June 3, 2019

Shri U. K. Srivastava
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Re: **Counter comments on the TRAI Consultation Paper on review of Terms and Conditions for Registration of Other Service Providers (OSPs) dated March 29, 2019**

Dear Shri Srivastava, *Sivastava*

        Enclosed please find our counter-comments on the TRAI Consultation Paper dated March 29, 2019 on review of Terms and Conditions for registration of Other Service Providers (OSPs). We hope our submissions are helpful to the Regulator in formulating its recommendations. We would be happy to provide any further inputs as may be required from time to time.

Yours sincerely,   *With best regards*

B.K. Syngal
Senior Principal
Dua Consulting

Re: **Counter Comments on the TRAI Consultation Paper on review of Terms and Conditions for Registration of Other Service Providers (OSPs) (March 29, 2019)**

From: Dua Consulting, New Delhi.

Date: June 3, 2019

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1. **Counter Comments by Dua Consulting**

Our Counter Comments to the various responses provided by Stakeholders is stated below. Our Counter Comments (on some of the key issues) have been stated issue wise and may not be in seriatim order.

1.1 Scope of the definition of Application Services

(a) The term "Application Services" and its definition has been widely discussed in the various comments made by stakeholders. The main focus has been on the following issues:

- Pure Internet based Services should be kept out of the scope of OSP registration.
- The scope of captive services should also be outside the domain of OSP registration requirement.
- The words "Other IT enabled services" as used in the definition of Application Services must be clearly defined and not left to anyone's interpretation. Alternatively, "other IT enabled services" be eliminated from the definition of Application Service.

(b) The definition of Application Services was formulated in 2008 but in recent years, the scope of Application Services has expanded to include any activity which may have an aspect of IT services. In view of this, it is necessary to formulate a comprehensive definition of the Application Services which would rule out any scope for ambiguity. While it has been suggested by the Regulator, that the Application Service being purely based on data/internet should be the benchmark for defining the Application Service, there may be some services which are based on data/internet such as data analytics, which would not come within the purview of an Application Service.

(c) Amongst the services provided by an IT Company, the most popular services, seem to be the classic services (call centre/BPO) being provided by Domestic and International OSPs in India., the other services are those which have a public interface with PSTN connectivity. In our view, the services which are internet based (Pure Internet) should not be made a part of the Application Services. However, the classic services and services with a public interface with PSTN Connectivity may be brought within the ambit of the definition of Application Services.

1.2 Regulatory Framework for OSP Registration

(a) It has been suggested by some of the stakeholders that the procedure of registration of OSPs should be simplified, and the procedure of applying for an OSP should be different from application of a license and a light touch policy must be implemented. It has also been suggested that a self-regulatory mechanism may be introduced for the present system of registration may be continued.

(b) While some stakeholders agreed for single registration, it was opined by most stakeholders to prepare a web-based platform for application as an OSP, and subsequent updation of details. Some stakeholders have stated that there must be one registration of an OSP, or further registrations may be done in the form of an intimation.

(c) Majority of the stakeholders have indicated that the current fee for OSP registration (Rs 1000) is fine.

(d) We agree with the view taken above to the extent that the process for OSP registration should be simplified and streamlined to benefit prospective applicants. We do not agree with the view taken by some stakeholders that the OSP registration should be in the form of an intimation. Further, a one-time fee should be charged which would be akin to the entry fee under the UL Licensing regime. This would also help in eliminating any non-serious players who are desirous of applying for the OSP Registration.

1.3 Filing of Annual Returns

(a) Some of the stakeholders have expressed their disagreement with the concept of filing Annual Returns as mandated under the OSP Guidelines. Others have suggested that the procedure for filing of Annual Returns should be made simpler and online, a list of dormant OSPs should be displayed on the DOT Website and notifications should be displayed for companies which have not filed the Annual Returns.

(b) In our view, the filing of annual returns should be retained as it is the benchmark for determination of dormant/active OSPs by putting the onus on the OSP Registration Holder to inform the TERM Cell regarding its status of operations.

1.4 Connectivity

(a) PSTN connectivity/interconnection of International OSP

Most of the stakeholders have opined that International OSPs (at the Indian end) should be permitted to have the facility of inbound and outbound calls in India.

In our view, so long as there is no bypass of ILD revenue, the provisions of PSTN connectivity/interconnection of International OSP may be permitted.

(b) Logical Separation of PSTN and PLMN resources with that of leased line/VPN resources for Domestic OSP.

Stakeholders have mentioned that in view of the changes in technology, there is a need for introducing innovative services and thus the prevalent barriers/restrictions of interconnection may be relaxed. In our view there should be logical separation of PSTN/PLMN network resources with leased line/VPN resources to avoid the bypass of NLD revenue.

(c) Provisions of Internet Connectivity to OSP

Several stakeholders (TSPs) have agreed to the present regulations on Internet Connectivity to OSP. Some stakeholders have indicated that changes may be brought about under the ISP License, in relation to provision of internet connectivity on a smaller scale.

The provisions of internet connectivity to OSP mentioned in the OSP guidelines appear to be adequate since these are in line with the provisions of the licensing conditions applicable to Internet Service Providers under the UASL/UL Regime. It needs to be ensured that any VPN/CUG must not have any PSTN connectivity.

1.5 Security Compliances where the OSP Centre and other resources (data centre, PABX, telecom resources) of OSP are at different locations.

Many Stakeholders have agreed to the present framework for security compliances, but some have suggested the following for ensuring security compliances:

- Inspection of OSP Sites;
- Preparation of Audit Reports;
- Logical Partitioning by use of command log.

In our view, the fidelity of the system as well guarantee that there is no trespass into the service offerings of a telecom service provider should be ensured. Whereas the connectivity to PSTN/PLMN is preventable provided an OSP is honest about it, but the security of the network would pose a challenge. It would be in the interest of the OSP to have robust encryption on the linkages to prevent any attack or any sort of intrusion into the system.

1.6 Extended OSP of existing registered OSP may be allowed without any additional telecom resource

Some stakeholders have suggested that one OSP Registration should cover the entire geography of India and there should be no concept of extended OSP and that TERM Cells should have virtual access to the OSP Network for the purposes of monitoring.

In our view, the extended arm OSP of an existing registered OSP must be allowed, provided that no additional telecom resources are being used. It should be limited to additional OSP centres being set-up in the same city and should belong to the same group of companies. Since the basic assumption for providing the extension is that there are no additional telecom resources being used, the similar checks and balances should be in place as are applicable to the existing OSP Registration Holder.

1.7 Distributed Architecture EPABX

It has been suggested that there should be no geographical limitation and possibly no limitation at the state level. Further, it has been suggested that micro level modifications may be introduced to meet with the current requirement and that logical partitioning is not very relevant since call rates are very nominal and cost effective. For monitoring of the system it has been suggested that OSPs should provide information such as CDRs to the DOT and remote location audit should be conducted to ensure compliance in case of distributed architecture.

Presently, the OSPs using distributed architecture of EPABX are required to carry out call-restrictions, logical tenant-partitioning etc. from the central EPABX. The media gateway/PBX at the remote ends is required to maintain a copy of configurations pertaining to logical separation and keep it updated a predefined periodicity. Inclusion of the geographical limits would impose restrictions which would in turn affect the way the OSP Centres set-up their network architecture. In our view therefore, the provisions dealing with logical partitioning and monitoring for the distributed architecture of the EPABX are satisfactory.

1.8 Sharing of Infrastructure between Domestic OSP and International OSP

Stakeholders have suggested that there should be no additional conditions for sharing of infrastructure between Domestic OSP and International OSP for the same group company/companies, quantum of bank guarantees should be reduced, and strong action should be taken to address cases of toll by-pass. One Stakeholder has suggested that a system of self-governance should be adopted.

We agree with the view that the present provisions for sharing of infrastructure between International OSP and Domestic OSP as stated in the OSP Guidelines are acceptable. However, the tenure for sharing of infrastructure between International OSP and Domestic OSP may be increased from 3 to 5 years and the amount of bank guarantee may be reduced to a reasonable amount.

1.9 CUG for Internal Communication of OSP

While most stakeholders agree with the current provisions for use of CUG, the following views have also been provided:

- In case CUG does not require PSTN, it will not need to comply with the OSP Guidelines;
- No Bank Guarantee for CUG;
- It should be easy to set up CUG and flexibility should be permitted to share CUG with a group company.

We also agree with the current provisions for use of the CUG as well as monitoring provisions of the CUG for the purpose of internal communications only. It would be good to have separate leased lines for CUG network and other OSP related activities. It should be possible to prevent a CUG number for access to any PSTN/PLMN number nationally and internationally.

1.10 Domestic Operations by International OSPs

Some of the stakeholders have stated that domestic operations should not be taken by International OSPs since it may be difficult to assess cases of national security and toll by-pass. If allowed, checks and balances need to be in place such as maintaining of CDRs and implementation of measures to ensure that the national security is not compromised.

In our view, if the domestic operations by International OSPs for serving their customers in India, it may infringe onto the scope of the Domestic OSP. One Option is to consider reduction of the bank guarantee in a case where the applicant choses to operate both International OSP and Domestic OSP from the same location. This would also be beneficial as through logical partitioning the same infrastructure can be used for both the purposes as per the sharing of infrastructure guidelines between International OSP and Domestic OSP.

1.11 Work from Home

It has been agreed by some stakeholders that the current provisions of work from home are fine. However, the following views have also been provided:

- Replace Work from Home with VPN;
- Work from Home concept should be liberalised and kept outside the scope of OSP Guidelines;
- Bank Guarantee in case of Work from Home should be removed/reconsidered.

The concept of Work from Home being connected using Telecom Service Provider provisioned virtual private network (VPN) and from a predefined location appears to be an antiquated concept. Under the present corporate environment, Work from Home is extremely common, and the provisions stated in the OSP Guidelines need to be modified to ensure that employees can maintain a work-life balance as they will be encouraged to work from home.