



**Tata Teleservices Response to TRAI Consultation Paper No 03/2012 on Draft Guidelines for Unified Licence/Class Licence and Migration of Existing Licences dated 10.02.2012**

**I. Draft guidelines for Unified Licence**

**A. Unified Licence**

**1. Framework**

- 1.1 There shall be three levels of Unified Licence: National level, Service area level and District level. The applicant company can apply either for National level Unified Licence or Service area level Unified Licence or District level Unified Licence. District level Unified Licence will not be given for Metro areas of Delhi, Mumbai and Kolkata.
- 1.2 For the purpose of the Unified Licence, the service areas shall be as listed in Annexure –I.
- 1.3 A company can apply for Unified Licence in more than one service area or district. However, if a company desires to apply for Unified Licence in more than four districts in a service area, it has to apply for Service area level Unified Licence.

**TTL Comment:**

In our view, the proposed Unified Licensing regime should be such as to facilitate free and open competition. The Unified Licence, should cover UASL/CMTS, NLD, ILD, Internet, GMPCS, PMRTS and VSAT services. There should not be any separate Class license for VSAT and PMRTS services. We also believe that GMPCS with PSTN connectivity should also be included under the Unified Licensing (UL) and the same terms that are applicable to other mobile service providers should be extended to GMPCS.

The Service area for all services under the UL should **effectively be all India** and the service provider may decide the geographies of operation. **However, spectrum should be made available on a telecom circle basis through auction.**

Creation of Unified License at **District level is not recommended** as it could lead to complications related to interconnection issues, number portability implementation issues and such licenses would also be difficult to administer in terms of allocation of resources by the licensor like Number Series allocation, SPC codes, etc. Looking at the large number of Districts, it would be difficult to manage licensing regime at a District level. The viability of business case for a licensee at District level may be difficult. It may therefore be advisable to continue with a minimum Service area level licensing while introducing



National Level licensing and would have similar obligations and privileges in License on a Service area level basis. This would also facilitate smoother transition of existing operators to the new licensing regime without disturbing the level playing field. Earlier, there was a Category C license at district level for ISP services but the same was discontinued for similar reasons.

- 1.4 Subject to fulfillment of relevant eligibility conditions, Licence shall be issued on non exclusive basis, without any restriction on the number of licences.

**TTL Comment:**

We support the introduction of Open Licensing regime with no restriction on the number of licensees permissible in a Service area. This would go a long way in fostering more competition in the Telecom services sector. This is possible now that the spectrum is delinked from license.

- 1.5 In addition to a Unified Licence, the Licensor reserves the right to award/allocate Licences to offer specific services like Mobile Number Portability (MNP) services and such other services as may be recommended by TRAI from time to time.
- 1.6 Unified Licence will not, per se, carry with it any spectrum. A holder of Unified Licence, other than District level Unified Licence, may separately obtain spectrum as per the prevailing policy.

**TTL Comment:**

We agree delinking of spectrum from UL for new licences. However, the existing licensee migrating to UL should be allowed to retain the contracted spectrum till the expiry of their existing license and should be allowed to have priority to continue with 6.2/5 MHz spectrum at the time of renewal.

**2. Eligibility Conditions**

- 2.1 The applicant must be an Indian company, registered under the Indian Companies Act 1956.
- 2.2 The total foreign equity in the paid up capital of the applicant company should not exceed 74% of the total equity subject to the following FDI norms:
  - a. Both direct and indirect foreign investment in the applicant company shall be counted for the purpose of FDI ceiling. Foreign Investment shall include investment by Foreign Institutional Investors (FIIs), Non-resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository



Receipts (ADRs), Global Depository Receipts (GDRs) and convertible preference shares held by foreign entity. Indirect foreign investment shall mean foreign investment in the company/ companies holding shares of the licensee company and their holding company/companies or legal entity (such as mutual funds, trusts) on proportionate basis. Shares of the applicant company held by Indian public sector banks and Indian public sector financial institutions will be treated as `Indian holding`. In any case, the `Indian` shareholding will not be less than 26 percent.

- b. FDI up to 49 percent will continue to be on the automatic route. FDI in the applicant company/Indian promoters/investment companies including their holding companies shall require approval of the Foreign Investment Promotion Board (FIPB) if it has a bearing on the overall ceiling of 74 percent. While approving the investment proposals, FIPB shall take note that investment is not coming from countries of concern and/or unfriendly entities.
- c. FDI shall be subject to laws of India and not the laws of the foreign country/countries.

**TTL Comment:**

As regards (a), according to FEMA, indirect or proportionate foreign investment is not be counted if investing company is Indian owned and controlled. However, if the Authority has some specific justification for treating telecom differently, we may like to know. (b) subject to comments in (a). We agree with (c).

**2.3** The combined net-worth requirement will be Rs. 25 crore for National level Unified Licence, Rs 2.5 crore for each Service area level Unified Licence and Rs. 25 lakh for each District level Unified Licence. In case of acquiring Unified Licence in any other licence area, the Licensee shall maintain additional net-worth as prescribed for that service area/district also. The net worth requirement for Unified Licence is summarised below –

**Table – Minimum Net-worth requirement for various Unified Licences**

Type of Licence	Net-worth requirement	Total Minimum Net-worth required for more than one Licence areas
National level Unified Licence	Rs 25 Crore	



Services area level Unified Licence	Rs 2.5 crore for each service area.	(Rs. in crore) 2.5 x Number of service areas for which either LOI/ Licence have been issued and applied for in the name of applicant.
District level Unified Licence	Rs. 25 lakh for each district.	(Rs. in lakh) 25 x Number of districts for which either LOI/ Licence have been issued and applied for in the name of applicant.

The net-worth of only those promoters shall be counted, who have at least 10% equity stake or more in the total equity of the company. Here net worth shall mean the sum total, in Indian Rupee, of paid up equity capital and free reserves. While counting Net-worth, foreign currency shall be converted into Indian Rupee at the prevalent rate indicated by the Reserve Bank of India as on the date the application is received.

**TTL Comment:**

The substantial equity prohibition clause was introduced in the year 2003 in CMTS/UAS/BSO licenses. An exception was made for existing companies in the same group holding licences in same service area. There is a need to issue group wise licences and all the telecom companies in that group can make use of that licence. This would lend lot of flexibility to companies in the same group. Currently, multiple companies in the same group are holding NLD/ILD /ISP licenses which can be avoided. There would be no need to merge legal entities if all entities can use all type of licences. It is suggested that with respect to all conditions pertaining to merger/ acquisition, like market share and spectrum caps, such companies belonging to a single group, be treated as a single entity.

- 2.4 The applicant company shall have a minimum paid up equity capital equal to one-tenth of net-worth prescribed in Para above and shall submit a certificate to this effect (provided by the applicant's Company Secretary) along with the application.
- 2.5 The majority Directors on the Board of the Licensee Company shall be Indian citizens.
- 2.6 The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO), if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required on yearly basis. In case something adverse is found during the security



vetting, the direction of MHA shall be binding on the licensee.

### **3. Application Procedure**

- 3.1 The applicant company shall pay a non refundable processing fee of Rs. 100,000 (Rs. One Lakh) for National level Unified Licence, Rs. 50,000 (Rs. Fifty Thousand) for Service area level Unified Licence and Rs 15,000 (Rs. Fifteen Thousand) for District level Unified Licence.
- 3.2 The applicant company shall submit the application in the prescribed Application form for each licence area separately.
- 3.3 Incomplete application shall be rejected and the processing fee will not be refunded.

#### **TTL Comment:**

Licensor must give an opportunity to the applicant to rectify the mistakes in the application and provide additional documents as required by the licensor.

- 3.4 The complete application shall be decided, within 60 days of the submission of the application and the applicant company shall be informed accordingly.
- 3.5 Licensor reserves the right to accept or reject any application without assigning any reasons.

#### **TTL Comment:**

Licensor should give reasons for rejection of application.

- 3.6 In case the applicant is found to be eligible for grant of Unified Licence, a Letter of Intent (LOI) will be issued. The applicant shall be required to deposit Entry Fee and submit Bank Guarantee / other documents and sign the licence agreement within a period as mentioned in the letter(LOI) from the date of issue of the letter (LOI) failing which the offer of grant of licence shall stand withdrawn at the expiry of permitted period.
- 3.7 The applicant company will be required to pay onetime non-refundable Entry Fee before signing the license agreement, based on Letter of Intent (LoI).
- 3.8 The Company shall acknowledge compliance with the licence agreement as a part of Memorandum of Association of the Company. Any violation of the licence agreement shall automatically lead to the company being unable to carry on its



business in this regard. The duty to comply with the licence agreement shall also be made a part of Articles of Association.

**TTL Comment:**

As regards 3.8, we are unable to agree. Such a requirement is unnecessary and has not been prescribed for any sector then why is it needed in telecom? It was in fact, incorporated in UASL on 6<sup>th</sup> February 2006 by DoT and after vociferous protests from industry it was not implemented and was removed from UASL in 2007. We do not understand what compels TRAI to raise this issue once again.

We believe that such matters are best left to be decided between the shareholders and companies and the Government should not interfere with shareholders' rights in this regard. This is because the Memorandum and Articles bind the company and its shareholders and not the company with the Government of India (Gol). The need for this clause is not clear.

This suggestion also seeks to remove the flexibility that the Gol has, to waive its rights to terminate the license agreement and/or to suspend the licence for limited period/s in case of violation and/or to levy penalty in lieu of suspension/termination of the license. Further, this clause implies that even if there is no show cause or termination notice issued by Gol, the Company will cease to be entitled to carry on its business. Lastly, this clause will even mean that inadvertent violation of even a single condition of a licence for a particular service area will result in a company being unable to carry on that business for any and all service areas (including outside India).

We believe that, at the most, the managerial personnel who are party to willful violation of license conditions should be liable to be prosecuted for violation of Indian Telegraph Act, 1885. Otherwise, the act of one individual which results in a violation will endanger the employment and livelihood of thousands of employees working with the telecom licensee companies as well as the millions of individuals who are served by these companies. It would also adversely affect the business of information technology and equipment vendors who have supplied equipment and software worth thousands of crores to the licensee companies.

In view of the above, this provision is unreasonable and is not likely to be approved by the shareholders of the telecom licensee companies especially those which are publicly listed in India or abroad. Yet, if the shareholders do not approve of amendment of memorandum and articles of association, then the licensee company may not be able to enjoy the license.

**4. Entry Fee**



4.1 One time **non refundable** Entry fee for Unified Licence shall be:

- a. Rs. 20 (Twenty) crore for National level Unified Licence;
- b. Rs. 2 (Two) crore for Metro and 'A' Category Service area;
- c. Rs. 1 (One) crore for B category Service area;
- d. Rs. 50 (Fifty) lakh for C category Service area; and
- e. Rs. 15 (Fifteen) lakh for District level Unified Licence.

**TTL Comment:**

One time entry fee for new entrants in Unified License should be charged to cover the cost of administering and monitoring the Licenses granted from time to time and also to deter non-serious players from taking the Unified License. However, there should be separate charges specified for obtaining spectrum for offering mobile services. Agreed for new UL. However, the existing UASL should not be required to pay any additional charge / fee for migration to UL.

4.2 While granting a National level or Service area level Unified Licence, Entry fee already paid for the service area level licences or district level licences will be adjusted on pro rata basis for the balance validity period of such Licences at hand against the Entry fee for the National level or Service area level Unified Licence. However, where the sum of entry fee already paid exceeds the entry fee to be paid, there will be no refund of the Entry fee.

**TTL Comment:**

The para 4.2 above requires more clarity especially in respect of existing Licensees who have taken license of pan-Indian nature like NLD & ILD licenses. In case of NLD & ILD licenses, the entry fee was reduced in the year 2006. It may be clarified that for existing Licensees who were granted Licenses during the period 2001- 2005 when entry fee was Rs 100 Crores /Rs 25 Crores for NLD/ILD license respectively, the pro- rata adjustment would be based on higher entry fee prevalent at that time so that these existing Licensees will get the due credit for the earlier stipulated higher entry fee. For the ILD license granted during the period 2001-2005, the pro-rata adjustment would work out as Rs 1.25 Crores per year for remaining period of the validity of the License whereas for for NLD License granted during the said period, the pro-rata amount would be Rs 5 Crores per year for remaining period of the validity of the License. The credit should be granted to business group as a whole and should be available to the group to discharge future obligations.

## 5. Scope of the Licence

5.1 Unified Licence will be service and technology neutral and the Unified licensee



shall be permitted to provide any telecom service, as defined below on a non-exclusive basis, anytime, anywhere, using any technology within its licence area as prescribed below:

- a. Collection, carriage, transmission and delivery of voice and/or non-voice MESSAGES over LICENSEE's network in the designated LICENCE AREA and includes provision of all types of access services. Unified licensee can also provide Internet Telephony, Internet Services including IPTV and Broadband Services including triple play i.e. voice, video and data. The Licensee shall be free to enter an agreement with other service provider in India or abroad for providing roaming facility to its subscriber under full mobility service unless advised / directed by Licensor otherwise.

Further, TRAI can also prescribe tariffs/charges for such facilities within the provisions of TRAI Act, 1997 as amended from time to time.

- b. Unified licensee can provide dark fibres, Right of Way, duct space, towers on lease / rent / sale basis to the licensees of telecom services on mutually agreed terms and conditions. The Licensee will also be allowed to install and share active network limited to antenna, feeder cable, Node B, Radio Access Network (RAN) and transmission systems and to seek SACFA siting clearance for erecting towers with or without agreement with licensed Service Providers.
- c. Unified licensee is permitted to provide leased circuit within its licence area. Public network is not to be connected with leased circuits/CUGs.
- d. A Unified licensee shall be permitted to offer any/all services covered under 'Class licence' and 'Licensing through Authorization' but not vice-versa.
- e. The Licensee cannot provide any other service which otherwise require a separate licence.
- f. The Licensee cannot provide broadcasting services, for which a separate licence / registration is required as per Cable TV Act 1995 and guidelines for DTH Licence issued by Ministry of Information and Broadcasting.

**TTL Comment:**

In view of technology neutrality, each operator is allowed to use any technology, subject to emission restriction, in any of the allotted band. Since all technologies e.g. 2G, 3G, BWA and LTE can be launched in any of the cellular band; it is for the operators to decide when to introduce a particular service based on commercial consideration in the spectrum band allotted.





The Unified License would allow the licensee to offer many services, and the licensee may decide to offer all or few at any given time.

Like UAS license, inter and intra circle roaming arrangement should be made part of UL and not of the spectrum.

Nothing that is permitted under UAS license should be removed from the scope of UL. Level playing Field issues need to be taken care of while amending scope of Service.

5.2 The services which a Unified Licensee can offer will be as below:

- a. National level Unified Licence shall permit the Licensee to offer any or all of the telecom services mentioned in Para 5.1 in any/all service areas.
- b. National level Unified licensee can also provide GMPCS, NLD and ILD services, Resale of IPLC.
- c. Service area level Unified Licence shall permit the Licensee to offer any or all of the telecom services mentioned in Para 5.1 except National Long Distance (NLD), International Long Distance (ILD), Global Mobile Personal Communication by Satellite (GMPCS) services, Very Small Aperture Terminal (VSAT) services, Resale of IPLC and INSAT Mobile Satellite System (INSAT-MSS) Reporting Service, in the specified service area for which licence is given. Service area level Unified licensee will be allowed to apply for National level Unified Licence.

District level Unified Licence shall permit the licensee to offer any or all of the telecom services mentioned in Para 5.1 in the district for which licence is given. However, a District level Unified licensee shall not be permitted to offer NLD, ILD, GMPCS, VSAT & Resale of IPLC, INSAT-MSS and wireless access service. Also, these licensees would not be entitled for assignment of spectrum resources for access services. District level Unified Licence will not be given for Metro areas of Delhi, Mumbai and Kolkata.

(Note – The definition of various services mentioned above are as defined in the Annexure II)

**TTL Comment:**

We request the Authority to examine whether district level license would be a workable proposition. Whether it would promote cherry picking at the cost of service area level or national level operators needs to be examined.



## **6. Ownership of licensee company**

6.1 The LICENSEE shall ensure that all the conditions mentioned in Clause 2 (eligibility conditions) are maintained during the currency of the Unified Licence.

### **TTL Comment:**

We agree. Any unintentional aberration/violation should carry cure period of 3 months extendable to 6 months.

6.2 The LICENSEE shall declare the Indian & Foreign equity holdings (both direct and in-direct) in the LICENSEE company and submit a compliance report regarding compliance of FDI norms and security conditions on 1st day of January and 1st day of July on six monthly basis to the LICENSOR. This is to be certified by the LICENSEE Company's Company Secretary or Statutory Auditor.

## **7. Duration of Licence**

7.1. The validity period of a Unified Licence will be for a period of 20 years.

## **8. Renewal of Licence**

8.1. Renewal – The licensor may renew, if deemed expedient, the period of Unified Licence by a period of 10 years at one time upon the request of the Licensee on terms mutually agreed. The decision of the Licensor shall be final in this regard.

### **TTL Comment:**

We agree. The appropriate word may be to 'extend'.

8.2. On renewal, Unified licensee will be required to pay a renewal fee which will be as notified by the licensor on the recommendations from TRAI.

### **TTL Comment:**

It should not exceed the entry fee prescribed for new licenses.

## **9. Suspension/revocation/termination/Surrender of Licence**

9.1. There shall be a non-obstante clause in the licence which confers powers upon the Licensor to suspend, revoke or terminate the license, in whole or in part.

### **TTL Comment:**



We agree to have such a clause only to meet external national emergency.

9.2. Licensee may surrender the Licence, by giving notice of at least 60 Calendar days in advance. Unless the surrender notice is rejected by the Licensor within 30 days of the date of receipt of the notice, the effective date of surrender of Licence will be 61<sup>st</sup> Calendar day counted from the date of receipt of such notice by the licensor.

**TTL Comment:**

In this context, surrendering license would imply complete exit of the operator from providing services either nationally or in a particular service area and would entail surrender of all type of spectrum or any other approval for operations held by the licensee. The new regime should allow for surrender of any infructuous License. The proposed UL should allow existing ISPs, NLDOs and ILDOs to surrender their license against the migration of Group and Associate UASL companies to the Unified License regime. Entry Fee should be set off against the commitments of Group and Associate companies under the Unified License Regime.

**10. Penalty**

10.1. The Licensor may impose financial penalty (as detailed below) based on either its own findings or on the recommendations of TRAI, for each violation of the terms and conditions of licence agreement:

Type of License	Minor violation	Major violation
National Level	Not exceeding Rs 5 Crore	Not exceeding Rs 50 Crore
Service Area Level	Not exceeding Rs 2 Crore	Not exceeding Rs 20 Crore
District Level	Not exceeding Rs 10 Lakh	Not exceeding Rs 1 Crore

**TTL Comment:**

The following extracts from TDSAT judgment in Petition 12/2002 dated 11-07-2011 are relevant:

Quote



*Section 4 of the Indian Telegraph Act provides for exclusive privilege of the Central Government in respect of establishing, maintaining and working telegraphs. The proviso appended thereto, however, enables the Central Government to grant a license on such conditions and payment of such fee as it deems fit to any person to establish, maintain or work a telegraph within any part of India. Apart from the said provision, unlike statutes framed by various States dealing with excise, lottery and other prohibited category of business, there does not exist any provision for grant of license. 'Telegraph' is in the Union List. It is not, thus, one of the subjects which is considered 'Res extra Commercium'. The special privilege doctrine in a case of this nature cannot be said to have conferred any right on the licensor to act arbitrarily. 'Telegraph' being covered by a 'law', the Union of India is to be governed thereby. It is also bound by the provisions of the Indian Contract Act.*

*It is a well settled position that in respect of grant of any right or license by the Central Government or an authority which can be held to be State within the meaning of Article 12 of the Constitution not only the source of the power has to be traced, but it has also to be found that the procedure adopted for such grant was reasonable, rational and in conformity with the conditions which had been announced. It is also well settled that only because a statute empowers a State to grant a license or enter into a business with a third party, the same by itself would not render the contract a statutory one.*

Unquote

With the above background, we would like to submit that penalty for violation of terms of license by a licensee has to be in line with Section 20A of Indian Telegraph Act 1885 which specifically deals with such a situation and is reproduced below:

*"20A. Breach of condition of license - If the holder of a license granted under section 4 contravenes any condition contained in his license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the breach of the condition continues."*

We would also like to submit that proposed penal stipulation in a license agreement would also be subject to Indian Contract Law as held by Hon'ble TDSAT and specifically to the Section 73 & 74 of the Contract Act. The said provisions are to be construed conjointly. Section 73 does not envisage recovery of damages which is indirect or remote in nature. Such a penal provision either in the Contract or otherwise having regard to sufferance of civil consequences by a party deserves strict scrutiny. Before imposition of such penalty, it is also necessary to comply with the conditions precedent laid down therefor. If a penal clause is possible to be interpreted differently, an interpretation which favours the licensee should be preferred. Illustration (d) appended to Section 74 of the Indian Contract Act, in this context deserves our attention which reads as under:



*“(d) A gives B a bond for the repayment of Rs. 1,000 with interest at 12 per cent. at the end of six months, with a stipulation that, in case of default, interest shall be payable at the rate of 75 per cent from the date of default. This is a stipulation by way of penalty, and B is only entitled to recover from such compensation as the Court considers reasonable.”*

This illustration also shows the consequential damages suffered by any person by reason of delay in payment which is remote and indirect would not be payable. Section 74 of the Contract Act clearly stipulates that if any amount named in the contract is payable in case of breach of contract, the Courts in a given case may award an amount which would appear to be reasonable by way of compensation not exceeding the amount provided for in the contract. What would be the reasonable amount would, however, depend on facts and circumstances of each case.

If the penal clause is to act ‘in terrorem’, it, save in exceptional cases, would be rendered invalid. It is also a well settled principle of law that some claim in the contract by way of pre-estimated damages, may not be enforced by a court of law and only a reasonable amount out of the pre-estimated damage would be payable, unless the amount named is held to be a reasonable pre-estimate. There cannot, however, be any doubt or dispute that the penal clause in question is required to be considered in the light of Section 74 of the Indian Contract Act.

Thus, even as per Contract Act, the quantum of penalty imposed in a case of violation should have direct nexus only with the financial loss caused to the Government exchequer due to such violation. It is recommended that for National level Unified license, maximum penalty may be 5 Crores for a major violation and Rs 50 Lakhs for a minor violation. We request TRAI to define the major and minor violations explicitly as part of the Unified License terms and conditions.

## **Financial Conditions**

### **11 Fees payable**

11.1. **Entry Fee** – Onetime non refundable Entry fee as detailed in Para-4.

11.2. **License Fee** – An annual Licence Fee as a percentage of Annual Gross Revenue (AGR), as defined in the licence agreement shall be applicable. From the second year of the effective date of the Unified Licence, this Licence Fee shall be subject to minimum of 10% of the Entry fee paid.

### **TTL Comment:**

TRAI needs to reiterate its recommendation made for various licenses in the past which time and again state that:



License Fee as a percentage of Adjusted Gross Revenue should be applicable only from the revenues accruing to the Unified Service Licensee from the provision of licensed telecom services as listed in the license. Pass through revenues should comprise of all revenues paid out to the other licensed telecom service providers and deduction should be allowed for payments made to other telecom licensees to avoid double incidence of license fee. The level of License fee for different services under the UL should continue to be based on a percentage of Annual Gross Revenue (AGR) and the percentage should be same for all categories of Licenses / service area. There is no need to have different License fee on the basis of metro, category A, B and C circles. Further, the level of License fee should be uniform across services and should consist of Universal Service Obligation of 5% plus administrative cost, with the total License fee being a maximum of **6% of Adjusted Gross Revenue (AGR)**.

11.3. The Fee/royalty payable towards Wireless Planning and Coordination Wing (WPC): WPC Charges shall be payable at such time and in such manner as the WPC Wing of the DoT may prescribe from time to time.

**TTL Comment:**

Since the spectrum will be bought at the market price, on the spectrum obtained through auction, there should not be any spectrum usage charges OR those charges should be as specified in auction terms and conditions

## **12. Bank Guarantee**

12.1. The Financial bank Guarantee (FBG) shall be equivalent to the Licence Fee payable for two quarters. The minimum annual Licence Fee is 10% of the entry fee. Therefore, for new entrants, initially FBG shall be for an amount of Rs. 1 (One) crore for National level Unified Licence, Rs. 10 (Ten) lakh, 5 (Five) lakh and 2.5 lakh for metro/category A, B and C Service area level Unified Licence respectively and Rs. 75,000 (Seventy Five thousand) for District level Unified Licence. The amount of FBG shall be reviewed on six monthly basis by licensor and subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to Licence Fee for two quarters and other dues not otherwise securitized and any additional amount as deemed fit by the Licensor.

**TTL Comment:**

In our view, as the service providers are required to pay the license fee at the end of every quarter, the FBG requirement should be reduced equal to one quarter revenue share.

## **13. Merger of Unified Licences**



- 13.1 Merger of Unified Licences may be permitted as per guidelines issued by DoT from time to time.

### **General Conditions**

14. Change in the name of the Licensee Company shall be permitted in accordance with the provisions under the Indian Companies Act, 1956.

#### **TTL Comment:**

Change of name be governed by provisions of Companies Act, 1956 as modified or replaced from time to time.

15. 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.
16. The Licensee shall comply with any order issued by the Licensor OR any order, direction, determination or regulation as may be issued by TRAI from time to time.

#### **TTL Comment:**

Any order should be passed by DoT/TRAI after following the principles of natural justice. No unilateral amendment be made to Unified License.

17. The LICENSEE shall be responsible for, and is authorized to own, install, test and commission all the applicable systems for providing the services.

#### **TTL Comment:**

If DoT introduces Network Services Operator (NSO) and Communications Network Service Operator (CNSO ) licenses, the whole responsibility could shift to these licensees.

18. The licensee shall make its own arrangements for Right of Way (ROW).

#### **TTL Comment:**

This is a problem area as of now. Local bodies are charging arbitrarily hefty amounts for permitting fibre laying. Fibres are cut off even after High Court restraint orders. Telecom towers are forced to be shut down because some news channel is spreading canards about EMF from cell sites. Telecom Sector should be given the status of Infrastructure as available to many other sectors. Telecom sector is the tool for improvement the health of



other sectors and the ROW being the state subject needs to be revisited and a National level policy guideline should be made available for faster growth of the sector. This is a long pending issue in the industry; it needs to be dealt in a transparent manner including all stake holders' i.e. state level, licensor level and regulator level also.

19. Licensee shall make its own arrangements for all infrastructure involved in providing the service and shall be solely responsible for installation, networking, operation and commissioning of necessary equipment and systems, treatment of subscriber complaints, issue of bills to its subscribers, collection of its component of revenue, attending to claims and damages arising out of his operations.
20. The Licensee shall provide the details of the technology proposed to be deployed for operation of the service. The technology should be based on standards issued by ITU/TEC or any other International Standards Organization/ bodies/Industry. Unified licensee is permitted to provide, service by utilizing any type of network equipment, including circuit and/or packet switches that meet the relevant International Telecommunication Union (ITU) /Telecommunication Engineering Center (TEC) / International standardization bodies such as 3GPP/ 3GPP-2/ ETSI/ IETF/ ANSI/ EIA/ TIA/IS.

**TTL Comment:**

The licensee should be allowed to introduce/exit any technology as per its business plan.

21. In case of provision of bandwidth by the Licensee through the satellite media, the Licensee shall abide by the prevalent Government orders, directions or regulations on the subject like satellite communication policy, V-SAT policy etc.
22. Sharing of active/passive infrastructure shall be as per the guidelines issued by the Licensor from time to time.

**TTL Comment:**

Both Active and passive infrastructure should be allowed to be shared. In order to have optimum utilization of national services, sharing of infrastructure, including switches / MSCs, between operators should be encouraged by the Government. The sharing of infrastructure should be permitted to only to those operators who come under the purview of Unified Licensing. This will act as an incentive for other operators to opt for Unified Licensing regime.

23. The LICENSEE shall ensure adherence to the National FUNDAMENTAL PLAN which includes National Numbering, routing and Transmission plan issued by Department of Telecommunications and technical standards as prescribed by





LICENSOR or TRAI, from time to time.

24. The licensee providing access service, shall provide independently or through mutually agreed commercial arrangements with other Service Providers, all public utility services including TOLL FREE services namely police, fire, ambulance or any other emergency number as may be specified by the Licensor from time to time. While providing emergency services such as police, fire, ambulance etc. it shall be ensured that such calls shall be delivered to the control room of the concerned authority for the area from where call is originated.

**TTL Comment:**

Licensor should facilitate access to BSNL/MTNL network for this purpose at normal charges/costs.

**25. Interconnection**

- 25.1. It shall be mandatory for the Unified licensee to provide interconnection to all eligible Telecom Service Providers (eligibility shall be determined as per the service provider's Licence agreement and TRAI's determination/orders/regulations issued from time to time) to ensure that the calls are completed to all destinations. Principle of non-discrimination shall be followed in the matter of interconnection.

**TTL Comment:**

We agree that interconnection should be mandatory. The VSAT operators should also be allowed to interconnect to the PSTN on payment subject to applicable revenue share and interconnect fees. The TRAI should come out with suitable regulations for such type of interconnect regime for both GMPCS and VSAT.

- 25.2. The interconnection shall have to be withdrawn in case of termination of the respective licensed networks of other Telecom service providers within one hour or within such time as directed by the Licensor/TRAI in writing, after receiving intimation from the Licensor/TRAI in this regard.

- 25.3. Interconnection between the networks of different SERVICE PROVIDERS shall be as per National Standards issued from time to time by Telecom Engineering Centre (TEC) and also subject to technical feasibility and technical integrity of the Networks and shall be within the overall framework of interconnection regulations issued by the TRAI from time to time.

**TTL Comment:**



We agree. Lot of work is required on the part of Regulator to make interconnection agreements between BSNL/MTNL and Private operators reciprocal and reasonable.

25.4. The terms and conditions of interconnection including interalia standard interfaces, points of interconnection and technical aspects will be subject to compliance of prevailing regulations, directions and determinations issued by TRAI from time to time.

**TTL Comment:**

Interconnection charges should be cost-based. Interconnection should be based on equity, non-discrimination and level playing field. The agreements should be transparent. LDCA based interconnection regime should be adopted under the Unified License Regime. However, the choice of Network architecture should be left to the service provider. The service provider should be free to decide and opt for network architecture of its choice.

There should be no regulation to define the level of POI as long as POI meets the TEC specifications.

The service specific interconnection regime should be continued with. The choice of Network Architecture should be left to the service provider. The Service Provider should therefore be allowed to share its switch (s) for different services and the interconnection for different services should be allowed through the same switch

POI should be at the LDCA level or at a level higher than that depending on the mutual agreement between the service providers. POIs should be made available on demand without any delay.

25.5. The charges for accessing other networks for inter-network calls shall be based on mutual agreements between the service providers conforming to the Orders/Regulations/Guidelines issued by the TRAI from time to time.

**26. Quality of service**

26.1. The LICENSEE shall operate and maintain the licensed Network conforming to Quality of Service standards to be mutually agreed in respect of Network- Network Interface subject to such other directions as LICENSOR or TRAI may give from time to time. Failure on part of LICENSEE or his franchisee to adhere to the QUALITY OF SERVICE stipulations by TRAI and network to network interface standards of TEC may be treated as breach of Licence terms.

**27. Security Conditions**



27.1 The Licensee shall comply with the security conditions interalia relating to inspection of the installation/establishments, audit of networks, security of the network, restriction on employment of foreign nationals, transfer of information outside the country, remote access, monitoring of networks, confidentiality of information relating to subscriber data and any other condition imposed by the Licensor from time to time.

**B. Additional Guidelines for Spectrum assignment associated with Unified licence**

28. The net worth requirement for those Unified licensees who may apply for assignment of spectrum will be in addition to what is mentioned in Clause 2.3 above. The promoters of the applicant company shall have a combined net-worth of Rs. 100 crore/ Rs. 50 crore/ Rs. 30 crore for Category A, B and C Service areas respectively. The applicant company shall have a minimum paid up equity capital equal to one-tenth of net-worth prescribed above and shall submit a certificate to this effect (provided by the applicant's Company Secretary) while applying for the spectrum.

29. At the time of applying/bidding for spectrum, no single company/ legal person having substantial equity in the applicant company, either directly or through its associates, shall have substantial equity holding in any other company having Unified /UAS/CMTS/Basic Licence in the same service area. 'Substantial equity' herein will mean equity of 10% or more'.

A promoter company/ Legal person having stake in the applicant company shall not have stakes in a company having Unified/UAS/CMTS/Basic licence in the same licence area.

**TTL Comment:**

The substantial equity prohibition clause was introduced in the year 2003 in CMTS/UAS/BSO licenses. An exception was made for existing companies in the same group holding licences in same service area. There is a need to issue group wise licences and all the telecom companies in that group can make use of that licence. This would lend lot of flexibility to companies in the same group. Currently, multiple companies in the same group are holding NLD/ILD /ISP licenses which can be avoided. There would be no need to merge legal entities if all entities can use all type of licences. It is suggested that with respect to all conditions pertaining to merger/ acquisition, like market share and spectrum caps, such companies belonging to a single group, be treated as a single entity.



30. Performance Bank Guarantee (PBG) in prescribed proforma given in licence agreement shall be submitted for amount equal to Rs. 20 crore/Rs. 10 crore/Rs. 2 crore for Category A, B and C Service areas respectively before signing the Licence Agreement. Further, on completion of one year from the effective date of assignment of spectrum and after meeting the coverage criteria stipulated for first year, the PBG shall be reduced to Rs. 10 crore/Rs. 5 crore/Rs.1 crore for Category A, B and C Service areas respectively on self-certification provided by the Licensee.
31. The applicant company shall submit a Financial Bank Guarantee (FBG) of an amount of Rs. 50 crore/Rs. 25 crore/ Rs. 5 crore for Category A, B and C Service areas respectively, which shall be submitted before the date of signing the Licence agreement in the prescribed proforma given in licence agreement. Initially, FBG shall be valid for one year. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to license fee for two quarters and other dues not otherwise securitised and any additional amount as deemed fit by the Licensor. The amount of FBG shall be subject to periodic review by the Licensor and shall be renewed from time to time till final clearance of all dues.
32. The Fees, charges and royalties for the use of spectrum and also for possession of Wireless Telegraphy equipment shall be separately securitised by furnishing FBG of an amount equivalent to the estimated sum payable annually in the proforma given in licence agreement, to WPC, valid for a period of one year, renewable from time to time till final clearance of all such dues.
33. The Renewal fee discussed in Clause 8 above does not cover the value of spectrum, which shall be paid for separately.
34. Unified Licensees who will be assigned spectrum, will be required to comply with roll out obligations as applicable, with attendant incentives and penalty as linked to allotment of that particular spectrum block as may be specified at the time of allotment of spectrum or as may be specified from time to time.
35. The Licensee shall pay spectrum usage charges in addition to the Licence Fees on revenue share basis as notified separately from time to time by the WPC Wing. However, while calculating 'AGR' for limited purpose of levying spectrum charges based on revenue share, revenue from wireline subscribers shall not be taken into account.
36. For use of space segment and setting up of the Earth Station etc., the Licensee shall directly coordinate with and obtain clearance from Network Operations and Control Centre (NOCC), apart from obtaining SACFA clearance. The clearance from other authorities as specified from time to time shall also be obtained by the



Licensee.

## II. Draft Guidelines for Class Licence

### **TTL Comment:**

We are of the view that there should not be Class licence covering VSAT and PMRTS services. This service should be included as part of Unified Licence.

## III. Migration of Existing Licence to Unified Licence

1. On coming into force of the Unified Licence, all the existing licences issued under Section 4 of the Indian Telegraph Act 1885 shall stand automatically converted to the Unified Licence. This will be the Unified Licence (restricted). Necessary amendments shall be made by the Licensor under intimation to the Licensee.

### **TTL Comment**

**Migration to Unified License should be optional and not compulsory.** However, the Unified License should be attractive enough so as to attract a Service Provider to opt for a Unified License and offer the entire range of services proposed to be included in the Unified License.

2. On conversion, the validity of the Unified Licence (restricted) shall be same as the validity of existing licence.
3. The conditions of Unified Licence (restricted) shall be the same as existing licence.
4. The services under such a licence will be restricted to the service(s) that the licensee could offer and to the service area(s) permitted under the existing licence. In case an existing licensee after conversion to Unified Licence (restricted) wishes to provide services permitted within the scope of service under Unified Licence but which are not covered under its old licence, then it will have to apply for Unified Licence.
5. For conversion to the Unified Licence (restricted), there shall be no additional entry fee to be paid by the licensee.
6. A holder of Unified Licence (restricted) shall have the option to apply for and migrate to a Unified Licence.
7. In the event a holder of Unified Licence (restricted) desires to expand/alter the service(s) offered or service area(s) of operations, it shall be required to migrate to



Unified Licence and pay the prescribed entry fee.

*Illustration:* A company 'A' has All-India licence for NLD and ILD, ISP (Category B) and CMTS/UAS Licences for service areas 2 & 3 as given in the Table below. After coming into force of Unified Licence framework, these licences shall get converted to Unified Licences (restricted) i.e. the scope of service of each new Unified Licence will continue to be the same as the existing licence. However, if the Company wishes to provide any other service permitted under Unified Licence, say ISP on all India basis or access services in LSAs other than service areas 2&3, then it will have to apply for migration to National level Unified Licence and will also have to pay the prescribed entry fee and fulfil all eligibility conditions as given in the Guidelines for Unified Licence.

Unified Licences (restricted) – 6 licenses

Licence	All India	LSA-1	LSA-2	LSA-3	..... ...	LSA-2 1	LSA-2 2
CMTS/UAS L			✓	✓			
NLD	✓						
ILD	✓						
ISP			✓	✓			

After migration to Unified Licence – 1 Unified Licence

Licence	All India
CMTS/UASL	
NLD	
ILD	
ISP	
All other Services defined in the scope of Unified Licence.	

### TTL Comment

The existing licensee should not be required to pay any additional charge / fee for migration to UL. The new entry fee should be adjusted with the entry fee already paid. They would retain their existing spectrum and future allocation limits.



At the time of migrating to National level Unified License, entry fee already paid for the group for service area wise licenses or otherwise be adjusted on pro-rata basis for remaining validity period of various Licenses at hand against the entry fee of Nation level Unified License.

Existing ISPs should be permitted to migrate to the UL (after taking care of Level Playing Field issues) and they would retain their existing spectrum.

Existing NLDOs/ILDOs should be permitted to migrate to the UL and be eligible for purchasing spectrum.

8. In respect of 6 and 7 above, the Entry Fee already paid, in case of NLD/ILD/UASL/CMTS licence only, will be adjusted on *pro rata* basis for the balance validity period of the existing Licence as per formula given in the table below. However, in cases where the Entry Fee already paid exceeds the Entry Fee to be paid now for migrating to Unified Licence, there will be no refund of the Entry fee.

Type of Existing Licence	Migration to	Rebate
ILD/NLD	National level	Rs 12.5 lakh x No of years remaining for existing NLD/ILD Licence validity  <b>TTL Comment:</b>  This should be Rs 5 crores x No of years remaining for existing NLD License validity for NLD licenses granted before 01.01.2006 .
UASL/CMTS	Service area level	Rs 10 lakh, 5 lakh and 2.5 lakh for Metro/Cat A, Cat B and Cat C service areas respectively x No of years remaining for existing UASL/CMTS Licence validity.
UASL/CMTS in various service area	National level	Rs 10 lakh, 5 lakh and 2.5 lakh for Metro/Cat A, Cat B and Cat C service areas respectively x No of years remaining for existing UASL/CMTS Licence validity subject to maximum limit of Rs. 20 crore.

**TTL Comment:**



The computation and adjustment of entry fee for balance period requires more clarity especially in respect of existing Licensees who have taken license of pan-Indian nature like NLD licenses as these licenses were subjected to higher entry fee till the year 2005. These Licensees who were granted licenses prior to the year 2006 should be given due credit for the higher Entry fee in order to maintain level playing field. The Licensees who were granted Licenses during the period up to the year 2005, the entry fee was Rs 100 Crores for NLD license respectively therefore pro-rata adjustment should be based on higher entry fee prevalent at that time so that these existing Licensees will get the due credit for the earlier stipulated higher entry fee. For NLD License granted during the period up to the year 2005, the pro-rata amount would be Rs 5 Crores per year for remaining period of the validity of the NLD License. It is requested that credit due on account of old NLD licenses may accordingly be given to the eligible existing NLD licensees. Credit should be allowed at group level.

9. On expiry of the validity of the Unified Licence (restricted), the licensee shall be required to take a Unified Licence.
10. IP-I shall be covered under Unified Licence. The existing IP-I providers would be required to take the Unified Licence as soon as the same comes into being and the conditions in the Unified Licence will apply to IP-I provider too. IP-I shall have to pay the prescribed entry fee to take the Unified Licence.

**TTL Comment:**

TTL is of the view that IP-I should not be brought under the Uniform licensing framework along with access services and the foreign equity need not be restricted.

Further, no license fee should be levied, as creation of passive infrastructure like towers and dark fibers is a civil construction activity and not a telecom network activity. Therefore the telecom infrastructure creation activity like establishing towers, shelters with extension of power to such telecom facilities and laying of fiber is not covered under Section 4 of the Indian Telegraph Act, 1885 for licensing.

11. In the event a holder of Unified Licence (restricted), having spectrum, obtains a Unified Licence, it will continue to retain the spectrum assigned for the remaining validity period of the existing Licence. In case of 3G /BWA spectrum holders, the spectrum assigned will be retained for the period for which the spectrum blocks have been assigned. The licensee holding access spectrum shall be required to maintain the net-worth and paid up equity as per existing licence, in case these are higher than the amount prescribed in the Unified Licensing Regime.
12. Roll out obligations, if any, linked with the existing service providers shall remain applicable even after migration to Unified Licence regime and shall be subject to





changes/modifications from time to time.

### **TTL Comment**

The new regime should allow for surrender of any in-fructuous License. The proposed UL should allow existing NLDOs and ILDOs to surrender their license against the migration of Group and Associate UASL companies to the Unified License regime. Entry Fee and bank guarantee should be set-off against the commitments of Group and Associate companies under the Unified License Regime

### **V. Issues for Consultation**

2. What are your views on the scope of Licence for Unified Licence (National level/Service area level/District level) and Class Licence? (Clause 5 of draft guidelines for Unified Licence and Clause 5 of draft guidelines for Class Licence)

### **TTL Comment:**

The key objective of the Unified Licensing/ Authorization Regime is to encourage free growth of new applications and services leveraging on the technological developments in the Information and Communication Technology (ICT) area. Other main objectives of the Unified Licensing Regime are to simplify the procedure of licensing in the telecom sector, ensure flexibility and efficient utilisation of resources keeping in mind the technological developments, mapping of existing service specific licenses into Unified Licensing Model and providing a clearly defined migration path for existing licensees of Basic, Unified Access, Cellular Mobile, NLD, ILD and Internet services, to ensure easy entry and no worse-off position for existing Operators.

We are of the view that there should not be Class licence covering VSAT services and PMRTS. This service should be included as part of Unified Licence.

According to us, following should be the scope of license for Unified License and License through Authorization:

- Unified license at Service Area (circle and Pan India level only) covering UASL/CMTS, NLD, ILD, Internet, GMPCS, VSAT and PMRTS;
- Licensing through Authorization covering IP1, Voice Mail/Audio Tex/Unified Messaging Service, OSP services and Radio Paging as stipulated by DoT.

3. What, in your opinion, are the actions that should be classified as minor violations and major violations? (Clause 10 of draft guidelines for Unified Licence).

### **TTL Comment**



Please see response against 10.1 in the Unified License guideline.

4. Even within minor and major violations respectively, what, in your opinion, should be the factors to be taken into consideration while determining the actual amount of penalty? (Clause 10 of draft guidelines for Unified Licence).

**TTL Comment:**

The factors which should be taken into account for determining the quantum of penalty are the severity of the violation, was violation intentional ?, amount of loss caused to the Government, the resulting harm to users and service provision, the amount of benefit that the Licensee derived from the violation, prior violations, repetition of violations, early admission of the violation, cooperation or refusal to cooperate with the investigation, and the economic and financial situation of the licensee.

5. These draft guidelines do not provide for Licensing through Authorisation. In your opinion, considering the services that are already covered under Unified Licence and Class Licence, is there any need for Licensing through Authorisation? If so, which are the services to be so covered? And, what should be the guidelines for such a licence?

**TTL Comment:**

The service provider who wants to offer services covered in this category of 'Licensing through Authorisation' should be able to get license merely by informing the licensor and submitting a statement on compliance with certain terms and conditions regarding security, etc which may be issued by Department of Telecom and put on its website. IP1,IT enabled services such as call centres, electronic-commerce, tele-banking, tele-education, tele-trading, tele-medicine, videotex, video conferencing, voice mail, Audiotex, e-mail, other service provides as stipulated by DoT, Unified messaging service and such other as may be prescribed, may be covered under this category. There should be no license fee or onetime fee.

6. Whether Voice mail/Audiotex/UMS services and Radio paging should continue to be under licensing regime?

**TTL Comment:**

It is proposed that Voice mail/Audiotex/UMS services and Radio Paging services should be covered under licensing through Authorization.

7. Is there any other service(s), which needs to be brought under licensing regime?



### **TTL Comment**

Draft Guidelines are quite broad and service neutral and there is no necessity of bringing any specific service under licensing regime.

8. In the new licensing regime, spectrum has been delinked from the Unified Licence. In such a scenario, should TRAI be entrusted with the function of granting all types of Unified Licence as is prevalent in majority of the countries in the world?

### **TTL Comment**

Spectrum is presently managed and administered by the Department of Telecommunications and the Wireless Planning and Coordination Wing on behalf of the Government is carrying out all activities related to spectrum. Recently, the Hon'ble Minister of Communications & Information Technology in the policy decision announcement stated that for efficient management of available spectrum, TRAI may take regular spectrum audit and carry out review on the usage of spectrum available and in both the cases; TRAI will make recommendations to the Government.

As per Section 4 of Indian Telegraph Act 1885, the Central Government exclusively has the right of granting licenses. Also, the TRAI Act 1997 does not have the provision of granting license. Indian model of Licensor, Regulator and adjudicators being 3 separate organizations is unique and may be continued.

9. Presently, in case of IP- I, there is no restriction on the level of foreign equity in the applicant company. However, in case of Unified Licence, the total foreign equity in the total equity of the Licensee is restricted to 74%. Please indicate the maximum time which should be given to the IP-I to comply with the FDI condition of 74% after grant of Unified Licence.

### **TTL Comment**

IP-I should not be brought under the Uniform licensing framework along with access services and the foreign equity need not be restricted.

Further, no license fee should be levied, as creation of passive infrastructure like towers and dark fibers is a civil construction activity and not a telecom network activity. Therefore the telecom infrastructure creation activity like establishing towers, shelters with extension of power to such telecom facilities and laying of fiber is not covered under Section 4 of the Indian Telegraph Act, 1885 for licensing.

However, in any case if IP-I operators are brought under Unified Licensing, then the foreign equity in the total equity of the license be restricted to 74% and a time frame of 1-2



years be given to comply with the FDI limit and UASL operators need to be given deduction for payments made to IP-I as pass through charges else there will be double charging of license fee.

10. Presently, the access service licences viz. BASIC/CMTS/UASL have restrictions regarding holding of substantial equity by a promoter in more than one access service licence in the same service area. However, apart from access service licence, this condition is not applicable for any other licence. Accordingly, the proposed guidelines remove the restriction on holding of substantial equity in a company having UAS / CMTS/ Basic Licence in the same service area on migration to Unified Licence and also from the eligibility conditions given in Para 2.3 of the draft guidelines for Unified Licence. Please comment on the pros and cons of this proposal.

**TTL Comment:**

The substantial equity prohibition clause was introduced in the year 2003 in CMTS/UAS/BSO licenses. An exception was made for existing companies in the same group holding licences in same service area. There is a need to issue group wise licences and all the telecom companies in that group can make use of that licence. This would lend lot of flexibility to companies in the same group. Currently, multiple companies in the same group are holding NLD/ILD /ISP licenses which can be avoided. There would be no need to merge legal entities if all entities can use all type of licences. It is suggested that with respect to all conditions pertaining to merger/ acquisition, like market share and spectrum caps, such companies belonging to a single group, be treated as a single entity.

11. Please raise any other issues you feel are relevant and offer your detailed comments on the same.

**TTL Comment:**

TTL would like to request TRAI to take into consideration the following while framing and finalizing the Unified License regime.

**Inter-Circle connectivity**

- Further, inter-circle connectivity should not be permitted to those service providers who do not migrate to Unified Licensing Regime. This will work as an incentive for the service providers to opt for Unified Licensing Regime.

**Reselling of Services**



- In the past, the emphasis of the telecom policies was to improve the level of infrastructure in the country and therefore, resale of services was not permitted. However, it is believed that there is sufficient infrastructure in most parts of the country now, with nearly 6-7 mobile networks and 4 -6 long distance networks in operation. The stage is set for the introduction of resale of services, which will enable deeper and improved penetration in various markets, and thus increase teledensity.
- Resellers should be permitted as a Class License category without any entry fee. Resellers may be allowed to offer mobile, fixed or long distance services of Unified Licensees only. The QoS norms for such services would be similar to those determined under the UL; the responsibility for meeting the QoS would be with the reseller.
- It should not be mandatory for Unified Licensees to offer their network / services for reselling. The commercial terms between the Network Operator and the Reseller should be decided on a mutual agreement, non-discriminatory basis.

**AGR Definition**

S. No	Item	TTL Suggestions
1	INCOME FROM DIVIDEND	Please exclude from the AGR definition being a non licensed activity
2.	Interest Income : a) Interest Income Interest earned on investment of savings made by a licensee after meeting liabilities including liability on account of share of the Govt. in the gross revenue. b) Interest earned on investment of funds received by way of deposits received by licensees on account of securities against charges, particularly, from customers using international long distance calls service whose bills are heavy. c) Interest earned on deposits received by way of deposits from customers	Please exclude fully (or include only notional interest on customer deposits OR charge only on net position after deducting finance costs.



	on account of concessions given in the charges payable for sing the telecom services.	
3.	Capital Gains	Please exclude from the AGR definition being a non licensed activity
4.	Gains from foreign exchange rate fluctuations	Please exclude from the AGR definition being a non licensed activity
5.	Reversals of provisions and Vendors' credit	Please exclude from the AGR definition being a non licensed activity
6.	Income from property rent	Exclude only if the property is let out for purposes other than telecom activity.
7.	Income from sale /lease of Passive Infrastructure like Towers, Dark Fibres etc	Exclude sale or IRU but Include other rentals.
8.	<p>Other including Misc Income TRAI recommended :</p> <ul style="list-style-type: none"> <li>a) Revenue streams like sale of tenders, directories, forms, forfeiture of deposits/earnest money, management fees, consultancy fees, and training charges from the telecom service should form part of AGR</li> <li>b) Revenue from sale of fixed assets which is in nature of capital receipts and insurance claims should not be part of AGR.</li> <li>c) Payments received on behalf of third party</li> <li>d) Other items falling under the categories of miscellaneous/other income will have to be decided for taking a</li> </ul>	<ul style="list-style-type: none"> <li>a) Exclude</li> <li>b) Exclude</li> <li>c) Exclude</li> <li>d) Include/Excluded on case to case basis.</li> </ul>



	view regarding its inclusion or exclusion on a case to case basis	
9.	Any other miscellaneous receipt from investments	Please exclude from the AGR definition being a non licensed activity
10.	Inclusion of revenue form one Licensed activity in the revenue of other licensed activity	Please exclude from the AGR definition being a non licensed activity
11.	Revenue from sale of equipment including handset	Exclude (provided the sale is discernable and on stand-alone basis. In case of bundled sales include only if equipment is priced higher than costs plus say 10% profit and against such higher price telecom services are provided free or on subsidized basis.
12.	Deduction of Leased Line charges, Port Charges, Interconnection Set Up costs, Signalling charges.	Allow deduction as these are akin to PSTN charges (on bulk basis).
13.	Bad Debts, Waivers, Discounts from AGR	Exclude as these are not realized.
14.	Inclusion of items of revenue on accrual basis but exclusion of items of cost on actual payment basis.	Inclusion/ exclusion of an item shall be on accrual basis
15.	No Spectrum fee on Wire line business revenue	Revenue streams (Lease line, Port charges, income from co-location and any other infrastructure income) which does not require/ Consume any Spectrum should not be included in AGR for computation of Spectrum fee.
16.	Notional income	Any income, which is not going to accrue telecom operators directly or indirectly, should not be included in AGR.
17.	Third party Contract	Any income which is accruable



		<p>to a third party for providing services to subscribers, which does not require any telecom license, should not be included in AGR of telecom operator, viz, Charging Installation charges by third party to subscribers for installing customer premises Equipment (CPEs).</p>
--	--	---