Bharti Airtel Ltd.
India & South Asia
Airtel Center, Plot No. 16,
Udyog Vihar, Phase - IV,
Gurugram - 122 015
Haryana, India

www.airtel.in
Call +91 124 4222222
Fax +91 124 4243252

TRAI/FY23-24/01
Dated: 06.04.2023

To,
Shri Sanjeev Kumar Sharma,
Advisor (Broadband and Policy Analysis)
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
JawaharLal Nehru Marg,
New Delhi – 110 002.

Subject: Response to Consultation Paper on "Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License (UL)"

Dear Sir,

This is in reference to TRAI's Consultation Paper on "Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License (UL)" dated 09.02.2023 (CP No. 5/2023).

In this regard, please find enclosed our response for your kind consideration.

Thanking You,

Yours' Sincerely,
For Bharti Airtel Limited

Rahul Vatts
Chief Regulatory Officer

Encl: a.a

Response to TRAI Consultation on
Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License (UL)

Executive Summary

Airtel thanks the Telecom Regulatory Authority of India ("TRAI") for providing the opportunity to submit its comments on the Consultation Paper ("CP") on *Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License (UL)*.

We note that as per the Consultation, the purpose of issuing the CP can be summarised in the following text[1]:

"To ensure that the advantages of the new technologies are accessible to all equitably and affordably, the country needs to particularly ensure that its communications infrastructure supports the entire population, whose demographic profile varies widely across various indices such as literacy, economic conditions, and urbanization…"

India has over 7.5 Lakh towers[2], close to 2x growth in the last 9 years (from 4 lakh towers in 2014[3]). Similarly, the number of BTSs installed have gone from 8 lakh[4] in 2014 to close to 24 lakh[5] in 2022 – i.e. a 3x growth in the last 9 years alone. The Indian consumer, in fact, has been accorded the benefit of 3G to 4G migration and now 5G in the matter of just a decade and a half. In fact, India is witnessing the fastest ever rollout of 5G across the globe.

This goes on to show that the Indian telecom ecosystem, comprising both operators and infrastructure providers, has successfully led a digital connectivity infrastructure transformation, in a country as vast and diverse in its needs as India, to coincide perfectly with the country's policy developments, requirements and consumer expectations.

The continual and gradual evolution of telecom and licensing has enabled TSPs to make large investments. The industry has invested over INR 11.4 lakh crores in setting up world-class mobile networks over the last 20 years and has committed a further INR 3.68 lakh crores approximately to acquiring the spectrum through a spectrum auction. The industry continues to invest further despite reeling under a daunting debt/liability burden of INR 8.5 lakh crores.

Upon analysing Figure 2.1 of the paper[6], that depicts the different layers and licensing frameworks in India, Airtel is of the view that there is already clear and sufficient disaggregation available in the converged regime of Indian policy and licensing.

To that extent, Airtel believes that the existing licensing framework is well-equipped to meet the intended objectives.

This has continued despite the challenges posed by very low tariffs, higher regulatory levies, challenges in Right of Way, high costs of spectrum, short life-span of technology and consistent pressure to upgrade infrastructure, meet the rising demand of data and adopt the latest technology. Through all this, the Indian telecom operators have continued to do a splendid job.

[1] Para 1.23 of the extant CP.
[2] https://dot.gov.in/ , Ref DoT Dashboard
[3] https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=1785452
[4] https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=1785452
[5] https://pib.gov.in/PressReleasePage.aspx?PRID=1884072
[6] Para 2.1 of the extant CP

Response to TRAI Consultation on
Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License (UL)

Taking into account the background/context elaborated upon, **Airtel is of the view that there is no justification for creating a new category under the UL for purposes of the DCIP. Indeed, Airtel believes that there can be no incremental benefit, let alone any substantial benefit, expected from this.**

Rather, having seen fast changing and highly dynamic technological cycles and consumer expectation and behaviour, Airtel is concerned that any further tinkering with the active sharing regime and the permission for DCIPs to deploy such infrastructure independent of service licensees/TSPs can have a detrimental effect on the very objective/intent of creating such a new category, i.e., to rollout new technologies and services in a timely, cost-effective manner. The risk in cases such as these would be that the rollout of new technologies and infrastructure would be delinked from market reality.

The DCIP, for example, can choose not to upgrade or be ready to deploy a new technology/ infrastructure, despite the TSP/licensee concerned being of the opinion after assessment that a change would be needed. At this stage, it is really difficult for TSPs to assess whether the customer and market needs of introducing a new technology will become dependent upon the commercial interests of a DCIP, or whether they should be left to the TSP who has a direct relationship with the consumer in question.

Would, for example, a DCIP create sufficient capacities to cater to all TSPs at any given point in time, where the TSPs would be at different life cycles of technologies (say one on 2G, another on 4G and another one on 5G or a mix)? What kind of incentive could you offer DCIP such that it was able/willing to cater to all these needs without impacting the consumer experience?

Or, in another instance, would the DCIP end up diverting its resources to many new incremental opportunities rather than dedicatedly working to service the TSP customers? How would a TSP be able to best serve its customer if control for the underlying infrastructure is with the DCIP rather than itself?

Airtel believes that these concerns are very genuine and need thorough deliberation before the creation of any new DCIP category. It is crucial for regulatory certainty and investments.

In summary, and in view of the above background, we submit the following:

- ✓ There is no justification nor need to create a new and separate DCIP authorisation under the UL.
- ✓ The present licensing framework works well and effectively in terms of all the relevant elements of infrastructure, network and service duly disaggregated and in sufficient detail.
- ✓ Creating a separate DCIP may pose several risks viz. management of crucial network elements, impact on customers, rollout of & investments in new technologies. Operator lead innovation on network designing would become dependent upon DCIP.
- ✓ A DCIP under UL at zero license fee will create an arbitrage for one set of players and be discriminatory for others.
- ✓ To promote infrastructure sharing, the deduction of infrastructure/network sharing charges paid between two TSPs should be allowed to for “pass through”.

Airtel now provides its question-wise comments in subsequent sections.

Response to TRAI Consultation on
Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License (UL)

Q1. Comments of stakeholders are invited on the proposed DCIP Authorization under UL (attached at Annexure V). They may also offer their comments on the issues flagged in the discussions on terms and conditions and scope of the proposed authorization. Any suggestive changes may be supported with appropriate text and detailed justification.

Airtel Response:

Please refer to our submission in the Executive Summary/Preamble. In continuation of that section, we submit our inputs on this question as below:

In its consultation paper, TRAI has proposed a separate DCIP authorisation under the UL, arguing that this will (i) accelerate network rollout, (ii) attract more investments, (iii) reduce the cost of telecom infrastructure, (iv) promote the segregation of network and service layers, (v) strengthen the service delivery segment, and (vi) increase focus on network sharing.

While proposing a change in the regime to meet certain pre-defined objectives, the two fundamental questions that need to be answered are, whether:

- the existing regime is ill-equipped to meet the said objectives and
- the proposed changes will help in achieving such objectives.

In Airtel's view, the answer to both these questions is in the negative.

Airtel believes that the existing licensing framework is **very well-equipped** to meet, and indeed is already meeting, the intended objectives. The current regime has evolved over the last two decades and been one of the major drivers behind the solid success of the Indian telecom industry.

It is because of the extant regime that, today, the Indian telecom sector is one of the most competitive in the world, offering world-class telecom services at low prices and one where operators continue to invest significantly both in creating and upgrading the infrastructure as well as adopting the latest and best technologies.

The Indian Telecom networks' utilisation today is among the highest the world over with the average mobile data consumption per subscriber reaching over 17 GB per month. Telecom penetration in the country is more than 97% and the remaining unviable villages are in the process of being covered through various USOF schemes of the Government. BharatNet has made 1.8 lakh Gram Panchayats ready for broadband connectivity via optical fiber cable and satellite while investment into the 5G infrastructure rollout continues unabated.

Therefore, Airtel does not see what, if any, material difference the new regime will bring in terms of infrastructure rollout compared to the pace and depth of today. On the contrary, Airtel is concerned that any change in the regime at this point could pose new unforeseen challenges, which would hamper the development of the industry rather than enabling it. Hence, a better approach to adopt would be one where the focus would be on ironing out all operational difficulties in the present regime to generate more investments and reducing the costs of network rollout and provision of service.

In other words, Airtel believes that there is absolutely no need for a separate DCIP authorisation.

We now explain in detail how the current regime is adequate for meeting the objectives outlined by TRAI in the CP, and that an attempt to create a DCIP authorisation will actually hinder the achievement of these objectives.

(i) **Accelerating network rollout**

One of the objectives of introducing the proposed DCIP Authorisation, as stated by TRAI in the Consultation Paper, is to speed up penetration of telecom network in the country. However, TRAI has failed to furnish any data which necessitates such a requirement.

The telecom industry has emerged as the invisible force behind keeping people connected. It has facilitated a sharp rise in the use of digital tools, including videoconferencing, cloud computing and electronic payments. Over the last few years, the industry has witnessed an exponential increase in data usage per wireless data subscriber.

India has already achieved an overall tele-density of 85.15 %. Of this, the tele-density of the rural market stands at 58.44% while that of the urban market is 134.71%.

India has over 7.5 Lakh towers[7], close to 2x growth in the last 9 years (from 4 lakh towers in 2014[8]). Similarly, the number of BTSs installed have gone from 8lakh[9] in 2014 to close to 24 lakh[10] in 2022 – i.e. a 3x growth in the last 9 years alone. The Indian consumer, in fact, has been accorded the benefit of 3G to 4G migration and now 5G in the small matter of a decade and a half.

On this evidence, Airtel believes, that there is no requirement to introduce network-specific authorisation as the industry has already made great strides along with sufficient investment in the sector for faster network rollout and for covering the hitherto uncovered areas.

Instead, what is required for furthering the said objective is the urgent implementation of enabling provisions in the form of rationalisation of regulatory levies, removal of the USO levy, faster and cost effective RoW policies, permitting pass through charges for network sharing, proper definitions of Adjusted Gross Revenue, reasonable reserve prices of spectrum and a fair contribution from the larger digital platform players towards telecom network investments, out of court settlements of legacy litigations, etc.

(ii) **Attracting more investments**

In the Consultation Paper, it has been stated that the proposed DCIP authorisation is likely to attract more investments. However, the Authority has provided no evidence that shows the investments made under the current regime are any lesser than desired.

The industry has invested over INR 11.4 lakh crores in setting up world-class mobile networks over the last 20 years and further committing around INR 3.68 lakh crores in spectrum through auctions. To further expedite the roll-out of digital connectivity via deployment of 5G services, the industry has invested $18.77 bn in the auction of IMT/5G spectrum. The 5G network deployment has been one of the fastest in the world. Thus, there is no dearth of effort on the part of the industry when it comes to

[7] https://dot.gov.in/ , Ref DoT Dashboard
[8] https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=1785452
[9] https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=1785452
[10] https://pib.gov.in/PressReleasePage.aspx?PRID=1884072

accelerating network rollout. The industry continues to invest further despite reeling under a daunting debt/liability burden of INR 4.7 lakh crores[11].

These investments have come on the back of the existing licensing regime catalysing the growth of the Indian telecom sector, thereby making it one of the largest networks in the world.

In such an environment, the introduction of a separate DCIP authorisation, rather than attracting more investment, will lead to regulatory uncertainty and discourage investment since investments into future technologies like 5G and the rollout of fiber densification will, in this scenario, become dependent upon business case of DCIP, than a consumer need.

The telecom networks are capital intensive with long gestation periods. The challenge is getting further exacerbated due to shortening technology life cycles. In such dynamic situation, it would be preposterous to expect an investor to sink in huge Capex over a few years and then its network be at the mercy of service layer to monetise the same. It is pertinent to note here that even the IP-1 operators seek a definitive agreement with TSPs before laying so much as a kilometer of fiber.

Clearly, any investment made in the network by a TSP is driven by the long-term strategy and vision of the operator. Any step to separate the network elements/authorisation will be regressive, inducing uncertainty and unpredictability and will adversely impact investor confidence in the networks. Today's converged license for network and service layer provides clarity, confidence and certainty to operators making investments in the network.

(iii) **Reducing the cost of telecom infrastructure deployment**

The CP states that introduction of a separate DCIP Authorisation in the UL would bring down infrastructure development costs. Cost reduction is a challenge not because there is no DCIP layer in the UL, but rather because there are operational costs such as RoW charges, high levies and duties to be taken care of. The Government could help with this by introducing some EoDB aspects such as reducing and simplifying the compliance burdens, providing clarity over the definition of AGR and making RoW charges affordable, to name a few.

Some of the risks/challenges associated with the introduction of a separate DCIP authorisation are detailed as follows:

Single point of failure

Over the last few years, the number of TSPs has come down from 10-12 to four operators (PSU included). Others have either closed their businesses or merged with other TSPs or gone into bankruptcy. However, these events did not have any impact on the consumer since there was the option to migrate to other service providers through MNP. This has been possible only because of the combined network and service layers of the operators.

However, in the event that the proposed DCIP Authorisation is introduced and the existing TSPs become dependent on DCIPs for their networks, the services of TSPs will become vulnerable to failure if there is a setback to the network of even one DCIP. And, in the event that a DCIP shuts down its business abruptly, everything will come to a standstill. This cannot even be entertained as a possibility in today's

[11] https://telecom.economictimes.indiatimes.com/news/policy/telcos-recorded-rs-4-17-lakh-crore-debt-in-2021-22-mos-telecom/99095761

scenario, where people are relying more and more on digital technology. Thus, continuing with the linkage of the network and service layers is the safest and most reliable approach going forward.

Impact on consumers

In a situation where TSPs take the infrastructure/network from DCIPs, the customers of these TSPs will have to pay the price set by the DCIPs. And in the event that the DCIP decides to increase the prices, TSPs will not be able to manage their tariffs and will ultimately end up putting the burden on the consumer or absorb the undue increase in the cost. This will become even more critical over the period of time when TSP will be more dependent on the DCIP as the network grows and also in situations of exclusivity – for instance, if a prominent property developer obtains a DCIP license and sets up its exclusive network in all its properties, TSPs will have no choice but to accept his terms and conditions.

Complete dependence of TSP's business on DCIPs

Being only a network provider, a DCIP will not know the infrastructure requirements best suited for a service that a TSP would want to provide in a particular area. DCIPs also might not readily want to invest in new technologies. In such a situation, if the DCIPs say no to setting up a particular kind of infrastructure or to setting up infrastructure in a particular area, the TSPs will have no choice but to build the infrastructure anyway.

It is submitted that network is the basis of telecom services, and a TSP's whole business cannot be made dependent on another entity. It has to be a TSP's own decision as per its business requirements. Thus, there is not only no requirement for a separate network authorisation in the form of DCIPs, introducing one will be detrimental to TSPs.

(iv) **Promoting the segregation of network and service layers**

The Consultation Paper aims to profess a layered approach to licensing. We firmly believe that the present licensing regime already supports a layered approach.

Layered approach under current regime

In the current regime, IP-1 operators are allowed to create passive infrastructure and share it with TSPs. The active network elements and spectrum are handled by TSPs under their respective licenses, with enabling provisions for active infrastructure sharing, intra-band spectrum sharing, spectrum trading, mergers, and acquisitions, and intra and inter-circle roaming. Most TSPs have now hived off their fiber infrastructure to separate IP-1 companies to promote fiber sharing and the building of common fiber infrastructure.

Further, the service layer licenses also already exist in the form of Unified License (VNO), wherein VNO is not mandated to create any telecom infrastructure and acts as a pure reseller. Any legal entity, that wants to deal with only the service element and is not keen to invest in the infrastructure at all, can take the VNO License.

Possibility of network-specific operators under UL/UL(VNO)

In fact, any legal entity, that wants to deal with only the passive and active infrastructure elements and not the service element, can also obtain the UL/UL(VNO) License, create the infrastructure, and share it with other operators. There is no prohibition on a Licensee dealing with the network/infrastructure element only since rollout obligations are no longer a part of the license agreement.

This is also clear from DoT's letter dated 28.11.2016 (attached as Annexure – II to the Consultation Paper), clarifying the scope of IP-1 providers, where all IP1 providers owning active infrastructure were asked to either get a UL/UL(VNO) and move their operations under the license or transfer all the active network elements to a licensee. It is clear that DoT has itself acknowledged that there is no prohibition on a licensee dealing with only the network/infrastructure element and there is no need to introduce a network-specific authorisation.

Reliance placed on international examples – not correct

For supporting its proposal of a separate DCIP authorisation, TRAI has relied on various international examples of countries following such a regime. However, it is to be noted that the Indian telecom sector is very different from that of other countries and the specific requirements of the Indian market have to be taken into consideration before any such proposal is decided upon. After all, the regulatory levies and taxes on Indian telecom operators is one of the highest in the world despite the fact that the Indian tariffs are one of the lowest in the world. Therefore, caution is advised – bringing parity with world standards in one aspect while neglecting the other aspects will adversely impact the Indian telecom industry.

It is pertinent to mention here that in para 1.8 of the CP, TRAI has cited the Singapore model of two separate types of licenses – Facilities-Based Operators (FBOs) and Service-Based Operators (SBOs). The CP states that FBOs deploy infrastructure and operate telecommunication network infrastructure, while SBOs provide services over an FBO's infrastructure. It is to be noted that the 'Guidelines on Submission of Application for Facilities-Based Operations Licence' issued by the Info-communications Media Development Authority of Singapore (IMDA) provide that FBOs can also offer the services that SBOs can offer, but not vice-versa. This is the exact same model currently in place in India – with Unified Licensees being comparable to FBOs and VNOs being at par with SBOs. Thus, the Singapore model cannot be used to support the argument for a separate DCIP Authorisation, and TRAI's reliance on it is misplaced.

(v) **Strengthening the service delivery segment**

In the Consultation Paper, TRAI has claimed that the proposed DCIP Authorisation will strengthen the service delivery segment. However, no supporting evidence has been provided to justify such a claim.

We believe that the service providers are doing their best as explained below:

Continuous innovation in telecom sector

There has been no dearth of innovation in the Indian telecom sector. In fact, telecom is one of the sectors that are now abreast of technological developments worldwide. Today's networks provide a converged platform for many services/products. New products are being rolled out in the Indian market such as VoWiFi, bundled offerings, etc. However, a DCIP, being solely a network provider, will have no interest in investing in products which get enabled at the core level, e.g., VoWiFi. In fact, the innovation will increase the market if the regulator promotes the convergence of telecom and broadcasting services. We are sure that the TRAI will consider our submissions in the Consultation Paper on "Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage of Broadcasting and Telecommunication services".

Further, since telecom requires long-term investment commitments from TSPs, any alterations in the regulatory regime such as the introduction of separate DCIP Authorisation as proposed, will adversely impact the curve of deployment of technology, as the DCIPs will invest only once they see substantial

demand for a technology/product. This is highly unsuitable for current times, where the life of technology is shortening by the day – 3G lasted just a few years; 5G has been introduced now while the deployment of 4G is still under process; and 6G is already knocking on our doors.

India – frontrunner in 5G deployment

It has also been stated in the CP that the proposed separate DCIP Authorisation will act as a catalyst for proliferation of 5G services in the country. However, as per some reports by international entities, 5G deployment in India is already the fastest in the world.

It is due to the flexibility available within the existing licensing regime that India is one of the front runners in launching 5G. In fact, today, the two service providers offering 5G services, Airtel and Jio, have taken completely different routes for the 5G network rollout – non-standalone (NSA) and standalone (SA), respectively – based on their independent business requirements. Such decisions would not be possible in a situation where TSPs are dependent for their network on a separate DCIP entity – the services will be offered by TSPs according to the kind of network available, rather than the other way round. This will adversely impact the rollout of new kinds of services and technologies.

DCIP Authorisation – would not be able to keep pace with technological developments

Without being the providers of services to the consumers directly, DCIPs will not be able to drive the consumption/proliferation of technology. This will result in India lagging behind in the global march towards technological advancement. Thus, instead of strengthening the service delivery segment, a separate DCIP Authorisation will discourage innovation in the area, more so when a DCIP would try to create a uniform approach that would best suit its business model of creating infrastructure. The current licensing regime, by contrast, is well poised to harness the power of emerging digital technologies, including 5G, Artificial Intelligence, Internet of Things, Cloud and Big Data and further them along.

(vi) **Increasing focus on network sharing**

The CP intends to enable greater infrastructure sharing. However, the extant licensing regime and sharing guidelines already permit sharing of passive as well as active infrastructure between different licensees, and the scale of infrastructure sharing in the Indian telecom sector is quite significant. The sharing of passive infrastructure (including fiber) has presented substantial benefits for the industry, reducing CAPEX requirement and enabling greater focus on customer experience with a faster network rollout.

High levels of infrastructure sharing in current regime

India already has independent tower companies as well as TSPs hiving off their fiber networks to separate companies to ensure optimum utilisation of resources. Thus far, these companies have provided equal and non-discriminatory access to every market player. TSPs have taken infrastructure from other TSPs to provide these services. Examples of this include, the small and medium internet service providers (ISPs) as well as many global companies with NLD & ILD Licenses dealing with the enterprise segment. In fact, the sector has also witnessed its fair share of spectrum sharing amongst licensed TSPs.

If there are a few companies who are not investing in the telecom infrastructure, then that is based on their choice and business models. It is not due to any lacunae in the regulatory framework or lack of opportunities for sharing infrastructure.

That both the models and variations thereof exist in the market is proof enough of healthy, sustainable competition and sharing opportunities. Thus, any over-prescriptive, deliberate attempt to create a separate DCIP authorisation for promoting infrastructure sharing is unlikely to yield any substantial benefit.

Rather, to encourage sharing further, what is really required is to allow the pass-through deduction for charges paid for network sharing, which is critical for avoiding double taxation.

NO use of DCIP infrastructure for VNOs

The CP proposes that DCIPs will not be allowed to hold any spectrum. Thus, for services requiring spectrum, only the operators already holding spectrum (UL holder) will be able to hire the infrastructure created by DCIPs. However, Unified Licensees are allowed to create their own infrastructure as well. It is VNOs who are restricted from creating their own infrastructure, but any DCIP infrastructure will be of no use to VNOs since they do not hold any spectrum. Thus, the whole idea of a separate DCIP Authorisation is redundant.

National Digital Communications Policy (NDCP) 2018 – focus on convergence

While the CP notes that the NDCP 2018 lays particular emphasis on infrastructure creation and sharing, and this point has been used by TRAI as one of the justifications for proposing a separate DCIP Authorisation, Airtel would like to simultaneously highlight that the NDCP 2018 also lays emphasis on the importance of convergence. The two facets have to be treated as harmonious if the objectives of the NDCP 2018 are to be achieved.

Over a period of time, various technological developments have resulted in the convergence of devices, services and networks. Convergence is taking place in the entire value chain of service delivery to end-users, and it has been intensified by the emerging use of digital technologies across sectors.

As already noted, previously, there have been several changes/modifications made to the licensing regime over the years. They have helped the regime keep pace with rapid technological advancements. The purpose has been to enable stakeholders to harness the full potential of changes in technology, so that India remains on the same footing as the global leaders.

And now that the licensing regime needs to move towards convergence, as has been advised by the NDCP 2018. However, the layered approach to licensing, as envisaged in this Consultation Paper, will amount to moving away from the principles of convergence. Thus, it is important that the proposed DCIP authorization not be introduced.

Q2. Are there any amendments required in other parts/chapters of UL or other licenses also to make the proposed DCIP authorization chapter in UL effective? Please provide full details along with the suggested text.

Airtel Response:

Please refer to our Executive Summary/Preamble and the response to Q1.

Response to TRAI Consultation on
Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License (UL)

Airtel re-iterates that no separate DCIP Authorisation should be introduced in the UL since such a move is not in the interests of the industry or consumers. Instead, enabling provisions should be introduced for existing licensees.

One such initiative to further accelerate infrastructure sharing would be to allow the charges paid by a TSP towards infrastructure sharing as pass-through deduction from its Gross Revenue.

Presently, infrastructure sharing is permitted among various licensees. The UL-VNO goes a step further and **permits infrastructure-sharing charges paid by a VNO to a Network Service Operators (NSO)/TSP to be deducted as pass-through for determining the AGR for the purposes of payment of LF and SUC**. However, **no similar provision exists in the UL for permitting the deduction of the infrastructure-sharing charges paid by one TSP to another TSP**. **This results in the incidence of double levy in cases of unified licensees** – the charges for infrastructure sharing are subjected to LF/SUC not only in the hands of the owner TSP (as part of its revenue), but also in the hands of the other TSP paying these charges (since no deduction is allowed). Hence, the extant regime is in effect discouraging infrastructure sharing.

Airtel strongly recommends, therefore, that infrastructure-sharing charges should be allowed as pass-through while determining the AGR for the purposes of payment of LF and SUC in the case of UL, just as it happens in the case of UL-VNO.

At the same time, Airtel also submits that **core network elements should <u>not</u> be allowed to be shared.** There is the possibility that in certain instances, since sufficient core network has not been created, there is a high level of dependency on shared network elements. This can potentially lead to competition concerns (such concerns from network sharing have been deliberated over in some EU markets as well, e.g., Czechoslovakia). Additionally, sharing the core network can have a direct impact on the quality of service since most of the intelligent network elements are part of this core network. It can also pose potential risks such as partner conflict, technical incompatibilities, etc. Further, any failure in the shared elements, particularly the core network elements, could become a single point of failure and may affect the services of all TSPs involved in this sharing. Thus, it is Airtel's recommendation that the core network not be allowed to be shared, as it is under the current regime.

Q3. Are any issues/hurdles envisaged in migration of IP-I registered entities to the proposed DCIP Authorization under UL? If yes, what are these issues and what migratory guidelines should be prescribed to overcome them? Please provide full text/details.

<u>Airtel Response</u>:

Please refer to our Executive Summary/Preamble and the response to Q1. As stated in those, we do not concur with the proposal of creating a separate DCIP authorization under the UL and believe that the existing licensing framework should continue.

Further, IP-1 registered entities can migrate to the UL even under the current regime. There is no prohibition on the same. Any IP-1 operator meeting the eligibility criteria may apply for the UL and provide telecom services or only infrastructure services, as per its business model. Airtel proposes only one addition to this criterion, that after migration to the UL, such operators be required to pay LF at the same rate as other licensees.

This brings us to another critical proposal of TRAI, i.e. not to levy any license fee on DCIPs. Airtel believes **that there is a strong need to rationalise the regulatory levies in India. However, charging zero LF on DCIPs, while levying fees as high as 8% on the other licensees, creates a non-level playing field within the telecom industry and inter-se licensees**.

The same is explained below in more detail.

a. TRAI is proposing not to levy any LF on DCIPs, but other TSPs within the same UL, offering the same infrastructure service, will be liable to pay LF on their entire revenue. There is also no clarity in terms of whether the charges paid to DCIPs will be allowed to be deducted as pass through charges. If such a deduction gets allowed, then there will be a substantial reduction in the LF payout to the Government since neither the TSP nor the DCIP will pay LF on the amount of DCIP's revenue through network sharing. On the other hand, if such pass-through deduction is not allowed in order to ensure that the payout to the Government is not affected, it will be discriminatory and put a significant burden on the TSPs since they would be paying LF on their entire revenue – including the amount paid by them to DCIPs. For example, if a TSP pays Rs. 80/- to a DCIP and thereafter sells the service at Rs. 100/-, then it would be liable to pay LF at the rate of 8% on the entire Rs. 100/-, i.e., Rs. 8/- despite having an actual revenue of only Rs. 20/-. Therefore, for the TSP, the LF would be 40% of its revenue instead of 8%. **Therefore, the TRAI proposal would unjustly burden one licensed operator at the cost of another.**

b. Apart from affecting the LF payout to the Government, **allowing pass-through deductions in case of payment by TSPs to DCIPs would create another problem**. Currently, pass-through deduction is not allowed in cases of infrastructure sharing among existing TSPs. Now, if pass-through deduction is allowed for getting infrastructure from DCIPs, all operators will want infrastructure from DCIPs rather than from other TSPs. Even TSPs having their own infrastructure will be incentivised to move their own network elements to a separate DCIP company in order to get the benefit of pass-through deductions and reduce their cost of operations by paying charges to the separate DCIP company for such network. Hence, TRAI's proposal would amount to promoting DCIPs at the cost of existing operators who are building their networks and providing telecom services under the same license.

c. In any case, **there is no reason for not levying LF on DCIPs under a Unified License.** While it is admitted that DCIPs are not going to provide any services to consumers directly, it also needs to be recognised by TRAI that they are not going to just be "sharing" the infrastructure. The concept of sharing presumes that the resource, which is being shared, is first intended for self-use. Sharing follows only if it maximizes the economic benefit either by reduction in cost or by creation of additional revenue opportunities through use by other entities. However, since DCIPs are not going to use their network themselves, their activities would amount to providing telecom infrastructure as a separate and distinct service to other licensees. Thus, it cannot be that while one kind of telecom service (services provided directly to consumers) is subjected to LF, the other kind (telecom infrastructure provided by DCIPs to TSPs) is not.

d. The case of audio-tex operators is also relevant here. Earlier, DoT used to grant a standalone license for audio-tex services and such licensees were not required to pay any LF. However, in 2022, these services were brought under a separate authorisation under the UL itself. And now, the operators holding audio-tex authorisation under the UL are required to pay LF at the rate of 8% just like other unified licensees. The purpose of the UL itself was to bring uniformity in the regime for different

kinds of telecom services. Thus, migration to the UL requires that operators be subjected to LF at a uniform rate.

Thus, while Airtel believes that the LF levy on telecom operators should be reduced, it also submits that all operators coming under the UL regime should be uniformly subjected to LF (whether at the current rate or reduced rate) if a level playing field is to be maintained in the sector.

Q4. What measures should be taken to ensure that DCIP Licensee lease/rent/sell their infrastructure to eligible service providers (i.e., DCI items, equipment, and system) on a fair, non-discriminatory, and transparent manner throughout the agreed period? Please provide full details along with the suggested text for inclusion in license authorization, if any.

AND

Q5. How to ensure that DCIPs lease/rent/sell out the DCI items, equipment, and system within the limit of their designed network/ capacity so that the service delivery is not compromised at the cost of other eligible service provider(s)? Please suggest measures along with justification and details.

Airtel Response:

Please refer to the Executive Summary/Preamble and the response to Q1. Airtel reiterates that there is no requirement of a separate DCIP Authorisation under the UL. In fact, the questions raised by the Authority very much manifest the complexity and competition concerns that Airtel believes may stare the TSPs, impacting the investment and competitive concerns. When the dependency of a TSP network is raised to such a level as proposed under the DCIP framework, the authorities will have to create multiple regulatory interventions to mitigate any potential negative impact.

Again, the Authority is very prescient in its question number 5, about designing the network/capacity such that there is no adverse impact on service delivery. That is precisely Airtel's concern, too, and there does not seem to be an easy way to resolve it. Needless to state that network creation, dimensioning and designing is at the heart of a TSP's network capabilities and service delivery; and if this is disaggregated between a TSP and the DCIP, there is no doubt that it will have a detrimental impact on efficiency as network (and indirectly of consumer experience) dependency on DCIPs will significantly increase.

For the present infrastructure sharing among existing licensees, therefore, Airtel believes that such arrangements should continue by mutual agreement only, rather than being regulated in any manner. Over the last two decades, these mutual arrangements have worked successfully and required no regulatory intervention. Therefore, there is no reason for any regulatory intervention now.

Q6. Stakeholders may also submit their comments on other related issues, if any.

Airtel Response:

Please refer to the Executive Summary/Preamble and responses to Q1-Q5. Airtel firmly believes that there is no need to introduce a separate DCIP Authorisation chapter under the UL. The Government needs to provide incentives, reduce regulatory costs, provide appropriate policy and financial stimulus

to the existing TSPs under the current licensing framework, rather than changing the licensing regime itself.

To unlock the potential of the sector further, the following measures, also covered at various places in previous responses, need to be taken:

I. **Review licensing T&Cs on TSPs and modify to ease conditions:** Onerous terms and conditions should be deleted from the license to promote EoDB. Moreover, the LF needs to be rationalised.

II. **Allow pass-through for TSPs for payment made to other TSPs for sharing of infrastructure for the purpose of computation of AGR:** This will bring licensing parity with IP-1s who are not required to pay LF on the revenue earned from sharing the infrastructure with TSPs.

III. **Simplify RoW processes:** There is an urgent need for further simplifying the RoW process, significantly reducing RoW charges/fees at local levels and aligning those with Central RoW rules. This will expedite fiber rollout and the creation of higher capacity for industry.