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Shri S.T. Abbas
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Mahanagar Door Sanchar Bhawan,
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New Delhi-110002

Ref: **ACTO's Response to TRAI's Consultation Paper dated August 20, 2020 on Enabling Unbundling of Different Layers Through Differential Licensing**

Dear Sir,

With reference to the *Consultation Paper on Enabling Unbundling of Different Layers Through Differential Licensing* issued by Hon'ble Authority, Association of Competitive Telecom Operators (ACTO), is pleased to provide its comments.

We hope that our comments (enclosed as Annexure - I) will merit consideration of the Hon'ble Authority.

Thanking you,
Respectfully submitted

Yours sincerely,
for **Association of Competitive Telecom Operators**



Tapan K. Patra
Director

Encl: As above

Annexure-I

ACTO's comments on TRAI Consultation Paper on Enabling Unbundling of Different Layers Through Differential Licensing

Association of Competitive Telecom Operators (ACTO) appreciates TRAI for the Consultation Paper on “Enabling Unbundling of Different Layers Through Differential Licensing” dated 20th August 2020.

We also thank TRAI for giving detailed analysis on this topic in the consultation paper by suggesting several models towards the unbundling of different layers through differential licensing. It is no doubt that the suggested models of unbundling of different layers in the consultation paper are forward looking in nature, however these suggestive models may have huge impact on the existing licensing regime and ongoing telecom business in India. Thus it requires a holistic view and impact analysis of the current business including financial implications. Differential licensing regime for different layers amounts to moving away from the principles of unified licensing and convergence. Thus, the same needs to be examined carefully before taking any step in that direction. Unbundling of layers in the telecom network may have huge impact on those services which are not under regulatory regime especially Cloud and may result as deterrent to innovations. It will also have serious impact on the incumbent telecom service providers and convergence of services being provided as a part of unified platforms.

ACTO members fully support any steps for the healthy competition in the sector, policy towards non discriminatory access to telecom resources to all TSPs and light touch regulatory regime. However our members also believe that current situation of telecom sector in India requires more regulatory simplification and need to resolve many existing issues before taking the step of unbundling of different layers through different licensing.

As mentioned in the consultation paper, VNO as one of the steps had already taken by DOT after the TRAI recommendation as unbundling of layers in the telecom network. Unfortunately, it's a fact that VNO has not picked up to it's potential in India as yet due to some existing issues. Some of the issues are also mentioned in this consultation paper.

ACTO members suggests TRAI for giving recommendation to DOT in order to resolve the existing issues and observe it's impact on the sector after necessary changes in the license or guidelines before recommending the full fledged unbundling of layers in the telecom network.

Policy should focus on simplifying the Licensing conditions on the lines of harmonized and equal policies for the competing technologies. The issues need to be addressed prior to the recommendation of the full fledged unbundling of layers in the telecom network are:

1. Multi parenting to be allowed for access service authorization which is currently not permitted:

Current UL VNO license allows multi parenting for all UL VNO except for access citing complexity as reason which is not correct.

“1.1 (j) By encouraging innovative approaches to infrastructure creation and access including through resale and Virtual Network Operators (VNO)”

This relates to the clause 1.3 (iii) in UL-VNO license and Conditions in UL guidelines Para XXII which interalia restricts a UL-VNO licensee from having agreements with more than one NSO (multiple NSOs) for access services and those services requiring unique numbering and subscriber identity.

“1.3..(iii) There would not be any restriction on the number of VNO licensees per service area. VNOs are allowed to have agreements with more than one NSO for all services other than access services and such services which need numbering and unique identity of the customers.”

Condition under UL-VNO License Guidelines dated May 31, 2016(Para XXII, Page 5)

*“VNOs will be allowed to have agreements with more than one NSO for all **services other than access services** and such services which need numbering and unique identity of the customers”.*

The restriction is arbitrarily forcing a VNO to an access service provider and makes the customer accept whatever service, price etc are offered. This clause impinges on the ability of a VNO to effectively compete in the market by tying its fate to a single access service provider and restricting choice, technology to customers and forcing them to whatever quality and coverage is provided.

This clause is also not at all helping the VNOs from business perspective as it prevents for providing better QoS to customers by having options for redundancy in the last mile.

We would therefore request TRAI for a recommendation to remove the said restrictive condition from the existing license terms and conditions, as it takes away the much needed flexibility from the hands of a reseller (VNO) to provide services to its customers. The restrictions are arbitrary and discourage a VNO to expand its business based on the customer choice and network availability. The clause in the current form restricts the VNO from offering innovative and efficient services as it ties down the VNO to only a single Access Service Provider (NSO). This will mean that the VNO and the customer has to accept whatever quality of service is being offered by a single access service provider (NSO) instead of getting benefitted by the offerings of VNO using multiple service providers. Such a restrictive condition is not there with respect to any other service authorized to be resold under the VNO license.

2. Removal of multiple levy of LF in B2B:

Currently telecom service providers (Access, ILD, NLD, and ISP) are not allowed to take deduction of the charges paid towards bandwidth / leased lines procured from other telecom operators. The definition of revenue under the telecom license needs to permit charging of license fee on the principle of value addition, to prevent cascade impact on consumers resulting in levy at multiple levels. Multiple levies of License Fee lead to Double Taxation under the telecom licenses. ILD, NLD, Access and ISP are not allowed to take deduction of the charges paid towards bandwidth / leased lines procured from other telecom operators. It is allowed in few cases in the form of pass through charges for voice traffic. Request TRAI for recommendation towards the implementation of the NDCCP-2018 especially as it relates to the following –

“2.1 (b) ii. Reviewing the concept of pass through charges to align the same with the principles of input line credit thereby avoiding double incidence of levies.”

Last year, DoT has removed the multiple levies of License Fee in the UL (VNO) license vide license amendment dated 24th October 2018 by permitting deduction of charges paid to NSOs after TRAI recommendation.

We would like TRAI for giving a recommendation to DOT for the removal the multiple levies of License Fee in other telecom licensees (ILD, NLD, ISP, Access) also in line with the policy objectives.

3. Full fledge infrastructure sharing:

One of the objectives of introducing different licensing layers is to promote building common telecom network/infrastructure and making more efficient utilization of telecom network/infrastructure. This objective can be achieved by providing appropriate Policy by allowing sharing of Core network elements. NDCP 2018 had made a provision to facilitate for the same.

1.1 “(f) Encourage and facilitate sharing of active infrastructure by enhancing the scope of Infrastructure Providers (IP) and promoting and incentivizing deployment of common sharable, passive as well as active, infrastructure.”

In last few years, DoT has allowed sharing of passive and some of active (limited) infrastructure. Still there are restrictions on the sharing of infrastructure between various telecom operators and infrastructure providers including ISPs. This has resulted in unnecessary duplication of infrastructure. Policy must allow sharing the telecom infrastructure for optimum usage subject to mutual agreement between TSPs. It will lead to higher utilization, leading to reduction in OPEX for service providers and better business case for infrastructure creators. Globally there are no restrictions on sharing of infrastructure amongst by the license amongst own license. Current need is to allow full fledged sharing of infrastructure.

We request TRAI to push DoT to start the process for allowing full fledged sharing of active and passive infrastructure between various telecom operators and infrastructure providers. More so, ISPs should be allowed to sell connectivity to other TSPs. Currently ISPs are not allowed to sell connectivity to other ISPs alone. ISPs can buy connectivity from other TSPs including ISPs.

4. Co-terminus License period even after paying full entry fees:

Co-Terminus license period condition under the UL-VNO License is required to be reviewed.

“This License shall be valid for a period of 10 years from the effective date of this License unless revoked earlier for reasons as specified elsewhere in the document. Validity period for service(s) authorized under any Chapter of Part-II of this Unified License, at a later date, shall be co-terminus with the validity period of this UL (VNO).”

The current validity of the license should be 20 years (not 10 years) to be at par with other licenses. As it mandates, different authorization taken at different times are to be terminated with the end of first license even after paying full entry fees for all licenses. The validity of any additional authorization will be co-terminus with the validity of the first / existing authorization

without any prorated rebate in the stipulated entry fee. The VNO license is valid for 10 years. Any additional authorization applied and granted for example after 3 years will be valid for remaining 7 years only. However, amount of entry fee has to be paid in full instead of an amount proportionately reduced by 3 years.

The validity of the additional authorizations acquired during the currency of existing license should either be for full 10 years or with pro-rate reduction of stipulated entry fee if the validity for additional authorizations is to be co-terminus with existing license.

A company which has taken a VNO license for one of these services and plans to add any additional authorization later but within the license validity of the first authorization is required to pay full stipulated entry fee for the remaining years with no pro-rata reduction in the entry fee.

This does not look to be a fair condition in particular to VNO licensees at all. We request TRAI for a suitable recommendation to DOT for removing this unfairness and it should be on pro rata basis.

- License validity should not be co-terminus with the validity of first authorisation.
- The license validity should be for full 10 years as full entry fee is required to be submitted.
- If not, then the entry fee should be reduced on a pro-rata basis on the principle of natural justice.
