

RESPONSES TO

## Consultation Paper on the License Fee and Policy Matters regarding Direct-To-Home (DTH) Services



Telecom Regulatory Authority of India



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TOTAL RESPONSES

5

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### Summary

The Telecom Regulatory Authority of India (TRAI) has released a Consultation Paper on the License Fee and Policy Matters regarding Direct-To-Home (DTH) Services.

### Background

Television broadcasting has approximately 168 million subscribers as on March 2022 of which, approximately one-third are DTH subscribers. Currently, the guidelines issued by the Ministry of Information and Broadcasting (MIB) regulate the licensing process for DTH broadcasting services. However, the TRAI, through the MIB, has received a reference to examine the following issues:

1. Exclusion of non-licensed activities from the wide definition of Gross Revenue (GR) with respect to the DTH License fee.
2. Bank Guarantees (BG) for private DTH services.

### License Fee of DTH operators

A license fee is a non-taxable fee imposed on the service provider in exchange for the right to carry out the licensed activity. These licences are issued by the Central Government. One of the licenses offered is a Unified License (UL) which offers service-wise authorizations for establishing networks and providing services.

The license fee for the UL was initially paid on the Adjusted Gross Revenue (AGR) which is the Gross Revenue minus certain taxes and revenues. However, in 2021, the MIB changed the definition of AGR by introducing the term Applicable Gross Revenue (ApGR) which resulted in several more exclusions.

Initially, the license fee was set at 10% of the Gross Revenue. However, since 2021, the license fee has been amended to 8% of the AGR. The licensees must pay the fee on a quarterly basis. The minimum annual license fee shall also be 10% of the entry fee (INR 10 crore). Unfortunately, since the AGR is subject to certain deductions, it has been seen that DTH operators have been deducting taxes and some other income to arrive at their AGR based on their own understanding.

The issue of computation of license fees has been heard in various courts of India and has been pending a decision since 2009. Various large DTH operators have filed petitions against the Union of India in various courts regarding the determination of the AGR. At present, the matter is pending before the Supreme Court.

### In light of these events, the consultation paper outlines the following questions:

- Do the existing definitions of GR and AGR require modification?
- Should certain revenue components be excluded from the definition of GR? If yes, which ones?

**Bank Guarantee for DTH Operators:**

Bank Guarantee (BG) is a type of support offered by a bank to a debtor in which the bank pays the debts of the debtor in case they fail to do so. As per the original DTH guidelines, an operator had to secure a BG worth INR 40 crore.

However, these were amended in 2020. Since then, a BG of INR 5 crore must be provided for the first two quarters.

After that, the BG must be equivalent to the license fee for two quarters. This guarantee must be valid for a year and renewed every year.

Under the current regime, there are two types of guarantees in the UL Agreement as amended in 2021:

1. Financial BG which covers unpaid license fees and other dues. Initially, it is capped at INR 8.8 crore after which it is equivalent to 20% of the license fees for two quarters.
2. Performance BG which covers violation of license conditions. Initially, it is capped at INR 44 crore and is valid for a year.

However, the DTH Guidelines prescribe only one BG capped at INR 5 crore for the first two quarters and then equivalent to the license fee for two quarters.

**In light of these discrepancies, the consultation paper outlines the following questions:**

- Is there a need to review the initial BG?
- Should the amended guarantees in the UL Agreement be extended to existing guarantees?
- Should any other method be used instead of BG?

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**Consultation satisfaction**

 0       0       2       3

**Public responses**

[What are public responses?](#)



Ms. Babita

Somewhat Satisfied !!!

**Other responses**

Citizen Leader [Name undisclosed]



Citizen Leader [Name undisclosed]

Hope for best !!!



Citizen Leader [Name undisclosed]

Hope for best !!!



Citizen Leader [Name undisclosed]

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