



Counter - Comments: TRAI Consultation Paper

*Consultation Paper No. 12/2016 on Review of VoiceMail / Audiotex /
Unified Messaging Services License*

Sir,

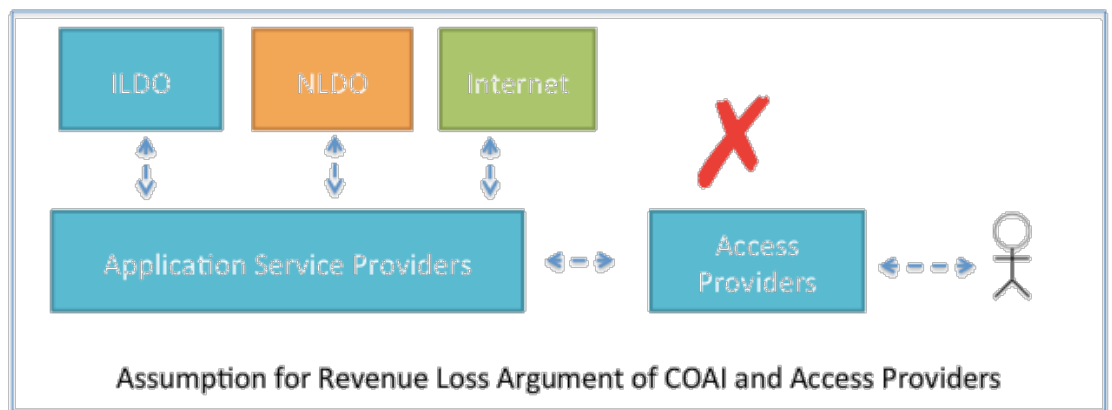
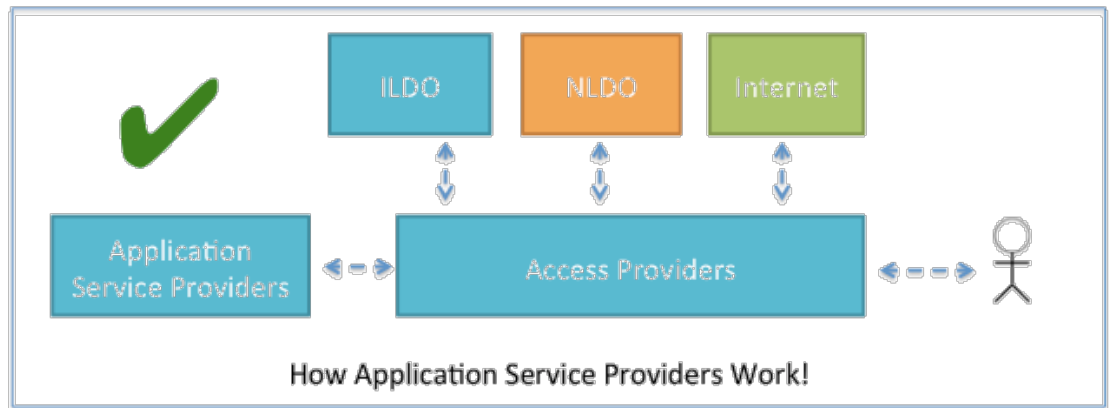
COAI and other stakeholders including Access Providers have commented on Clause 30.6 of the Audiotex / VMS License Agreement barring a licensee from making “point-to-point” conferences, loss of revenue and lack of security as major points of basing their arguments. Their arguments I humbly submit are over-protectorist, without adequate reason or justification, confusing and are harming innovation and growth in the telecommunication industry in India. Counter-comments on such arguments are submitted for your perusal as below:

1. Revenue loss argument of COAI / Access Providers (Specifically Mobile Service Providers) does not Stand to Reason as:

- a. Application Services are over the top services provided by accessing the resources provided by Access Providers only. All call legs are generated or terminated at using networks of Access Providers only.

These differ from Calling Card Services, which are services where a Unified License Provider such as an International Long Distance Operator (ILDO) provides international access services by having calls originating from Access Providers sent through their ILD circuits instead of the Access Providers ILD arrangement.

This is an important demarcation and should not be confused and therefore has been depicted pictorially as below.



Any other argument regarding loss such as not connecting between Access Providers and another Class of Service such as Internet or ILDO can be well covered by providing suitable guidelines to Application Service Provider as in the case of OSPs.

However while making any such limitations, Application Service Providers should be permitted to maintain links with multiple Access Providers for ensuring continuity of business; like is done for OSPs.

- b. Loss of Revenue due to Telecom Interconnection Usage Charge cannot be used as an argument, since as a part of the license agreement all licensees agree to provide services to “*all individual or legal person without any discrimination*”. Now if an innovative solution has been found using the licensed resources of the licensee, licensee cannot mention loss of revenue for lack of competitiveness. For the sake of argument, Access Providers, in case they feel are at a loss, can start charging for Missed Calls.

Further, Para 71, pg. 34 of Explanation to Eleventh Addendum to The Telecommunication Interconnection Usage Charges Regulations, 2015

gives adequate explanation and justification of FTC from wireline to wireless being zero. This is a policy decision and any benefit available to end-user through this policy decision cannot be termed ultra vires or usage of arbitrage opportunity. Further more, many of such enterprises have been in operation since years before this Addendum.

2. **Loss of Revenue to Government Exchequer through loss of USO Fund inputs** cannot be used as an argument since Application Service Providers use resources of Licensed Service providers as input and therefore Licensed Service Providers already pay into the USO Funds.

In fact, with the advent of new and innovative services by Application Service Providers, telecom operators stand to gain in revenues since these open up additional revenue generating streams of telecom Operators and therefore increasing revenue to the Government Exchequer.

3. **Lack of Security argument of COAI / Access Providers (Specifically Mobile Service Providers) does not stand to reason as:**
- a. All calls originate or terminate on networks of Access Providers. For each call a separate CDR is generated and maintained on the Access Providers network and also the network of the Application Services Provider.
 - b. Watchdog terminals can be provided both at infrastructure Application Service Providers and Telecom Operators. These are governed by licensing terms.
 - c. Further, Paras 8 through 10 and 12 of Guidelines for Licensing through Authorization Guidelines for Unified License / Class Licenses and Migration of Existing Licenses' on 16th April, 2012 (<http://traf.gov.in/WriteReadData/WhatsNew/Documents/Recommendation--041612.pdf>) give adequate coverage on security. For ease of reference they are mentioned as below:

“8. The Licensee shall make available, on demand, to the person authorised by the TRAI/DoT, full access to their equipments / network for technical scrutiny and for inspection, which can be visual inspection or an operational inspection.

9. As and when required, the Licensee shall provide access of their systems to the security agencies for monitoring purpose. The Licensee shall be required to maintain call data records of all the specified calls handled by the system and system log at specified periodicity. TRAI

reserves the right to call for these system logs on demand and also inspect them at site.

10. TRAI reserves the right to revoke/terminate/suspend the Licence in whole or in part, at any time, if, in the opinion of the TRAI, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the Telegraph.

12. The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 as modified or replaced from time to time.”

4. Clause 30.6 of VMS/Audiotex License Agreement is creating ambiguity:

COAI and other Access Providers are leveraging this to create misconceptions and increase ambiguity. TEC has for these services provided clear norms as below:

- a. TEC Specification for Audio Conferencing Services (TEC/SR/SA/ACS-001/01/MAR-09) defines Conferencing as “*inter-connection **between two or more** audio-conference terminals*”.
- b. TEC Specification of Audiotex Services (V/ATS.01/01.September, 1994) provides “*Conferencing (enabling two or more callers to speak to each other, or to listen to others speaking)*” as an add-on service.

The above definitions clearly define conferencing as between **two or more** terminals. In fact, it is most humbly submitted that in telecommunication technology there is no such term as “point-to-point conferencing” and the needs to be rectified by the Authority. Like all industries the Authority must make it easier for licensees to work and without unnecessary encumbrances.

Therefore guidelines for Licensing through Authorisation for Application Services as advised by the Authority in its Guidelines for Unified License / Class Licenses and Migration of Existing Licenses’ on 16th April, 2012 (<http://traigov.in/WriteReadData/WhatsNew/Documents/Recommendation--041612.pdf>) are requested to be followed.

5. Any Restriction on such Conferencing will lead to Unequal Playing field for Application Service Providers with Other Service Providers (OSPs):

Application Services in many, if not all instances automate the manpower-based activity provided through OSPs. For example, OSPs are not disallowed from receiving an inbound call, getting basic information and conferencing a

different or more skilled representative (both over the PSTN line).

Likewise, many Application Service models today are built on automating this process by doing the same activity through an Audiotex (or Application Service), just with machines replacing human intervention at first level and there-upon escalating calls to a human agent, who can be at a different location on another call.

TEC Specification of Audiotex Services is further revised as per SR/ATS-01/02.May.2003. This defines in scope of Audiotex, as *“Call Diversion: In some cases calls may need to be diverted to manual positions for answering.”* The license agreement for VMS / Audiotex refers to an older version of the standard and the same needs to be updated. An interpretation of Clause 30.6 of the Audiotex can possibly restrict an Audiotex provider from making such an application. Any such interpretation is restrictive towards the growth of Application Services.

The Authority in its Recommendations on Application Services dtd., 12th May, 2012

(<http://www.trai.gov.in/writereaddata/recommendation/documents/as140512.pdf>) has:

- a. Suggested that (such) Application Services are key to growth, innovation and competitiveness in the market. These services and should be:
 - i. Licensed through easy Licensing through Authorization processes, or
 - ii. Treated as equals to OSPs.
 - b. Adequately mentioned the reasoning for providing OSP status to such Application Services, however, recommends Authorisation through Licensing so that licensee can benefit under Section 4 of the Telegraph Act.
6. In response to this TRAI Consultation Paper: **Industry veterans including Sh. N Vittal (Former CVC and Chairman Telecom Commission) and Sh. PS Narula (ITS)** have strongly opposed any such limitations on Application Services. Sh. Narula well summarises by mentioning that *“there can not be a license for services which are using licensed and well regulated services as their input.”*
7. Any limitation by the Authority on such innovative Application Services will cause Application Service providers to take and deliver such services from outside the country using VoIP (and other allied) services and in-turn lead to furthering brain and innovation-drain and drain of foreign exchange too.

8. I have used Application Services as broader term while referring to all applications such as Voicemail, Audiotex and Audio Conferencing. This is since Application Services is a more appropriate and current definition of services today. Application Services is adequately defined and well explained by the Authority in its past recommendations as well. It is an accurate definition of the variety of services in the market that use Telecommunication Access Services as a base.

Yours truly,
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Managing Director
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About the Respondent

The Respondent has been running a telecom software business for about the last ten years; is the Managing Director of Phonon Communications Pvt. Ltd. that has recently received the VoiceMail / Audiotex License. He is an alumnus of IIM Calcutta and an Electronics Engineer with specialization in Telecommunication.