforeseen impact, unless it is comprehensively understood, deliberated and assessed.
6. We believe that merging the scope of various licenses as suggested above without proper consideration, could unsettle and impact the rights of operators who have already been granted licenses under the extant regime. The need for such clubbing, the terms and conditions that will



be applied to the merged licenses, the benefit of such clubbing, the differences if any across the respective licenses, the impact of such clubbing on existing operators are all germane issues that need to be properly articulated, considered and debated before any wide-sweeping structural changes are considered. Also, the time frame for response to the consultation is too short for such wide-sweeping structural changes to be considered.

7. IP-I registration and DCIP authorisation:

a. It may be noted that TRAI released a consultation paper on “Introduction of new Digital Connectivity Infrastructure Provider (DCIP) under Unified License” on 09.02. 2023 and submitted following Recommendations on 08.08.2023 that:

- a. *The Authority recommends for creation of a new category of Licence that allows for creation of both active and passive digital connectivity infrastructure by an infrastructure provider.*
- b. *The Authority recommends that the new category of license be called ‘Digital Connectivity Infrastructure Provider (DCIP) License’.*
- c. *The Authority recommends that DCIP license should not be standalone license, but an authorization under Unified License.*

d. Since DoT is yet to take a final decision on these recommendations, making any further proposal on such issues may not be appropriate.

e. Hence, we recommend that TRAI should await DoT’s final decision in the matter.

8. Most importantly, there is no specific reference from DoT seeking TRAI recommendations on such clubbing/merging of scope of various licenses. Hence, we would like to submit that this consultation should be limited to the reference made by DoT and scope of the licenses/authorisations should neither be changed nor merged at this stage.

Q16. Whether there a need for removing some of the existing authorizations, which may have become redundant? If yes, kindly provide the details with justification.

VIL comments to Q16.

We recommend that this topic should be dealt through a separate exercise, delinked from the present reference for aligning the licensing framework with the provisions of The Telecommunications Act, 2023.

Q17. Whether there is a need for introducing certain new authorisations or sub-categories of authorisations under the Telecommunications Act, 2023? If yes, -



- (a) For which type of services, new authorisations or sub-categories of authorisations should be introduced?
- (b) What should be the respective scopes of such authorisations?
- (c) What should be the respective service areas for such authorisations?
- (d) What terms and conditions (general, technical, operational, Security, etc.) should be made applicable for such authorisations?

Kindly provide a detailed response with justifications.

VIL Comments to Q17.

1. While there is no need for a new authorization, it would be prudent to increase the scope of Access Services Authorization. Including OTT Communication services (OTT-CS) under this authorization which, as per our understanding, are covered under the new Telecom Act, is recommended. This would align with the principle of 'same service, same rules' and definition of telecommunication services under the Act.
2. In this regard, we would like to highlight that OTT services have witnessed explosive growth globally, revolutionizing the way people consume media, communicate, and conduct business. The OTT communication service (OTT-CS) providers are providing services which come under the ambit of telecommunication services as defined under the Telecommunications Act, 2023 as such, there is a need of putting in place a Licensing and Regulatory framework for OTT communication services. Below points further elaborates and supports this contention:
 - a. **Level Playing Field:** On one hand, the TSPs providing communication services are subject to stringent licensing requirements, spectrum fees, and regulatory obligations aimed at ensuring consumer protection, network security, and compliance with various other terms and conditions. However, on the other hand, the OTT players providing communication services (OTT-CS), operate without any regulatory restrictions. These OTT-CS providers compete directly with traditional telecom services (like voice calls and messaging) without being governed through same regulatory obligations and licensing fees. Bringing OTT-CS under the new authorization framework would create a level playing field.
 - b. **National Security:** Since OTT platforms deploy end-to-end encryption for internet-based voice or message exchanges, there is a need to have a licensing/regulatory framework to meet National security requirements of Lawful Interception, IPDRs, 24x7 support, trusted equipment etc.
 - c. **Consumer Protection:** A regulatory framework for OTT-CS could help protect consumers by setting minimum quality of platforms/applications as well, ensuring data privacy and security, and providing a clear mechanism for consumer grievance redressal.



- d. **Payments to National Exchequer:** As OTT-CS are also engaged in a commercial activity of providing communication services within the country, they should also be made to contribute to the National Exchequer to the same extent as is applicable to licensed TSPs.
 - e. **Innovation and Net Neutrality:** To support innovation and also while meeting net neutrality principles, the licensing and regulatory framework can apply to large OTT CS providers, based on a certain threshold of active subscribers. This will help smaller OTT players by providing them ground to continue to innovate and also meeting the principles of net neutrality.
 - f. **Global examples:** Many countries are already debating the regulatory framework for OTT-CS providers and many countries have gone ahead and put in place certain framework around the same considering their country-specific requirements. Examples of countries under European Union are also captured in TRAI's consultation paper and supports the need of putting in place a regulatory framework. The framework for India should suit its own National security, consumer protection, spam prevention, and other requirements.
4. **Ongoing TRAI's Consultation Paper:** TRAI had initiated a detailed consultation process through the paper on "Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services" issued on 07.07.2023. VIL had also provided its detailed comments and counter-comments on the paper for kind consideration of the Authority.
5. **Considering all above, in our view, it is most opportune time for TRAI to recommend putting in place a specific authorization for OTT-CS, under the Telecommunications Act, 2023. Such licensing framework would align with the principle of 'same service, same rules' and also align with the principle and definition of telecom services under the Act.**

Q18. In view of the provisions of the Telecommunications Act, 2023 and technological/ market developments, -

(a) What changes (additions, deletions, and modifications) are required to be incorporated in the respective scopes of service for each service authorisation with respect to the corresponding authorizations under the extant Unified License?

(b) What changes (additions, deletions, and modifications) are required to be incorporated in the terms and conditions (General, Technical, Operational, Security, etc.) associated with each service authorisation with respect to the corresponding authorizations under the extant Unified License?

Kindly provide a detailed response with justifications.

And

Q22. In view of the provisions of the Telecommunications Act, 2023 and technological/ market developments-



(a) What changes (additions, deletions, and modifications) are required to be incorporated in the respective scopes of service for each service authorisation with respect to the corresponding extant standalone licenses/ authorizations/ registrations/ NOC etc.?

(b) What changes (additions, deletions, and modifications) are required to be incorporated in the terms and conditions (General, Technical, Operational, Security, etc.) associated with each service authorisation with respect to the corresponding extant standalone licenses/ authorizations/ registrations/ NOC etc.?

Kindly provide a detailed response with justifications.

VII comments to Q18 and Q22.

There is no need to make changes (additions, deletions and modifications) in the conditions of the service authorisations at this stage. These may be considered later, if required, through a separate consultation process.

Q19. In view of the provisions of the Telecommunications Act, 2023 and technological/ market developments, -

(a) What changes (additions, deletions, and modifications) are required to be incorporated in the respective scopes of service for each service authorisation with respect to the corresponding authorizations under the extant Unified License for VNO?

(b) What changes (additions, deletions, and modifications) are required to be incorporated in the terms and conditions (General, Technical, Operational, Security, etc.) associated with each service authorisation with respect to the corresponding authorizations under the extant Unified License for VNO?

Kindly provide a detailed response with justifications.

And

Q20. Whether the Access Service VNOs should be permitted to parent with multiple NSOs holding Access Service authorisation for providing wireless access service? If yes, what conditions should be included in the authorisation framework to mitigate any possible adverse outcomes of such a provision? Kindly provide a detailed response with justifications.

And

Q21. Considering that there are certain overlaps in the set of services under various authorisations, would it be appropriate to permit service-specific parenting of VNOs with Network Service Operators (NSOs) in place of the extant authorisation-specific parenting? Kindly provide a detailed response with justifications.

VII Comments to Q19, Q20 and Q21



1. With regard to permitting Access Service VNOs to parent with multiple NSOs holding Access Service authorisation for providing wireless access service, we would like to submit that TRAI has already initiated a consultation process on “Connectivity to Access Service VNOs From More Than one NSO” on February 23, 2024 and is yet to issue the recommendations. VIL has also provided its detailed comments to the same on March 22, 2024 for kind consideration by the Authority.
2. We would like to reiterate that connecting with separate NSOs for wireline and wireless services will lead to enormous complexities in the system and in our view, granting such permissions will only lead to opacity and muddle up the regulatory and licensing framework.
3. Further, we recommend that there is no need of extended permissions, when the TSPs are offering complete product portfolio to meet the market requirements. In present market, VIL as TSP is providing all end enterprise solutions in the market and there is no niche/unique product being served by the VNOs in the market.
4. Also, it would cause a significant arbitrage in favour of VNOs v/s TSPs. While TSPs would be competing in the market basis their respective infrastructure, whereas a VNO can club infrastructure from multiple NSOs and provide enhanced services to end enterprise customers. This will cause irreparable and irretrievable loss to competitive structure in market, and potentially a VNO can become larger than even a TSP and become a super service provider.
5. Hence, we strongly urge TRAI that VNOs should not be permitted to parent to multiple NSOs in a single LSA.

Q23. In view of the provisions of the Telecommunications Act, 2023 and market developments, whether there is a need to make some changes in the respective scopes and terms and conditions associated with the following service authorisations, recently recommended by TRAI:

- (a) Digital Connectivity Infrastructure Provider (DCIP) Authorization (under Unified License)
- (b) IXP Authorization (under Unified License)
- (c) Content Delivery Network (CDN) Registration
- (d) Satellite Earth Station Gateway (SESG) License

If yes, kindly provide a detailed response with justifications in respect of each of the above authorisations.

VIL Comments to Q23.

1. There is no need to make changes in the scope of any of the existing authorisations or any of the authorisations recommended by TRAI to DoT.
2. We suggest that TRAI should await DoT’s final decision on its recommendations on these subjects and not decide any framework (under the Telecommunications Act, 2023) whilst its recommendations are still being considered by DoT.



Q24. In view of the provisions of the Telecommunications Act, 2023 and market developments, any further inputs on the following issues under consultation, may be provided with detailed justifications:

- (a) Data Communication Services Between Aircraft and Ground Stations Provided by Organizations Other Than Airports Authority of India;**
- (b) Review of Terms and Conditions of PMRTS and CMRTS Licenses; and**
- (c) Connectivity to Access Service VNOs from more than one NSO.**

VII Comments to Q24.

Our detailed comments have been provided during the consultation process. There are no additional inputs pertaining to these issues. These may be delinked from the present reference.

Q25. Whether there is a need for introducing any changes in the authorisation framework to improve the ease of doing business? If yes, kindly provide a detailed response with justifications.

1. Yes, there are various aspects related to Ease of Doing Business, which are required to be introduced in the authorisation framework under the Telecommunications Act 2024. However, these aspects should be addressed both for new authorisation framework as well as existing license/authorisations granted under the Indian Telegraph Act 1885. Details of these aspects are given below.
2. **Centralized Assessment of Spectrum Usages Charges (SUC) for Access Service Providers:**
 - a. The existing process of the assessment of SUC is a cumbersome and complex process, particularly the burdensome separate assessment orders for GSM, MWA, MWB and future E-Band spectrum as mandated by the DoT order dated April 08, 2022.
 - b. The clarifications issued by DoT (HQ) from time to time in relation to the SUC assessment are interpreted differently by LSAs. Such interpretations lead to difference in the requirements imposed by various LSA offices which turn into making the entire process complex and cumbersome in a situation where there is a single Authority (DoT), a single license but 22 separate assessments to deal with.
 - c. Further, the notices issued by various LSAs need to be responded within 15 days, which again is a cumbersome process due to 22 different LSAs necessitating individual responses. Further the responses are filed in hard copy and there is no provision for filing of demands responses in soft form.
 - d. The SARAS portal lacks notification upon document submission or errors in data entry, placing a constant monitoring burden on TSPs for updates.



- e. The process for adjusting surplus SUC payments lacks clarity, both Intra-circle and inter-circle, regarding responsibility and procedures to be followed whether by LSA or DoT HQ, causing inefficiency.
- f. Some CCA offices are unwilling to offset surplus payments in one LSA against deficits in another, contrary to DoT guidelines, leading to financial strain on licensees.
- g. Maintaining separate SUC assessments for different bands despite a uniform AGR is inefficient, hindering surplus settlement, incurring unnecessary costs, and adding administrative burden.
- h. DoT has laid down a centralized process for the calculation of LF which has simplified the process for TSPs as there is a single interpretation on clarifications issued by the DoT (HQ), single point of contact for the adjustment of the License Fee.
- i. DoT has also been carrying out centralized assessment in the case of NLD and ILD service, which has made it effective and efficient for TSPs to comply with the submission of requisite information for the purpose of carrying out centralized assessment.
- j. TRAI, in its Recommendations issued on 02.05.2023 on the subject of “Ease of Doing Business in Telecom and Broadcasting Sector”, has recommended that the assessment of Spectrum Usage Charges should be centralized either at DoT HQ or Controller General of Communication Accounts (CGCA)/ through the designated LSAs.
- k. There is need to design and formulate a process to ensure the harmonious application of SUC assessment in all the LSAs which would lead to an increase in operational efficiency benefitting both TSPs and DoT. This can only be achieved through the implementation of a Centralized Assessment of SUC. This would facilitate SUC assessments within 12 months from the end of the financial year similar to License fees assessment.

3. Penalty

- a. The Telecom Act, 2023 categorizes the civil penalties for breach of terms and conditions under sections 32 and 34 of Chapter VIII on ‘Adjudication of Certain Contraventions’ as below:

<i>Categorization</i>	<i>Civil Penalty</i>
<i>Severe</i>	<i>Up to Rs. 5 Crore</i>
<i>Major</i>	<i>Up to Rs. 1 Crore</i>
<i>Moderate</i>	<i>Up to Rs. 10 lakhs</i>
<i>Minor</i>	<i>Up to Rs. 1 lakh</i>
<i>Non-severe</i>	<i>Written warning</i>



b. Under clause 32(3), the Act further provides as below:

(3) While imposing penalties specified in the Second Schedule under this section and section 33, the Adjudicating Officer shall have due regard to the following factors, namely:—

(a) nature, gravity and duration of the contravention, taking into account the scope of the contravention;

(b) number of persons affected by such contravention, and the level of harm suffered by them;

(c) intentional or negligent character of the contravention;

(d) repetitive nature of the contravention;

(e) action taken by the concerned person to mitigate the contravention,

including by providing a voluntary undertaking under sub-section (1) or sub-section (2) of section 34;

(f) revenue loss caused to the Central Government;

(g) any aggravating factors relevant to the circumstances of the case, such as the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the contravention; and

(h) any mitigating factors relevant to the circumstances of the case, such as the timely rectification of the contravention, or steps taken for the avoidance of loss as a result of the contravention.

c. This provision of the new Act ought to be incorporated into the Authorisation framework and should be applicable to existing licensees as well by way of a license amendment. This has been the practice of DoT as well as license amendments are applied equally to CMSPs, UAS and UL licensees.

Q26. In view of the provisions of the Telecommunications Act, 2023 and market/technological developments, whether there is a need to make some changes in the extant terms and conditions, related to ownership of network and equipment, contained in the extant Unified License? If yes, please provide the details along with justifications.

VIL Comments to Q26.

Any changes in the extant terms and conditions, related to ownership of network and equipment, contained in the extant Unified License is a comprehensive topic and will require detailed deliberations and assessment. Hence, any such changes should be dealt through a separate consultation exercise.

Q27. Whether any modifications are required to be made in the extant PM-WANI framework to encourage the proliferation of Wi-Fi hotspots in the country? If yes, kindly provide a detailed response with justifications.

VIL Comments to Q27.

There are no modifications required to be made in the extant PM-WANI framework.



Q28. What should be the broad framework including the specific terms and conditions that should be made applicable for captive authorisations, which are issued on a case-to-case basis? Kindly provide a detailed response with justifications.

VIL Comments to Q28.

1. The Captive Non-Public Network (CNPN), under the DoT UL(Access) Amendment and CNPN license agreement are defined as:

'A terrestrial wireless telecommunication network established for captive use within a specified geographical area. Such networks cannot be used for providing commercial telecommunication services.'

2. In case of lawful interception, the CNPN license agreement format issued by DoT on 20.10.2022 states as below:

- *The licensor shall have a right to inspect and lawfully intercept CNPN, and ascertain its bonafide use.*
- *The licensee will provide suitable monitoring equipment as prescribed in the interest of security as and when required by the licensor/designated Security Agencies.'*

3. However, in case of UL(Access) license amendment issued for CNPN on 27.06.2022, there is no change in the security conditions and the existing conditions applicable for an access licensee are stated as below:

- *Monitoring telecom traffic at MSC/Exchange/MGC/MG/Routers or any other technically feasible point in the network.*
- *Monitoring of simultaneous calls by Government agencies Call related information to be provided in specified format – called, calling party numbers, time/duration of call, location of target subscribers, coordinates of BTS site,*
- *CDRs of outgoing calls*
- *Location details of mobile customers*
- *No CLIR facility, etc.*

4. Considering all above, we would like to submit that the security requirements under the Unified License and CNPN License for captive networks should be same. Further, these interception related security conditions should be irrelevant in case of a CNPN provided at a specified geographic location, which does not connect to any point in the network and not facilitate any incoming/outgoing calls.

5. Also, in our view, maintenance of CDRs/IPDRs for CNPN is also not required as communications confined within the specified geographic area are akin to internal office/private communication e.g. office use of EPABX, for which no CDRs/IPDRs are generated and maintained.



6. Hence, we submit that there should be no requirement for lawful interception or maintenance of CDRs/IPDRs for CNPN in the new and existing authorization framework as these networks are akin to internal office/private communications, and the licensed access service providers should only be required to adhere to these conditions in case there is any connectivity to the public network.

Q29. What amendments are required to be incorporated in the terms and conditions of authorisations for providing telecommunications services using satellite-based resources in light of the policy/ Act in the Space Sector? Kindly provide a detailed response with justifications.

VIL Comments to Q29.

The terms and conditions of authorisations for providing telecommunications services using satellite-based resources is a comprehensive topic and will require detailed deliberations and assessment. Hence, any such amendments should be dealt through a separate consultation exercise.

Q30. Whether the provisions of any other Policy/ Act in the related sectors need to be considered while framing terms and conditions for the new authorisation regime? If yes, kindly provide a detailed response with justification.

VIL Comments to Q30.

1. DPDP Act is a horizontal Act that applies across sectors including the telecom sector.
2. Under the DPDP Act the Central Government may, by notification, restrict the transfer of personal data by a Data Fiduciary for processing to such country or territory outside India as may be so notified. Hence transfer of data is permitted except to countries as may be notified by the Central Government
3. The above in in contrast to the provisions under license – which prescribe that no user information can be sent outside India.
4. Presently the telecom operators are placed at a significant disadvantage versus OTT players, as they are prohibited under their license from transferrin any user information outside India. Further the term 'user information' has not been defined anywhere.
5. The provisions under the license as also the new authorization framework, need to aligned with DPDP Act provisions to provide level playing field between OTTs and telecom operators.



Q31. What conditions should be made applicable for the migration of the existing licensees to the new authorisation regime under the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

And

Q32. What procedure should be followed for the migration of the existing licensees to the new authorisation regime under the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

VII Comments to Q31 and Q32.

1. First and foremost, as per provisions of the new Act, migration of existing licensees to the new authorisation framework is a choice and not a mandate (direct or indirect). The clause 3.6 mentioned in the Chapter II – ‘Chapter II - Powers of Authorisation and Assignment’ of the Telecommunications Act, 2023, states as below:

(6) A licence, registration, permission, by whatever name called, granted prior to the appointed day under the Indian Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933, in respect of provision of telecommunication services or telecommunication network—

(a) where a definite validity period is given, shall be entitled to continue to operate under the terms and conditions and for the duration as specified under such licence or registration or permission, or to migrate to such terms and conditions of the relevant authorisation, as may be prescribed; or

2. The principle of no worse off should be ensured for the existing licensees and in no case, they should be disadvantaged when transitioning to a new licensing framework under the new framework. Such a practice will protect the interests of current licensees and ensure stability in the capital-intensive telecom industry during any transition to the new regime.
3. Most importantly, no step should be taken which can jeopardize the status or outcome of the entitlements of the TSPs under the existing licenses or any matters pending before court of law.

Q33. Do you agree that new guidelines for the transfer/ merger of authorisations under the Telecommunications Act, 2023 should be formulated after putting in place a framework for the authorisations to be granted under the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

VII Comments to Q33.

Yes, we agree that any new guidelines for the transfer / merger of the authorisations under the Telecommunications Act 2023 should be formulated only once there is clarity on Authorisation framework.



Q34. Whether there is a need to formulate guidelines for deciding on the types of violations of terms and conditions which would fall under each category as defined in the Second Schedule of the Telecommunications Act, 2023? If yes, kindly provide a detailed response with justifications.

VII Comments to Q34.

1. The Telecom Act, 2023 categorizes the civil penalties for breach of terms and conditions under sections 32 and 34 of Chapter VIII on 'Adjudication of Certain Contraventions' as below:

<i>Categorization</i>	<i>Civil Penalty</i>
<i>Severe</i>	<i>Up to Rs. 5 Crore</i>
<i>Major</i>	<i>Up to Rs. 1 Crore</i>
<i>Moderate</i>	<i>Up to Rs. 10 lakhs</i>
<i>Minor</i>	<i>Up to Rs. 1 lakh</i>
<i>Non-severe</i>	<i>Written warning</i>

2. Under clause 32(3), the Act further provides as below:

(3) While imposing penalties specified in the Second Schedule under this section and section 33, the Adjudicating Officer shall have due regard to the following factors, namely:—

(a) nature, gravity and duration of the contravention, taking into account the scope of the contravention;

(b) number of persons affected by such contravention, and the level of harm suffered by them;

(c) intentional or negligent character of the contravention;

(d) repetitive nature of the contravention;

(e) action taken by the concerned person to mitigate the contravention,

including by providing a voluntary undertaking under sub-section (1) or sub-section (2) of section 34;

(f) revenue loss caused to the Central Government;

(g) any aggravating factors relevant to the circumstances of the case, such as the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the contravention; and

(h) any mitigating factors relevant to the circumstances of the case, such as the timely rectification of the contravention, or steps taken for the avoidance of loss as a result of the contravention.

5. We believe that the above principles are sufficient as guard rails and no ex ante categorization of types of violations are necessary.
6. It may however be provided that the order passed in writing is a reasoned order clearly establishing the nexus between the above principles and the penalty imposed on the licensee.
7. Most importantly, under ease of doing business, the penalty provisions under existing licenses /authorizations are required to be brought in line with the provisions under the Telecom act.



Q35. Are there any other inputs/ suggestions relevant to the subject? Kindly provide a detailed response with justifications.

VIL comments to Q35

No comments.

Q36. In case it is decided to introduce a unified service authorisation for the provision of end-to-end telecommunication services with pan-India service area, what should be the: -

- (i) Amount of application processing fees**
- (ii) Amount of entry fees**
- (iii) Provisions of bank guarantees**
- (iv) Definitions of GR, ApGR and AGR**
- (v) Rate of authorisation fee**
- (vi) Minimum equity and networth of the Authorised entity**

Please support your response with proper justification.

VIL comments to Q36.

Kindly refer to our detailed comments to Q5 and Q6. This topic may kindly be brought out through a separate and comprehensive consultation paper.

Q37. In case it is decided to enhance the scope of Internet Service authorization as indicated in the Q7 above, what should be the:

- (i) Amount of application processing fees**
- (ii) Amount of entry fees**
- (iii) Provisions of bank guarantees**
- (iv) Definitions of GR, ApGR and AGR**
- (v) Rate of authorisation fee**
- (vi) Minimum equity and networth of the Authorised entity**

Please support your response with proper justification.

VIL comments to Q37.

Kindly refer to our detailed comments to Q7 and Q8. This topic may kindly be brought out through a separate and comprehensive consultation paper.

Q38. In case it is decided to merge the scopes of the extant NLD Service authorization and ILD Service authorization into a single authorization namely Long Distance Service authorization under the Telecommunications Act, 2023, what should be the: -



- (i) Amount of application processing fees
 - (ii) Amount of entry fees
 - (iii) Provisions of bank guarantees
 - (iv) Definitions of GR, ApGR and AGR
 - (v) Rate of authorisation fee
 - (vi) Minimum equity and networth of the Authorised entity
- Please support your response with proper justification.

VIL comments to Q38.

Kindly refer to our detailed comments to Q9 and Q10. This topic may kindly be brought out through a separate and comprehensive consultation paper.

Q39. In case it is decided to merge the scopes of the extant GMPCS authorization and Commercial VSAT CUG Service authorization into a single authorization namely Satellite-based Telecommunication Service authorization under the Telecommunications Act, 2023, what should be the: -

- (i) Amount of application processing fees
 - (ii) Amount of entry fees
 - (iii) Provisions of bank guarantees
 - (iv) Definitions of GR, ApGR and AGR
 - (v) Rate of authorisation fee
 - (vi) Minimum equity and networth of the Authorised entity
- Please support your response with proper justification.

VIL comments to Q39.

Kindly refer to our detailed comments to Q11 and Q12. This topic may kindly be brought out through a separate and comprehensive consultation paper.

Q40. In case you are of the opinion that there is a need for clubbing the scopes of some other authorisations into a single authorisation under the Telecommunications Act, 2023 for bringing more efficiency in the operations, what should be the:

- (i) Amount of application processing fees
 - (ii) Amount of entry fees
 - (iii) Provisions of bank guarantees
 - (iv) Definitions of GR, ApGR and AGR
 - (v) Rate of authorisation fee
 - (vi) Minimum equity and networth of the Authorised entity
- Please support your response with proper justification.



VII comments to Q40.

Kindly refer to our comments to Q15. This topic may kindly be brought out through a separate and comprehensive consultation paper.

Q41. In case you are of the opinion there is a need to introduce certain new authorisations or sub-categories of authorisations under the Telecommunications Act, 2023, what should be the: -

- (i) Amount of application processing fees**
- (ii) Amount of entry fees**
- (iii) Provisions of bank guarantees**
- (iv) Definitions of GR, ApGR and AGR**
- (v) Rate of authorisation fee**
- (vi) Minimum equity and networth of the Authorised entity**

Please support your response with proper justification.

VII comments to Q41.

1. Kindly refer to our detailed comments to Q17, wherein we have recommend putting in place a specific authorization for OTT-CS, under the Telecommunications Act, 2023, as there is already a TRAI consultation issued in this regard.
2. As the services being provided by OTT-CS are same as by access players, all the applicable conditions to licensees (entry fees, authorisation fee etc.), Bank Guarantees, eligibility conditions (minimum equity and networth) should be the same as is applicable for taking access authorisation, to maintain the level playing field.

Q42. What should be the amount of application processing fees for the various service authorisations including VNOs, other than the merged/clubbed/new service authorisations? Please provide your response for each of the service authorisation separately.

And

Q43. Whether the amount of entry fee and provisions for bank guarantee for various service authorisations including VNOs, other than the merged/clubbed/new service authorisations, should be:

- i. kept the same as existing for the various service authorisations under the UL/UL(VNO) license**
- ii. kept the same as recommended by the Authority for the various service authorisations under the UL/UL(VNO) license, vide its Recommendations dated 19.09.2023**
- iii. or some other provisions may be made for the purpose of Entry Fee and Bank Guarantees**

Please support your response with proper justification separately for each authorisation.



VII comments to Q42 and Q43.

We request that TRAI should await DoT's final decision on its Recommendations before making any further recommendations on the subject.

Q44. Whether there is a need to review any of the other financial conditions for the various service authorisations including VNOs, other than the merged/clubbed/new service authorisations? Please provide your response for each service authorisation separately with detailed justification.

VII comments to Q44.

Yes. There is a pressing need to review the financial conditions for various service authorizations. Our submissions in this regard are as below

1. Reduction in License Fees

- a. In this regard it may first be noted that the Indian telecom sector is amongst one of the highest taxed sectors in the world, in terms of the various GST, License Fee, Spectrum Usage Charges and annuity value of spectrum.
- b. Given the critical nature of this sector which is the foundation for the development of a digital nation, we suggest that license fee will be sufficient to cover only the costs of administration and regulation of the sector. This will also be in line with global best practice and will also ensure that more funds available to the licensees for rollout of networks – which in turn will provide a multiplier and manifold benefits to the economy.
- c. In this regard, it may be noted that a GSMA Global Benchmarking Report on “Rethinking Mobile Taxation to improve mobile connectivity” has noted that sector-specific taxes worsen infrastructure outcomes; the higher the sector-specific tax burden is, the lower the level of infrastructure as measured by the mobile connectivity index because sector specific taxation hampers the ability for operators to invest flexibly.
- d. In a continuously evolving and increasingly convergent economy, there is a need to review the license fee burden on the telecom industry. The TSPs are already making significant payments to acquire spectrum through auction process. Reduction in License fee is also necessary to facilitate Investments & meet the Digital India Vision.
- e. The new licensing framework should ensure that license fee be charged only towards the covering the cost of administrative expenses and be brought down from present 3% to 0.5 – 1% of the AGR.



- f. The existing license terms and conditions provides for 8% of License fee, which includes 5% of USOF fees. The Section 3(1)(a) of the Telecommunications Act 2023, mentions that authorisation would be subject to such terms and conditions, including fees or charges, as may be prescribed.
- g. **Therefore, the new licensing framework under the Telecommunications Act 2023, should reduce the applicable levels of License fee, and reduce the license fee (excluding USOF) from 3% to 1%. This should also apply to existing licenses/authorisations granted under Indian Telegraph Act, 1885.**

2. Abolition of USOF levy

- a. The rural tele-density at present has already exceeded and surpassed the objectives laid down under successive telecom policies. However, the operators are still being subjected to an ever-increasing heavy burden of contributions to USO fund now renamed as Digital Bharat Nidhi (DBN) with the same percentage of Adjusted Gross Revenues.
- b. Further, there is also a huge unutilized corpus in the USO Fund/DBN to the tune of nearly Rs. 80,000 crores, which represents a huge opportunity cost for the sector in terms of monies that could have been deployed in the networks and used to deliver services to consumers.
- c. Reducing or abolishing the USO/DBN levy in the new framework will provide TSPs with an incentive to expand their networks further deep into rural areas and offer cutting-edge technology and service to rural and remote areas.
- d. **Therefore, we strongly urge for reducing the USOF burden on the TSPs e.g. abolish USOF contribution or reduce the levy to 1% from the existing 5% OR utilize current balance first and until then, put the collection of levy in abeyance.**

3. Exemption from GST on spectrum payments, LF and SUC

- a. Telecom sector is burdened with huge debt with high debt servicing costs. Financial stress gets amplified on account of the steep regulatory charges [such as Spectrum payments, License Fees ('LF') and Spectrum Usage Charges ('SUC')] and indirect taxes payable to the Government.
- b. Additionally, from April, 2016 onwards, service tax was introduced on regulatory payments – which has further increased the costs and aggravated the stress. The same has been continued in GST regime as well.
- c. It may further be noted that License as also assignment of spectrum are sovereign functions and the fees prescribed for the same should be outside the ambit the GST regime. Internationally also, no VAT is applicable to Government services as they are considered as



'out of scope' or regarded as non-economic activity or sovereign functions which are outside the ambit of tax.

- d. Hence, the new framework under the Telecommunication Act 2023 should exempt GST on spectrum payments, license fee and spectrum usage charges. The same should also apply to existing licenses/authorisations granted under Indian Telegraph Act, 1885.
4. We request that the above provisions may kindly be incorporated in the new authorisation framework under the Telecommunication Act 2023 as well as in the existing licenses/authorisations granted under Indian Telegraph Act, 1885.

Q45. In case it is decided to merge the scopes of the extant IP-I Registration and the Digital Connectivity Infrastructure Provider (DCIP) authorization into a single authorization under the Telecommunications Act, 2023, what should be the: -

- i. Amount of application processing fees
- ii. Amount of entry fees
- iii. Any other Fees/Charge
- iv. Minimum equity and networth etc. of the Authorised entity.

Please support your response with proper justification.

VII Comments to Q45.

Kindly refer to our detailed comments to Q13 and Q14. We request that TRAI should await DoT's final decision before making any further recommendations on this issue.

Q46. For MNP license and CMRTS authorisation, should the amount of entry fee and provisions of bank guarantees be:

- i. kept same as existing for the respective license/authorisation.
- ii. kept the same as recommended by the Authority vide its Recommendations dated 19.09.2023
- iii. or some other provisions may be made for the purpose of Entry Fee and Bank Guarantees

Please support your response with proper justification separately for each authorisation.

VII comments to Q46.

We request that TRAI should await DoT's final decision before making any further recommendations on this issue.

Q47. For other standalone licenses/ registrations/ authorisations/ permissions, should the existing framework for financial conditions be continued? Please provide detailed justification.



And

Q48. If answer to question above is no, what should be the new/revised financial requirement viz. bank guarantee/ entry fee/ processing fee/ authorisation fees/ registration fees or any other charge/ fees? Please provide detailed justification in support of your response for each other license/ registration/ authorisation/ permission separately.

VIL Comments to Q47 and Q48.

Our comments to Q44 may kindly be referred here.

Q49. In case of the merged M2M-WPAN/WLAN service authorisation, what should be the processing fees or any other applicable fees/ charges. Please support your response with proper justification.

VIL Comments to Q49.

This topic may kindly be brought out through a separate and comprehensive consultation paper.

Q50. In the interest of ease of doing business, is there a need to replace the Affidavit to be submitted with quarterly payment of license fee and spectrum usage charges with a Self-Certificate (with similar content)? Please justify your response.

VIL Comments to Q50.

1. As per UL agreement, Appendix II prescribes submission of affidavit at the time of quarterly payment of license fee and Spectrum Usage Charges. This condition was effective when TSPs used to make payment through demand drafts. However, in last 7 years, quarterly payment of license fee and Spectrum Usage Charges are done online vis RTGS mode.
2. Hence, considering above and in the interest of ease of doing business, both the affidavit and self-certificate should not be required as Aadhaar based verification is already carried out at the submission. However, in case if a need still arises, the affidavit should be replaced with a Self-Certificate (with similar content), for submission along with quarterly payment of license fee and spectrum usage charges.
3. This should be applied for both the new authorisations under the Telecommunications Act 2023, as well as existing authorisations/licenses granted under the Indian Telegraph Act 1885.



Q51. Is there a need to revise/ modify/simplify any of the existing formats of Statement of Revenue Share and License Fee for each license/authorisation (as detailed at Annexure 3.2)? In case the answer to the question is yes, please provide the list of items to be included or to be deleted from the formats along with detailed justification for the inclusion/deletion.

VIL Comments to Q51.

The present formats of Statement of Revenue and license fees have undergone change in 2021 (post cabinet reforms). The present format captures all required details on Gross Revenue (GR), Applicable Gross Revenue (ApGR) and Adjusted Gross Revenue (AGR). Hence, there is no requirement to revise the existing formats of Statement of Revenue and License fees.

Q52. In case of a unified service authorisation for the provision of end-to-end telecommunication services with pan-India service area, what should be the format of Statement of Revenue Share and License Fee for each of these authorisations? Please support your response with justification.

VIL comments to Q52.

Kindly refer to our detailed comments to Q5 and Q6. We request Authority that such authorisation and its format of Statement of Revenue Share and License fee, may kindly be brought out through a separate and comprehensive consultation paper.

Q53. In case the scope of Internet Service authorization is enhanced, what should be the format of Statement of Revenue Share and License Fee for each of these authorisations? Please support your response with justification.

VIL comments to Q53.

Kindly refer our comments to Q7 and Q8. We do not support any enhancement in scope of Internet Service authorisation.

Q54. In case of merged extant NLD Service authorization and ILD Service authorization into a single authorization namely Long Distance Service authorization, what should be the format of Statement of Revenue Share and License Fee for each of these authorisations? Please support your response with justification.

VIL comments to Q54.

Kindly refer our comments to Q9 and Q10. We request Authority that this topic may kindly be brought out through a separate and comprehensive consultation paper.



Q55. In case of merged extant GMPCS authorization and Commercial VSAT CUG Service authorization into a single authorization namely Satellite-based Telecommunication Service authorization, what should be the format of Statement of Revenue Share and License Fee for each of these authorisations? Please support your response with justification.

VIL Comments to Q55.

Kindly refer our comments to Q11 and Q12. We request Authority that this topic may kindly be brought out through a separate and comprehensive consultation paper.

Q56. In case you have proposed to club the scope of some of other authorizations OR introduce certain new authorisations/ sub-categories of authorisations, what should be the format of Statement of Revenue Share and License Fee for each of these authorisations? Please support your response with justification.

VIL Comments to Q56.

1. Kindly refer our comments to Q15 and Q17.
2. We do not support clubbing of scope of any of the other authorisations.
3. We have suggested the introduction of an authorisation for OTT-CS providers to maintain level playing field with access providers. In this regard, we further submit that the format of Statement of Revenue Share and License Fee as applicable on Access Authorisation holders, should also apply on the OTT-CS authorisation holders, for maintaining the level playing field.

Q57. Whether there is a need to review/ simplify the norms for the preparation of annual financial statements (that is, the statements of Revenue and License Fee) of the various service authorizations under UL, UL(VNO) and MNP licenses? Please give detailed response with proper justification for each authorization/license separately.

VIL Comments to Q 57.

The present format of Statement of Revenue and license fees has undergone change in 2021 (post cabinet reforms). The present format captures all required details on Gross Revenue (GR), Applicable Gross Revenue (ApGR) and Adjusted Gross Revenue (AGR). Hence, there is no requirement to revise the existing formats of Statement of Revenue and License fees.



Q58. In case of migration, how the entry fee already paid by the company be calculated/ prescribed for the relevant authorisation(s)? Please provide detailed justification in support of your response.

And

Q59. Should the application processing fee be applicable in case of migration. In case the response is yes, what should be amount of application processing fee? Please give reason(s) in support of your answer.

VIL Comments to Q58 and Q59.

1. There need not be any change in the entry fee amounts that have already been prescribed for various licensing /authorizations.
2. In the event that the amounts prescribed are different, there may be a process of providing for adjustment of the entry fee already paid by the service providers. This can be on a pro rata basis based on remaining tenure of license.
3. There should be a nominal application processing fee of Rs 50,000 which should be applicable for migration from existing authorisation under Indian Telegraph Act 1885 to new authorisation under the Telecommunications Act 2023.

Q60. What should be terms and conditions of security interest which Government may prescribe? Please provide detailed response.

VIL Comments to Q60.

1. The Companies Act and other relevant laws provide for creation of security on moveable assets and on immoveable assets to secure borrowings. Other than moveable and immoveable assets, the other large value in telecommunications service providers balance sheet is in the spectrum held by them which is an essential asset for conduct of its business.
2. Creation on security interest on spectrum would benefit the industry as well as lenders, provide the terms of securing spectrum includes the following:
 - a. Flexibility to create security interest for specific spectrum bands in specific license areas as acceptable lenders, rather than securing all spectrum held under the license.
 - b. Clarity that lenders would have a preferential charge over spectrum charged to them under a Tripartite Agreement and that DoT would not take a position that their interest over such charged spectrum overrides that of the secured lenders. Otherwise the security over spectrum would be of little value to lenders.



- c. Ability to lenders to monetize the charged spectrum by way of sale (assignment) of spectrum in whole or in part to other operators/entity eligible to acquire such spectrum in the event of default by the licensee.
- d. In cases where spectrum sale is made by lenders to recover their dues, DoT should not insist on any fee on such transactions as they would in case of a commercial assignment of spectrum between operators as this is towards lender recovery of overdues.
- e. The prices at which such assignment of spectrum happens would also be governed by demand supply dynamics and negotiation between the lenders and the potential buyer - therefore there should be no linkage between these transaction prices and auction determined prices.

Q61. Whether there are any other issues/ suggestions relevant to the fees and charges for the authorisations to provide telecommunication services? The same may be submitted with proper explanation and justification.

VII Comments to Q61.

No comments.

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