

**Tata Communications Limited's Counter Comments to TRAI Consultation Paper on
the Framework for Service Authorisations to be Granted Under the
Telecommunications Act, 2023**

At the outset, we thank TRAI for providing us an opportunity to share our counter comments on this very important consultation paper on the licensing framework and regulatory mechanism for service authorizations to be granted under the Telecommunications Act 2023.

Tata Communications Limited had submitted in its comments that the present License regime has matured over this decade and any wholesale changes in the present license regime may be avoided in the interest of regulatory certainty. However, pragmatic changes in the present licensing regime with simplicity and transparency as key factors, which lead to ease of doing business and boost economic growth of the sector, may be considered after a more comprehensive consultation before formulating the Rules

We support the light touch authorisation framework for providing telecommunication services. As such, simplification and transparency should be a focal point while framing the Rules for grant of authorisations so as to maximise the ease of doing business for the Telecom sector. However, bilateral contractual nature of license which exists in present regime needs to be retained while individual services can be added to this Unified License through specific Authorization. We request TRAI to ensure that there is adequate operational & regulatory certainty and predictability for the existing service providers as they migrate to the authorization regime to support innovation and investments in the sector.

To safeguard the interest of the Authorized Entities in the new regime, it should be clearly mentioned in the draft terms and conditions of the Authorization that any changes in the terms of the Authorization will be done only after following the process required under Section 11 of the TRAI Act of consulting TRAI. This will bring in regulatory certainty as well as transparency in the licensing process and will remove probability of any unilateral change in the terms of authorization and will go a long way in protecting interest of the proposed Authorized Entities.

In our submissions, we had recommended that in addition to the existing service-specific authorisations at service area level, there is a need for introducing a unified service authorisation at Overlay level for the provision of end-to-end telecommunication services with pan-India service area under the Telecommunications Act, 2023 and service specific authorisations can exist on a subordinate layer, allowing the licensee to choose services based on commercial and technical considerations. The individual authorisations for the services can specify the aspects related to the particular authorisation. In absence of a proper and comprehensive legal arrangement, the sector shall face business /regulatory uncertainty. Therefore, individual authorisations should provide a transparent, systematic and unambiguous framework for the service providers. It is necessary to not only include the essential aspects of the authorisation, such as service area, period of validity, scope of service, list of applicable rules, authorisation fee etc but also to allow the remaining unspecified aspects to the market forces.

Accordingly, a standard, simplified Authorization document is proposed containing scope of service, service area, period of validity, Applicable Entry / Authorization Fees & Applicable list of Rules. Broad Category of Rules for the Unified License can be General Conditions, Financial Conditions, tariff, Technical Conditions, Operating Conditions, Security related conditions. All these Rules should be framed in consultation with TRAI under provisions of Section 11 of the TRAI Act and no changes to such Rules be made by the Central Government without following the due process of consultation with TRAI. This will ensure transparency and a system of checks and balances, as envisaged in the statutory scheme.

We have further recommended that the authorisation framework should allow the licensees to add and delete services on a portal, in a time-bound and rule-defined manner. There should not be separate eligibility criteria for each service, license fee and roll-out obligations should also be assessed on the overlay license and not individual services. Services such as CNPN, VNO, M2M, Bandwidth, Satellite services etc. can be simply individual authorisations, with minimum hurdles for an authorised entity to start operations. The four major layers of Digital Communications consisting of (i) Application Layer (ii) Service Layer (iii) Network Layer and (iv) Infrastructure Layer. Under the new Authorization regime, authorization would be required for Infra Layer, Network Layer & Service layer. Various application services and most value-added services offered today fall under the application layer. Application providers use the underlying networks and/or internet services to provide applications services. Services like Audio Conferencing/Audiotex/ Voicemail operate in the application layer and should therefore need to be removed from requirement of Authorization.

There is a need for a legal framework specifically for Enterprise Service Providers which must ensure a level playing field among all operators/ stakeholders providing a similar nature of services. The acquisition of the spectrum should not be linked to any specific authorisation service or technology and all licensed Service Providers irrespective of service authorisations incl. ISPs should be allowed access to resources such as spectrum for meeting the connectivity requirements efficiently. The spectrum allocation mechanism and associated terms should be different for B2B market, considering the size of demand and supply, present auction framework is designed for retail usage. To enable the same, the purpose / use of spectrum should be criteria for spectrum allocation, determination of pricing, rollout obligation, quantum etc. The roll out obligations' interpretation for access spectrum to be deployed for B2B market should be different with Enterprise based targets.

Further, there is no need for including the provision of leased circuits/ Virtual Private Networks within the scope of Internet Service authorisation under the Telecommunications Act, 2023, within its service area. Grant of this additional service in the scope of Internet Service Authorisation to ISPs would adversely impact the financial viability of long-distance authorizations viz NLD & ILD authorizations. However, there is a definite need for merging the scopes of the extant National Long Distance (NLD) Service authorization and International Long Distance (ILD) Service authorization into a single authorisation namely Long-Distance Service authorisation under the Telecommunications Act, 2023.

We had also submitted that the separate UL-VNO license is not required if there is a UL as overlay and various services' authorisations as underlay. As such, UL-VNO license has not found many takers and one of the reasons is that compliance obligations in the VNO license are almost identical to those in Unified License. UL-VNO license needs to be simplified from a compliance perspective especially for those VNO licensees who are running non-facility-based operations and pure resale.

There is a need for an amendment in the present ApGR definition to bring adequate clarity and to avoid multifarious interpretations. The revenue from operations other than licensed telecom activities/operations should be reduced from the gross revenue in line with the clarification given by DoT.

In view of above key submissions, we have gone through the comments submitted by other stakeholders to TRAI consultation paper. While we agree that majority of the views expressed by other stakeholders are in line with our submissions, however, there are some disagreements as well which is important to highlight to TRAI for ensuring a pragmatic and balanced recommendations on this important subject.

These are enumerated below for kind attention of TRAI:

- Some of the stakeholders have suggested that stand alone internet service authorisation should be merged with Access service authorisation and there should not be any separate category for internet service authorisation. We strongly oppose this suggestion as it will demotivate the entrepreneurs and ISPs especially smaller ISPs who will be forced to take access service license, merely to provide internet services. This will also put them to stringent terms and conditions which are at present applicable to Access service licensees only and increase the compliance cost for them thereby making it unviable proposition.
- Similarly, some of the stakeholders have suggested to enhance scope of Internet service authorisation by allowing leased line and VPN services. The same should not be considered as provision of leased circuits is within the domain of NLDOs as per the current licensing regime which is in the nature of long-distance license and is not permissible under the ISP license. Further there is a judgment by TDSAT dated 03rd May 2005 which holds that ISPs cannot provide VPN services. If scope of service of Internet Service authorisation under the Telecommunications Act needs to be increased it would be more appropriate to grant them the right to provide internet telephony services using E.164 numbering scheme and all value-added services using internet telephony platform. This would also create some competition to OTT based internet telephony services.
- Some of the stakeholders have recommended that the scope of service for both NLD and ILD is entirely distinct and keeping these authorisations should be kept separate to continue attracting niche players, which will help increase competitiveness. In this regard, it is reiterated that there has been steep decline in international voice traffic in both the directions due to OTT voice services which has adversely impacted the revenues of NLDOS and ILDOs. Even in leased circuits and VPNs services, there are unlicensed players providing SDWAN services in India leading to erosion of revenues as well as unlicensed App based VPN service providers which are also constituting a security issue apart from erosion of revenues both for long distance licensees and the Government. Moreover, merger of both NLD and ILD service authorisation would also lead to reduction of compliance burden by half such as AGR filing, reporting etc as also reducing the regulatory reporting burden on long distance service providers.
- Some of the stakeholders have recommended that multi-parenting for a VNO should not be allowed in the case of wireless access services. Further, it was submitted that service-specific parenting should not be allowed. In our view, there should not be any restrictions for UL-VNO (AS) Licensee for parenting with single NSOs for seeking connectivity in a licensed service area for providing wireline access services and wireline access services, similar to other service authorisations in UL-VNO wherein no such restrictions are imposed and same has been left to the market forces. This will promote competition amongst the Access Provider NSOs for serving the VNOs and would also help the VNOs in getting a competitive price.
- Some of the stakeholders have suggested to merge UL- M2M with access service authorisation. We wish to submit that in the present framework, UL- Access Service licensee is not required to obtain separate UL-M2M authorisation for providing M2M services. The purpose of standalone UL-M2M service authorisation is to promote M2M service providers for offering their services in a competitive manner and to have level playing field with access service providers. Thus, we are not in support of such a suggestion. In case the suggestion of the merger of UL M2M with Access service authorisation is acceded, it will dissuade start-ups and other M2M network service providers who had already made significant investment and will be forced to take much onerous access service license to provide M2M services.

- One suggestion has been made that The Content Delivery Network (CDN) Provider and IXP service providers are important components of digital economy and work under mutual agreement with service providers and content providers and should be kept out of the regulatory framework. We are of the view that while CDNs need to be regulated in a light touch manner, the IXP service providers are providing the same service as internet service providers. Hence there is a need for separate authorisation for provision of IXP services and same should be provided under Internet Service authorisation as there are very low entry barriers for ISPs.

In addition to above, there are suggestions of some of the stakeholders where Tata Communications support views expressed by other stakeholders and are in agreement with the same, but these suggestions could not be included in our response.

- **Usage of IPDR and CDRs:** We are supportive of the views expressed by one of the stakeholders that for facilitating ease of doing business, Logs such as IPDR and CDRs should be used solely for intelligence and investigation purposes and not as court evidence. It would help in reducing the obligations on service providers but at the same would not lead to any impact on the work of security agencies. Further, the period of storage should also be reviewed and same should be made again to one year.
- **Enhancements in network to support new security requirements:** We support the views expressed by some service providers that the new developments/ enhancement to the network to support national security requirements, impose significant financial and operational burdens, necessitating the installation and maintenance of additional infrastructure.

Therefore, for the implementation of various security requirements, the authorisation regime should provide a framework of bearing of such costs by the relevant Law Enforcement / Security Agencies.