

ADITYA BIRLA



IDEA Cellular

24 th Feb, 2012

The Secretary,
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg (Old Minto Road),
New Delhi-110002

Kind Attention: Principal Advisor (MS)

Sub: TRAI's Consultation on 'Draft Guidelines for Unified License/ Class License & Migration of existing licenses'

Dear Sir,

We refer to the above subject. Since the above-mentioned Consultation involves some very critical and complex issues related to licensing, technical and legal aspects of our business operations, we would request the Authority to kindly consider an extension in the timeline for submission of comments.

However, in the interim, our preliminary comments are being submitted as Annexure A.

We shall be submitting our detailed issue-wise comments shortly through a separate document.

Thanking you,

Yours faithfully,

For IDEA Cellular Ltd.

Rajat Mukarji
Chief Corporate Affairs Officer



Annexure A

At the outset, we would like to submit the following:

1. Ensuring the viability of business and sustenance of service providers is extremely essential to be able to pass on the benefits of any policy change to the end customers / users. **Thus while we are broadly in agreement with the concept of Unified License (permitting all services under same license) , we would like to urge the Authority to address the following issues :**
 - A. **Operators have made huge investments over the last few years on setting up networks based on the existing licensing regime.** These investments have factored-in a 22 circle licensing regime and, separate licenses for activities. This required a particular architecture mandated by the license conditions and accordingly networks were built, configured and other critical investments made with the same mindset – circle wise switches, interconnection, different roll-out strategies for different circles etc
 - B. **The Authority would appreciate that any new regulatory regime cannot be foisted/ made mandatory on licensees, when existing investments have not been fully recovered** as yet. Operators make investments based on predictability of regulatory regime. Further, the networks follow a particular depreciation cycle and when existing investments are not already fully recovered , then ushering in such changes can prove to be counter-productive.
 - C. **Also having built networks based on the earlier licensing regime over last many years, changing the same to a unified single license architecture / concept would be extremely complex and not easy for existing operators. It would also lead to a large number of operational issues which need to be addressed and discussed in detail.** For eg, Since, the allocation of spectrum and numbering resources as well as the deployment of networks is on a circle basis, the interconnection has to continue at the circle level.
 - D. **Even otherwise, if such a regime was made applicable only to new operators, then it could culminate into a competitive disadvantage for existing operators,** because the scale and complexity of investments for new operators would be completely different.
 - E. **Thus the Authority needs to address issues arising on account of level playing field issues, harmonized terms & conditions of license & equitable terms of interconnect. The TRAI guidelines have not addressed these issues however & hence we request that these issues be put up for public debate.**
2. The Authority would note that Idea Cellular had recently submitted its comments on TRAI pre-consultation relating to auction of 2G spectrum, wherein, we had inter alia, recommended that just like in the case of 3G Auction, all eligible operators whose licenses are proposed to be quashed due to the recent Supreme Court Order may bid separately for the 1800/800 MHz spectrum and should automatically qualify for 'UASL' license. Should the Government plan to introduce guidelines for migration of all Cellular Mobile Service Providers (CMSPs), NLD, ISP & UASL providers to a New Unified Licensing Regime – the same can be made applicable on the winners of the new 1800/800 MHz spectrum auctioned in 2012, and they issued new UASL licenses.
3. **The above issue has also been recognized by the DoT who vide their press release of 15th February 2012, where they have stated the following :**

“ In the event of any auction of spectrum pending finalisation of the Unified Licensing Regime, UAS licence without spectrum may be issued which could be subject to a requirement to migrate to Unified licence as and when the regime is put in place. Detailed guidelines for such UAS licence without spectrum would be finalised after receipt of recommendations of TRAI in this regard.”

From the above, it is amply clear that there are multiple complexities involved in migration to a Unified Licensing regime and hence any acceptable conclusion on the subject shall need detailed discussions and deliberations with all stakeholders.

The Authority would also appreciate that in view of the recent DoT press release there appears to be no apparent urgency for expediting a Unified License regime.

At the same time, the scope of the subject requires us to make detailed submissions, and hence we would also request the Authority to grant us some more time for submissions on the same.

Our primary submission on proposed TRAI Guidelines is as follows :

1. Existing licensees must have the option to continue under the existing licensing regime or migrate to new Unified Regime. Principles of "level playing field" and "No worse-off" must be adopted.
2. The Authority would need to address issues surrounding network configurations/ existing interconnect regime/ existing numbering scheme etc. and changes proposed under Unified license regime.
3. The Authority would need to take a holistic re-look at issues relating to Uniform license fee and associated financial Bank Guarantees.
 - a. Annual License fee be prescribed at 6% of AGR (5% USO + 1% administrative cost) subject to a minimum fixed levy to deter non-serious players. This should be uniformly applicable to all licensees.
 - b. Issues surrounding definition of Gross revenue/ AGR needs to be debated afresh keeping in view the revenues arising out of telecom revenues and taking into account the applicable accounting standards.
 - c. Rollout should not be stipulated in the license, but left to market forces. Accordingly there would be no requirement for Performance Bank Guarantees.
 - d. Financial Bank Guarantees (FBGs) should be done away with as they only add to the costs.
 - e. The USOF levy should be de-linked from licence fee and gradually reduced with the passage of time.
4. **Licensing of Infrastructure Provider – I (IP-I):**
 - a. At the outset we would like to state that the unified license being proposed shall only include the activities for which license is required as per section 4 of Indian Telegraph act. Since the activities performed by IP-1 does not require a license under the provision of section 4 of ITA-1885 therefore Unified License should not include Infrastructure Provider -1 (IP-1).
 - b. We would also like to submit that infrastructure companies like telecom tower companies, which operate only under a "Registration" should not be brought under the purview of the licensing regime as this would tantamount to taxing land and building. However, in the event that such a step was to be considered by the Government, then it must, at the very least, provide for a set off to the service providers so as to avoid an incidence of double taxation.
 - c. Further, the Union Minister for Communications and Information Technology had himself very recently made the following announcement:

"After consideration of the recommendations of the Telecom Commission, the Department of Telecommunications has taken the following decision: "A decision on the recommendation to bring IP-I Service Providers under licencing regime, who are currently unlicensed passive infrastructure providers, has been deferred for further examination".

In view of the above, there is no need to consider bringing the IP-1 companies under the purview of Unified License.

5. **The Unified License guidelines also need to take in view the innovation in service offerings which increasingly allows operators to be able to serve enterprise customers through either their own platform or third parties.** In such a dynamic environment, operators should not be saddled with old licensing interpretations like restricted PRI, restricted service provisioning through third party etc.
 6. **The Authority has itself raised a query on the issue of penalties.** We submit that the penalty regime needs to be fair and transparent and linked to actual losses caused and not ad hoc. Moreover a mechanism needs to be created to ensure that violations by operators are clearly understood and addressed, as against being victimized for innovation in service offerings.
 7. FDI Limit may be harmonized as per the revised FDI policy of GOI.
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