BIF
BROADBAND INDIA FORUM
"Think Tank for Digital Transformation"

Shri Vinod Kumar
Jt. Advisor (NSL)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi - 110 002

Ref: BIF**'s counter comments to the responses on TRAI's Consultation Paper [No. 02/2019] dated March29, 2019 on Review of Terms and Conditions for registration of Other Service Providers (OSPs)**

Dear Sir,

With reference to the *Consultation Paper on Review of Terms and Conditions for registration of Other Service Providers (OSPs)* issued by Hon'ble Authority. BIF wishes to provide its counter comments in support of the specific issues where some of the stakeholders have a different view.

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

Thanking you

Yours faithfully,

For Broadband India Forum

T.V. Ramachandran
President

Encl: As above

Annexure-I
Counter Comments on TRAI Consultation Paper
on
Review of Terms and Conditions for registration of Other Service Providers (OSPs)

BIF had submitted a detailed response to all questions as stated in the consultation paper. Few stakeholders have expressed a view on some of the questions which is at variance with suggestions provided by BIF. In view of the same,we have placed our views against each of such issues along with the reasons for your kind consideration.

1. Registration & Definition of Application Service (Q1 &Q2)

With respect to this issue of registration & definition, few stakeholders have expressed*"…current definition of OSP is good enough to capture all possible scenarios of applications services and continue and Registration of OSP to continue as it meets the objectives defined by the government….".*

BIF's counter comments:

(a) The objective of providing a separate category of OSPs was elaborated on in the New Telecom Policy, 1999, ("**NTP**") which seeks to protect the jurisdiction of TSPs and to provide dispensation to the BPO sector.[1]

(b) Our principal concern with the present definition of OSP is that it is overly broad – and as a result it is unclear who needs to be registered under it and for what purposes. Given that the stated aims of the registration requirements is threefold:

(i) statistical information;

(ii) ensuring that activities of OSPs do not infringe upon the jurisdiction of others access providers and

(iii) providing special dispensation to boost the BPO sector.

We recommend rewriting the definition within these parameters, and making it far more specific than it presently is.

[1] Department of Telecommunications, *New Telecom Policy, 1999* available at http://dot.gov.in/new-telecom-policy-1999.

(c) We further recommend that a narrowly defined category of services requiring registration under the proposed revised definition should specifically exclude any services that do not pose significant risks in regard to the jurisdiction of telecom service providers, for instance:

(i) Any service based on PC to PC Internet telephony (as defined in TRAI Recommendations on Regulatory framework for Internet Telephony, dated 24th October, 2017), should be excluded, where both parties on a call establish communication by connecting to the internet simultaneously, and the role of the ISP is limited to providing internet access.

The TRAI Recommendations on Application Service Providers dated 14 May 2012 (**"2012 Recommendations"**) considered the possibility of regulating such services (commonly referred to as OTT services) and arrived at the considered conclusion that they should be excluded from the ambit of Application Services, as such services are delivered "*directly by the content / application provider to the user…independently of the user's TSP without the need for carriage negotiations agreement*." At the same time, the definition was left wide enough that such services could be included under the ambit of Application Services in future, if the need arose, and the TRAI presently raises the question of whether services provided purely based on data may be included in the definition of Application Services.

We believe that based on the rationale provided by the TRAI earlier, that such services should continue to be excluded – and further, that the definition should be narrowed so that there is no scope for ambiguities arising in this regard. **Instead of an overarching term "*IT enabled services*" – the definition should categorically include only those services which use telecom resources including managed IP networks involving a carriage negotiations agreement with network providers.**

With the rapid technological development, the current definition of OSP does not fit in the realities of an ever evolving digital world. The definition of "Application Services" is very wide and indicative and it may include OTT applications, and every activity which comes under IT/ITES services as well. The reference to the word "Application" itself is not appropriate. Instead the requirement to seek OSP registration should apply to the specific outsourcing activity and not all applications / IT/ITES services which may be unrelated to outsourcing operations. So mere reference to application itself needs to be removed and replaced with the word outsourcing. Only voice based calling services should be included in the definition,through PSTN only. Captive services should also be kept out of the purview of OSP registration.

2. Validity of registration (Q3)

With respect to this issue of validity of registration, some stakeholders have expressed that *the validity of OSP and validity period of renewal of OSP registration is sufficiently long and the same may be continued*. "Presently applicable validity of 20 years and renewal for 10 years can be continued"

BIF 's counter comments:

Since OSPs can use resources from multiple service providers and can switch between them, they should not be tied up to the license period of any one service provider . Hence limiting their Registration

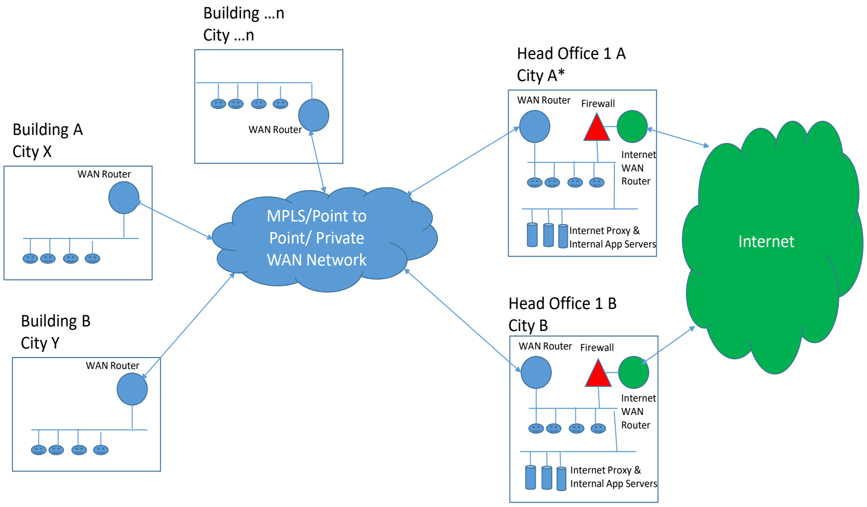
Period to a finite number of years(20 years) and linking it to that of the license period of a TSP i.e. 20 years is perhaps not justified. As OSP Registration is meant for statistical purposes, there is no case for OSPs to operate under limited period and seek renewal thereafter. It should be left to the OSP Company to intimate to DoT if it wishes to stop undertaking OSP activities. Alternatively, there is also a process of cancellation of OSP registration in case of non-compliance relating to non-filing of Annual Returns. IP-I registration accorded by DoT, has no validity. Therefore, there needs to be parity across all registrations issued by DoT in terms of validity.

3. Internet connectivity to OSP (Q9)

With respect to the issue of internet connectivity to OSP, some stakeholders have stated that *the OSPs are not authorized to distribute internet connectivity to any other location. Therefore, OSPs have to obtain internet access service at each location from Licensed ISPs/ Access Service Providers only*.

BIF's counter comments:

We agree that internet connectivity to OSPs should be from authorized ISP only. There should not be any mandate to take internet connectivity in each city rather the regulation should be flexible to allow internet connectivity from a centralized place in India from category – A, ISP whose scope of service is Pan India and can serve customers anywhere in India through a centralized setup in India. OSPs are not distributing the internet service but taking internet connectivity from authorized ISP –category –A to provide OSP services as an end user. Now, technology permits alternate use of internet through a technology called VRF and then explain as below:



*All city locations in India only.

As seen in the above diagram, enterprise customers accessed the internet service via VPN tunnel. During this, public traffic in not getting connected with VPN/ MPLS as it is bifurcated via virtual routing and forwarding. Only backhaul bandwidth is shared for VPN traffic and internet traffic and front-end routers, firewalls etc are separate. Therefore, it is in compliance with respective licenses.

Lastly, in the event of a disaster, OSPs should be allowed to leverage infrastructure and internet connectivity located in the cloud (outside India) from a recovery/business continuity purposes for a limited period. Once the steady state is attained the connectivity can restore to the Indian telecom service provider.

4. CCSP/HCCSP (Q 21)

With respect to this issue of CCSP/HCCSP some stakeholders have suggested that-

1. *Due to the scope defined under the license only access providers can provide CCSP/HCCSP service to the OSP.*
2. *CCSP/HCCSP may be brought under OSP registration with a separate category of OSP viz CCSP/HCCSP or platform as a service provider and separate terms and conditions to be followed by such CCSP/HCCSP. It is also proposed to have as separate category as CCSP/HCCSP OSP which could serve domestic and international OSP customers from their setup established in India. In this scenario, OSPs shall continue to take resources from authorized TSPs, hence there is no infringement of the scope of service of authorized TSPs.*

BIF's counter comments:

In our submission to this consultation paper, we have explained in detail along with diagram, how HCC solution does not infringe local TSPs scope of services and on the contrary it acts as a complimentary service as TSP's are likely to deploy these solutions for their enterprise customers under one shop stop model. HCC solutions can also be offered by existing telecom service providers. All the connectivity is provided by Access, ISP, NLD and ILD licensees. Such services should be provided by all telecom licenses to the extent permitted under their respective licenses. There should not be any additional registration for entities which do not hold any telecom licenses. Such entities should not provide any service which falls under the respective telecom licenses.

As far as the call flow is concerned, we would like to illustrate below each scenario clearly for ease of TRAI reference:

a) **Domestic Off-Net Call:** A user at India OSP site, wishes to make/receive a domestic call using the office PSTN lines. In such scenario the call will at all time remain in India and only a signaling will transmit to HCC site. Thus, there is no revenue loss to the access operator. There will be voice gateway deployed at each site to cater to these PSTN call based requirements and all logical separation from IP lines and logs/CDRs will be kept at HCC.

b) **International Off-Net Call:** A user at OSP India site, wishes to make an International Off-Net Call. The call will be generated over OSP VPN at India end and it would reach the far end (country where the call needs to terminate) and from there the call will be handed over to domestic operator for the final leg. This is exactly how the call flow will be if PBX is hosted at customer site. Thus, there is no negative revenue impact on revenue of domestic TSPs.

c) **On-Net Call:** A user at India site, wishes to make between two office sites of theirs either within or outside of India. Call between customer sites would happen via IP VPN to/from another customer site (also connected IP VPN) without further break-out into/from PSTN network). There is no negative revenue impact, as the call flow is same as in tradition on site PBX set-up.

The CCSPs/HCCSP's should be seen as technology enablers and not conventional telephony service providers. The use of multi-tenanted IP-EPABX/EPABX hosted on public cloud or private cloud at non-Indian location should be permitted as long as CDR's are preserved by OSP's. Usually, CCSP's and HCCSP's provide full access to OSP's respective tenants and facility to store CDR's & other QoS reports on cloud or export to their premises based servers. For periodical inspection purposes, OSP get full access to platform and should be able to demonstrate access to CDR's stored on cloud or copy of it on their local servers.

We therefore suggest that -

i. HCC/ CCSP solutions are the innovative multi-tenant technological solutions for better working of outsourcing sector in the country with minimal investment by OSPs.
ii. Considering HCC/CCSP solutions are at the nascent stage in India, thus any form of regulatory oversight could be detrimental to this Industry. There is no need for any additional regulatory oversight as such services are predominantly provided by licensed TSPs. For non-licensed entities not providing any switching or routing facilities, there should not be any license or regulation.
iii. There should be no registration or additional license to provide HCC/CCSP services in India and current TSPs including Access, NLD and ILD operators should continue be allowed to provide these solutions to their enterprise customers.
iv. OSPs should be free to outsource their equipment's and services to HCC/ CCSP and extent of hosting should be left to mutual agreement between OSPs and their CCSPs.
v. Since OSPs would front end all the compliances thus there should be no regulatory intervention.

5. Monitoring provisions for use of CUG for internal communications (Q24)

With respect to this issue of monitoring provisions for use of CUG, some stakeholders have suggested *for monitoring provisions for use of CUG for internal communications of OSP mentioned in the OSP guidelines.*

BIF's counter comments:

CUG is for internal communication only which uses extension as against 10 digit or 8 digit dialing and requires no PSTN/PLMN connectivity. Such communication is internal to the company and should not be privy to anyone. It can also be captive and / or non OSP in nature. Therefore, monitoring provisions for use of CUG for internal communications is not justifiable as it may lead to monitoring of all private communications. CUG communications is governed by internal policies of the company and does not require any additional oversight or monitoring by way of a regulatory or policy intervention.

6. Work from Home (Q25)

With respect to this issue of Work from Home, some stakeholders have stated that –
"Agree with the *provisions for* Work from Home *as mentioned in the OSP guidelines."*

BIF's counter comments:

We strongly suggest for the removal of the barriers like requirement of PPVPN, Bank Guarantee etc and facilitating work from home to give the technological benefits, filip to rural BPOs, employment generation / startup missions especially at the remote, tier 2 and 3 cities. Due to the current strict policies, work from home as a concept and registration has not met with the desired success. More importantly, when there are alternate and convenient technological tools available which enable access to office VPN from home to work, where is the incentive left to register as an OSP under work to home category. The objective of work from home has the ability to provide and generate employment especially for women who would like to work from home. This concept is good but it should come with the attached flexibility for the purpose it was created and should be kept outside the ambit of OSP guidelines. Corporations today permit their employees to work from home as per the work requirements. The objective is to make working flexible which is the case in a non OSP scenario. In case of OSP such flexibility has been taken away due to burdensome compliances and obligations. At the most the work from home locations can be filed on intimation basis. The need for PPVPN and / or submission of bank guarantees creates cost barriers for enterprises to flourish. The guidelines also have never provided any explanation to these aspects. Therefore given the fact that the concept has been more or less a non starter, more flexibility needs to be accorded for entities those who plan to allow their staff to work from home or create BPOs for job creation in rural and far flung areas where connectivity, electricity etc are irregular. There should not be a need to have only PPVPN or submission of bank guarantees. This is important for the proliferation of rural BPOs as well as a major game changer in terms of job creation in tier 2 and 3 cities.

7. Domestic operations by International OSPs for serving their customers in India may be allowed (Q26)

With respect to this issue of Domestic operations by International OSPs, some stakeholders have suggested that-

1. OSP is not allowed to provide or resell telecommunication services or infringe upon the domain of licensed service provider. Operation by OSP in any manner cannot result in revenue loss to the government & TSPs which can be way of reselling of telecom services, toll bypass etc.
2. As per the current conditions domestic traffic not be routed to any place outside India. Therefore domestic operations by International OSPs for serving their customers in India may not be allowed. Such dispensation may have security implications which also need to be kept in view.
3. International & Domestic OSPs are separate and distinct categories under the OSP guidelines/framework

BIF 's counter comments:

Firstly, the point mentioned in serial no.2 above is not correct. The actual license condition emanated from Press Note 3 of 2007 states: *"For security reasons, domestic traffic of such entities as may be identified /specified by the licensor shall not be hauled/routed to any place outside India" (emphasis supplied)"*

No entities have been identified so far. The above License requirement applies to all licensed TSPs and not to registered OSPs. OSPs will have connectivity as permitted to their underlying TSP. If there is something which the underlying TSP is not permitted by virtue of their license or otherwise, OSPs cannot use the said connectivity. Therefore, if the TSP is directed to route traffic of such entities as may be identified or specified by the DoT, it will have to comply and so will be the case of OSP. However, in the absence of the same, the requirements can not be extended to OSP and restrictions be imposed such that a separate domestic OSP registration is required to be taken.

By allowing international OSP to serve the domestic customer will be a perfect example towards ease of doing business in India. From security point of view, all CDRs may be maintained in India and be available to Law Enforcement Agency (LEA) and it will help to reduce the business cost.

BIF members fully support domestic operation by international OSP. The consultation paper has highlighted the issue not from any security but largely from infringement perspective. Once it is ensured that there is no infringement and the requirements of the LEA's are met by OSPs, in such a scenario it should be left for the OSP companies how to operate as the resources are always taken from licensed TSPs and used as required under the telecom rules and regulations, so this should be permitted. Additionally, OSPs are always governed by TSPs though suitable documentation related to KYC followed by periodic site inspections. So both OSPs and TSPs are aware about the requirements and how to use the telecom resources and connectivity thus subscribed.

8. EPABX at foreign location and Security conditions in Chapter V of OSP guidelines (Q27 & 28)

With respect to this issue of EPABX at foreign location and Security conditions, some stakeholders have suggested that *use of EPABX at a foreign location in case of International OSPs should not be allowed in view of national security.*

BIF's counter comments:

We disagree with such restrictive view and reiterate that there should not be any mandate on in country location of EPABX. OSPs should be given flexibility to set up the EPABX at any of their identified locations provided during the course of OSP registration. We have given a detailed submission on this issue in our response to this consultation paper. On security issue, if all logs, Call Data Records (CDRs) are available at customer site as well. Customer can show /share the system logs and also show CDRs over the laptop from customer premises itself at any point of time. Thus, all functionality can be shown to DOT at any point of time for each of the OSP center in similar manner to a physically located localized PBX on a real time basis. The location of the PBX is not material to the submission of information for audit purposes

In addition, customer can also be asked to keep CDRs at their location by retrieving CDRs on periodic intervals as stipulated by DOT and can also store the same for the stipulated period.

It is also very detrimental for the OSPs to create a separate infrastructure including call manager in India which is highly taxing on their business models and challenging for technical integration point of view. To clarify, international clusters/ call managers which are based on big multi-tenant platforms cannot easily sync with local on-site EPABX and customer may need to comprise on various functionality.

In today's world, location of physical box like EPABX is immaterial as far as security or monitoring is concerned. EPABX requires hardware but all functions are implemented in software. There is a drastic change in last two decades. The security concern will not be met just by having the physical entity in desired location.

Keeping the physical infrastructure at one place based on scale and serving it to many place even different countries are the current business practice across the globe. It makes business more effective and efficient in supper competitive market. As long as security concern is met relating to access to data is met, policy/regulation should not mandate to have equipment in a preferred place but this should be left to the OSP as to how they plan their network to derive maximum efficiencies from cost and technology perspective.

BIF members support rules which permit setting up of EPABX anywhere in the cloud being at any country and not tied to a particular location or country. Irrespective of the location, security related requirements will be met. There is a need to allow to deployment of EPABX in Cloud datacenter. The cloud infrastructure at location of choice of customer whether in India or outside India shared between several customers and accessed remotely by customer and for monitoring purpose.

BIF recommends that the OSP regulations should be suitably amended to allow the user to be able to embrace the cloud based contact center solution to leverage best of the technology solution for its business needs while at the same time meeting the reasonable regulatory requirements. This will be in line with the realities as stated under DoT's reference dated 10th September, 2018 to TRAI on the subject paper.
