

## Consultation paper on “Review of Internet Services”

### QUESTIONS FOR CONSULTATION

Q1. At present, there are 389 licensed ISPs out of which only 135 are offering Internet services. Top 20 ISPs cater to 98% Internet subscriber base. In your view, is there a rationale for such a large number of ISPs who are neither contributing to the growth of Internet nor bringing in competition in the sector? Suggest appropriate measures to revamp the Internet service sector.

A: Problems faced by many ISPs are:

- Local loop availability
- High cost of IP transit bandwidth
- Lack of economies of scale
- Bundling options and cross subsidizing options available to service providers who are also ISPs
- Lack of deep pockets

The ISP business has come down to economies of scale. Most of the standard products are commodity in nature. As large players (read telcos) have economies of scale, the smaller and the fringe players are not able to compete effectively. Also most of the growth of the Internet has been in major towns and cities only which are controlled significantly by the telcos. An analysis of the data published by TRAI on the largest ISPs in India will show that the top 5 are Telcos; BSNL, MTNL, VSNL, Reliance & Bharti and not pure play ISPs. They in fact control more than 80% of the market!!

Having said so, it is still important for the small ISPs to survive as in many instances they are serving customers in markets where the large players feel the market is uneconomical because of lack of volumes.

Recommendations are as follows:

- TRAI should mandate that ISP's should be able to access the local loop at a price that is cost based and ensure that transit bandwidth is also based on cost. The mechanism as to how this is to be achieved may be the subject of a further consultation process.
- Disallow selling below cost price and cross-subsidy of services, to give a level playing field. There should be a mechanism whereby TRAI should ensure that incumbent carriers do not unfairly use their economies of scale and vertical integration to compete unfairly with more specialized providers like ISP's, such as subsidizing competitive services from higher prices where there is dominance. Any such major change would again have to be subject to a consultation process, but mechanisms that could be considered are accounting separation and the imposition of Significant Market Power obligations. The benefits of such an approach would be to promote a more thriving ISP industry and also ensure Indian consumers obtained the most competitive prices for the whole range of telecommunications services.
- Increase the bouquet of service that the ISPs can provide.
- Review the current AGR regime.

- Give SME status to ISPs below a certain revenue and give them the necessary tax rebates and access to low cost loans.

Q2. Due to limited availability of spectrum for wireless broadband access, and high cost of creating last mile infrastructure, many ISPs are left with only option to provide Internet dialup access services. With increasing penetration of broadband, what efforts are required to ensure viability of such ISPs in changing scenario? Please give suggestions.

**A: Suggestions**

- A situation whereby ISP's only option to provide internet access by dial up would lead to a slow death of a competitive internet access market. The reason for this is that as broadband becomes the most attractive means of Internet access then the existing ISP's would become irrelevant. This can be easily remedied by the ISP's being allowed to accessing the last mile on a cost basis.
- Educate and encourage ISPs to move to a VAS and content platform. It's imperative for ISPs to move from purely access to a services platform. Many may not have the visibility or knowledge of opportunities that an ISP can thrive on beyond access.

Q3. At present limited services are permitted under ISP licenses. There is no clarity in terms of some services whether they can be provided under ISP licenses. Do you feel that scope of services which can be provided under ISPs licenses need to be broadened to cover new services and content? Suggest changes you feel necessary in this regard.

**A: The following should be allowed:**

- Unrestricted IP Telephony, using any IP device and not necessarily an H.323 / SIP or a PC.
- Allow ISPs to sell VPN solutions, without need to acquire an NLD license
- Allow for resale of IPLCs and international VPN services without the need to acquire an ILD license.
- Some ISPs may want to or can migrate to a managed services provider platform, providing remote services.

Q4. UASL/ CMTS licensees have been permitted unrestricted Internet telephony however none of them are offering the service. ISPs (with Internet telephony) can provide Internet telephony with in scope defined in license condition. The user friendly and cheaper devices with good voice quality are increasing Internet telephony grey market. Please suggest how grey market operations can be curbed without depriving users to avail such services?

**A: Restrictions and legislations are deterrents, but they necessarily do not help curb illegal telephony. The best option to make such services unviable and unattractive for the gray market. What this means is that licensed providers should be allowed to sell cheap IP interface and devices as a means to make calls and not necessarily PCs and H.323/SIP devices which are expensive. With increasing number of ISPs offering such**

services, it will bring in innovation and also push down the prices in the market. (An analogy is that when the import duties were higher the electronic goods and the gray PC market in India thrived. Over a period of time as the import duties have come down, the smuggled goods market has lost considerable steam)

Q5. How to address the issue of level playing field amongst the licensees of UASL, CMTS and ISPs?

A: UASL and CMTS are already allowed to provide unrestricted internet telephony. ISPs should be allowed to the same. ISP's should also be able to gain access to individual customers.

Q6. The emerging technological trends have been discussed in chapter 3. Please suggest changes you feel necessary in ISP licenses to keep pace with emerging technical trends?

A: This is an issue that is much wider than possible changes in the ISP licenses. With the convergence between Voice, internet services and entertainment on the one hand and fixed mobile convergence on the other there is a case to review the entire Regulatory Structure. This question calls for a larger discussion and a separate review.

Q7. The service roll out obligations under ISP license is very general and can be misused by non-serious players. Do you feel the need to redefine roll out obligations so that growth of Internet can be boosted both in urban and rural areas? Give suggestions.

A: There should not be any roll out obligations. Many of the ISPs address niche or specific markets / businesses. Many ISPs are started by entrepreneurs who do not have access to easy cash, and roll out obligations could end up being harmful to their survival. On the contrary if an ISP has not utilized his license, or generated revenues, or is not used to sell services to customers, in such instances, their license should be cancelled.

There may be more of a case for a roll-out obligation if an ISP had some infrastructure, such as Broadband Access spectrum. In this case any such obligation should be mitigated by a reduction in the spectrum fee.

Q8. Do you feel that ISPs who want to provide unrestricted Internet telephony and other value added services be permitted to migrate to UASL without spectrum charges? Will it boost Internet telephony in India? What should be the entry conditions? Give suggestions.

A: It is not necessary for ISP's to migrate UASL without spectrum charges. They should however be able to obtain access from UASL providers at a reasonable price that allows the UASL providers to make a return.

Yes it will boost internet telephony, as competition tends to bring in innovation and pressure on price points, provided there is a level playing field.

Entry conditions should be:

- Should have infrastructure, support mechanism and financial ability to support and service the customer.
- Access should be given to the infrastructure to monitor.

Q9. UASL/ CMTS licensees pay higher regulatory levies as compared to ISPs for provision of similar services. Do you feel that similar levies be imposed on ISPs also to maintain level playing field? Give suggestions.

A: No. UASL/CMTS providers provide infrastructure which is not the case with ISP's. These providers will still receive payments from ISP companies for bitstream access even if the ISP gets ownership of the customer. Therefore similar levies would not equate to a level playing field.

Q10. Virtually there is no license fee for ISPs at present. The amount of performance bank guarantee (PBG) and financial bank guarantee (FBG) submitted by ISPs is low. Do you feel the need to rationalize the license fee, PBG, FBG to regulate the Internet services?

A: We do not believe there is any problem with the license fee structure. The problems arise from their ability to provide competitive services that are addressed in other parts of this paper.

Q11. At present ISPs are paying radio spectrum charges based on frequency, hops, link length etc. This methodology results in high cost to ISPs prohibiting use of spectrum for Internet services. Do you feel that there is a need to migrate to spectrum fee regime based on percentage of AGR earned from all the revenue streams? Give suggestions?

A: As revenue is earned over the spectrum links perhaps it is fair that the fees be kept as the revenue fee, with a safeguard that there should be roll-out obligations.

Q12. The consultation paper has discussed some strategic paths to boost Internet telephony, bring in level playing field vis a vis other operators, and regulate the Internet services. Do you agree with the approach? Please give your suggestion regarding future direction keeping in view the changing scenario.

A: A number of other regulators, Singapore and Hong Kong and Malaysia for instance have brought out a list of guidelines applying to the Internet telephony service. These clarify issues over obligations such as access to numbering, number portability and access to emergency services. Perhaps TRAI should consider the same.