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TRAI/FY24-25/029
8th August 2024

**Shri Akhilesh Kumar Trivedi**
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**Telecom Regulatory Authority of India,**
World Trade Centre, Nauroji Nagar,
New Delhi – 110029

**Subject** : **Bharti Airtel's Comments on Consultation Paper on *the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023***

**Reference** : **TRAI's Consultation Paper dated 11th July 2024**

Dear Sir,

This is in reference to TRAI's Consultation Paper on *the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023* dated 11.07.2024.

In this regard, we are pleased to enclose our comments on the said consultation paper for your kind consideration.

Thanking You,

Yours' Sincerely,
For **Bharti Airtel Limited**

**Rahul Vatts**
Chief Regulatory Officer

Encl: a.a

**Response to CP on the *Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023***

## Preamble:

Airtel thanks the Authority for giving it the opportunity to comment on this critical Consultation Paper (**"CP"**) titled *the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023*.

Telecommunications, as a transformational technology and the backbone of a digitally connected India, is playing an ever-growing role in the nation's journey to becoming a $5 trillion economy, to bringing high speed broadband access to every citizen through applications and services and to ensuring digital inclusion and bridging the digital divide. The investments made by Telecom Service Providers (**"TSPs"**) worth billions of dollars are evident in the over 8 lakh telecom towers that are deployed today and the millions of base transceiver stations (**"BTS"**) that connect mobile devices to cellular networks. They are also evident in the fact that over a billion plus population is being successfully served through a mix of technologies and services across every nook and corner of India and that India has grown in global stature in terms of competitiveness and reforms.

**None of these efforts would have amounted to anything without the supportive policy and regulatory frameworks created by the licensor DoT and regulator TRAI, who have enabled the conditions under which TSPs have continuously met the growing demands of telecom services, pursued new innovations, brought new technologies and services into play and contributed to socio-economic development as well as helping achieve Sustainable Development Goals (SDGs).**

**Ubiquitous telecommunications networks that are accessible to customers, enterprises and governments alike can unlock a huge growth multiplier effect for the connected Indian economy and provide new opportunities for the youth. Good practices in telecommunications policy and regulation help make this a reality.**

**The Telecommunications Act, 2023 ("Telecom Act") has been a seminal piece of legislation and marks an epochal moment for telecommunications sector reforms.** The gains made in the last 30 years since the opening of the sector to private participation in 1994, the appointing of an independent regulator TRAI in 1997 and the ushering in of various reformist regimes in 2003, 2012 and then as recently as 2022, have all been leading up to this. **It is time now to consolidate these gains for the next stage of growth in India's digital socio-economy as well as enable Indian TSPs to build the next growth story of the sector**.

Taking into consideration the immensely critical nature of this, the present CP that is set to reform the licensing landscape of India takes on even more significance. In the CP, the Authority has raised some very pertinent questions and Airtel has made every attempt to answer them exhaustively**. Having said that, it is also important that the Authority consider certain additional critical aspects before framing its recommendations.**

**The pillars of regulatory certainty, consistency as well as investment protection are basic ingredients on which any licensing/authorisation framework or reform stands and grows.** These tenets of good policymaking should be used as touchstones when new policies are introduced or the existing ones are amended. Reforming policy must continue supporting

sustainable levels of investment in telecommunications and broadband infrastructure if the progress made thus far is to be built upon.

Papers such as these have the power to alter the course of a licensing landscape or a particular market since they are responsible for determining the competitive dynamics for all participants. It is vital, therefore, that **a rigorous regulatory impact assessment (RIA) be undertaken when such papers are being finalised, something that Airtel has recommended time and again**. While the present paper has included some crucial issues, they remain at a mostly conceptual level. It is Airtel's sincere and fervent hope that the Authority will undertake the RIA before making its recommendations as **several significant questions continue to remain unanswered with respect to the proposals put forward in the CP**.

Airtel would like to applaud the Authority's effort to ensure continued engagement and consultation from all stakeholders and request that it continue this practice when it comes to any and all new authorisations or proposals and/or terms and conditions (T&Cs) that have any bearing on the present licensees/TSPs.

**In the paragraphs that follow is a list of the guiding principles that Airtel believe the Authority and the Licensor should keep in mind while forming their views on the issues raised in the CP.**

## A. The authorisation/licensing framework must ensure the sanctity of the contractual nature of the license and spectrum to retain and boost business and investor confidence, while ushering in ease of doing business and other simplified processes.

The license is sacrosanct. It instills regulatory certainty and predictability. It also upholds the Constitutional mandates of transparency and fair play. The contractual right under the existing licenses creates legitimate expectations and assurances that the terms and conditions will not be unilaterally amended. Such stability is a necessity, especially in a capital-intensive industry like telecom.

It is particularly important, therefore, that the extant practice of the Central Government of entering into a license agreement with the applicant entity is continued with for the purposes of granting authorisations under Section 3(1) of the Telecom Act.

It is Airtel's sincere hope that the reformist zeal shown by the Authority would not take away the contractual nature of certain T&Cs and mutual powers in the hands of TSPs as well, so that it gives the investors a surety of investments protections, business sustainability and fair play.

Further, the Authority has raised multiple questions with respect to authorisations and seeks inputs on how they should work. We submit that any new framework that is suggested must ease compliance burdens on the sector, lower financial levies/fees/charges and simplify processes to move toward centralised audits, centralised CCA assessments, etc.

**B. Ensure voluntary migration to new licensing/ authorisation regime and no worse-off situation for existing players.**

In the interests of effective and fair competition and in order to ensure that all investments made by companies remain sustainable, the new rules and regime should allow the following:

- Allow existing TSPs/licensees to migrate to the new regime voluntarily.
- Ensure that the existing licensees/authorisation holders/TSPs are no worse-off than before, as has been the practice.
- Ensure that the playing field remains level in terms of the TSPs/present licensees vis-à-vis the new authorisation regime in so far as telecommunications services allowed under the present licensing/service authorisation regimes continue as before.
- Adjust and apply T&Cs (financial/technical/operational) in a non-discriminatory and uniform manner on existing licenses/service authorisation holders if the particular T&C has been dropped or reduced for any new authorisation holder.

**C. The proposed Unified Services Authorisation (National) for end-to-end telecommunications services - is a step in right direction, however, needs deliberation on various issues.**

The Authority has proposed a new Unified Services Authorisation (National) that would encompass all types of services at a national level. Prima facie, such a concept may bring in efficiency by immensely easing the compliance burden that is currently imposed due to multiple service-specific and LSA-specific requirements.

However, it has to be borne in mind that the Indian telecom industry has invested lakhs of crores of rupees over the past three decades in creating a network infrastructure and services portfolio consistent with India's licensed service area (LSA) based licensing regime. This, in turn, has entailed the evolution of a defining network architecture, the assignment of (access and backhaul) spectrum, books of accounts that are kept a particular way, a defined set of methods and principles of interconnection (for local, long distance, roaming), specific call routing patterns, particular rollout strategies for technologies and services and even deployment of manpower to manage all this paraphernalia. The licensor's own administrative set-up in the form of field units or the LSA units has also evolved from this.

**Simply termed, the entire business and operating model of Indian telecom service provisioning by TSPs has emerged from the LSA based regime evolved over the last three decades.** Therefore, while the concept of 'Pan India Authorisation' is worth deliberating, any such wide ranging and fundamental license/authorisation regime will have a bearing on competition, investments, the public policy goals of the government, the coverage and connectivity needs of the 1.4 billion population and on the entire socio-economy of India's national and digital ambitions.

In this context, while Airtel is eager to understand the contours and other aspects of a pan-India single license or Unified Services Authorisation (National), the instant CP, as it

stands, does not provide much insight beyond at a conceptual level. **Many unanswered questions remain. Airtel has attempted to explore these while answering specific question on this issue. However, it is imperative that answers to these be found before a definitive regime is prescribed.**

Therefore, and keeping all of this in mind, **Airtel strongly recommends that the Authority not rush into recommending a Unified Services Authorisation (National) and, instead, hold a separate and independent consultation on this proposed Authorisation** so that a more reasoned, practicable and non-disruptive (technically and financially) regulatory framework is created around it. Since the Authority has already proposed this as a concept, the insights and inputs received during this consultation round should be used to refine the concept and give it a more rounded shape. Once this is done, it should be finalised after a further consultation and subsequent discussion.

**D. The authorisation/licensing framework must take into account the importance of the sustainable network investments required for unlocking potential telecom services as well as attracting only serious players.**

Creating a telecommunications network infrastructure is a capital-intensive procedure with a long gestation period, having huge public impact. It requires operators to invest continually (annually) in order to expand coverage, increase capacity to carry more and more traffic, keep up with technological development and innovation to avoid obsolescence and remain competitive and relevant in the market.

Investment in new technologies like 5G and expanding fiber connectivity require continued capex. This requires the industry's financial health to be sound. As part of September 2021 and subsequent reforms have brought the industry out of deep stress, the Authority must account for the financial health of Indian TSPs by supporting their ability to sustainably invest in networks, services and spectrum while generating reasonable returns on those investments.

**A corollary from this is also that given the impact and importance of telecom networks and services to the general public, the authorisation/licensing framework should ensure that it attracts serious players who are ready to commit and invest the right resources including, but not limited to, financial capital, IT & security systems and intellectual capital among others**.

**E. Pursuant to the new Telecom Act, the authorisation framework should bring the associated levies/fees/charges in line with the global approach, i.e., recovering only administrative costs.**

Section 3 of the Telecom Act, under which the Authority is deliberating over creating the authorisation framework, now gives an opportunity to the regulator and the licensor to reform the levies applied on the sector, primarily the License Fee (**"LF"**) of 8% (basis AGR), that includes 3% of the authorisation/license fee and 5% towards the Universal Service Obligation Fund (**"USOF"**) levy and makes India's telecom authorisation and licensing regime globally consistent.

**The government should now reduce telecom specific levies because the social impact and long-term positive impact on GDP (and, hence, tax revenues) will outweigh any short-term reduction in contributions due to the externalities involved in the Telecom sector. Reducing costs and regulatory barriers is critical to expanding telecom connectivity and infrastructure.**

In this regard, for simple authorisation of Telecom services, **the rate of LF (authorisation fee) should be reduced from 3% to 1% to recover the cost of administering the license/authorisation**. There is no longer any point in retaining the legacy approach of a high LF when license and spectrum were bundled and the government had only one source of revenue, i.e., the LF. Today, the government earns much higher revenue through annual auctions and their payments and should therefore move on from old, redundant practices.

Furthermore, **the time has also come to delink the component of the USOF levy of 5% from the overall authorisation/LF**. Under the Telecom Act, the objectives and goals of the Digital Bharat Nidhi (earlier, USOF) have been widened. In parallel, the goal of universal connectivity set out at the inception of the fund and subsequently updated before the new Act came into being have been well exceeded as almost 98% of India's population is not covered via the terrestrial network. There is also a huge corpus that remains unutilised in the fund. These developments require that the 5% USOF levy on TSPs be abolished and the existing fund first utilised. The Authority, too, has, in the past, recommended that the USOF levy be brought down to 3%. This is the time to reform and reduce the burden of regulatory levies on the sector.

All of this will help TSPs put the funds towards better coverage and services as they will get an investible surplus with them. This will also incentivise efficient private investments in the sector and thus create a positive spillover of telecommunications services throughout the economy.

In view of this and as discussed in the main response later, Airtel's key recommendations are as below:

**Response to CP on the *Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023***

**In summary:**

- ✓ *The Central Government should not issue an authorisation to the applicant entity and the extant practice of the Government entering into a license agreement with the applicant entity should be continued with for the purposes of granting authorisations under Section 3(1) of the Telecom Act.*

- ✓ *The contractual nature of the authorisation/license as well as spectrum assignment must be preserved even under the new regime.*

- ✓ *The rules should only provide for the broader aspects like application process, eligibility conditions, etc., while the detailed terms and conditions should continue to form part of the contract between the Government and the TSP.*

- ✓ *The general guidelines/rules for issues outside the purview of license conditions can be introduced following the due process of law. The Government should be mandatorily required to conduct a thorough public consultation process for any rulemaking under the Telecom Act.*

- ✓ *While the concept of Unified Services Authorisation (National) for end-to-end telecom services is a step in right direction, there are many unanswered questions related to it. Therefore, the Authority should use the inputs received through this CP to first identify and gather stakeholders' inputs, and then have another round of consultations with a more final view on what the proposed unified authorisation framework would look like and how it would function. By using this approach, the entire exercise will become much more practical and efficient.*

- ✓ *The scope of ISP authorisation should not be enhanced to include the provision of leased circuits/VPNs.*

- ✓ *There should not be any conflict in clubbing NLD and ILD Service authorisations to form a single Long Distance Service authorisation, as long as no additional compliance requirements are imposed on a specific service by the reason of such clubbing.*

- ✓ *GMPCS and Commercial VSAT CUG Service authorisations should continue to be separate, as is the case currently. There is no need to club the two.*

- ✓ *There should neither be a separate DCIP authorisation introduced, nor should it be clubbed with the IP-I registration. The present IP-1 framework is working well.*

- ✓ *There is no need to club the scopes of any authorisation other than NLD and ILD.*

- ✓ *OTT Communication Services should be brought under the authorisation/licensing framework; and the principle of 'Same Service – Same Rules' should be applied to ensure parity with traditionally licensed TSPs.*

- ✓ *Multi-parenting for a VNO should not be allowed in the case of wireless access services.*

- ✓ *The extant approach of authorisation-specific parenting of VNOs with NSOs should be continued with; service-specific parenting should not be allowed.*
- ✓ *SESG operators should be allowed to acquire/use the spectrum required for the operation of SESGs/SNPs, to install baseband equipment at the SESGs/SNPs, and to connect SESGs with PoPs – under a light-touch registration framework. They should not be required to obtain any license/authorisation.*
- ✓ *The scope of revenue should be defined in a way so as to promote/become enabler for co-existence of Licensed Telecom services with non-licensed and/or non-telecom product or services.*
- ✓ *The rate of the Authorisation fee should be reduced from 3% to 1% of AGR and brought at par with global best practices of recovering only the administrative cost of managing the authorisation/license.*
- ✓ *The USOF levy of 5% should be abolished altogether. Or, at least in the interim, it must be kept in abeyance till the unutilised amount of the corpus gets fully utilised.*
- ✓ *The requirement of bank guarantees should be done away with.*
- ✓ *In order to bring in better consistency, comparability, transparency and ease of doing business, the norms for preparation of financial statements under the license/authorisations should be aligned with the Companies Act, 2013.*

Airtel now provides its replies to the specific questions asked in the sections that follow.

**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.**

**Airtel Response:**

As noted by the Authority itself in the instant CP, the provision of telecom services in India by private entities has always been governed by license agreements – ever since the entry of private players was first allowed in the 1990s.

At first, separate licenses were issued for different services. Thereafter, DoT introduced a Unified License (**"UL"**) – with separate authorisations for different services. However, the basic contractual nature of the relationship between DoT and TSPs remained the same.

The license is sacrosanct. It instills regulatory certainty and predictability, and also ensures the Constitutional mandates of transparency and fair play. The contractual right under the existing licenses creates legitimate expectation and assurance that the terms and conditions will not be unilaterally amended.

Telecom is a capital-intensive sector with long gestation periods. Regulatory stability is not only desirable but also necessary, if continuity of investment flow into the sector is to be ensured. It is pertinent to note that a contract-based regime is the norm even in other capex-heavy industries, like mining, road and highway construction, etc.

To conclude, the existing regime has worked well for the past three decades. There is no reason for any fundamental changes to it. However, in the event that such changes are introduced, the rights of TSPs under the existing license agreements must continue.

**Airtel recommends the following:**

**(i) The contractual nature of the authorisation/license as well as spectrum (both access and backhaul) assignment must be preserved even under the new regime.**

**(ii) In any case, the rights of TSPs under the existing license agreements and spectrum (both access and backhaul) assignments should be protected.**

**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.**

**Airtel Response:**

Please refer to the response to Q1. It is necessary to preserve the contractual nature of the authorisation/license in the interests of regulatory certainty and investment stability.

It should be noted here that the inclusion of license T&Cs under rules would limit the TSPs' right to challenge the terms of the license/contract as opposed to a statutory instrument. This will leave TSPs with no option but to challenge the vires of the law which will mean that its rights will be curtailed under the Contract Act.

In the above context, it may be appropriate to restrict the rules to only the general aspects which are outside the purview of License conditions – such as the application process for the authorisation, eligibility conditions for obtaining the authorisation, conditions for transfer/ merger of the authorisations, etc. – which is the information currently provided through the extant Guidelines for Grant of UL and Unified License for VNO (**"UL-VNO"**). The detailed terms and conditions should continue to form part of the contract between the Government and the TSP – whether it is called a license or an authorisation.

**Therefore, Airtel recommends the following:**

**(i) The contractual nature of the authorisation/license as well as spectrum (both access and backhaul) assignment must be preserved even under the new regime.**

**(ii) The rules should only provide for the broader aspects like application process, eligibility conditions, etc., while the detailed terms and conditions should continue to form part of the contract between the Government and the TSP.**

**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.**

**Airtel Response:**

Please refer to the responses to Q1-3. It is important to repeat here that it is Airtel's belief that a huge change, such as giving up the contractual nature of the license while moving from the license regime to the authorisation regime, will adversely impact the telecom industry.

In view of the provisions of the Telecom Act, there are certain safeguards which are required to be put in place to ensure the long-term regulatory stability and business continuity of service providers.

First and foremost, existing licensees should not be mandatorily required or forced to migrate to the new regime. In this regard, please also refer to the detailed response to Q31-32 that follow.

Additionally, general guidelines/rules for issues outside the purview of license conditions can be introduced following the due process of law. Transparency and stakeholder consultation, as mandated for the exercise of the Authority's powers under the TRAI Act, should be mandatorily required in case of rulemaking under the Telecom Act as well. This will provide the Government with the flexibility to amend the rules as and when necessary, in line with the latest developments, while simultaneously ensuring regulatory certainty.

**Airtel, therefore, recommends that the Government should be mandatorily required to conduct a thorough public consultation process for any rule-making under the Telecom Act.**

**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.**

**Airtel Response:**

**Prima facie, the idea of having a Unified Service Authorisation on the National Level seems to be very efficient. It would entail breakdown of 22 LSAs and allow telcos to carry out any and all telecom-related activities without any LSA or service specificity. It may ease the compliance burden on TSPs, flexibility in respect of designing the network, and do away with legacy call routing systems and interconnection. However, the CP does not give any clarity in respect of the actual implementation of the idea, due to which it is difficult to provide a comprehensive view. We believe that holistic deliberation is required on all aspects of the issue before moving any further.**

As stated in the Preamble, it must be noted that over the last 30 years, the telecom industry has invested lakhs of crores of rupees, created a vast LSA specific network infrastructure and services portfolio, run and maintained multiple technologies spanning the country. This network and the entire business model have emerged from the LSA based and service based regulatory regime.

**Although the Government has modified the licensing framework to some extent from time to time, the basic structure of the regulatory framework in the form of service area, NLD, ILD, ISP, VSAT, etc. has never been changed. This has ensured continuity of service, protection of investments and regulatory stability. Above all, it has also kept customers safely insulated from any unwarranted and large-scale disruptions.**

Having said that, in the case of proposed national authorisation, it is critical that all the issues are deliberated upon by all the stakeholders. Some of these issues and questions are as under:

1. By issuing this authorisation what objective is aimed at being achieved? Is the intent to make the whole of India a single telecom market from the present 22 LSA based one? Can it not be done without creating a new authorisation? If so, what advantages would it confer to existing UL holders?

2. The DoT already issues a UL (All Services) under which an entity does not need to obtain individual service authorisations. What is the difference that the proposed authorisation would make over the present UL (All services) except that the service area would include the entire country rather than the 22 LSAs?

   If in theory it means that the proposed authorisation would remove any distinction of LSAs as well services (in so far as access – fixed & wireless, national long distance, ISP,

etc. are concerned), it is unclear how this would work in terms of practical measures on the ground?

3. Will the new regime have an impact on the other existing aspects? For instance, the existing Interconnection Framework**?** Presently, the interconnection regime between the two licensee networks is determined by a service license basis:

    - For Mobile to Mobile – interconnection happens at one location in an LSA.
    - For Mobile/Fixedline to Fixedline – while private TSPs interconnect at one location in an LSA, with BSNL, the interconnection is established at LDCA levels.
    - For NLD – private TSPs interconnect at LSA level, whereas interconnection with BSNL is established at the SDCA level.
    - Furthermore, BSNL levies a distance-based carriage on an interconnecting TSP.

    Clarity will be required for the following scenarios:
    - For an entity which is also a national authorisation holder vis-à-vis an entity which opts not to migrate or operate under the new regime, but rather stay under the present UL regime?
    - Will interconnection regimes be different for different licensees/authorisation holders? If so, what exact practical benefit will such an authorisation regime offer to anyone?
    - Will a migrated TSP still have to interconnect at LSA-level with the other TSPs (and at LDCA level with BSNL)?
    - Similarly, will there be a single PLMN for the whole country instead of circle wise PLMNs? If so, this will require significant changes to the network and in such a scenario there will be no need for NLD authorisation as presently the NLD is for carrying inter LSA traffic.

4. There are a number of issues regarding spectrum assignment:

    a. Will the spectrum assignment continue to be at the circle level, or will there be a pan-India assignment?

    b. How would backhaul spectrum be assigned in such cases since LSA level allocations would be in contrast with national authorisation and the consequent network would also be nationally created?

    **c. In Airtel's view, the spectrum assignment may have to be continued at LSA-level, which would mean continuance of circle-wise books for the assessment of Spectrum Usage Charges ("SUC") – again negating the potential efficiency that a national authorisation holder may bring.**

5. **How will the compliances and their enforcement measures work? For instance**:

a. **LSA Units** – There are multiple compliance reporting instances that TSPs undertake at the LSA unit level that require the maintaining of separate infrastructure and books in order to meet with LSA compliances. But, once a single national authorisation is issued, will those compliance reporting laws also undergo a change, and will only one single submission have to be made at DoT HQ level? Or will the burden of compliance still continue to be with TSPs/authorisation holders at each LSA unit level – in which case, this will not offer any practical advantages to such a national authorisation holder?

b. **KYC requirements** – Today, an outstation subscriber desirous of a SIM in a different LSA needs to provide a local reference in certain cases. Once the national authorisation is implemented, what will happen to such requirements? Will they continue? And, if so, why should they, since the entire nation becomes one single unified telecom market?

c. **Tariffs** – Under the present regulatory and licensing regime, a TSP can offer up to 25 tariff plans per LSA. Now, when the authorisation regime changes to national authorisation, how will this limit work? Will there be only an overall (max) of 25 plans at India level? Or will the TSP have the flexibility to offer different tariff plans anywhere in the country without any artificial boundaries of states or LSAs? For instance, will a TSP have the flexibility to offer different tariff plans in different cities/towns/states?

d. **Maintaining separate books, e.g., Accounting Separation Report (ASR) or LSA books** – Would service/product/geographic level books still be required to be maintained for the purposes of regulatory compliances? How would the authority understand the competitiveness of a product/service/geographic market in such a case? If, truly, one, single, national authorisation is prescribed and no artificial service differentiation is needed and a national authorisation holder can offer any service, what will happen to the service specific T&Cs – how will they work?

6. How would the implementation and migration towards national authorisation happen? Will it be a phased-wise approach or will it happen in one go? What aspects of the phase-wise migration/implementation will it entail? The LSAs or regions OR the interconnections or removing the LSA units' compliances and so on?

7. There is no clarity over what impact the national authorisation framework will have on telecom subscribers, the competition dynamics of a service or market. There is no impact assessment as to how moving to a national authorisation framework would facilitate a more rapid, widespread deployment of telecommunications services and networks, promote investment and competition.

8. In terms of regulatory intervention, in which cases would the ex-ante regulation work and in which cases ex-post? Would a national authorisation holder be treated differently than a present UL holder, since in the case of the former there will be no service level differentiation?

9. Can we take other steps to achieve the operational efficiency of a pan-India license for an operator like Airtel who holds all types of licenses instead of carrying out a holistic change to the license regime? For example, SUC assessment, currently done by CCAs at different circles, can be centralized at CGCA-level – atleast for pan-India operators holding all types of service authorisations.

   There is already an operational ease allowed by Government as the current framework allows that Access Service Providers may deploy any of their equipment anywhere in India subject to the interconnection points being located and operated on in the respective service areas (Clause 4.5 of Chapter VIII Part II of UL — location of switches and other network elements). The same has been permitted by the Government to optimise the network operators.

The instant CP has proposed a very high-level concept of national authorisation. However, the information provided thus far is extremely limited. It is also important not to fall into the trap of crystal-ball-gazing to come up with ideal answers. Instead, it is imperative that the fundamentals are analysed and debated over before the Authority or the DoT move towards such a regime. It requires much more extensive deliberations on each minute aspect of license/authorisation and conditions before a sweeping change of this nature is decided on.

As is evident from above, shifting to a Unified Authorisation covering all services without any distinction of circle for access services, NLD, ILD, VSAT, ISP, etc. would impact every aspect of the way business is currently designed, including network, interconnection, call routing, books of accounts, tariff, products, etc. – thus resulting in operational challenges as well as having a huge cost impact. This exemplifies that the concept of pan India authorisation is a much much larger issue requiring a holistic review and cannot be decided in a hurry.

Airtel wished to bring to the Authority's attention that whenever any new service authorisation or license category has been envisaged or planned or brought out, it has run a separate consultation in that regard, e.g., in the case of creating a Digital Communications Infrastructure provider (DCIP) OR while dealing with issues concerning IXPs/CDNs or on the matter of VSAT licensing.

**Therefore, Airtel strongly recommends that the Authority should issue a separate consultation** to deliberate all the issues that the proposed unified authorisation would entail. In fact, it would have been a much more fruitful and effective exercise had the Authority issued a pre-consultation and information gathering exercise before formulating the instant CP.

**Airtel also recommends that the Authority should use the inputs received through this consultation to first identify and gather stakeholders' inputs, and then issue another round of consultation with a more firmed-up view on what the proposed unified authorisation framework would look like and invite comments on the same. Using this approach, the entire exercise will become much more practical and efficient.**

**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.**

**Airtel Response:**

**No, there is no need to include the provision of leased circuits/Virtual Private Networks (VPNs) within the service area within the scope of Internet Service authorisation under the Telecom Act.**

**Extant Provisions:**

At present, the ISP authorisation in UL clearly states that the Licensee shall not offer VPN/CUG services to its subscribers.

On the other hand, the Access Service authorisation in UL provides that the Licensee may provide leased circuits within its respective service area. However, interconnection of leased circuits, whether point to point or in the CUG network, with PSTN/PLMN/GMPCS/Internet Telephony Network, is not permitted.

Further, the NLD Service authorisation in UL provides that the Licensee can provide leased circuit/VPN Services. Also, only for the provision of leased circuits/CUGs on leased circuits and for the provision of national long distance voice service through Calling Cards can the Licensee access the subscribers directly. While providing the domestic leased circuits, the Licensee is required to make their own suitable arrangements for leased circuits/agreements with the Access Providers for the last mile. Public network is not to be connected with leased circuits/CUGs.

**ISP Services cannot be compared with Access Services:**

While proposing to enhance the scope of ISP authorisation to include provision of leased circuits/VPNs, the Authority has stated that the same is allowed under Access Service authorisation. However, there is no rationale behind the comparison between Access Service and ISP authorisations.

Access Service is almost an all-encompassing authorisation – including public telephony, public internet as well as private leased circuits/VPN services within its scope. ISP authorization, meanwhile, is a specific authorisation, allowing only the provision of public internet services. The inclusion of a specific service within the scope of Access Service authorisation cannot be a justification for including it within the scope of ISP authorisation – if such an approach is followed, ISP operators may very well demand to be allowed to provide public telephony services as well, and then there would be no distinction left between the two authorisations.

**Enhancing the scope will lead to a non-level playing field:**

It is a given that the financial conditions, like entry fee, minimum equity, minimum networth, etc., prescribed for different authorisations, take into account the respective scope of services of each authorisation.

Currently, leased circuits/VPN services are allowed to be provided under NLD and Access Service authorisations. While both ISP-A and NLD are pan-India authorisations, the entry fee for NLD (INR 2.5 Cr.) is ~8.5 times the entry fee for ISP-A (INR 30 lakhs). Similarly, while both ISP-B and Access are LSA-level authorisations, the entry fee for Access (INR 1 Cr.) is 50 times the entry fee for ISP-B (INR 2 lakhs). Further, while both Access and NLD Service authorisations require a minimum equity and a minimum networth of INR 2.5 Cr. each, there is no such requirement under the ISP Authorisation.

In the present context, that there is a distinction between the kind of services offered under ISP and those under Access/NLD seems only fair. In the interests of maintaining a level playing field and protecting the existing investments, it is essential to continue with such a distinction. While any telecom operator is within its right to fully monetise its existing infrastructure, it should first acquire relevant service authorisation. For example, today, the ISP operator is allowed to provide fixed line broadband and the same service can also be provided under access service authorisation with the addition of voice. Tomorrow, the ISP operators may argue that since they are already providing the fixed line broadband to their customers, they should also be permitted to offer voice in their ISP Licence without obtaining the relevant access service authorisation.

In case a particular ISP operator has the capacity and also wishes to provide leased circuits/VPNs, it has the option to obtain an Access/NLD Service authorisation after meeting the aforesaid criteria of minimum equity/networth and paying the requisite entry fee. There is no need to enhance the scope of ISP authorisation as a whole. In 2005, DoT had in fact created a separate ISP license with VPN services included within its scope. However, it had to be abolished as no ISP opted for the same. We anticipate that there may not be much demand of such enhanced scope even now.

It also needs to be taken into account that provision of leased circuits/VPN services forms a major portion of the revenue of NLD operators today, given the decline in STD services. If they are now made to compete with hundreds of ISPs across the country, NLD operators may not be able to survive the blow.

**Therefore, Airtel recommends that the scope of ISP authorisation should not be enhanced to include the provision of leased circuits/VPNs.**

**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.**

**Airtel Response:**

**Airtel believes that the extant NLD and ILD Service authorisations can be clubbed into a single authorisation namely the Long-Distance Service authorisation under the Telecom Act**.

As also noted by the Authority in the CP, the nature of services offered under both NLD and ILD authorisations is the same, and the scope of both the authorisations includes among other things the carriage of switched bearer telecom traffic over long distance, the provision of long-distance voice services through calling cards and the leased circuit/VPN services. The only difference being that NLD enables carriage of traffic within the country while ILD enables carriage of traffic from or to a foreign location. Further, as per the service area defined under the UL, both NLD and ILD authorisations allow the holders to operate at a pan-India level. Hence, the two authorisations may be clubbed together.

**Additionally, the Authority should ensure that no additional compliance is put on any particular service for the reason of the two authorisations are being clubbed together.** For example, today, all ILD operators are required to provide a lawful interception facility on international traffic. However, the domestic traffic being carried by NLD operators is not subject to any lawful interception since such requirement is fulfilled by the Access Service Provider. Accordingly, even in the case of the proposed clubbed authorisation, there should not be any additional requirement of lawful interception on domestic traffic.

**Therefore, Airtel does not see any conflict in clubbing the NLD and ILD Service authorisations to form a single Long Distance Service authorisation, as long as no additional compliance requirements are imposed on a specific service by the reason of such clubbing.**

**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.**

**Airtel Response:**

**(a) What should be the scope of service under the proposed Long Distance Service authorisation?**

Please refer to the response to Q9. **The extant NLD and ILD Service authorisations may be clubbed on the condition that no additional compliance requirements are imposed on a specific service by the reason of such clubbing**.

In case it is decided to club the scopes of the extant NLD and ILD Service authorisations into a single authorisation namely Long Distance Service authorisation under the Telecom Act, the scope of service under the proposed clubbed authorisation should be such that it **enables the provision of all the services currently offered by both NLD and ILD standalone operators under their respective services authorisations – without any reduction/dilution of services allowed presently**.

**(b) What terms and conditions (technical, operational, security related, etc.) should be made applicable on the proposed Long Distance Service authorisation?**

**AND**

**(c) Any other suggestions to protect the reasonable interests of other authorised entities upon the introduction of such an authorisation?**

To protect the reasonable interests of authorised entities upon the introduction of the proposed clubbed authorisation, it should be ensured that any change in the regulatory regime should be such that it protects the existing investments and encourages future ones.

Also, it is essential that stakeholders are once again consulted on the draft terms and conditions. Considering that this is the first time this issue has been raised, stakeholders will only be able to give a broad principled stance at this stage. Given the foundational nature of the license/authorisation, it is only fair that stakeholders are also allowed an opportunity to give para-wise comments on the proposed framework in order to review the consequences of each of the specific terms and conditions.

**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.**

**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.**

**Airtel Response:**

**No**, there is no need to club the scopes of the extant GMPCS authorisation and Commercial VSAT CUG Service authorisation into a single authorisation namely Satellite-based Telecommunication Service authorisation under the Telecommunications Act, 2023.

As noted by the Authority itself in the instant CP, the utility of services provided under the two authorisations is very different. While the GMPCS authorisation includes provision of satellite-based telephony and data services, the Commercial VSAT CUG authorisation covers satellite-based data connectivity within a closed user group and backhaul connectivity to Access Service providers.

The fact that the services under both the authorisations are provided using the same medium, i.e., satellite, cannot be reason enough to club them together. By such logic, none of the different authoriszations for terrestrial connectivity (Access, ISP, NLD, PMRTS etc.) should exist.

Hence, we believe that the GMPCS and Commercial VSAT CUG authorisations should not be clubbed into a single authorisation. Further, the spectrum for both of these services should continue to be assigned administratively, as envisaged under the Telecom Act.

**Therefore, Airtel recommends that GMPCS and Commercial VSAT CUG authorisations should continue to be separate.**

**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.**

**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.**

**Airtel Response:**

**No.** There is no need for clubbing or merging the scopes of the extant IP-I registration and DCIP authorisation (as recommended by the Authority[1]) into a single authorisation under the Telecom Act. In fact, **it is important to reiterate Airtel's earlier submission on the issue of DCIP, that there is no need to introduce a separate DCIP authorisation**.

The present licensing framework works well and effectively, with all the relevant elements of infrastructure, network and service duly disaggregated. The following reasons underscore our submission that there is no justification or need to create a new and separate DCIP authorisation:

i. The Indian telecom industry, under the extant regime, has already made substantial investment for faster network rollout. It has already achieved a tele-density of 85.15%, with over 96% of the population under terrestrial coverage. What is needed now are measures to rationalise regulatory levies, remove the USOF levy, introduce faster and cost-effective RoW policies, etc., to enable TSPs to reach the hitherto uncovered areas, rather than tampering with the prevailing licensing framework.

ii. Regarding the scale of investments, there is nothing to show that the investments under the current regime are at any less than the desired level. The industry participated whole-heartedly in the 5G Auctions, and the 5G rollouts in India have been one of the fastest in the world. A stable and predictable regime is required to attract more investments.

iii. With DCIPs being exempt from LF levy, they will always have a competitive advantage over TSPs wishing to offer their infrastructure for sharing with other TSPs. This will lead to an uneven playing field in the sector.

iv. The introduction of DCIPs will make the business decisions of TSPs, like the launch of new services, deployment of new technology, etc., dependent on third parties (DCIPs) as these decisions will depend on the availability of a corresponding network. It will also discourage innovation and lead to India lagging behind in technological development as DCIPs will be unwilling to keep shifting to new technologies before

[1] https://trai.gov.in/sites/default/files/Recommendations_08082023.pdf

the existing ones are sufficiently monetised.

v. The Authority, in the afore-mentioned Recommendations, has highlighted the issue of the unwillingness of TSPs to share their infrastructure with each other. The straightforward solution for encouraging infrastructure-sharing among TSPs would have been to allow pass-through deductions for the infrastructure sharing charges. This has also been an overwhelming demand of the whole industry. It has been rejected, however, as being "outside the purview of this consultation process". Instead, a tortuous and completely unnecessary route is sought to be adopted by introducing an entirely new category of licensees.

vi. Not allowing pass-through deductions for the charges paid to DCIPs amounts to unjust enrichment of one licensed operator at the cost of another. In fact, the Authority has stated that there is no need to levy LF on DCIPs as the Government would be able to earn LF from the services that TSPs would offer using DCIP infrastructure. This clearly shows that preventing exchequer loss is a consideration. However, instead of distributing the same evenly across all the stakeholders involved, the whole burden of ensuring this is sought to be put on the TSPs.

vii. Lastly, the proposed scope of DCIP Authorisation includes the setting up of Wireline Access Network, Radio Access Network, Wi-Fi systems and Transmission Links. However, DCIPs are exempt from having to comply with QoS Regulations. Further, it is also proposed to not impose any PBG on DCIPs. Instead, a principal-agent relationship is envisaged between TSPs and DCIPs. Thus, TSPs will end up having to bear the consequences of failing to meet QoS benchmarks for no fault of theirs, making one licensed entity accountable for the omissions and commissions of another licensed entity.

It is clear from this that the introduction of a separate DCIP Authorisation would create regulatory arbitrage, lead to policy uncertainty and have an adverse impact on investments in the sector.

**Therefore, Airtel recommends that a separate DCIP authorisation should not be introduced and accordingly, it should also not be clubbed with the IP-I registration.**

**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.**

**Airtel Response:**

**No. There is no need to club the scopes of any other authorisation (as discussed in context of this question)** into a single authorisation under the Telecom Act.

Before reading any further, please also refer to the response to Q9-10, in which it is stated that clubbing of NLD and ILD may be considered on certain conditions as elaborated therein.

It should be noted that NLD and ILD services have been existing as part of either standalone licenses or authorisations under the UL for close to 20-25 years now. Thus, it is relevant to review the regime in view of the developments that have happened over such a long period of time.

Having said that, the proposals put forth by the Authority under the instant question to consider clubbing together of ILD and Resale of IPLC Service authorisations under the UL-VNO or the clubbing together of the M2MSP and WPAN/WLAN Connectivity Provider registrations do not justify this approach since both the UL-VNO and the M2M services are relatively recent. In fact, they have just evolved after multiple detailed consultations and deliberations over the past few years. Therefore, there is no justification to bring about a drastic change at this stage.

**Airtel recommends that there is no need for clubbing together the scopes of any authorisation other than NLD and ILD.**

**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.**

**Airtel Response:**

**No, there is no need to remove any of the existing authorisations.**

There have been multiple rounds of consultations regarding different authorisations and licenses over the course of time. In fact, it is fair to say that all the existing authorisations have been arrived at after detailed deliberation and analysis – to cater to the evolving needs of the sector given the continuous technological developments.

It is Airtel's belief that none of the existing authorisations have become redundant. However, if at any stage any specific license/authorisation needs to be reviewed, the Authority should come out with an independent consultation paper on such authorisation/license, with sufficient analysis and detail for stakeholders to comment upon. However, at present, there does not seem to be any need for such a requirement.

**Airtel recommends that there is no need for removing any of the existing authorisations.**

**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.**

**Airtel Response:**

We would like to take this opportunity to highlight the **need for bringing over-the-top (OTT) communication services within the authorisation/licensing framework.**

The services traditionally provided by TSPs can now be provided through applications over the internet:

The voice/video calling and messaging services have traditionally been provided only by licensed TSPs – being governed by the licenses granted under the Indian Telegraph Act, 1885 (**"Telegraph Act"**). However, the market has undergone a paradigm shift with the IP-fication of network and services layers. Today, these services can be delivered using traditional text messaging and CS voice or packet switched (IP) voice/SMS over a Telco network and also via a standalone untethered application as a packet switched VoIP/ messenger.

OTT services have reached a high level of maturity:

In the past decade, there has been an exponential rise in the number of internet subscribers both at national and international level. The increase in broadband subscribers and data consumption has witnessed an increased penetration of OTT services and applications in the country.

OTT services and applications have thrived and multiplied, enabling factors being absence of any regulatory barriers and instant access to a global audience through the broadband connectivity powered internet, a fact noted by the Authority as well. As a result of such unfettered access, they have become significant players in the global as well as national economy.

Services provided by licensed TSPs and OTT communication services are functionally similar and/or substitutable and offer the same core utility:

While there may be a difference in the underlying modes of delivery of OTT communication services through an internet application or a licensed TSP's traditional service, the services are used interchangeably by end users. The core utility of the service remains the same, i.e., exchange of inter-personal communication in real-time with another user. The richness of

features or add-ons of an application do not change this. The similarity/substitutability in functionality can be clearly seen in the following services:

a. **Messaging services –** Instant messaging services provided on internet-based applications are similar to text messaging services provided by TSPs, which do not require internet connectivity.

b. **Voice calling services –** One of the primary services provided by TSPs is voice calling. Voice and video calling services provided by OTTs through the internet on internet-based applications are similar to the voice calling services provided by TSPs. Similarly, the VoIP services offered by OTT communication service providers are a perfect substitute for internet telephony services offered by licensed TSPs.

<u>There has been a regulatory lacuna for OTT communication services:</u>

As opposed to traditional licensed TSPs, OTT communication service providers offering these interpersonal communication services are not covered under the extant telecom licensing and regulatory framework. It is submitted that such services should be governed by the same set of rules irrespective of whether provided by an operator on its own network or through the internet. This would be in line with the principle of 'Same Service – Same Rules', and enable a level playing field in the industry.

<u>The definition of telecommunications under the Telecom Act is broad enough to cover OTT communication services:</u>

The Telecom Act has a broad definition of 'telecommunications', which includes "*any sign, signal, writing, text, image, sound, video, data stream, intelligence or information sent through telecommunication*". It leaves ample room for the inclusion and regulation of OTT communication services under the Act.

<u>Security, privacy and consumer protection are sine qua non:</u>

While license conditions ensure that communications exchanged through traditional telecom services can be monitored by law enforcement agencies, the same is not true of OTT communications services which continue to be unmonitored – hindering the processes of law enforcement and crime prevention. Similarly, there are checks and balances w.r.t. customer data handled by TSPs, but that is not the case with OTT communications services and this risk is further exacerbated by the fact that most of their servers are located outside India. It is, therefore, doubly important that security, privacy and consumer protection measures are horizontally applied across all interpersonal (P2P or business, alike) communication.

An authorisation regime would allow the government to monitor and analyse traffic data generated by OTT services, which could be crucial for identifying and mitigating potential cybersecurity threats. This oversight could lead to better regulation of content and communication, ensuring compliance with national security and public safety requirements.

Further, bringing OTT services under the authorisation regime could enhance consumer

protection by ensuring that these platforms adhere to specific standards regarding data privacy, security and accountability. This could include requirements for stronger user authentication processes and measures to combat fraud. OTT services could be mandated to implement Know Your Customer (KYC) processes to verify user identities.

Regulation of OTT communication services will make the regime future-ready:

As the digital landscape continues to evolve, a well-structured regulatory framework that includes OTT services could help address future challenges more effectively. By proactively incorporating OTTs into the authorisation regime, the government can ensure that the law remains adaptable and responsive to technological advancements.

Other sectoral regulators are also regulating OTT players:

Various sectoral regulators in India have been proactively keeping track and modifying the regulatory framework to include any OTT players that may be offering services similar to those being offered by the traditional players under their jurisdiction.

Regulators like RBI, SEBI, IRDAI, etc. have created a virtuous framework in their respective sectors that allows innovation and the growth of OTTs/online players while simultaneously ensuring legal and regulatory oversight without disrupting the level playing field.

In contrast, thus far, no regulations have been drawn up for OTTs operating in the telecom sector and as a result a non-level playing field has emerged between them and the traditional TSPs. The Authority has debated the issue, but no concrete steps have been taken till date. It is thus high time that these services were brought within the legal and regulatory framework.

There are international precedents of regulation of OTT communication services:

The European Electronic Communications Code adopted by the EU has classified OTT communication services providers into number-based (like VoIP) and number-independent (like instant messaging) service providers. While the number-based services are subject to the same rules as traditional TSPs, a lighter regime is in place for number-independent services.

Singapore requires OTT communication services providers to obtain a Service-Based Operating License that prescribes some minimum QoS standards. Regulation of OTT players is also under consideration in Trinidad and Tobago. In Turkey, the ICT Authority has been explicitly empowered to regulate OTT service providers through an amendment in 2022, and the issue is being closely monitored by it. Zimbabwe has proposed to move to a converged licensing framework, which would also cover OTT service providers.

**Therefore, Airtel recommends the following:**

**(i) OTT communication services should be brought under the authorisation/licensing framework.**

**(ii) As the services provided by traditionally licensed TSPs and OTT Communication Service providers are functionally substitutable, parity should be maintained in the T&Cs applicable to both – as per the principle of 'Same Service – Same Rules'.**

**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.**

**Airtel Response:**

In view of the provisions of the Telecom Act and technological/market developments, the following changes (additions, deletions and modifications) are required to be incorporated in the terms and conditions associated with each service authorisation with respect to the corresponding authorisations under the extant UL:

(i) Costs incurred towards telecom security

With evolving technology, the security-related compliance conditions imposed on TSPs have also evolved. The measures now required to be taken by TSPs include installation of infrastructure for robust lawful interception of telecom traffic by the Law Enforcement Agencies (LEAs), monitoring of telecom traffic by various Government agencies as well as storage of Call Data Records (CDRs)/Exchange Detail Records (EDRs)/IP Detail Records (IPDRs), etc.

While Airtel remains fully committed to the primary aim behind these measures, i.e., ensuring National security, it needs to be highlighted that the elaborate infrastructure set up required to provide the lawful interception and monitoring (LIM) facility at the premises of various LEAs/Government agencies and to store the huge amount of CDRs/EDRs/IPDRs generated due to the humongous traffic flowing through the networks these days involves a huge CAPEX as well as OPEX.

It is pertinent to highlight here that the traffic carried on TSP networks is multiplying very rapidly. The overall traffic is growing on both counts – expansion in customer base as well as increase in voice and data usage per customer. As per the Authority's own reports, the volume of Indian telecom traffic in 2023 grew ~1.5x the traffic in 2021. It is estimated to grow by 300% by 2028, compared to 2021.

Further, TSPs are subject to new obligations, depending on the requirements of the LEAs. For instance, in 2021, the period for which CDRs/EDRs/IPDRs have to be

stored was doubled to 2 years. With the ever-increasing traffic, the storage of these records for double the time is a herculean task, even without the substantial costs that the TSPs have to incur. On top of it, additional parameters relating to the destination IP and destination port have been included in the IPDR format, which again adds up not just to the storage, but also the extraction and computation obligations for TSPs.

Apart from these National security requirements, TSPs are also required to make significant investments into cyber security to protect both their own networks as well as the data of their subscribers from different types of threats and attacks.

Given the importance of such measures in the socio-economic resilience of the country as a whole, TSPs should not be the only ones saddled with the entire responsibility of implementing the same. It is necessary for the Government to support the costs being incurred by TSPs towards security compliance and bring about a balance in the ecosystem. Appropriate budgetary support or contribution may be one way of effectively alleviating the (incremental) cost burden of meeting National Security requirements by TSPs.

Regulators and governments in various countries around the world allow for financial compensation to TSPs to cover infrastructure costs for maintaining national security or for lawful interception and monitoring. For instance, in Australia, the Telecommunications (Interception and Access) Act 1979 (Section 207-208 and 210) puts the onus of bearing the costs on both Carriers and Interception Agencies.[2] In France, the Postal and Electronic Communications Code (Article L34-1) allows for financial compensation for responding to LEA requests pertaining to national security.[3] In the United Kingdom, the Investigatory Powers Act, 2016 (Section 249) provides for government contribution towards the compliance costs incurred by TSPs.[4] In the United States, the Communications Assistance for Law Enforcement Act includes Cost Recovery Regulations with reimbursement procedures.[5]

**Therefore, Airtel recommends that a process be established whereby the costs of meeting the requirements of LEAs/various government agencies for the purposes of maintaining national security and enabling law enforcement are reimbursed by the Government/respective agencies.**

(ii) Payment for dissemination of messages by government departments/agencies

Short Message Service (SMS) is one of the most widely used means of public communication. SMS is used to share news or emergency alerts, conduct marketing

[2] https://classic.austlii.edu.au/au/legis/cth/consol_act/taaa1979410/s208.html; https://classic.austlii.edu.au/au/legis/cth/consol_act/taaa1979410/s209.html; http://classic.austlii.edu.au/au/legis/cth/consol_act/taaa1979410/s210.html
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[4] https://www.legislation.gov.uk/ukpga/2016/25/section/249/enacted
[5] https://www.ecfr.gov/current/title-28/chapter-I/part-100

via promotional materials and create awareness regarding important events and best practices. Government agencies have been using SMS as an effective tool for various purposes, including special events, for a long time, and TSPs have facilitated the same using their available network resources. Apart from SMS, automated Out-Bound Dialer (OBD) calls are also extensively used to reach the general populace.

It is also well known that public telecom networks are traffic sensitive, and hence cost intensive as well. There are substantial capital and operating costs involved in creating and managing operations of telecom networks. TSPs have made significant investments over the years to create widespread telecom infrastructure, acquire resources such as spectrum, and obtain localised RoW permissions. However, the costs tend to increase with increased traffic volumes, and the networks serve general consumer (public) needs as well as requirements of various government agencies/ departments.

All this only serves to highlight that while TSPs have been receiving requests for the usage of telecom resources from various Government users/departments, they are not being compensated for their services in any manner. **For instance, TSPs have collectively sent ~ 260 Crore SMSes to the Indian population on behalf of the Election Commission of India (ECI) to create awareness and boost voter turnout and participation regarding the General Elections 2024. Along with SMSes, a significant number of OBD calls have also been made for this purpose. This huge volume of communication was over the space of only a few months.**

Call and SMS-based communications in such huge volumes, as mentioned previously, not only requires adequate capacity in telecom infrastructure but also involves sufficient manpower. All of this together amounts to significant expenditure for the TSPs. However, no compensation structure or payment terms and conditions have been developed regarding such communications, i.e., public OBD calls and SMSes disseminated on behalf of various Government departments/agencies.

Given that telecom networks are traffic and cost sensitive, it is pertinent that on the principles of cost causality and work-done, the TSPs are compensated towards these usages. It is highlighted that there are already substantial regulatory and compliance costs that TSPs bear on their own, e.g., cost of security monitoring, disaster management. Therefore, it is prudent that the key regulatory economic principle of compensating telecom networks (TSPs) fairly should be scrupulously followed.

In fact, it is likely that the OBD calls and SMS services will be used even more extensively by government agencies such as ECI going forward. Again, to create awareness or promote special events such as elections. It is anticipated that five state assemblies will be undergoing elections within the next 12 months, and ECI might carry out similar OBD calls and SMS-based awareness programmes. Thus, it is absolutely necessary that a fair and reasonable compensation framework with

clear payment terms for such voluminous communications is developed well in advance for the structured functioning of such programmes.

In order to achieve this, a framework in the form of a bilateral agreement or a Memorandum of Understanding (MoU) between Government agencies such as ECI and TSPs with properly laid out terms and conditions should be put in place based on mutual discussion.

**Therefore, Airtel recommends that the Authority should recommend that DoT facilitate a discussion between the relevant parties regarding signing of an MoU or an agreement between Government agencies such as ECI and the TSPs. The Agreement should lay out the compensation structure as well as the terms and conditions for such communications via calls including OBD calls and SMSes.**

(iii) Inspection for Bonafide Use

Clause 39.22(v) under Chapter-VI (Security Conditions) requires regular inspection of leased circuits for bonafide use. Physical verification of premises for data centres is challenging due to unmanned locations and high security. **The requirement should be relaxed**.

(iv) Approvals for Foreign Personnel and Remote Access

Clause 39.3 under Chapter-VI (Security Conditions) requires licensees to obtain security clearance from MHA for all foreign personnel deployed for installation, operation and maintenance of the network. Further, clause 39.23(xi) requires licensees to obtain DoT's prior approval for Remote Access (RA).

**In the interest of ease of doing business, Airtel recommends that these prior approvals/clearances should be replaced with intimations. The licensee may be required to take appropriate action in case of any objection post intimation.**

(v) Compensation for Suspension of Services

There has been a huge spike in the number of orders for suspension of services or data barring orders recently. **Airtel recommends that TSPs should be compensated for the duration of such orders, and no LF/SUC should be levied for this time period.**

(vi) Changes required in view of MTCTE and NSDTS frameworks

Clause 39.6 under Chapter-VI (Security Conditions) requires network elements to be tested against various standards – ISO, 3GPP, etc. Further, there are multiple provisions – including clauses 39.9, 39.10(ii), 39.11(iv)(a), etc. – which require the licensees to maintain a record of the supply chain of equipment, include clauses allowing DoT the power to inspect vendor premises in the agreements with vendors, maintain a record of operation and maintenance command logs, etc.

**We submit that these provisions have now become redundant in view of the MTCTE and NSDTS frameworks being put in place. The objectives behind the above provisions are being very well served by the MTCTE and NSDTS frameworks. Therefore, Airtel recommends that these provisions be done away with.**

Further, **the requirement for NSDTS approval for CPE provided by TSPs should also be done away with**. This will bring parity between the CPE procured by customers directly from the market and the CPE provided by TSP.

(vii) Uniformity in Infrastructure Sharing Provisions

Clause 2.4 under Chapter-I (General Conditions) provides that licensees may share infrastructure as per the respective scopes of individual service authorisations. Thereafter, each individual service authorisation has separate clauses on infrastructure sharing. This leads to confusion and non-uniformity.

**In the interests of simplification, the infrastructure sharing provisions should be deleted from the respective service authorisations. Instead, it should be provided under Part-I of the UL (applicable to all service authorisations) that sharing of both passive and active infrastructure (except core network) is allowed.**

**Further, pass-through deductions should be allowed for infrastructure-sharing charges.**

(viii) Provisions for Subscriber Registration

Clause 30 under Chapter-V (Operating Conditions) prescribes certain requirements related to subscriber registration and provision of service. For instance, it requires publication of telephone directory, provision of itemised bill to customers, consumer grievance redressal, etc.

However, **most of these requirements have now become redundant in view of the change in nature of services and market dynamics. Moreover, the Authority's regulations also take care of some of these requirements. Therefore, Airtel recommends that such requirements be reviewed and done away with.**

(ix) Annual FDI Compliance

Clause 1.2 under Chapter-I (General Conditions) requires licensees to file an annual FDI compliance on the 1st of January every year. **Airtel recommends that licensees should be allowed adequate time, say one month, for such submission, instead of prescribing a specific date.**

Further, it should be allowed that the Compliance be signed by the Authorised Signatory, instead of the current requirement of certification by the Company Secretary and countersign by a Director.

**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.**

**Airtel Response:**

No comments.

**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.**

**Airtel Response:**

**No**, Access Service VNOs should not be permitted to parent with multiple NSOs holding Access Service authorisation for providing wireless access service.

Allowing multi-parenting in cases of wireless access services runs the **risk of creating a super-operator,** which would be able to leverage the network resources of all existing operators (without making any investment of its own), to provide better and enhanced coverage (based on the combined network of all operators) than any of the individual operators. This would prove to be highly unfair to the existing operators who have invested lakhs of crores over the last few decades to build their networks to what they have become today. Such a move may potentially **disrupt the competition in the market and have an adverse impact on the industry as well as consumers**.

Multi-parenting has been allowed in cases of wireline access services only under certain conditions. These rules and conditions have been arrived at after detailed analysis and huge deliberation conducted on multiple occasions over the last 15 years. This whole time, the view that multi-parenting should not be allowed in cases of wireless access services has never been in doubt.

As seen from the Recommendations dated 06.08.2008[6], 12.04.2011[7], 01.05.2015[8], and 08.09.2017[9], **the Authority has comprehensively looked at, consulted upon and reviewed the entire regime at regular intervals and, after, has broadly retained its position on the principle of the matter**. Even the guidelines framed by DoT consequent to these Recommendations have not deviated from this position. It has been the consistent stand of both the Authority and the DoT that multi-parenting in wireless access services would involve multiple complexities and risks and, hence, cannot be allowed.

The instant CP has not provided a single reason for why this settled view needs to be reconsidered. It has failed to address how the complexities and risks associated with multi-parenting in wireless access services, due to which it has not been allowed until now, will be resolved. Hence, there is no rationale for the removal of restrictions at this stage.

**Therefore, Airtel recommends that multi-parenting should *not* be allowed in cases of wireless access services.**

**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.**

**Airtel Response:**

**No**, it would not be appropriate to permit service-specific parenting of VNOs with NSOs in place of extant authorisation-specific parenting.

It is important to note here that it is only Access services where service-specific parenting may be relevant because of the overlaps in scope of services with other authorisations like ISP or M2M. There are no such overlaps in the case of other authorisations. In this context, this proposal would simply bypass the restriction on multi-parenting in the case of Access services.

The response to Q20 already explains why multi-parenting cannot be allowed for Access services. It involves not only operational complexities in terms of SUC assessment, implementation of MNP, etc. but may also lead to the risk of a security breach. It is because of these reasons that both the Authority as well as DoT have time and again decided against multi-parenting in Access services. It is important that the Authority continue with its consistent stand.

**Airtel recommends that the extant approach of authorisation-specific parenting of VNOs with NSOs should be continued with. Service-specific parenting should not be allowed.**

[6] https://trai.gov.in/sites/default/files/recom6aug08.pdf
[7] https://trai.gov.in/sites/default/files/Rec_Infrastructurel.pdf
[8] https://trai.gov.in/sites/default/files/Recommendations_VNO_01_05_2015.pdf
[9] https://trai.gov.in/sites/default/files/Recommendations_on_VNO_8092017.pdf

**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.**

**Airtel Response:**

No comments.

**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.**

**Airtel Response:**

**(a) Digital Connectivity Infrastructure Provider (DCIP) Authorisation (under Unified License)**

Please refer to Airtel's response to Q13-14. To reiterate, there is no need to introduce a separate DCIP authorisation.

**(b) IXP Authorisation (under Unified License)**

In India, there is a clear regulatory and market structure for Internet services, which consist of two entities – a Customer and a Service Provider (ISP). This is evident in license definition as well as the business model of ISP.

The current regulatory and corresponding market structure has been an extremely successful model, as is evident by the huge number of ISPs prevalent in every state of India. Like in any other location across the globe, a lower Tier ISP buys the capacity from the higher TSP/ISP. This is a universal practice and the peering of ISPs at a mutually acceptable commercial structure exists even now either at the ISP location or at exchanges.

The role of the exchanges in this framework should only be to provide a common location or colocation place (i.e., DC facility) where different ISPs can place their equipment to peer with each other on the commercial conditions previously mutually agreed. The footprint of such exchanges should be increased so as to optimise the access cost for ISPs and to give them more options.

But it is important that such exchange points only enable the peering arrangements among ISPs at mutually agreed commercial models, and the exchange remain restricted to providing colocation and related infrastructure. It should certainly not be expanded to cover the services provided by the ISPs.

This means that **no content-to-content peering should be allowed, i.e., the end user should not be allowed to connect at exchanges/IXP for any content-to-content peering** as this would be inconsistent with the licensing and regulatory framework (wherein the content 'access' to a user is provided by a licensed ISP) and thus contradict the entire notion of user and provider. What is more, it will create a non-level playing field and pose risks to security monitoring and investments.

On the basis of this, the Authority should reconsider its Recommendations dated 18.11.2022[10] (whereby it recommended for a separate IXP Authorisation).

**(c) Content Delivery Network (CDN) Registration**

CDNs are an important component of the internet, bringing content closer to the user in order to provide better quality of experience. They should continue to be governed by market forces but with certain minimal regulatory obligations.

In line with the above, here are some inputs regarding the terms and conditions recommended by the Authority for the proposed CDN registration:

QoS Compliance:

The Authority vide Recommendations dated 18.11.2022[11], has recommended the following as one of the conditions under the proposed CDN registration certificate: "*The registered company shall ensure that interconnectivity between CDN registered company and the licensed service providers do not compromise the overall QoS of the networks*."

[10] https://trai.gov.in/sites/default/files/Recommendations_18112022.pdf
[11] https://trai.gov.in/sites/default/files/Recommendations_18112022.pdf

This is extremely important considering the huge amount of internet traffic that CDNs are carrying nowadays. CDNs have become critical not only for the growth of the internet but also for maintaining the quality of service to consumers as any failure or malfunction at CDN is likely to adversely impact the performance of significant traffic on the internet. There have been multiple examples of outage in a CDN that have impacted a number of websites throughout the world.[12] The widespread impact affects users across the world (not limited to a single ISP), which is unlike an outage in the ISP network wherein impact is mostly confined to the users of that ISP.

To this effect, while ISPs are bound by regulatory conditions for maintaining QoS, the CDNs, operated by unlicensed entities, despite carrying considerable internet traffic, still do not have any obligation to maintain quality of services. Therefore, considering the huge dependency of the digital economy (and internet performance) on the CDNs, **it is necessary to put some regulations on CDNs, operated as they are by unlicensed entities, for meeting minimum QoS standards**.

Content/URL Blocking:

In addition to the responsibility to ensure QoS standards as mentioned above, it is also important to recognise that the content which is either hosted in India by local entities or cached locally within India on the CDN is within the Indian Jurisdiction. In such cases, **content should always be blocked by issuing orders directly to CDN or to the platform hosting the content in India or to the content providers**. This would help establish better control over security and avoid duplication of efforts at multiple ISPs.

In order to bring an element of efficiency and effectiveness to the approach, the complete process of content/URL blocking should be automated. It will ensure better compliance and reduce manual intervention. In this regard, a central portal can be created wherein security agencies or other empowered bodies can directly submit their requests for blocking of internet content. This portal will be integrated with ISPs/CDNs through APIs to receive requests for blocking of content in an automated manner. The proposed portal can be developed under the aegis of DoT/MeitY in a collaborative manner.

Location of CDNs:

CDNs' role is to bring content closer to the consumers through the network of licensed telecom/internet service providers. Even though various ISPs/TSPs have established their infrastructure in various tier-2/tier-3 cities to serve the customers, CDNs, owing to their business decisions/objectives, have mostly concentrated their set up in bigger cities.

Thus, it is essential that unlicensed CDN providers should invest in infrastructure and set up their CDNs in tier-2 and tier-3 cities as well so that internet customers in these cities

[12] https://www.theverge.com/2024/4/12/24128276/open-source-unpkg-cdn-down; https://www.globaldots.com/resources/blog/the-costly-toll-a-cdn-outage-crisis-has-on-ecommerce-companies/; https://www.thehindu.com/sci-tech/technology/explained-what-is-cdn-and-how-is-it-linked-to-the-massiveinternet-outage/article34769398.ece

can also enjoy a better service experience. Therefore, **CDNs should be mandated to set up their infrastructure in tier-2 and tier-3 cities based on a defined criterion (viz. quantum of traffic)**.

Agreements between TSPs and CDNs:

Proliferation of broadband technologies and availability of affordable tariffs have led to exponential growth in internet traffic. Today, the internet is being used for accessing video and other multimedia content, which has put an unprecedented load on the networks. This has necessitated bringing content closer to customers on CDNs to improve quality of service by reducing latency, improving page load speed, ensuring better handling of high traffic loads and sudden peaks, reducing bandwidth consumption, etc.

CDNs have emerged as a collaborative framework of Content Providers and Internet Service Providers since they help both content providers (to improve the accessibility of their content) and ISPs (to improve customer experience and save bandwidth requirements). Since the benefits from CDN are mutual for Content Providers and ISPs, the **commercial arrangements between CDN and ISPs should continue to be governed by market forces, and no regulatory interventions should be made**.

It is pertinent to mention here that one of the conditions recommended by the Authority under the Draft Guidelines for Registration of CDN Providers is: "*The Content Delivery Network (CDN) Provider registered company shall submit a copy of an agreement entered into with the telecom service providers to the DOT and TRAI within 15 days of signing of such agreement.*" Airtel proposes that while the Authority may require submission of copies of agreements, the terms and conditions should be left to market forces and mutual agreement between parties.

In any case, the Authority has also recommended that "*Content Delivery Network (CDN) Provider registered company shall offer delivery of content to Service Providers and users in a non-discriminatory manner.*" This condition is adequate to prevent anti-competitive practices and there is no need for any further intervention.

**(d) Satellite Earth Station Gateway (SESG) License**

Currently, there is no separate registration for SESG operators in India. While the Authority has recommended the same, the Recommendations have not yet been accepted. Airtel believes that there are some important considerations which have not been taken into account in the said Recommendations. Accordingly, the terms and conditions recommended by the Authority need to be changed, as detailed below:

Current regime forces even satellite operators to obtain UL:

The current regime in India is such that even a satellite operator – who only wishes to set up Satellite Earth Station Gateways (SESGs)/Satellite Network Portals (SNPs) and acquire satellite spectrum to operate the SESG/SNP to provide satellite bandwidth to TSPs and does not intend to provide any retail services to end customers directly – has no choice

but to take a UL.

Consequently, they have to deal with various onerous conditions, including security compliances like LIM facilities and payment of hefty LF, even though they have no intention of providing satellite communication services to end consumers. In fact, the cost of such compliance is a significant portion of the estimated revenue of satellite operators.

The regime for the SATCOM sector in India has not evolved over the past 20 years and has thus not kept pace with the sector's significant technological advancements. It is high time that the framework was holistically reviewed, especially in light of the recent opening up of the space sector for private players.

TRAI's Recommendations did not review the issue holistically:

The Authority recognised this issue and recommended, vide its Recommendations dated 29.11.2022[13], for a separate SESG License – a simple registration for establishing and operating SESGs. However, the Authority failed to address the issue holistically, as it recommended that SESG operators should not be allowed to install baseband equipment at the SESG and, accordingly, should also not be permitted to use spectrum (which is required for establishing the feeder link between the SESG and satellites).

The framework proposed by the Authority is based on the one followed for the registration of tower companies (IP-I) and does not acknowledge the unique requirements and business models of global-level satellite operators.

Moreover, the Authority has failed to take into account the difference between GSO and NGSO satellites. The Recommendations may be relevant in the case of GSO satellites, where the baseband is operated by the service provider. However, in the case of NGSO constellations, the baseband is technically required to be installed and operated by the satellite operator itself.

SESG operators need to be allowed to use spectrum and install baseband equipment:

Following on from the above, in order to effectively operate the SESGs/SNPs and provide satellite connectivity to TSPs, SESG operators should be permitted to use the frequency required for establishing the feeder link between the SESGs/SNPs and the satellites. Needless to say, the frequencies required for the operation of UTs should be allocated to service licensees.

As noted by the Authority itself in the consultation paper preceding the said recommendations, multiple jurisdictions follow the approach of having a separate registration for SESG operators and allocating the frequencies for SESGs/SNPs to the SESG operators and UT frequencies to service licensees.

It is to be noted that even in the broadcasting sector, teleport operators are allowed to use spectrum to uplink signals from a teleport to the satellite. Similarly, SESG operators should also be permitted to use spectrum to operate SESGs/SNPs.

[13] https://trai.gov.in/sites/default/files/Recommendation_29112022.pdf

SESG operators also need to be allowed to carry traffic from SESGs to PoPs:

On a separate note, it is also pertinent to highlight the operating model of global-level NGSO operators – in addition to SESGs, they also set up multiple Points-of-Presence (PoPs). It is at the PoP, and not the SESG, where the traffic is handed back over to the different partners/service providers. Now, a PoP may not necessarily be located at the same location as the SESG and, when at different locations, they would need to be connected with each other through a fibre/leased line. Therefore, it follows that in order to enable such global-level players to efficiently operate in India, it would be essential to allow the SESG operators to also be able to connect the SESG with the PoP, including through leased line from licensed/authorised TSPs, without having to acquire any separate license/authorisation.

**Therefore, Airtel recommends the following:**

**(i) There should be a separate light-touch registration for SESG operators; they should not be required to obtain any license/authorisation.**

**(ii) In addition to the scope recommended by the Authority, SESG operators should be allowed to acquire/use spectrum required for the operation of SESGs/SNPs and to install baseband equipment at the SESGs/SNPs.**

**(iii) The spectrum required for the operation of UTs should be allocated to service licensees.**

**(iv) An SESG operator should also be allowed to connect its SESGs with its PoPs, without having to acquire any other license/authorisation.**

**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.**

**Airtel Response:**

Airtel requests the Authority to take into consideration the detailed comments filed by it in response to the respective consultation papers dealing with the above issues.[14] Airtel has no further inputs to offer at this stage.

**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**

[14] https://trai.gov.in/sites/default/files/Bharti_Airtel_24012023.pdf; https://trai.gov.in/sites/default/files/Airtel_24032024.pdf

**justifications.**

**Airtel Response:**

**Yes**, there is a need to introduce certain changes in the authorisation framework to improve the ease of doing business. The same are discussed in detail below:

**(a) WOL Requirement for Microwave**

Currently, TSPs are mandated to obtain a Wireless Operating License (WOL) for the microwave spectrum assigned to it. This is on top of having to seek SACFA clearances for the same. Given that and given the requirement to obtain a DPL/Import License, there is no value that the requirement to obtain WOL adds. Rather, it only unnecessarily adds to an already heavy compliance burden for the TSPs.

**Therefore, Airtel recommends that the requirement for licensed TSPs to obtain WOL for their microwave spectrum should be done away with.**

**(b) Alignment of EMF norms with International Benchmarks**

EMF norms in India are 10 times stricter than global benchmarks (ICNIRP norms).

ICNIRP norms are globally accepted and have been revised in 2020 after detailed review. India should also align itself to global best practices in this regard.

**Therefore, Airtel recommends that EMF norms should be aligned with global ICNIRP norms.**

**(c) EMF penalties**

Currently, penalties are imposed by DoT even on procedural errors, which have no correlation with EMF radiation.

**Airtel recommends that penalties should not be levied on procedural grounds but only for cases that exceed prescribed radiation thresholds for EMF.**

**(d) Requirement of In-Principle Clearance from Inter-Ministerial Committee for SatCom Networks**

As part of the 2022 SatCom reforms, the Government took several very welcome steps with regard to satellite-based services like the removal of MPVT charges and scope enhancement of Commercial VSAT. However, the sector still yearns for more crucial reforms to be initiated such as doing away with the requirement of in-principle clearance of Inter-Ministerial Committee – Satellite Network Clearance (IMC-SNC) for various activities.

Even after obtaining the license/authorisation, the satellite operator is still required to obtain in-principle clearance from IMC-SNC for the following activities:

- Establishing any satellite-based communication network.
- Starting totally new service/network or change in the service/network.
- Use of new technology for the first time, change of technology.
- Setting up of additional hub/gateway station.
- Change of frequency band.
- Any proposal not exactly similar to a previously cleared proposal or not scrutinised and approved by the IMC-SNC for any other licensee.

Airtel believes that these requirements are archaic, not in sync with liberalised times for the sector, serve no purpose and, hence, should be done away with.

Moreover, there is no corresponding requirement of obtaining such a clearance from an Inter-Ministerial Committee, not even in the case of the vast terrestrial networks deployed across India that provide services to over a billion customers, operate millions of BTSs, operate in multiple spectrum bands (e.g. 700MHz/900MHz/1800MHz/2.1GHz/ 2.3GHz/2.5GHz/3.3GHz/26GHz) and multiple technologies (2G/3G/4G/5G) and manage interference with other operators at circle levels, with unlicensed operators and various government users.

As SatCom will remain a very niche segment relative to terrestrial, there is no point in continuing with such onerous requirements for SatCom. This reform will boost investor confidence, simplify the procedure and still meet the objectives of the Government, without impacting the precious time to launch service.

**Therefore, Airtel recommends that the requirement of in-principle clearance of IMC-SNC for establishing/modifying satellite-based communication networks should be done away with.**

**(e) Requirement of a Carrier Plan Approval from NOCC for SatCom**

Currently, a SatCom operator is required to obtain a carrier plan approval from NOCC.

We understand that this requirement flows from GSO-based networks, where the same satellite is shared among multiple operators, thus necessitating interference monitoring by NOCC.

However, in the case of NGSO, the whole constellation serves only one entity, which is the satellite operator itself. Hence, there is no case for interference monitoring by a third party.

Even interference with adjacent satellites is a non-issue, as ITU already has well-defined processes for coordination among different satellite systems, with which all satellite operators have to mandatorily comply.

In case it is still felt that the submission of information regarding carrier plans, antenna parameters, etc. is necessary, NGSO operators could continue to provide the same on the Saral Sanchar portal on a self-intimation basis – rather than having to seek an approval.

**Therefore, Airtel recommends that the requirement of carrier plan approval from NOCC for SatCom services should be done away with and replaced with a simple intimation-based process.**

**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.**

**Airtel Response:**

**No**, there is no need to make changes in the extant terms and conditions, related to ownership of network and equipment, contained in the extant UL, in view of the provisions of the Telecommunications Act, 2023 and market/technological developments.

The extant license conditions contain provisions for infrastructure sharing, and the same have been in use for over a decade now. Apart from the changes in the interests of uniformity suggested under our response to Q18 above, there may not be any further need for changes.

**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.**

**Airtel Response:**

No comments.

**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.**

**Airtel Response:**

No comments.

**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.**

**AND**

**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.**

**Airtel Response:**

The Indian Space Policy 2023 will pave the way for India becoming a leader in the SATCOM industry in the South Asian region by laying out a roadmap to encourage Indian entities to provide their services outside of India.

Specifically, the following clauses of the Space Policy mentioned under the head 'Non-Governmental Entities' need to be highlighted:

> *"NGEs would be encouraged to:*
>
> 1. *offer national and **international** space-based communication services, through self-owned or procured or leased GSO/NGSO communication satellites.*
> 2. *…*
> 3. *use Indian Orbital Resources and/or Non-Indian Orbital Resources to establish space objects for communication services over India and **outside India**.*
> 4. *…"*

The Indian Space Policy gives adequate recognition to the fact that satellite networks are inherently international. The same transponders are used to provide services in multiple countries. Further, just one satellite gateway is capable of serving huge areas. It is, therefore, neither technically nor legally required that a satellite operator establish a gateway in every country it wishes to serve.

In this regard, the gateways established in India, too, could be capable of providing feeder-link connectivity to satellites as far as 2500 km from their locations, including satellites overseas. This means that an operator may be able to provide connectivity to all its customers – not just within the territorial boundaries of India but potentially the majority of the South Asian region.

In line with the vision of the Government of India encapsulated under the Space Policy, the gateways established in India should be permitted to be used for providing feeder-link connectivity to satellites that provide connectivity to customers outside of India. Without this feeder-link connectivity to the Indian gateways, an operator may not be able to connect its customers outside India. Needless to say, the connectivity services in these other countries would be provided subject to their respective and applicable licensing/regulatory

frameworks.

**Therefore, Airtel recommends that the gateways established in India should be allowed to be used to provide feeder-link connectivity to satellites that are providing connectivity to customers outside of India.**

**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.**

**Airtel Response:**

Please refer to our response to Q1-3 above. The contractual nature of the authorisation/license as well as spectrum assignment must be preserved even under the new regime; and in any case, the rights of TSPs under the existing license agreements should be protected.

In respect of migration to the new regime, it is first important to acknowledge that Section 3(6) of the **Telecom Act already envisages such process to be optional**. We sincerely hope that the rules will be consistent with the provisions under the Act and will not require any of the existing licensees to mandatorily migrate to the new regime.

We submit that the conditions for migration should **enable a smooth transition for those who wish to migrate, but also not be worse-off for the ones who choose not to migrate for any reason**.

**Further, the terms and conditions should not create any disparity between the licensees who choose to migrate to the new authorization regime and the licensees who do not.** The latter cannot be put at a competitive disadvantage, as it is a Constitutional mandate to maintain a level playing field in the industry.

Furthermore, **migration should be on such terms that it does not affect any existing legal rights of licensees**. Accordingly, the licensees wishing to migrate to the new regime should not be required to withdraw any sub-judice matters or to submit any bank guarantees (**"BGs"**)/undertakings regarding payment of dues regarding such matters.

**Airtel believes that the process of migration to the new regime will be voluntary and in line with the provisions of the Telecom Act. It therefore recommends the following:**

**(i) Migration to the new regime should not create any disparity between the licenses and the principles of fairness and equity should be maintained. The terms and conditions applicable to the existing licensees who choose not to migrate should be no worse-off than those applicable to such licensees who choose to migrate as well as to the new entrants who obtain an authorisation under the new regime.**

**(ii) Migration should not be conditional upon withdrawal of sub-judice matters or upon submission of BGs/undertakings regarding payment of dues with respect to such matters.**

**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.**

**Airtel Response:**

**Yes**, the new guidelines for the transfer/merger of authorisations under the Telecom Act should be formulated after putting in place a framework for the authorisations to be granted under the Act.

The new guidelines should be simple and lead to faster approvals. Some of the issues which need to be addressed in the new guidelines are as follows:

**(a) Transfer/Merger of all Service Authorisations**

The extant guidelines are limited to the operators holding CMTS/UASL/UL (Access Service authorisation). There is no reason for not making such options available to other service authorisations.

**Therefore, Airtel recommends the following:**

**(i) Service authorisations other than Access, such as NLD, ILD, VSAT, ISP, etc. should also be covered under the new guidelines.**

**(ii) The new guidelines should also provide for transfer/merger/demerger of authorisations between two VNOs or even a VNO and an NSO, while ensuring that it does not violate other provisions of the license agreement such as cross-holding between NSOs and VNOs.**

**(b) Recognition of Transactions other than those pursuant to an NCLT-Sanction Scheme**

Presently, DoT only allows the merger/demerger/transfer of telecom licenses/business, pursuant to a scheme of arrangement/demerger to be sanctioned by NCLT.

However, a transfer pursuant to the scheme of demerger/merger is not the only

method available for the transfer of an undertaking by a company. Various legislations, including the ones set out below, recognise other methods of transferring an undertaking or a business from one entity to another:

Companies Act, 2013:

The board of directors of a Company may "*sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings*", and such action shall be subject to approval of the shareholders of the Company by way of a special resolution as provided under Section 180 of the Companies Act.

Therefore, the Companies Act recognises that the board of directors of a company is empowered to dispose of/sell an undertaking, including by way of a slump sale/business transfer.

In fact, the transfer of an undertaking by way of a slump sale/business transfer agreement (under Section 180 of the Companies Act) is common in industrial parlance.

Securities Laws:

Regulation 30 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR Regulations") requires listed companies to make certain disclosures to the Stock Exchanges of certain events or information, within prescribed timelines.

As per Regulation 30, read with Schedule III, of the SEBI LODR Regulations, one of the events that is required to be disclosed by a listed company to the Stock Exchanges is "*Acquisition(s) (including agreement to acquire), Scheme of Arrangement (amalgamation/ merger/demerger/restructuring), or sale or disposal of any unit(s), division(s) or subsidiary of the listed entity or any other restructuring*".

Hence, the SEBI LODR Regulations also recognise that the sale or disposal of any unit or division of a company may be undertaken by way of a slump sale/business transfer.

Tax Laws:

The Income Tax Act, 1961, specifically defines a 'slump sale' to mean the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales. Therefore, it is evident that the Income Tax Act also specifically contemplates a transfer of an undertaking by an entity by way of a slump sale.

As is evident from the above, various statutes contemplate transfer of a business undertaking pursuant to a slump sale/business transfer. Slump sale is also an

internationally recognised method of transfer as it is less complex and allows entities to complete the transaction in an expeditious manner.

**Therefore, Airtel recommends that methods of transfer of business other than those pursuant to an NLCT-sanctioned scheme, including slump sale and business transfer agreement, should also be recognised under the new guidelines.**

**(c) No Requirement of Prior DoT Approval**

As per clause 3(a) of the extant guidelines, DoT is required to be notified for any merger/ demerger proposal for its comments/observations. Further, under the UL, the merging entities are required to seek prior approval of DoT before effecting the merger/demerger.

It is important to note that Section 230 of the Companies Act requires the applicant companies to file the Scheme with the Central Government (Regional Director), the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India, if applicable, and such other sectoral regulators or authorities, including DoT, which are likely to be affected by the Scheme.

All requisite approvals from the said authorities under the Listings Regulations and the Companies Act are required to be obtained prior to sanction of the Scheme by NCLT; and the applicant companies involved in the Scheme do not need to revisit any authority after the sanction by NCLT. Objections, if any, from all the other authorities are dealt with during the NCLT process itself.

DoT is a part of the NCLT process and actively participates in the same. It is therefore unclear why the applicant companies are again required to obtain DoT's approval for bringing the demerger/merger of licenses or telecom business on record. The NCLT proceedings itself take at least 8-12 months and, thereafter, the approval from DoT takes another 2-4 months, leading to a total time frame of 10-16 months for the merger/demerger to be completed. This results in a significant loss of time and value to the merging entities.

**Therefore, Airtel recommends that there should be no separate requirement of DoT's approval for merger/demerger, post the completion of the NCLT proceedings.**

**(d) No Requirement of Clearance of Dues**

As per clause 3(m) of the extant guidelines, all demands, if any, relating to the licenses of the merging entities, are required to be cleared by either of the two licensees before issue of permission for merger/demerger. Currently, DoT seeks the clearance of dues both at the time of in-principle and final merger approval. The whole process of clearance of dues is quite cumbersome and leads to significant delays in the merger process.

We submit that any merger/demerger exercise generally involves the transfer of all the liabilities of the Transferor Company to the Transferee Company, including the dues of all government bodies, and the same is also recorded in the NCLT approval. Further, DoT additionally seeks an Undertaking from the Transferee Company to clear all dues of the Transferor Company which may arise at a later date.

In such circumstances, asking for clearance of dues by DoT is not required since such dues would automatically transfer to the Transferee Company. Further, the Transferee Company continues to run its business and continues to hold its telecom license and, therefore, there is no reason why they should be asked to clear their outstanding dues.

**Therefore, Airtel recommends the following:**

**(i) Neither the Transferor Company nor the Transferee Company should be required to clear their outstanding dues for the purposes of obtaining DoT's permission for merger/demerger.**

**(ii) If such a requirement is to be continued with, there should be a fixed cut-off date for clearing the dues – which should be prior to the final approval of the merger by the NCLT.**

**(iii) A consistent definition of sub-judice matters should be stated so that the merging entities are not forced to approach the Court for matters that are sub-judice but interpreted differently.**

**(iv) All objections should be consolidated by DoT and raised only once together and not separately on multiple occasions.**

**(e) No Requirement for BG for OTSC Dues**

As per clause 3(i) of the extant guidelines, the applicant/petitioner companies are required to submit a BG towards the outstanding demand of one-time spectrum charge (**"OTSC"**) in respect of the Transferee Company.

It is Airtel's belief that the said requirement is unreasonable on account of the fact that the dues sought to be securitised by DoT have been challenged by the TSPs and a consequent stay granted by the Court. As a result, the merging entities have been forced to challenge such demand either before or after the merger approvals and this has led to unnecessary litigations.

**Therefore, Airtel recommends that the requirement of submission of BG with respect to the OTSC dues or any other related dues should be done away with.**

**(f) Timeline for Transfer/Merger of Licenses/Authorisations**

As per clause 3(b) of the extant guidelines, a period of one year is allowed subsequent to the appropriate approval of such schemes by the Tribunal/Company Judge for

transfer/ merger of various licenses in different service areas.

Over the past few years, most mergers and acquisitions have been marred by litigation between the merging entities and DoT. It is inevitable that either the merging entities or DoT will approach the appropriate forum to protect their legal rights.

First, it needs to be clarified that the time spent in pursuing any litigation on account of which the final approval for merger/demerger is not granted by DoT or any other authority stands excluded while calculating the aforesaid period of one year. This is necessary to protect the rights of a TSP and allow it to pursue its remedies in Court while also ensuring that the aforesaid period of one year does not become redundant through no fault of the TSP's on account of the issue pending before a Court.

However, it is also imperative that such litigation is reduced and completed quickly so as to allow for the mergers/demergers to proceed swiftly. To that extent, it is submitted that strict timelines should be stipulated for DoT to exercise its legal remedies.

**Therefore, Airtel recommends the following:**

**(i) The time spent in pursuing any litigation on account of which the final approval for merger/demerger is not granted by DoT or any other authority should be excluded while calculating the one-year time frame granted post NCLT approval for transfer/merger of licenses/authorisations.**

**(ii) DoT must be held to stricter timelines when exercising its legal remedies against any mergers/demergers.**

**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.**

**Airtel Response:**

Yes, 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 Telecom Act.

Section 32(3) of the Telecom Act lists down the factors which need to be taken into account by an Adjudicating Officer while deciding on the amount of penalty under the Second Schedule. However, the application of these factors should not be left to the discretion of individual officers. Rather, detailed guidelines should be issued as to how the application of these factors may result in the classification of a breach as severe, major, moderate, minor or non-severe, along with examples.

For instance, we suggest that only the following violations should fall under the 'severe'

category:

- Violation resulting in threat to the security of nation
- Violation resulting in heavy revenue losses to the Government
- Wilful and illegal conduct of the Licensee outside the framework of terms and conditions of the license/authorization.

There are also other considerations which need to be factored in at the time of imposition of penalty. Firstly, a penalty should be imposed only when it is clearly established without doubt that there has been wilful misconduct on the part of the licensee/authorised entity, which has led to the breach. Further, the penalty amount should be charged only once per incident, irrespective of the number of authorisations held by the operator or the number of circles affected by the incident.

**Therefore, Airtel recommends the following:**

**(i) Detailed guidelines should be issued as to how the application of the factors mentioned under Section 32(3) of the Telecom Act would result in the classification of violations into different categories under the Second Schedule, along with examples.**

**(ii) The penalty should be imposed only when it is established beyond doubt that it was wilful misconduct on the part of the licensee/authorised entity that led to the breach.**

**(iii) The penalty amount should be charged only per incident, irrespective of the number of authorisations held by the operator or the number of circles affected by the incident.**

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

**Airtel Response:**

In addition to the inputs to the questions above, Airtel would like to make the following submissions:

**(i) Amnesty Scheme for the Telecom Sector**

As highlighted in the Preamble to this CP, the telecom sector has been the backbone of digital India. And it was in recognition of this that the Cabinet brought in the seminal 2021 reforms. This enabled TSPs to participate in the 5G spectrum auctions and achieve one of the world's fastest 5G rollouts.

It is also encouraging to note the vision of the Hon'ble Prime Minister in not stopping at the rollout and focusing on the reach-out, and also envisioning India as the world leader

in 6G. To achieve these visions, it is imperative that the telecom sector continues to be financially viable and sustainable. Therefore, Airtel proposes some additional points as below:

Legacy Litigations in the Telecom Sector

The Indian telecom sector has been grappling with numerous long-pending cases languishing before various courts, involving substantial financial risks. In many cases, even after adjudication of the issue by the court in the first instance, the matter is taken in appeal to the next level. Consequently, these cases remain pending indefinitely, which is in the interests of neither the Government nor the TSPs.

These cases not only cause the TSPs considerable distress but also clog their balance sheets. This hinders growth and investment and leads to uncertainty in the sector.

Further, these legacy litigations continue to significantly hinder the sustainability of TSPs. As witnessed post the AGR Judgment – when the industry faced unprecedented financial impact leading to deep stress on its survival, the Government had to intervene and bring reforms to manage the fallout. However, even after the Government's efforts, the industry is still not fully out of the woods and hence more intervention/support is needed.

Precedence of Amnesty Schemes

To reduce tax litigations and to enhance Ease of Doing Business, the Indian Government has periodically introduced various amnesty schemes under different tax legislations that allow the taxpayers to settle pending litigations/disputes on payment of pending demands/ taxes subject to certain relaxations.

For instance, the Government introduced the 'Sabka Vishwas Legacy Dispute Resolution Scheme' to resolve pending litigations under the erstwhile Central Excise and Service Tax law so taxpayers could focus on compliance with the GST regime. Thereafter, the Government introduced the 'Vivad se Vishwas Scheme' to settle direct tax disputes locked up in various appellate forums. Similarly, the State Government of J&K also introduced the Amnesty Scheme, under which the interest, penalty and interest on penalty were waived if the operators paid the principal amount on reasonable/staggered payment terms.

It is well-established now that they were welcomed by the industry wholeheartedly and significantly reduced the backlog of prolonged litigation matters.

Need for an Amnesty Scheme in the Telecom Sector

In line with the government's endeavour in the case of tax litigations, there is a critical need to take a similarly pragmatic view of the telecom sector.

An amnesty scheme will provide the impetus for a transparent conversation between

the Government and the telecom industry within a defined framework. This will resolve the issues in a manner that serves the purposes of both parties while also providing adequate legal protection to the Government officials.

An amnesty scheme will create a win-win situation for both parties – with the Government getting upfront payments in some cases, payments which would otherwise be tied up for years in courts, and the TSPs getting the certainty and confidence to finally focus their resources on network expansion and enhancing the customer experience. This would only help further the Hon'ble Prime Minister's Digital India vision, enabling seamless connectivity in every corner of the country.

**Therefore, Airtel recommends that an Amnesty Scheme, along similar lines as that offered by the State Government of J&K, should be given by DoT to TSPs, to allow for waiver of interest, penalty and interest on penalty if operators pay the principal amount on certain reasonable/staggered payment terms.**

**(ii) Provisional Assignment of Spectrum to NGSO Operators**

The Telecom Act prescribes that spectrum for certain satellite-based services, including VSAT, GMPCS, NLD, etc., should be assigned administratively. However, since the Authority's Recommendations and final rules in the matter are still awaited, NGSO-based operators who wish to provide such services are not able to because they are not being assigned spectrum.

There are operators with the whole constellation in orbit, ground infrastructure ready and all requisite licenses and authorisations in place who are not able to launch services for want of spectrum assignment. It is a colossal wastage of not just the operator's but also public resources. Moreover, there is a huge demand for such services from Defence and other Government users – and the operators are not able to cater to the same due to this impediment.

Meanwhile, several VSAT operators (GSO-based) had been assigned spectrum in the Ku/Ka band prior to the notification of the Telecom Act and they continue to use it to provide their services even now.

In order to avoid any further delay in the launch of these services, the Government should consider assigning spectrum to NGSO-based operators on a provisional basis under their VSAT license. There are already precedents – even as recent as the assignment of E-band spectrum in 2022, on a provisional basis, pending final guidelines.

**With this particular context in mind, Airtel recommends the following:**

**(i) Pending issuance of Rules, spectrum for SatCom should be assigned to NGSO-based operators on a provisional basis.**

**(ii) Operators may provide an undertaking that the spectrum charges would be applicable from the date of assignment as decided under the final policy.**

**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.**

**Airtel Response:**

Please refer to the *Preamble* and the response to Q5-6. A separate consultation paper should be devoted to the related benefits and challenges of Unified Services Authorisation (National) before any commitments are made and to ensure that there is absolutely no adverse impact on existing investments and the level playing field because of a lack of deliberation.

Nevertheless, we wish to point out that the present Guidelines for the grant of UL already provide for UL (All Services), which covers all the service authorisations under its gamut. While the proposed Unified Services Authorisation (National) may be deliberated further as submitted above, we may start with using the financial conditions prescribed for UL (All Services) as a benchmark for the conditions to be made applicable to the Unified Service Authorisation (National). Therefore, in this context, Airtel makes the following submissions to the sub-questions (i) to (vi).

**(i) Amount of application processing fee**

Under the current regime, licensees are obligated to pay a one-time, non-refundable application processing fee of INR 10 lakhs for UL (All Services).

It is further highlighted that the telecommunication sector is inherently a very capital-intensive sector. Given this, any entity aiming to enter this sector will have to credibly commit towards large investments in terms of fixed cost and R&D, as well as maintain sufficient liquidity to fund the necessary infrastructure and associated expenses arising out of obtaining and fulfilling the obligations under a UL. In the above context, the application processing fee of INR 10 lakhs is considered nominal for any entity seeking to obtain an authorisation encompassing all telecom services.

**Therefore, Airtel recommend the same application processing fee of INR 10 lakhs for the Unified Services Authorisation (National) as well.**

**(ii) Amount of Entry Fee**

The Entry Fee plays an important role in ensuring that only financially credible and serious players enter the telecom industry and adhere to critical parameters while operating in an industry of vital importance.

Under the current regime, for UL (All Services), an entry fee of INR 15 crores has been prescribed.

**Airtel proposes that if a new Unified Service Authorisation (National) is introduced, the entry fee should be equivalent to the existing entry fee applicable to UL (All Service).**

Moreover, existing operators have already paid substantial non-refundable fees. Reducing the entry fee in any manner would create an uneven playing field between incumbents and new entrants.

**Therefore, to ensure an optimal level of entry, discourage non-serious entries, maximise the efficient use of public and limited resources and to attract the necessary capital investment required under a pan-India unified license/authorisation, it is proposed that the entry fees for a Unified Service Authorisation (National) be the same as currently applicable to a UL (All Services), i.e., INR 15 crores.**

**(iii) Provisions of Bank Guarantees**

At the outset, Airtel recommends that the requirement for a BG should be done away with.

The industry has matured over the last 30 years and the existing players have ably demonstrated their performance and experience. What they now expect from policymakers are less onerous financial obligations and the freeing up of precious capital/funds to be deployed into networks and services. To that extent, the recent Cabinet reforms already recognised this fact and reduced the BGs requirement.

The amount blocked in BGs benefits no one (neither TSPs nor the DoT), except perhaps the lenders. Rather, if such securities are released, it will free up the working capital flow for the TSPs and remove the infructuous payment of charges and generate value for the TSPs.

On the aspect of securitising Government dues, the risk to government dues is actually emerging more due to thr high levels of recurring and sector-specific levies, i.e., LF/USOF levy/SUC rather than the failure of TSPs to pay the same. The time has come to substantially rationalise these levies and recover only the cost of administration of license. Moreover, the imposition of such BGs to securitise dues is not consistent with other statutory dues like tax dues – there is no requirement for BGs under the Income Tax Act or under GST laws to securitise such due payments.

Thus, Airtel believes that the government can go a step further in having faith in sectoral players and, in the spirit of reform, do away with the BG requirements (PBG and FBG both) altogether. The time has come to enable industry to mobilise and deploy precious funds/ capital in generating value for all stakeholders by putting more investments into digital infrastructure, networks and services rather than blocking those funds in the form of BG.

However, in case the Government still believes that the requirement of BG cannot be dispensed with, the current regime of BGs should be continued with the current level of BGs maintained under each authorisation separately.

Accordingly, under the present UL (All Services), a Licensee must submit a Performance Bank Guarantee (**"PBG"**) of INR 44 Crores and a Financial Bank Guarantee (**"FBG"**) of INR 8.8 Crores. The FBG to be maintained is subsequently based on the LF & SUC dues payable by the TSP on a quarterly basis – i.e., 20% of the 2 Quarters average dues calculated basis the 4 Quarter payouts.

Therefore, on similar lines, in case the Authority decides to introduce a Unified Service Authorisation (National), it should prescribe the same BG amount as required for the UL (All Services).

However, if the Authority decides to reduce the amount of BG for the Unified Service Authorisation (National), the benefit of the lower amount of BG should be accorded to existing licensees as well.

**In summary, Airtel recommends the following:**

**(i) The requirement for BGs (both PBG and FBG) should be done away with.**

**(ii) If the requirement of BGs is to be retained, the PBG and FBG required for a Unified Service Authorization (National) should be equal to the PBG and FBG currently applicable to UL (All Services).**

**(iv) Definitions of GR, ApGR and AGR**

Cabinet Reforms of September 2021:

In September 2021, the Cabinet brought out seminal reforms to bring the telecom industry back on track from the severe financial stress it was facing then. Along with various measures to support the industry, the definition of Adjusted Gross Revenue (**"AGR"**) was also reformed, by excluding certain non-telecom revenue items from the ambit of revenue for purposes of levying the LF and SUC. Subsequently, the DoT implemented this reform, which was based on the Authority's recommendation of 2015 in the AGR matter. Later, i.e., in July 2023, in order to address various issues raised by the industry, DoT issued a clarification regarding the revised definition of AGR.

**As per the clarification, AGR would now include revenues from all non-licensed telecom activities as well as non-telecom activities if bundled with licensed services or provided by a licensed entity to any other non-licensed/licensed entity as ancillary to a telecom service.**

Challenges that continue post the September 2021 reforms:

These changes posed the following key challenges for the industry and require urgent attention of the Authority:

**Definition of Gross Revenue:** Since the definition of Gross Revenue (**"GR"**) has not been changed and continues to be the same as it was prior to the Cabinet Reforms, many activities which do not require a license under the current section 3 of the Telecom Act (earlier section 4 of the Telegraph Act) continue to form part of the revenue. Additionally, the anomaly within the definition of GR has also not been addressed – **for instance, items that are not revenue in nature, such as forex, set-off of related items of expense, etc. continues to be part of GR.**

**Exclusion of Non-Telecom vs. Non-Licensed Activities**: Referring to the definition of GR above and in line with the Authority's recommendations, a concept of Applicable Gross Revenue (**"ApGR"**) was introduced, wherein the items for exclusion from GR have been listed. However, this did not exclude all non-licensed telecom activities, like sale of handsets or terminal equipment, standalone OTT subscriptions (other than telecom packs), management support charges or supplementary services, etc. The impact of this is that all such non-licensed and non-telecom activities continued to be part of AGR and thus under the LF ambit.

**Limited Scope of Deductions:** The deductions allowed from ApGR for the purposes of AGR remained restricted to IUC, Roaming Revenue and GST (if included in revenue). This is despite the fact that IUC has effectively been removed by the Authority and there has been no concept of Domestic Roaming now in the last 6-7 years. Thus, practically, the scope of deduction has been curtailed.

Additionally, the existing regime has also failed to consider that over the period, the cost to TSPs for services taken from each other, e.g., port charges, bandwidth, CLS etc., have increased due to an expansion in the network and/or change in technologies. The cost of one TSP is revenue for another TSP on which LF is paid without allowing for the deduction of charges to the other TSP.

It is also a known fact that if one service provider is not allowed to take deductions for charges paid to another service provider while calculating a levy, it will have a cascading effect and will ultimately lead to a situation of tax-on-tax and increase in input cost of service.

Since these reforms were based on the Authority's recommendations of 2015 (issued 6-7 years before the reforms), they completely overlooked the technological advancements in the industry and the changes in consumer preferences that had taken

place in the meantime. They also overlooked the future technological changes and possibility of emergence of new business opportunities in the market.

Thus, collectively, these challenges prevented telecom companies from evolving from mere service providers to comprehensive solution providers, as the reforms could not remove the impact of regulatory levy on such offerings of solutions/products. The cost of regulatory levy being 8-10% on GR, without set-off of related items of expense, is a substantial cost, which has the potential to nullify any value creation by a TSP.

**Therefore, the current definition of GR and AGR makes it prohibitive for a TSP to transform into a solution provider as it does not support the coexistence of licensed and non-licensed/non-telecom products/services.**

**Proposal:**

Airtel believes that it is crucial to re-evaluate the definitions of GR, ApGR and AGR.

**The authorities must reconsider these definitions with respect to the following aspects to enable TSPs to transform and compete and be ready to thrive in the future**:

- Align the definitions of GR, ApGR and AGR with the objectives of the Telecom Reforms of September 2021 as granted by the Union Cabinet and allow co-existence of licensed as well as non-licensed telecom/non-telecom services/products.

- Increase the scope of deduction to make it effective and remove the cascading effect of regulatory levy. This can be done by allowing the deduction for charges paid by one TSP to another TSP for licensed telecom services.

In view of the above, Airtel urges the Authority to recommend a definition of revenue restricting it to the licensed telecom activities as envisaged under Section 3 of the Telecom Act.

**Co-existence of Non-Telecom/Non-Licensed with Licensed Activity and Revenue:**

Simultaneously, Airtel also advocates for the coexistence of other products and services that do not require a license or authorisation with telecom services. **DoT may also wish to protect its share of legitimate revenue for the value arising from the services granted under the License/Authorisation in such scenarios of coexistence of other products and services. This can be ensured by introducing the concept of fair valuation of each product and/or services bundled.**

The Authority may recommend fair valuation of price for telecom services in cases of co-existing telecom + non-telecom products/services, thereby protecting the Government's revenue while allowing the operators a chance to re-position themselves in the market and compete effectively.

**To summarise, with respect to the definition of GR, ApGR and AGR, Airtel recommends the following:**

**(i) The scope of revenue should be limited to revenue from licensed activities only. The activities that do not require authorisation under the Act should be excluded from the ambit of LF.**

**(ii) The scope of deduction should be increased to make it effective and should include charges paid by one TSP to another TSP to avoid the cascading effect of LF.**

**(iii) Co-existence of licensed telecom services with non-licensed services/products should not attract levy on composite products/services. DoT can protect its legitimate revenue by adopting a fair valuation approach.**

**(v) Rate of authorisation fee**

Under the current regime, a licensee is required to pay an annual LF, equivalent to 8% of the AGR for each authorised service area. This rate includes two components – a levy of 5% for USOF and a 3% rate towards license/Authorisation Fee.

At the outset, Airtel submits that the USOF levy should be delinked from the license/ authorisation fee. Further, Airtel's separate submissions with regard to the LF and USOF levy are as follows:

Authorisation Fee of 3%:

As India has enacted a new Telecom Act and intends to usher in a reformed regulatory regime to attract investment, ensuring the long-term financial viability and sustainability of the telecom sector, it is crucial that the regulatory levy (authorisation/license fee component) be rationalised. Internationally, in many jurisdictions, the authorisation/ license fee is limited to recover only the administrative cost of managing/administering the authorisation/license.

Presently, the Indian telecom industry faces one of the highest regulatory levies globally, which carries on from a legacy approach when spectrum was bundled with license and the Government had only one source of revenue, i.e., LF basis revenue share. However, now that the government is able to regularly earn significantly higher revenues via regular auctions, the right approach is to recover only the cost of administering the authorisation/ license, in line with international best practices.

Accordingly, the authorisation/license fee should be reduced from 3% to 1%. This will not only reduce the regulatory burden on TSPs but will also increase their ability to invest in network infrastructure, upgrades and new technologies.

USOF Levy of 5%:

The Digital Bharat Nidhi, formerly known as USOF, has amassed a substantial corpus, with the current balance to the tune of INR 79,638.31 Cr. (as on 31.01.2024). The USOF collection has been increasing over the years but the disbursement has not been comparatively commensurate. On the other hand, significant CAPEX has been invested by the industry in the rollout of 4G and 5G technologies and the expansion of telecom services in uncovered areas.

Furthermore, most of the population is already covered by mobile broadband networks and the remaining population is likely to be covered under the current projects undertaken by USOF. Therefore, availability of mobile broadband networks is not a challenge anymore.

Given the substantial capital currently held in the fund and the ongoing capital needs of the industry, and since only a handful of unconnected villages/areas are left to be connected, **the 5% USOF levy on TSPs should be abolished**. In the interim, it must be kept in abeyance till the entire unutilised amount of the corpus gets fully utilised. Or, alternatively, it should be immediately brought down from 5% to 3% in line with the Authority's recommendations.

**In view of the above summary, Airtel recommends the following:**

**(i) The USOF levy should be delinked from the authorisation/license fee.**

**(ii) The rate of the Authorisation fee should be reduced from 3% to 1% of AGR, and brought at par with global best practices of recovering only the administrative cost of managing the authorisation/license.**

**(iii) The USOF levy of 5% should be abolished altogether. Or, at least in the interim, it must be kept in abeyance till the unutilised amount of the corpus gets fully utilised. Or, the rate should be immediately brought down from 5% to 3%.**

**The aforementioned recommendations should apply to any new service authorisations introduced, including those for a Unified Service Authorisation (National) as well existing licensees.**

**(vi) Minimum equity and networth of the Authorised entity**

Under the present regime, the minimum equity as well as the minimum networth requirement for UL (All Services) is INR 25 Crores each.

It is reiterated that given the capital-intensive nature of the telecom sector, any entity entering this industry must ensure sufficient financial reserves to cover substantial capital expenditure (CAPEX) & operating expenses (OPEX) required to operate in sector.

In this context, an entity applying for a Unified Service Authorization (National) is inherently considered a serious player with the necessary capital reserves.

**Therefore, Airtel recommends that for such nationwide authorisation, the minimum equity and networth requirements should be the same as presently applicable for UL (All Services).**

**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.**

**Airtel Response:**

**Please refer to the response to Q7-8 above, wherein Airtel states its disagreement as regards enhancing the scope of internet services authorisation.**

In accordance with the above position, **Airtel proposes that no changes be prescribed for the application fee, entry fee, BGs, minimum equity and networth requirements** in reference to the instant question.

**With respect to the definition of GR, ApGR and AGR, and rate of authorisation fee, please refer to the response to Q36 above.**

**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.**

**Airtel Response:**

As submitted in the responses to Q9 and Q10 of the CP, Airtel believes that there should not be any conflict in clubbing NLD and ILD Service authorisations to form a single Long Distance Service authorisation, as long as no additional compliance requirements are imposed on a specific service by the reason of such clubbing.

In case it is decided to club the scopes of the extant NLD Service authorisation and ILD Service authorisation into a single authorisation namely the Long Distance Service authorisation under the Telecom Act, the following specific submissions to sub-questions (i) to (vi) may be considered:

**(i) Amount of application processing fee**

Under the current regime, licensees are obligated to pay a one-time, non-refundable application processing fee stipulated as under:

| Type of Authorization | Application Processing Fee (in INR) |
|---|---|
| NLD Service Authorization | 1 lakh |
| ILD Service Authorization | 1 lakh |

Given the capital-intensive nature of the telecommunications sector, this application processing fee is considered nominal for any entity seeking to operate within this industry.

**Therefore, Airtel recommends that the application processing fee for a single Long Distance Service Authorisation should remain consistent with the current fees for National Long Distance (NLD) and International Long Distance (ILD), i.e., INR 1 lakh.**

**(ii) Amount of Entry Fee**

Under the current regime, the Entry Fee levied on NLD and ILD Service Authorisations is as under:

| Type of Authorization | Entry Fee (in INR) |
|---|---|
| NLD Service Authorization | 2.5 crores |
| ILD Service Authorization | 2.5 crores |

Airtel proposes that if a single Long Distance Service Authorisation is introduced, its entry fee should be equivalent to the sum of the entry fees currently applicable to NLD and ILD Service Authorisations, totaling 5 crores, since this new single authorisation will allow the holding entity to offer two distinct services.

This approach will discourage non-serious participants and also ensure that existing operators that have already paid substantial non-refundable entry fees are not at a disadvantaged position compared to newer entrants.

The fundamental principle guiding the determination of the entry fee amount is based

on aggregating the entry fees of individual service authorisations that are being clubbed into a single authorisation, since it allows two distinct services to be brought under a single authorisation. This method is crucial in maintaining fairness and equality between existing market participants and new entrants. By aligning the entry fee with the sum of its constituent individual service fees, regulatory authorities can foster a level playing field conducive to healthy competition.

**Therefore, to discourage non-serious entries, maximise the efficient use of public and limited resources and maintain a level playing field between incumbents and new entrants, Airtel recommends that the current entry fees of NLD and ILD Service Authorisations be clubbed together to determine the entry fee for a single Long Distance Service Authorisation.**

**(iii) Provisions of Bank Guarantees**

As previously discussed in the response to Q36, Airtel recommends that the requirement for a BG should be done away with altogether. However, in case the requirement is retained, the following submissions should be considered:

Presently, the applicable BGs are as under:

| Type of Authorization | PBG (in INR) | FBG (in INR) |
|---|---|---|
| NLD Service Authorization | 50 lakhs | 1 crore |
| ILD Service Authorization | 50 lakhs | 1 crore |

If the Authority decides to introduce a single Long Distance Service Authorisation, the PBG and FBG required for it should be equivalent to the sum of the BGs currently applicable to NLD and ILD Service Authorisations, which at this point in time will amount to INR 1 crore for PBG and 2 crores for FBG. This approach will ensure that a level playing field is maintained between new and existing operators.

However, if the Authority decides to lower the BG amount for the single Long Distance Service Authorisation, the benefit of the lower amount of BG should be accorded to existing licensees as well.

**In summary, Airtel recommends the following:**

**(i) The requirement for BGs should be done away with.**

**(ii) If the requirement of BGs is to be retained, the PBG and FBG required for a single Long Distance Service Authorisation should be equivalent to the respective sums of the PBG and FBG presently applicable to NLD and ILD Service Authorisations**.

**(iv) Definitions of GR, ApGR and AGR**

Please refer to the response to Q36 (iv).

**(v) Rate of authorisation fee**

Please refer to the response to Q36 (v).

**(vi) Minimum equity and networth of the Authorised entity**

Under the present regime, the minimum equity and minimum networth requirements for NLD and ILD Service Authorisations are as under:

| Type of Authorization | Minimum Equity (in INR) | Minimum Networth (in INR) |
|---|---|---|
| NLD Service Authorization | 2.5 crores | 2.5 crores |
| ILD Service Authorization | 2.5 crores | 2.5 crores |

**Since the minimum equity and networth requirements are identical at INR 2.5 crores for both NLD and ILD Service Authorisations, Airtel recommends that the minimum equity and networth requirements for a single Long Distance Service Authorisation should also be the same, i.e., INR 2.5 crores.**

**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.**

**Airtel Response:**

Please refer to the response to Q11-12. To reiterate, **GMPCS and Commercial VSAT CUG Service authorisations should not be clubbed into a single authorisation**. They should continue to be separate, as the utility of services provided under each of them is different.

**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.**

**Airtel Response:**

As stated earlier, **there is no need to club the scope of a number of authorisations into a single authorisation under the Telecom Act. With regard to this, Airtel also believes that there should not be any changes in the financial conditions of the same.**

However, on principle, Airtel recommends that the following approach be taken in all such instances:

**(i) Amount of application processing fees**

The application processing fee in the case of clubbed service authorisations should remain consistent with the fee prescribed for individual service authorisations, currently fixed at a uniform rate of INR 1 lakh. This consistency is warranted because even in cases of clubbed service authorisations, the application remains singular.

**(ii) Amount of entry fees**

The fundamental principle guiding the determination of the entry fee amount is based on aggregating the entry fees of individual service authorisations that are being clubbed into a single authorisation, since it allows two distinct services to be brought under a single authorisation. This method is crucial in maintaining fairness and equality between existing market participants and new entrants. By aligning the entry fee with the sum of its constituent individual service fees, regulatory authorities can foster a level playing field conducive to healthy competition.

**(iii) Provisions of bank guarantees**

In a similar vein as above, determination of the bank guarantee amount should be based on the sum of the bank guarantees of the individual service authorisations that are being consolidated into a single authorisation. This approach ensures fairness and equality between existing market participants and new entrants. By aligning the bank guarantee of the single authorisation with the sum of its constituent individual service bank guarantee requirements, regulatory authorities can foster a level playing field that supports healthy competition in the market.

**(iv) Definitions of GR, ApGR and AGR**

Please refer to the response to Q36 (iv).

**(v) Rate of authorisation fee**

Please refer to the response to Q36 (v).

**(vi) Minimum equity and networth of the Authorised entity**

If the Authority decides to introduce a clubbed service authorisation, its guiding principle to determine the minimum equity and networth requirements for such clubbed authorisations should be to ensure that the requirements align with the standalone authorisation under which the requirements are higher.

**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.**

**Airtel Response:**

Please refer to the response to Q17. OTT communication services should be brought under the authorisation/licensing framework, based on the principle of 'Same Service – Same Rules'. As the services provided by traditionally licensed TSPs and OTT communication services providers are functionally substitutable, parity should be maintained in the T&Cs applicable to both. This is necessary to ensure a 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.**

**Airtel Response:**

**Airtel supports the continuation of the current regime without alterations for all the various service authorisations including VNOs, other than the merged/clubbed/new service authorisations.**

However, if the Authority considers proposing any changes, such as reductions in fees or charges, these adjustments should be uniformly applied to all authorised entities and licensees in a non-discriminatory manner. This includes those operating under both the

current and previous regulatory regimes.

**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.**

**Airtel Response:**

Airtel submits that **the amount of entry fee for various service authorisations including VNOs, other than the merged/clubbed/new service authorisations, should be kept at the existing level for the various service authorisations under the UL/UL-VNO license**.

This approach will discourage non-serious participants and also ensure that existing operators that have already paid substantial non-refundable entry fees are not in a disadvantaged position compared to newer entrants.

With respect to BGs, to reiterate, the **requirement of BGs should be done away with. However, in case the requirement is to be retained, it should be the same as the one existing for the various service authorisations under the UL/UL-VNO license**.

**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.**

**Airtel Response:**

**Yes**, there is a need to review some of the other financial conditions for the various service authorisations including VNOs, other than the merged/clubbed/new service authorisations. The same are discussed in detail below:

**(i) Chapter III (Financial Condition) of the UL:**

LF Payment & Assessment

Advance payment of License Fees

Clause 20.4 of the UL, which provides for the schedule of payment of LF, requires the payment for the 4th quarter of the year by 25th March on the basis of expected revenue for the quarter, subject to a minimum payment equal to the revenue share paid for the previous quarter.

Clause for Reciprocal Interest

Further, clause 20.7 of UL prescribes interest in the case of any delay in payment of LF. Since the payment for the 4th quarter is in advance and on an estimated basis, there may be some excess/short payment of LF. Again, as per clause 20.8, the final adjustment of LF is to be done on the basis of the audited statement submitted by the licensee. Many a times, in order to avoid accumulation of penal interest, TSPs keep an additional margin while making the estimate, thus leading to excess payment of LF.

However, despite this being a contract wherein parties to contract have equal rights and while DoT has had the foresight to keep a provision for charging interest on short/delayed payments, there is no reciprocal provision for interest in the case of a refund becoming due to a TSP. It is to be noted that even in the case of an Income Tax refund, which is a statutory levy, there is provision to pay interest on Tax refunds for delays beyond a particular period.

Special Audit of TSP

Clause 22.5 and 22.6 of the UL provide for Special Audit of the TSP, appointment of Special Auditors, their powers, costs, etc. and appear to be repetitive in nature. Additionally, at present the clause is one sided and does not allow rights of representation against decisions for such special Audits.

**Recommendations:**

**Therefore, Airtel recommends that the following provisions/modifications be made under the financial conditions of the License Agreement:**

**A. LF Payment & Assessment**

1. In the case of an advance payment to be made on 25th March, there should not be a mandate to pay minimum equal to the payment made for the 3rd quarter of the year. Further, if it needs to be mandated, then interest should not be levied in case there is a shortfall in the payment which got actualized/paid at the time of the final payout, i.e., on 15th April.

2. There should be a provision for reciprocal interest in case a refund is due to the TSP.

This will ensure a timely assessment and no loss to the TSP even if some excess payment has been made by the TSP, besides ensuring the time value of money.

**B. Special Audit:**

1. Clause 22.5 and 22.6 should be combined.

2. The new clause should also provide for an 'opportunity of being heard' to be given to the TSP before the decision on Special Audit is finalised, and for a reasoned order against the TSP's submissions.

(ii) **Pass-Through Deductions for Infrastructure Sharing Charges**

In the case of a VNO, all charges paid to the TSP through whose network the VNO's services are actually provisioned are allowed as deduction from the GR/ApGR. However, if the TSP takes bandwidth from another TSP to complete its network, the same is not allowed as a deduction.

It is be understood that similar to VNOs, TSPs also take services from other TSPs to close gaps in the ultimate service to be rendered to an end customer. For example, an Access Licensee establishes a network connection with an ISP to allow its customers access to the internet or an NLD license takes last mile connectivity from another NLD/Access provider to serve its end customers, etc.

Thus, the same way that the amount paid by a VNO to a TSP is an input cost for the VNO, the charges paid by one TSP to another TSP are also an input cost for the TSP paying the same. Additionally, NDCP 2018, vide section 2.1(b)(ii) provides that the LF paid on any input services should be set off against the LF payable by an operator on output service, thereby avoiding a double incidence of levies.

**Therefore, Airtel recommends that the charges for infrastructure sharing paid by one TSP to another should be allowed as deduction while computing the AGR of paying the TSP and the conditions to that extent should be modified.**

**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.**

**Airtel Response:**

As submitted earlier in the response to Q13, Airtel reiterates that there is no justification for either creating a new category of infrastructure provider, i.e., DCIP under the UL, or merging

the scope of IP-I and DCIP. The detailed justifications for the same are provided in the response to Q13.

**Accordingly, Airtel does not propose any changes to the IP-I registration regime.**

However, Airtel also requests the Authority to refer to its response to Q40, wherein guiding principles in the matters of clubbing the scope of any two distinct authorisations have been provided.

**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.**

**Airtel Response:**

No comments.

**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.**

**Airtel Response:**

**Yes, the existing framework for financial conditions should be continued for other standalone licenses/registrations/authorisations/permissions.**

However, as a principle, Airtel suggests that in the event of the Authority deciding to

recommend the lowering of any financial requirement, the same should be extended to all existing license/ registration/authorisation holders in a non-discriminatory manner.

**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.**

**Airtel Response:**

Please refer to the response to Q15.

**There is no need to club the scopes of M2MSP and WPAN/WLAN Connectivity Provider registrations.**

However, if it is decided to club the M2M-WPAN/WLAN service authorisation, the processing fee which is the same for both individual authorisations at present should be retained. Any other applicable fees/charges should be the sum total of the respective fees/charges under the individual authorisations.

**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.**

**Airtel Response:**

In the interests of ease of doing business, **the requirement to submit an Affidavit with a quarterly payment of LF and SUC should be done away with altogether**. There is no need to even replace it with a Self-Certificate with similar content.

Currently, the quarterly payment of LF/SUC is to be supported by an Affidavit. This is despite the fact that at the time of the online submission of records, proper verification using Aadhaar is done.

As of today, neither the Affidavit nor the proposed Self-Certificate (in place of affidavit) adds/ would add any value to the process. In fact, it only creates/would create unnecessary stress in the system in terms of timelines for compliance, as the same is required to be prepared and physically signed and notarised before being uploaded in the system.

DoT's dues are protected in any case as the final assessment of LF/SUC happens on the basis of the Annual Statement audited by the Statutory Auditors of the Company and shows all quarterly details and any shortfall in payment gets covered through interest.

**Therefore, Airtel recommends the following:**

**(i) The requirement that an affidavit needs to be submitted along with the quarterly**

**payment of LF/SUC should be done away with.**

**(ii) There is also no need to bring in a Self-Certificate requirement in its place.**

**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 alongwith detailed justification for the inclusion/deletion.**

**Airtel Response:**

**Yes, there is a need to revise/modify/simplify the existing formats of Statement of Revenue and License Fee ("*AGR Statement*") for each license/authorisation.**

The extant formats are merely a carry-over from the initial UASL regime, with minor modifications to incorporate the changes made to accommodate the Cabinet reforms of September 2021.

Most of the items in the extant formats are either not relevant or are repetitive in nature. There are also no clear guidelines as to how information should be produced under the format, especially in cases where there are repeated heads or wherein it is possible to put a particular item of revenue under any of the many heads prescribed under the format. Absence of clarity on how to deal with the format has also led to assessment disputes between TSPs and DoT, some of which are now *sub-judice*.

It would further be relevant to note that in the current market scenario wherein the ARPU base approach of tariff has been adopted, segregation of revenue under call, data, VAS, etc. would lose its significance.

Thus, the extant formats of the AGR Statement are outdated, unnecessarily complex and do not serve any purpose and, therefore, require simplification.

**The proposed formats for Access, NLD, ILD and ISP service authorisations are enclosed herewith as Annexure-I, II, III and IV, respectively.**

**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.**

**Airtel Response:**

Please refer to the Preamble and response to Q5-6. Considering the various techno-regulatory issues, from network architecture to interconnection to market and process realignments,

Airtel recommends that a detailed review be conducted through a separate consultation paper on the possibility of Unified Services Authorisation (National) for pan-India service areas, encompassing all licensed telecom services.

Accordingly, the format of the AGR Statement for such authorisation may be finalised only after such detailed consultation is concluded.

**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.**

**Airtel Response:**

Please refer to the response to Q7-8. To reiterate, there is no need to enhance the scope of the ISP authorisation as the same is against the spirit of a level playing field.

However, as submitted in the response to Q51, the revised format for the AGR Statement for ISP authorisation (with its scope being the same as that existing presently) is attached as Annexure-IV.

**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.**

**Airtel Response:**

Please refer to the response to Q9. There should not be any conflict in clubbing NLD and ILD Service authorisations to form a single Long Distance Service authorisation so long as no additional compliance requirements are imposed on a specific service by the reason of such clubbing.

In case of clubbed extant NLD Service authorisation and ILD Service authorisation into a single authorisation namely Long Distance Service authorisation, the format of the AGR Statement for the clubbed authorisation is attached as Annexure-V.

**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.**

**Airtel Response:**

Please refer to the response to Q11-12. To reiterate, **GMPCS and Commercial VSAT CUG Service authorisations should not be clubbed into a single authorisation**. They should

continue to be separate, as the utility of services provided under each of them is different.

**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.**

**Airtel Response:**

Please refer to the response to Q15. **There is no need to club together the scopes of any authorisation other than NLD and ILD.**

**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.**

**Airtel Response:**

**Yes, there is a need to review/simplify the norms for the preparation of annual financial statements (that is, the AGR statements) of the various service authorisations under UL and UL-VNO.**

At present, the norms of accounting under the license do not allow a consistent accounting policy to be followed, even though this is a basic norm for the preparation of any financial statement. For instance, while Revenue is allowed on an accrual basis, Expense is allowed on an actual paid basis.

Further, as per the norms of the preparation of an Annual Financial Statement as prescribed under the license agreement, there are many items of information that are not relevant today, e.g.,

- Service Tax/Sales Tax billed, collected and remitted to the Government
- Details of income from sale of goods indicating income and no. of units sold, method of inventory valuation, cost of goods sold, etc.
- Increase /decrease in stock
- Details of reversals of previous years' debits to be shown component wise
- Further bifurcation of Roaming charges into:
  - Airtime collected
  - Airtime remitted
  - Roaming commission retained
  - Roaming commission paid
  - Any other variable charges
- Total Airtime Units (metered units) for home and visiting subscribers and unbilled numbers

**Therefore, it is suggested that the AGR Statement should be prepared following a consistent approach adopted all across industry. As a general rule, the requirements should be aligned with the Companies Act 2013 (Schedule III) and IndAS (i.e. Indian Accounting Standard issued by The Institute of Chartered Accountants of India). This will bring harmonization/consistency vis-à-vis other laws and shall ease reconciliation and increase transparency.**

**In this regard, a detailed list of various norms vis-à-vis as prescribed under the UL, with reasons, is attached as Annexure-VI.**

**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.**

**Airtel Response:**

In case of migration, no entry fee should be applicable since the existing licensees have already paid entry fee at the time of obtaining the extant license.

Additionally, in case there is an overall reduction in the entry fees for obtaining a new license under the proposed regime, the benefit should also be extended to the existing licensees, to maintain a level playing field.

However, in case migration extends the life of these authorisations/licenses, then an entry fee may be charged subject to pro-rata rebate calculated on an old entry fee for the remainder of the life of the extant license as it is currently envisaged under UL guidelines clause 8.3 of UL guideline No. 20-281/2010-AS-I (Vol VI) dated August 19, 2013.

**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.**

**Airtel Response:**

**Yes**, an application processing fee should be applicable in the case of migration. However, the amount of the application processing fee should be nominal.

As per the UL guidelines, the applicant is required to pay Rs. 50,000 as processing fee. Airtel agrees with this.

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

**Airtel Response:**

No comments.

**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.**

**Airtel Response:**

Currently, even in cases of auctioned spectrum, there are two sets– (i) spectrum acquired up to 2021 Auctions, on which SUC is levied despite recovering the auctioned price (escalated or fixed) and (ii) spectrum acquired from the 2022 Auctions onwards, on which no SUC is levied.

Since the market price of the spectrum has already been recovered by DoT, there is no reason for continuing with SUC even on the first category of spectrum. Now that the new Telecom Act is in place and the entire regime is being re-imagined, it is a ripe time to consider such a measure.

**Therefore, Airtel recommends that SUC should not be levied in case of any auctioned spectrum.**

## Annexure-I

**Proposed Format for Access Service Authorisations**

**ABC Limited**
**Circle Office : _____**
**Corporate Office : _____**
**Unified Access Services in ..... Service Area**
**Statement of Revenue and License fee / Spectrum Charges for the quarters ended June 30, September 30, December 31, XXXX, March 31, XXXX and year ended March 31, XXXX**

(Amount in Rupees)

| S.No. | PARTICULARS | Quarter ended June 30, XXXX | Quarter ended September 30, XXXX | Quarter ended December 31, XXXX | Quarter ended March 31, XXXX | Year ended March 31, XXXX |
|---|---|---|---|---|---|---|
| 1 | **Revenue from services to subscribers** | | | | | |
| A | **Revenue from Wireline Services:** | | | | | |
| I | Post Paid Options | | | | | |
| II | Pre Paid Options | | | | | |
| III | Miscellaneous Revenue | | | | | |
| B | **Revenue from Mobile Subscribers:** | | | | | |
| i | Post Paid Options | | | | | |
| ii | Pre Paid Options | | | | | |
| iii | Miscellaneous Revenue | | | | | |
| 2 | **Revenue from other OPERATORs** (Provide Operator Wise Detail) | | | | | |
| i | **PSTN Charges** | | | | | |
| ii | **Roaming Revenue** | | | | | |
| iii | **Port Charges** | | | | | |
| iv | **Leased Line** | | | | | |
| v | **Cable Landing Stations** | | | | | |
| vi | **Leassing / Sharing of Infrastructure** | | | | | |
| vii | **.....** | | | | | |
| 3 | **Revenue from sale/ lease of bandwidth, links, R&G cases, turnkey projects etc.** | | | | | |
| 4 | **Revenue from Operations/Activities other than Licensed Telecom Operations/ Activities** | | | | | |
| 5 | **Revenue from activities under a licence from Ministry of Information and Broadcasting** | | | | | |
| 6 | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| 7 | **Other Income:** | | | | | |
| i. | Income from Dividend | | | | | |
| ii. | Income from Interest | | | | | |
| iii. | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| iv. | Gains from Foreign Exchange rates fluctuations | | | | | |
| v. | Income from property rent | | | | | |
| vi. | Insurance claims | | | | | |
| vii. | Bad Debts recovered | | | | | |
| viii. | Excess provisions written back | | | | | |
| ix | Any Other | | | | | |
| AA | **GROSS REVENUE OF THE LICENSEE COMPANY: (Add 1-6)** | - | - | - | - | - |
| | | | | | | |
| BB | **LESS:** | | | | | |
| 1 | **Revenue from Operations/Activities other than Telecom Operations/ Activities** | | | | | |
| 2 | **Revenue from activities under a licence from Ministry of Information and Broadcasting** | | | | | |
| 3 | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| 4 | **Other Income:** | | | | | |
| i. | Income from Dividend | | | | | |
| ii. | Income from Interest | | | | | |
| iii. | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| iv. | Gains from Foreign Exchange rates fluctuations | | | | | |
| v. | Income from property rent | | | | | |
| vi. | Insurance claims | | | | | |
| vii. | Bad Debts recovered | | | | | |
| viii. | Excess provisions written back | | | | | |
| ix | Any Other | | | | | |
| BB | **Total (1+2+3+4)** | - | - | - | - | - |
| CC | **APPLICABLE GROSS REVENUE (AA - BB)** | | | | | |
| DD | **DEDUCTION:** | | | | | |
| 1 | **Charges Paid to Other Operators (Operator wise detail):** | | | | | |
| i | **PSTN Charges** | | | | | |
| ii | **Roaming Charges** | | | | | |
| iii | **Port Charges** | | | | | |
| iv | **Leased Line** | | | | | |
| v | **Cable Landing Stations** | | | | | |
| vi | **Sharing/ leasing of infrastructure** | | | | | |
| vii | **.....** | | | | | |
| 2 | **GST - If included in Revenue** | | | | | |
| DD | **TOTAL DEDUCTION** | | | | | |
| EE | **ADJUSTED GROSS REVENUE (CC-DD)** | | | | | |
| FF | **REVENUE SHARE @ 8%** | | | | | |
| GG | **PAID (DD-EE)** | | | | | |

**Note:**
Separate statement may please be prepared for License Fees and Spectrum Usage Charges.

# Annexure-II

**Proposed Format for NLD Authorisation**

**ABC Limited**
**Circle Office : _____**
**Corporate Office : _____**
**Unified License - NLD Service Authorisation**

**Statement of Revenue and License fee / Spectrum Charges for the quarters ended June 30, September 30, December 31, XXXX, March 31, XXXX and year ended March 31, XXXX**

**(Amount in Rupees)**

| Sl.No | Particulars | Quarter ended June 30, XXXX | Quarter ended September 30, XXXX | Quarter ended December 31, XXXX | Quarter ended March 31, XXXX | Year ended March 31, XXXX |
|---|---|---|---|---|---|---|
| 1 | **Revenue from Servicies** | | | | | |
| i | Revenue from provision of NLD services | | | | | |
| ii | Miscellaneous Revenue | | | | | |
| 2 | **Revenue from other OPERATORs** (Provide Operator Wise Detail) (Multiple rows of items can be added for Sub heads) | | | | | |
| i | Port Charges | | | | | |
| ii | Leased Line | | | | | |
| iii | Cable Landing Stations | | | | | |
| iv | Leasing / Sharing of Infrastructure | | | | | |
| v | ..... | | | | | |
| 3 | **Revnue from sale/ lease of bandwidth, links, R&G cases, turnkey projects etc** | | | | | |
| 4 | **Revenue from Operations/Activities other than Licensed Telecom Operations/ Activities** | | | | | |
| 5 | **Revenue from activities under a licence from Ministry of Information and Broadcasting (Multiple rows of items can be added for Sub heads)** | | | | | |
| 6 | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| 7 | **Other Income:** | | | | | |
| i. | Income from Dividend | | | | | |
| ii. | Income from Interest | | | | | |
| iii. | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| iv. | Gains from Foreign Exchange rates fluctuations | | | | | |
| v. | Income from property rent | | | | | |
| vi. | Insurance claims | | | | | |
| vii. | Bad Debts recovered | | | | | |
| viii. | Excess provisions written back | | | | | |
| ix | Any Other | | | | | |
| AA | **GROSS REVENUE OF THE COMPANY : (Add 1-10)** | | | | | |
| | | | | | | |
| BB | **LESS:** | | | | | |
| 1 | **Revenue from Operations/Activities other than licensed Telecom Operations/ Activities** | | | | | |
| 2 | **Revenue from activities under a licence from Ministry of Information and Broadcasting** | | | | | |
| 3 | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| 4 | **Other Income:** | | | | | |
| | Income from Dividend | | | | | |
| | Income from Interest | | | | | |
| | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| | Gains from Foreign Exchange rates fluctuations | | | | | |
| | Income from property rent | | | | | |
| | Insurance claims | | | | | |
| | Bad Debts recovered | | | | | |
| | Excess provisions written back | | | | | |
| | Any Other | | | | | |
| BB | **Total (1+2+3+4)** | - | - | - | - | - |
| CC | **APPLICABLE GROSS REVENUE (AA - BB)** | | | | | |
| DD | **DEDUCTION:** | | | | | |
| 1 | **Charges Paid to Other Operators (Operator wise detail):** | | | | | |
| i | **PSTN Charges** | | | | | |
| ii | **Port Charges** | | | | | |
| iii | **Leased Line** | | | | | |
| iv | **Cable Landing Stations** | | | | | |
| v | **Sharing/ leasing of infrastructure** | | | | | |
| vi | **.....** | | | | | |
| 2 | **GST - If included in Revenue** | | | | | |
| DD | **TOTAL DEDUCTION** | | | | | |
| EE | **ADJUSTED GROSS REVENUE (CC-DD)** | | | | | |
| FF | **REVENUE SHARE @ 8%** | | | | | |
| GG | **PAID (DD-EE)** | | | | | |

# Annexure-III

**Proposed Format for ILD Authorisation**

**ABC Limited**
**Circle Office : _____**
**Corporate Office : _____**
**Unified License - ILD Service Authorisation**
**Statement of Revenue and License fee / Spectrum Charges for the quarters ended June 30, September 30, December 31, XXXX, March 31, XXXX and year ended March 31, XXXX**

**(Amount in Rupees)**

| Sl.No | Particulars | Quarter ended June 30, XXXX | Quarter ended September 30, XXXX | Quarter ended December 31, XXXX | Quarter ended March 31, XXXX | Year ended March 31, XXXX |
|---|---|---|---|---|---|---|
| **1** | **Revenue from Services** | | | | | |
| i | Revenue from provision of ILD services | | | | | |
| ii | Miscellaneous Revenue | | | | | |
| **2** | **Revenue from other OPERATORs** (Provide Operator Wise Detail) (Multiple rows of items can be added for Sub heads) | | | | | |
| **i** | Port Charges | | | | | |
| **ii** | Leased Line | | | | | |
| iii | Cable Landing Stations | | | | | |
| iv | Leasing / Sharing of Infrastructure | | | | | |
| **v** | ..... | | | | | |
| **3** | **Revnue from sale/ lease of bandwidth, links, R&G cases, turnkey projects etc** | | | | | |
| **4** | **Revenue from Operations/Activities other than Licensed Telecom Operations/ Activities** | | | | | |
| **5** | **Revenue from activities under a licence from Ministry of Information and Broadcasting (Multiple rows of items can be added for Sub heads)** | | | | | |
| **6** | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| **7** | **Other Income:** | | | | | |
| i. | Income from Dividend | | | | | |
| ii. | Income from Interest | | | | | |
| iii. | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| iv. | Gains from Foreign Exchange rates fluctuations | | | | | |
| v. | Income from property rent | | | | | |
| vi. | Insurance claims | | | | | |
| vii. | Bad Debts recovered | | | | | |
| viii. | Excess provisions written back | | | | | |
| ix | Any Other | | | | | |
| **AA** | **GROSS REVENUE OF THE COMPANY : (Add 1-10)** | | | | | |
| | | | | | | |
| **BB** | **LESS:** | | | | | |
| **1** | **Revenue from Operations/Activities other than licensed Telecom Operations/ Activities** | | | | | |
| **2** | **Revenue from activities under a licence from Ministry of Information and Broadcasting** | | | | | |
| **3** | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| **4** | **Other Income:** | | | | | |
| | Income from Dividend | | | | | |
| | Income from Interest | | | | | |
| | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| | Gains from Foreign Exchange rates fluctuations | | | | | |
| | Income from property rent | | | | | |
| | Insurance claims | | | | | |
| | Bad Debts recovered | | | | | |
| | Excess provisions written back | | | | | |
| | Any Other | | | | | |
| **BB** | **Total (1+2+3+4)** | - | - | - | - | - |
| **CC** | **APPLICABLE GROSS REVENUE (AA - BB)** | | | | | |
| **DD** | **DEDUCTION:** | | | | | |
| **1** | **Charges Paid to Other Operators (Operator wise detail):** | | | | | |
| **i** | **PSTN Charges:** | | | | | |
| **ii** | **Port Charges** | | | | | |
| **iii** | **Leased Line** | | | | | |
| **iv** | **Cable Landing Stations** | | | | | |
| **v** | **Sharing/ leasing of infrastructure** | | | | | |
| **vi** | **.....** | | | | | |
| **2** | **GST - If included in Revenue** | | | | | |
| **DD** | **TOTAL DEDUCTION** | | | | | |
| **EE** | **ADJUSTED GROSS REVENUE (CC-DD)** | | | | | |
| **FF** | **REVENUE SHARE @ 8%** | | | | | |
| **GG** | **PAID (DD-EE)** | | | | | |

## Annexure-IV

**Proposed Format for ISP Authorisation**

**ABC Limited**
**Circle Office : _____**
**Corporate Office : _____**
**Unified License - ISP Service Authorisation**
**Statement of Revenue and License fee / Spectrum Charges for the quarters ended June 30, September 30,**

**(Amount in Rupees)**

| Sl.No | Particulars | Quarter ended June 30, XXXX | Quarter ended September 30, XXXX | Quarter ended December 31, XXXX | Quarter ended March 31, XXXX | Year ended March 31, XXXX |
|---|---|---|---|---|---|---|
| **1** | **Revenue from Servicies** | | | | | |
| i | Revenue from provision of Internet Servicies | | | | | |
| ii | Miscellaneous Revenue | | | | | |
| **2** | **Revenue from other OPERATORs** (Provide Operator Wise Detail) (Multiple rows of items can be added for Sub heads) | | | | | |
| **i** | Port Charges | | | | | |
| ii | Cable Landing Stations | | | | | |
| iii | Leasing / Sharing of Infrastructure | | | | | |
| **iv** | ..... | | | | | |
| **3** | **Revenue from Operations/Activities other than Licensed Telecom Operations/ Activities** | | | | | |
| **4** | **Revenue from activities under a licence from Ministry of Information and Broadcasting (Multiple rows of items can be added for Sub heads)** | | | | | |
| **5** | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| **6** | **Other Income:** | | | | | |
| i. | Income from Dividend | | | | | |
| ii. | Income from Interest | | | | | |
| iii. | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| iv. | Gains from Foreign Exchange rates fluctuations | | | | | |
| v. | Income from property rent | | | | | |
| vi. | Insurance claims | | | | | |
| vii. | Bad Debts recovered | | | | | |
| viii. | Excess provisions written back | | | | | |
| ix | Any Other | | | | | |
| **AA** | **GROSS REVENUE OF THE COMPANY : (Add 1-10)** | | | | | |
| | | | | | | |
| **BB** | **LESS:** | | | | | |
| **1** | **Revenue from Operations/Activities other than licensed Telecom Operations/ Activities** | | | | | |
| **2** | **Revenue from activities under a licence from Ministry of Information and Broadcasting** | | | | | |
| **3** | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| **4** | **Other Income:** | | | | | |
| | Income from Dividend | | | | | |
| | Income from Interest | | | | | |
| | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| | Gains from Foreign Exchange rates fluctuations | | | | | |
| | Income from property rent | | | | | |
| | Insurance claims | | | | | |
| | Bad Debts recovered | | | | | |
| | Excess provisions written back | | | | | |
| | Any Other | | | | | |
| **BB** | **Total (1+2+3+4)** | - | - | - | - | - |
| **CC** | **APPLICABLE GROSS REVENUE (AA - BB)** | | | | | |
| **DD** | **DEDUCTION:** | | | | | |
| **1** | **Charges Paid to Other Operators (Operator wise detail):** | | | | | |
| **i** | **Port Charges** | | | | | |
| **ii** | **Leased Line** | | | | | |
| **iii** | **Cable Landing Stations** | | | | | |
| **iv** | **Sharing/ leasing of infrastructure** | | | | | |
| **v** | **.....** | | | | | |
| **2** | **GST - If included in Revenue** | | | | | |
| **DD** | **TOTAL DEDUCTION** | | | | | |
| **EE** | **ADJUSTED GROSS REVENUE (CC-DD)** | | | | | |
| **FF** | **REVENUE SHARE @ 8%** | | | | | |
| **GG** | **PAID (DD-EE)** | | | | | |

## Annexure-V

**Proposed Format in case of Single Authorisation for NLD & ILD**

**ABC Limited**
**Circle Office : _____**
**Corporate Office : _____**
**Unified License - Carrier Service Authorisation**
**Statement of Revenue and License fee / Spectrum Charges for the quarters ended June 30, September 30,**

**(Amount in Rupees)**

| Sl.No | Particulars | Quarter ended June 30, XXXX | Quarter ended September 30, XXXX | Quarter ended December 31, XXXX | Quarter ended March 31, XXXX | Year ended March 31, XXXX |
|---|---|---|---|---|---|---|
| 1 | **Revenue from Services** | | | | | |
| A | **Revenue from NLD** | | | | | |
| i | Revenue from provision of NLD services | | | | | |
| ii | Miscellaneous Revenue | | | | | |
| B | **Revenue from ILD Services:** | | | | | |
| i | Revenue from provision of ILD services | | | | | |
| ii | Miscellaneous Revenue | | | | | |
| 2 | **Revenue from other OPERATORs** (Provide Operator Wise Detail) (Multiple rows of items can be added for Sub heads) | | | | | |
| i | Port Charges | | | | | |
| ii | Leased Line | | | | | |
| iii | Cable Landing Stations | | | | | |
| iv | Leasing / Sharing of Infrastructure | | | | | |
| v | ..... | | | | | |
| 3 | **Revnue from sale/ lease of bandwidth, links, R&G cases, turnkey projects etc** | | | | | |
| 4 | **Revenue from Operations/Activities other than Licensed Telecom Operations/ Activities** | | | | | |
| 5 | **Revenue from activities under a licence from Ministry of Information and Broadcasting (Multiple rows of items can be added for Sub heads)** | | | | | |
| 6 | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| 7 | **Other Income:** | | | | | |
| i. | Income from Dividend | | | | | |
| ii. | Income from Interest | | | | | |
| iii. | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| iv. | Gains from Foreign Exchange rates fluctuations | | | | | |
| v. | Income from property rent | | | | | |
| vi. | Insurance claims | | | | | |
| vii. | Bad Debts recovered | | | | | |
| viii. | Excess provisions written back | | | | | |
| ix | Any Other | | | | | |
| AA | **GROSS REVENUE OF THE COMPANY : (Add 1-10)** | | | | | |
| | | | | | | |
| BB | **LESS:** | | | | | |
| 1 | **Revenue from Operations/Activities other than licensed Telecom Operations/ Activities** | | | | | |
| 2 | **Revenue from activities under a licence from Ministry of Information and Broadcasting** | | | | | |
| 3 | **Receipts from the Digital Bharat Nidhi (DBN)** | | | | | |
| 4 | **Other Income:** | | | | | |
| | Income from Dividend | | | | | |
| | Income from Interest | | | | | |
| | Capitals Gains on account of profit of Sale of fixed assets and securites | | | | | |
| | Gains from Foreign Exchange rates fluctuations | | | | | |
| | Income from property rent | | | | | |
| | Insurance claims | | | | | |
| | Bad Debts recovered | | | | | |
| | Excess provisions written back | | | | | |
| | Any Other | | | | | |
| BB | **Total (1+2+3+4)** | - | - | - | - | - |
| CC | **APPLICABLE GROSS REVENUE (AA - BB)** | | | | | |
| DD | **DEDUCTION:** | | | | | |
| 1 | **Charges Paid to Other Operators (Operator wise detail):** | | | | | |
| i | **PSTN Charges** | | | | | |
| ii | **Port Charges** | | | | | |
| iii | **Leased Line** | | | | | |
| iv | **Cable Landing Stations** | | | | | |
| v | **Sharing/ leasing of infrastructure** | | | | | |
| vi | **.....** | | | | | |
| 2 | **GST - If included in Revenue** | | | | | |
| DD | **TOTAL DEDUCTION** | | | | | |
| EE | **ADJUSTED GROSS REVENUE (CC-DD)** | | | | | |
| FF | **REVENUE SHARE @ 8%** | | | | | |
| GG | **PAID (DD-EE)** | | | | | |

## Annexure-VI

| NORMS FOR PREPARATION OF ANNUAL FINANCIAL STATEMENTS | UL | NLD | ILD | ISP | Proposed |
|---|---|---|---|---|---|
| Accounts shall be maintained separately for each telecom service operated by the Licensee company. | Yes | Yes | Yes | Yes | May be continued |
| Any category of accrued revenue, the amount of which exceeds 5% of the total accrued revenue, shall be shown separately and not combined with any other item/category. | Yes | Yes | Yes | Yes | Disclosure of details should be aligned with Companies Act 2013 which requires only material items to be disclosed separately and aggregation of immaterial items. (Ind AS 1, Paragraphs 29 and 30)) |
| Accrued Revenue shall indicate: | Yes | Yes | Yes | Yes | May be continued |
| (a) All amounts billable for the period. | Yes | Yes | Yes | Yes | |
| (b) Any billings for previous years that had been omitted from the previous years' P&L Accounts. | Yes | Yes | Yes | Yes | |
| (c) Any non-refundable deposits collected from the customers/franchisees to the extent these are credited to P&L Account for the year. | Yes | Yes | Yes | Yes | |
| Subsidiary registers/ledgers shall be maintained for each item given above so as to enable easy verification. | Yes | Yes | Yes | Yes | The requirement may please be aligned with Companies Act 2013 (Schedule III) which requires proper maintenance of books but does not mandate detailed subsidiary ledger disclosures in financial statements. |
| Service revenue (amount billable) shall be shown gross and details of discount/rebate indicated separately. | Yes | Yes | Yes | Yes | The requirement should be aligned with Companies Act 2013- (Ind AS 115 requires revenue to be shown gross with reductions for discounts and rebates. (Ind AS 115, Paragraphs 47-50) |
| Security or any other Deposits taken from the subscriber shall be shown separately, for each category, and the amount that has fallen due for refund but not yet paid also disclosed under two categories, namely:<br>o Up to 45 days<br>o More than 45 days. | Yes | Yes | Yes | Yes | While regulator may ask for the detail as and when required, the requirement should aligned with Companies Act 2013 and IndAs. Ind AS 1 requires disclosure of liabilities but allows aggregation if detailed disclosures are provided in the notes. (Ind AS 1, Paragraphs 54-57: Presentation of liabilities and aggregation)<br>> Show refundable deposits that are deferred and due for refund separately.<br>>Show non-refundable deposits that are upfront separately. (Ind AS 115, Paragraphs 47-50: Revenue recognition and presentation.) |
| Service Tax billed, collected and remitted to the Government shall be shown separately. | Yes | Yes | Yes | Yes | The same should be withdrawn. These are also adequately covered separately under the Companies Act 2013 (Schedule III) and Ind AS 12 (Income Taxes). |
| Sales Tax billed, collected and remitted to the Government shall be shown separately. | Yes | Yes | Yes | Yes | |
| Details of Income from sales of goods shall be furnished indicating the income and number of items sold under each category. Method of inventory valuation used shall also be disclosed along with computation of cost of goods sold. | Yes | Yes | Yes | Yes | The requirement should be aligned with Companies Act 2013 - (Ind AS 2 (Inventories) which adequately covers the disclosures w.r.t. inventory valuation method and the cost of goods sold.<br>(i) Disclose the method used for inventory valuation (e.g., FIFO, weighted average, etc.).<br>(ii) Provide a summary of how COGS is calculated, including opening inventory, purchases, and closing inventory<br>Ind AS 115 (Revenue from Contracts with Customers) requires disclosures of revenue from different categories. ) |
| Sales shall be shown gross and details of discount/rebate allowed and of sales returns shall be shown separately. | Yes | Yes | Yes | Yes | The requirement should be aligned with Companies Act 2013- (Ind AS 115 (Revenue from Contracts with Customers) requires that revenue be presented net of variable considerations like discounts, rebates, and returns. This approach reflects the amount of revenue expected to be realized and provides a clear view of net sales.<br>Ind AS 115, Paragraphs 47-50) |
| Income from interest and dividend shall be shown separately, without any related expenses being set-off against them on the income side of the P&L Account. | Yes | Yes | Yes | Yes | The requirement should be aligned with Companies Act 2013- (Ind AS 109 (Financial Instruments) Paragraph 5.7.1: Income from financial assets, such as interest and dividends, should be presented separately from expenses incurred in earning that income.<br>and Ind AS 1 require separate disclosure of interest and dividend income but do not mandate detailed expense breakdowns.) |
| Increase/decrease of stock shall be shown separately. | Yes | Yes | Yes | Yes | The requirement should be aligned with Companies Act 2013- (Ind AS 2 requires disclosure of changes in inventory but allows summarization with detailed notes. Ind AS 2, Paragraph 36) |
| Details of reversal of previous years' debits, if any, shall be shown component-wise, under the miscellaneous head (eg. Bad debts recovered etc.) | Yes | Yes | Yes | Yes | The Requirement should be aligned with Companies Act 2013- ( Ind AS 8 (Accounting Policies, Changes in Accounting Estimates and Errors) requires prior period adjustments to be disclosed but allows aggregation for immaterial items.) |
| Item-wise details of income that has been set off against corresponding expenditure. | Yes | Yes | Yes | Yes | This requirement should be withdrawn (However, the details can be shared separately for such items at the time of assessment) |
| Roaming Charges shall be shown under the following heads separately; | Yes | NA | NA | NA | This requirement should be withdrawn (in light of the fact that minutes based charging has no relevance) |
| (a) Roaming airtime charges collected for each external network from own (home) subscribers. | Yes | NA | NA | NA | |
| (b) Roaming airtime charges actually remitted to each external network. | Yes | NA | NA | NA | |
| (c) Roaming commission retained (Network-wise) | Yes | NA | NA | NA | |
| (d) Roaming commission paid (Network-wise) | Yes | NA | NA | NA | |
| (e) Any other variable charges collected and retained/passed on to other operators, with details. | Yes | NA | NA | NA | |
| Total Airtime Units (Metered Units) for home and visiting subscribers and unbilled numbers (e.g. service connections) to be furnished separately. | Yes | NA | NA | NA | This requirement should be withdrawn (the same is being captured in the billing system and not being reported in financials separately) |