



By email: advmn@traigov.in

August 16, 2024

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Telecom Regulatory Authority of India (TRAI)

RE: Counter-Comments on the Consultation Paper on the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023

Respected Sir,

Kuiper Systems LLC (**Kuiper**), a wholly owned subsidiary of Amazon.com Services LLC (together, **Amazon**), has had the opportunity to review the comments submitted by various stakeholders to the TRAI on the Consultation Paper on the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023 (**Consultation Paper**).

At the outset, Amazon reiterates the submissions made in its comments dated August 8, 2024. We commend the TRAI on its efforts to ensure regulatory certainty through incremental, informed modifications to the existing regulatory framework. Updating the framework for service authorisations will promote regulatory certainty and provide harmony within the TRAI's regulations and across the regulatory frameworks. Further, by adopting these improvements and ensuring a smooth migration for existing licensees and applicants, the TRAI will significantly further its goals to streamline the regulatory process, benefit consumers, and improve the ease of doing business.

In addition, Amazon submits the following counter-comments for consideration by the TRAI.

A. Authorisation for Future Applicants Should Be Granted in the Form of An Authorisation Document

Amazon respectfully reiterates that authorisations for future applicants under Section 3(1) of the Telecommunications Act should be granted in the form of an authorisation document containing only the essential aspects of the authorisation. The authorisation documents should include the same material specific to the applicant entity that is currently included in the existing two-page license agreement for a Unified License (**UL**) (e.g., name of applicant, nature of service being authorised, effective date, term or validity period, obligation to comply with service-specific guidelines, non-exclusivity, and financial obligation relating to fees).

The terms and conditions of the authorisations can be prescribed under Section 3(1), read in conjunction with Section 56(2)(a) of the Telecommunications Act, either through the general rules notified under the Telecommunications Act or through application of specific rules notified for this purpose.

Amazon submits that this would be the prudent mechanism for the TRAI to introduce a regime that is principle-based. This approach will make the licensing process more accessible and enhance the ease of doing business which, in turn, will increase competition and benefit consumers by driving higher quality, lower prices, and more choice in services and providers.

Concerns that this mechanism would reduce regulatory certainty and affect protection may not be founded. Indeed, pairing a streamlined authorisation document with rules that apply across an authorisation type, rather than negotiated license agreements, would provide greater regulatory certainty and consistency. Moreover, the Telecommunications Act provides for a framework where any rule or amendment to the rules or schedules under the Telecommunications Act would have effect only if they are affirmed by Parliament. These concerns can be further alleviated by publishing proposed rule changes for public comment, allowing sufficient time for response by stakeholders, and making the final decision and reasoning behind the decision publicly available, along with all stakeholder comments. The public consultation process ensures transparency and balances regulatory flexibility and certainty, enabling rules to have a reasonable longevity such that regulation keeps up with technological developments while maintaining stability.

B. A National Unified Service Authorisation May Not Further the TRAI's Goals

Currently, the UL prescribes terms and conditions that are specific to the nature of the service. As stakeholders have pointed out in their submissions, a unified service authorisation at the national level that permits end-to-end telecommunication services would result in differing nature of services being required to comply with onerous requirements that are not suited to their nature of service. Services have different operational needs, security requirements, and network architectures. Prescribing a unified regime across all services may lead to imposing obligations that are not appropriate across services or that are conflicting. Moreover, overly extensive authorisations that span too many authorisation categories and duplicate their functions may create confusion and unnecessary regulatory complexity, resulting in increased complexity for the regulator / the Department of Telecommunications (**DoT**), and additional costs for authorisation holders and consumers. This also creates ambiguity for applicants at the outset, when determining which authorisation path to pursue for a given service.

The Consultation Paper rightly considers whether some authorisations have become overly narrow in scope, there are corresponding risks to making authorisations so broad that they fail to reflect the differing characteristics of various services. Including satellite-based telecommunication services in any unified service authorisation would do just this, burdening the regulatory framework rather than streamlining it, in direct conflict with the TRAI's goals in the Consultation Paper. Rather, declining to create an unified service authorisation will allow the TRAI to logically and effectively regulate the distinct characteristics of various technologies and their unique spectrum use profiles, while at the same time permitting deployment of new and innovative services in India.

C. The Scope of the GMPCS and Commercial VSAT CUG Service Authorisations Should be Revised Instead of Being Merged

Several stakeholders have correctly pointed out in their submissions that the scope and utility of the GMPCS and Commercial VSAT CUG services are completely different, with differing technical and operating conditions. As such, it would not be appropriate to merge these authorisations into one or, indeed, merge the GMPCS authorisation with the Access Service authorisation, as has been suggested by some stakeholders.

As noted above, the TRAI's authorisation framework provides clarity and simplicity when the authorisations reflect the distinct technical and operational parameters between services. The fact that different service authorisation may provide similar services is only one part of the analysis to determine whether to unify these authorisations. In the case of satellite-based telecommunication services, keeping the GMPCS and VSAT authorisations separate, and distinguishing them by the radio services used to deliver the service offerings, would be more consistent with international practice. Additionally, maintaining the current authorisation names will avoid any confusion (or a superficial amendment) regarding the ongoing application of the Telecommunications Act and its Schedules to the simplified and modernized authorisations. Finally, incorporating targeted improvements by modifying the scope of the existing authorisations for satellite-based telecommunication service will maintain regulatory efficiency, stability, and certainty.

Therefore, Amazon believes the TRAI would be able to meet the goals of this Consultation Paper by simplifying the existing GMPCS and Commercial VSAT CUG authorisations, modernizing the service definitions, and removing conflicting scope definitions. Specifically, in alignment with international practices, Amazon respectfully recommends the TRAI clarify the scope of the GMPCS service to apply only to satellite communications under the mobile-satellite service (**MSS**) and, correspondingly, the scope of the VSAT authorisation to apply to satellite-based telecommunication services in the fixed-satellite service (**FSS**). This bifurcation would be in line with international practices as other countries have similarly tailored satellite authorisations according to use by the MSS or the FSS.

Identifying the GMPCS license for satellite communications services in the MSS eliminates the need for possible duplicate authorisations that satellite-based telecommunication service providers must pursue today. It also anticipates future international activities by the 2027 World Radiocommunication Conference (**WRC-27**) that may consider new spectrum allocations to the MSS in existing frequency allocations to the Mobile Service (**MS**) to extend the coverage of terrestrial networks.

Similarly, modifying the Commercial VSAT CUG authorisation to a VSAT authorisation applying only to satellite-based telecommunication service providers using the frequencies allocated to the FSS, will align with international practices for VSAT services. And allowing VSAT authorisation holders to provide various services under the authorisation, including (i) internet access, (ii) point-to-point or private network communications services for customers, (iii) backhaul to other service providers (e.g., Access Service providers for cellular mobile connectivity or Wi-Fi hotspots, M2M service providers), (iv) services aggregating traffic from M2M / IoT devices or aggregator devices, etc., and (v) connectivity via Earth Stations in Motion (ESIM), will align with international practices and provide the simplification sought by the TRAI in this Consultation Paper. In particular, enabling VSAT authorisation holders to provide internet services without obtaining a separate ISP license or entering into arrangements with an ISP licensee maintains harmony with the proposed expansion of the Internet Service authorisation to permit VPN services. Similarly, recognizing that closed user groups (**CUGs**) are a vestige of closed enterprise architectures that do not resemble today's satellite systems and service offerings and so removing the CUG designation appropriately modernizes the authorisation framework. These adjustments to the Commercial VSAT authorisation will enable needed flexibility in the scope of the service while promoting regulatory clarity.

Finally, Amazon respectfully encourages the TRAI to consider adopting similar compliance obligations for satellite broadband services (including VSAT services) as are currently required for other broadband technologies like FTTH and DSL to ensure uniformity and harmonization between obligations for similarly

placed broadband / internet access providers. Likewise, harmonizing compliance obligations across frameworks, including the Information Technology Act, (2000), the Digital Personal Data Protection Act, 2023, and the Content Regulations will reduce regulatory conflict and complexity while reducing administrative burden for regulators and improving ease of doing business for authorisation holders.

D. There Should Be An Optional Migration Framework Based On The Principle of Parity Between Same Services

Amazon supports the recommendations of other stakeholders that there should be a voluntary migration framework. Amazon reiterates that consistent with Section 4(6) of the Telecommunications Act, the TRAI could clarify that entities that have been authorized to provide UL-based services prior to the introduction of updated authorisations under the Telecommunications Act have the option (but not the obligation) to migrate to the new terms and conditions. Migration may be guided by the principle that entities providing the same services should be regulated in a similar manner. There must be equality in effect for like services between new applicants authorized under any new regime and all existing licensees / applicants authorized under the existing regime that will be migrated from the extant framework. Operators and their customers will benefit from the regulatory certainty enabled by license condition parity of licensees under the extant framework and any new framework.

As mentioned in its submission, Amazon respectfully submits that the TRAI should apply the migration process to pending applications. Providers whose applications are awaiting approval stand ready to promptly deploy services to customers in India, and their businesses will be subject to similar inefficiencies, cost, and unnecessary delay as those of current licensees. Moreover, applying the same migration procedures for pending applications (once granted) as for current license agreements would avoid undue cost and delay in approving applications and deploying much-needed services to customers.

Amazon reiterates that the TRAI should keep in mind the following factors while devising a migration framework:

- The migration framework should ensure that there is no disruption to the business of licensees under the current regime.
- A licensee's spectrum use status and spectrum sharing obligations and / or expectations must be maintained from the extant regime to any new framework.
- Existing applications (for example, those at an advanced stage of consideration by the DoT) should not be re-evaluated due to the introduction of a new framework. Rather, these should be approved under the existing framework and then subject to migration similar to active licenses.
- To the extent any relaxations are provided under a new framework, including in relation to fees charged, operational conditions, security conditions and revenue sharing, similar relaxations should be provided to licensees under the extant licensing framework. Fair and equal treatment would also reduce the risk of disputes, which may delay implementation of the new licensing framework.
- To the extent that fees payable under a new framework are lower than the fees already paid by existing licensees, such fees should be waived or pro-rated to account for amounts already paid.

E. Spectrum Assignment Is Outside the Scope of this Consultation Paper

Amazon observes that the Consultation Paper specifically notes that it does not deal with the assignment and use of spectrum by authorized entities.¹ Accordingly, Amazon respectfully submits that the TRAI ought not to make recommendations regarding spectrum assignment as part of this Consultation Paper.

Nonetheless, to the extent the TRAI's considerations for this Consultation Paper implicate spectrum assignment and use, Amazon submits that spectrum auction is fundamentally inappropriate for satellite-based communications, given the effective and efficient sharing of spectrum that acts as the norm in the satellite industry. Accordingly, Amazon respectfully encourages the TRAI to affirm that the outcome of this consultation leaves the regulatory landscape unchanged with respect to the assignment and use of satellite spectrum as set out in the Telecommunications Act and its Schedules.

¹ Consultation Paper at 2.40.