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Verizon Suggestions and Comments on Draft Unified Licensing Regime (ULR) guidelines

Verizon Communications India Private Limited ("VCIPL") is pleased to submit its comments to the Telecom Regulatory Authority of India (TRAI) in response to the Consultation Paper No.03/2012 on Draft Guidelines for Unified License / Class License and Migration of Existing Licenses issued by TRAI dated 10th February 2012.

The need for a Unified Licensing Regime (ULR) is propelled by fast pace of technological developments which is blurring boundaries between different services, rendering service based divisions of Telecommunications redundant. The emerging technology trends indicate evolving Convergence Scenario in Telecom services with Convergence in "carriage" of telecommunications, Convergence of media and convergence of IP based transmission for Voice, data and Video.

In the international arena, there are number of countries that are migrating towards the concept of authorization or converged licensing which has been encouraged due to technological developments, consumer demand, long-term sustainability of telecom service providers and optimum utilization of resources. From the various international practices, it was observed that ULR enhances the scope of applications/ services that can be provided under a given Single license / Authorization, thereby removing the policy imposed artificial barriers on application of technology. Since Licensing restrictions should not come in the way of Technological Developments we believe that the draft guidelines have been formulated by TRAI to encourage innovation, technological development and foster an investor friendly environment for attracting additional investments in the Telecom sector apart from generating manifold employment opportunities in various segments of the sector.

We would like to submit our suggestions which we hope would be given due consideration for inclusion in the final guidelines on ULR as the same would strengthen the institutional, legal, and regulatory framework and would bring in more efficiency, certainty in decision making and transparency in governance.

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General Comments-:

At the outset we would request TRAI to consider the following principles while transitioning to and adopting a Unified licensing framework:

- **Fostering technology & service neutrality;**
- **Ensuring flexibility to allow the new licensing regime to accommodate future technological and market changes;**
- **Simplifying the number of license categories;**
- **Reducing administrative burdens and fees on market players;**
- **Applying incentive mechanisms that encourage existing operators to transition to the converged licensing framework with a no worse off approach.**
- **Ensuring transparency with regard to converged licensing responsibilities;**
- **Fostering close collaboration amongst appropriate entities with regulatory and oversight responsibilities regarding a converged licensing framework; and**
- **Referring to international best practices and international regional organizations to help harmonize licensing approaches.**

Specific Issues for Consultation-:

Issue 2: Scope of License for Unified License (National level /Service area level/District level), Class License and License through Authorization.

VCIPL response: We would like to request TRAI that scope of future licenses be technology and service agnostic and to simplify the procedure of licensing in the telecom sector which would ensure flexibility and efficient utilization of resources keeping in mind the technological developments. More particularly the way the licenses are currently drafted and even proposed under the new licensing regime, there seems to be same restrictions flowing into the ULR whereby full convergence of services is still not allowed. These artificial barriers to convergence would impede the growth of the sector and also hamper the innovation through international best practices. More specifically we note that PSTN/VOIP convergence is still restricted under the draft guidelines, which would hinder the end users, realize full potential of a unified converged licensing regime.

Therefore we recommend that the draft guidelines suitably enhance the scope of service and address the issue of PSTN /VoIP convergence in line with international best practices.

The draft guidelines should create an enabling framework that amply supports convergence of services, networks and technologies. This will usher a new revolution of data services as well. We would also recommend that suitable measures need to be undertaken to allow sharing of both active and passive infrastructure between various telecom service providers under the Unified Licensing regime.

Issue 3: Actions which can be classified for minor violation and major violation for levy of penalty.

VCIPL response: The levy of penalty for violation of the terms and condition of license has already been addressed in the scheme of existing telecom Licenses. However we believe that it may be too subjective to classify actions determining minor and major violation for the purpose of levy of penalty. Generally, minor violation may perhaps be related to administrative compliance issues whilst major violation may perhaps be related to the security breach/financial loss to the ex-chequer/criminal offence. In consideration that the rationale of imposing a penalty would often be intended for the purpose of maintaining order and deterring wrongdoing, we would not encourage TRAI to specifically classify actions which may be considered as minor or major violation. A potential action which may be considered as violation would essentially depend on the merits of the case.

Issue 4: What factors should be taken into consideration while determining the amount of penalty for minor and major violations respectively?

VCIPL response: We would recommend that the Hon'ble authority also consider risk mitigation strategy adopted by the licensee as well as intent to violate/ willful negligence as key factors while determining the amount of penalty on the licensee for the violation.

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Issue 5. What should be the terms and conditions of Licensing through Authorization?

VCIPL response: We would suggest that the terms and conditions of licensing through authorization should be drafted in such a simplified manner that it ensures seamless delivery of services to the end user. We would further like to add that licensing through authorization should not entail burdensome compliance obligations on the service provider and rather should be based on simplified model wherein mere notification/intimation to the DoT /TRAI should be considered sufficient for the purpose of providing service under the particular class of service. This would boost the efficiency in the manner of providing service to the end user

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

VCIPL response: We would recommend that the Voice mail/audiotex/UMS license should no longer continue to be under licensing regime as these services are increasingly used by user for their internal communication requirements as well as for external communication in a global environment. Therefore delicensing these services would enable faster penetration and deployment of services leading to over all efficiency in the delivery model from a consumer perspective which would also lead to growth of the sector.

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

VCIPL response: No, we don’t recommend that any additional services need to be brought under the ambit of Unified Licensing regime.

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

VCIPL response: The Role of regulator as envisaged in the TRAI Act should be enhanced in line with unique nature of issues that this sector poses. Similarly the Indian Telegraph Act should be reviewed to facilitate convergence of licenses. In fact both legislations can also eventually evolve themselves into a comprehensive new Communications Act, including the TRAI Act, the Indian Telegraph Act as has been done in developed markets of the world.

Issue 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 License, 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 License.

VCIPL response: We recommend that FDI limit for Unified License should also be enhanced to 100% foreign investment without any cap. This is also required for fostering innovation through additional investments into the sector, newer technology and state of the art equipment's, which would be possible only through enhanced FDI limits and fostered through such encouraging measures. Further we don't support the proposed move to bring IP-1 under unified License regime with a cap of 74% foreign equity

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

VCIPL response: No comments

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

Need for Comprehensive Review of NLD/ILD license

We welcome the policy direction towards a converged Unified licensing regime, which is technology and service agnostic as this would bring the much awaited next wave of telecom growth in India. There is an opportunity for change under the draft licensing guidelines on the ULR especially from an enterprise data service provider perspective. The data services primarily are offered either under the access services license or under the ILD / NLD licenses. While the access license has undergone multiple reviews, the ILD /NLD licenses (primarily voice based) have not undergone a single review in last decade. The Long Distance licenses were conceived in 2000-01, predominantly to cater to voice requirements are now being used by Telecom service providers whose business is entirely data or/ IP to serve their enterprise customers. We strongly recommend that the NLD/ILD licenses need to be modified to appropriately reflect changing customer needs, market realities and technology/policy considerations for the next generation IP based enterprise data services. There is an immediate and urgent need to have a comprehensive review of the Long distance service Licenses which will further fuel growth of Enterprise / data services. The need for review is long overdue and should be done through a consultative process with the stakeholders keeping in view the prevailing international best practices – either independently or as a part of the Unified License regime – since NLD/ILD licenses are expected to be integrated in that regime.

On critical issues such as security requirements relating to lawful intercept and monitoring, Remote Access, Encryption, Multiple stage assessment of License fee etc there is a need to evolve specific guidelines keeping in mind the unique requirements of the Enterprise Services and Data sector customers, their global networks and need for internationally consistent demands from telecom service providers across the world.

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The enterprise data services are a key enabler for the over all growth of the telecom sector in India and therefore needs robust policy framework and policy thrust from GoI for bringing about next generation telecom revolution which would lead to over all growth of the Indian economy.

Entry Fee for ULR

Hon'ble Authority has proposed onetime non-refundable Entry fee for Unified License as Rs. 20 (Twenty) crore for National level Unified License. In this regard, we wish to state that there is no clarity on the basis on which this amount of Entry fee has been derived. We request that the Hon'ble Authority clarifies its method of calculation of Rs. 20 (Twenty) crore.

We support the Hon'ble Authority's consideration of entry for existing licensees who either do not wish to operate across all segments of the market available under the Unified Licensees (including those who may want to continue only within their current line of service provisioning) in your *chapter III of the draft guidelines for "Migration of Existing License to Unified License". Clause 5 of this chapter stipulates 'For conversion to the Unified License (restricted), there shall be no additional entry fee to be paid by the licensee.'*
We understand by this clause that the existing ILD / NLD license holders after conversion to the Unified License (restricted) shall not be required to pay any additional Entry Fee.

As licensees who now operate within specific segments of the market however, we require clarity on the Entry Fee for each segment of service provisioning, as this will be an important consideration for us in regards to whether to enter those areas of the market. We request that the Hon'ble Authority provides industry with, as well as allows us to comment on, the entry fee for each segment.

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<u>License Fee under the Unified Licensing regime</u>.

Taxes / levies imposed on the Indian Telecom Sector are among the highest in the world. We appreciate TRAI's recommendation with regard to license fee wherein it advised DOT to set a uniform license fee at 6% AGR. However we are concerned with the recent development which indicates that the license fee for NLD/ILD and ISP-IT shall be brought to 8% from current 6 % of AGR. This proposed increase to 8% AGR would have a significant impact on our costs and returns on investment. The 6% fee has already been integrated into the cost structure of our long-term contracts with our customers. Further, the increase is out of line with global benchmarks, which indicate a trend towards lowering, rather than raising, fees in markets like India. The proposed increase along with the multiple stage assessment of license fee is excessive and not in line with regional or international practices. To further substantiate our concern we have analyzed license fee of comparable economies in Asian region as well as outside the region.

Notably, annual license fees in six of the eight countries identified as in table below are set at 1% or less of an operator's gross revenues, with adjustments to revenues such as exclusion of value-added tax (VAT). The regulators in Indonesia, Malaysia and Pakistan charge just 0.5% while Singapore charges 1% of revenues for the annual license fee. Hong Kong imposes a low, flat fee of HKD 1 million (USD 128,965) or less.

In analyzing the total annual fees, we found that, of the Asian countries, Singapore charges the lowest total fee of just 1% of revenues while Malaysia charges the highest total fee (annual fee plus USF fee) of 6.5% of revenues, with Macau following at 5% of revenues. The total amount of fees charged in all other countries is 2% or less. The table below summarizes our findings.

Our primary objective in this matter is to maintain or reduce the licensing fees applicable to the provision of telecom services in India. India's fees are high

when compared to regional benchmarks, and any increase in fees makes India a less attractive destination for further investment. However in the event that it is decided to proceed with this proposed increase, we strongly recommend that such an increase be phased in over a reasonable time frame.

ASIA

Country	Type of License	Annual License/Regulatory Fee	Universal Service Fund Fee	Other Fee(s)
Hong Kong (SAR)	**Unified Carrier License (UCL)**	**HKD 1 million (USD 128,965).[1]** **The fee is HKD 100,000 (USD 12,896.50) for UCL external telecommunications services, which refers to traffic between Hong Kong and any point outside of Hong**	**None until further review of Universal Service Contribution.[2]**	**HKD 8 (USD 1.03) per customer connection.[3]** **HKD 3 (USD 0.39) per subscriber number.**

[1] Communications and Technology Branch, Commerce and Economic Development Bureau, "Consultation Paper on the Creation of a Unified Carrier License under the Telecommunications Ordinance," (December 21, 2007) at Annex B, available at http://www.cedb.gov.hk/ctb/eng/paper/doc/ucl.pdf. Proposed fees in this consultation paper were ultimately adopted in 2008.
[2] Telecommunications Authority, "Universal Service Contribution - Confirmed Level for the Period from 1 July 2008 to 30 April 2009, and Provisional Level from 1 May 2009," (April 27, 2010) at 11, available at http://www.ofta.gov.hk/en/tas/ftn/tas20100427.pdf.
[3] Communications and Technology Branch, Commerce and Economic Development Bureau, "Consultation Paper on the Creation of A Unified Carrier License under the Telecommunications Ordinance," (December 21, 2007) at Annex B, available at http://www.cedb.gov.hk/ctb/eng/paper/doc/ucl.pdf. Proposed fees in this consultation paper were adopted in 2008.

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		Kong, as well as to traffic that only transits through Hong Kong. Provision of the external telecommunications service may be by means of cable-based or non-cable based (e.g. satellite) facilities.		
Indonesia	**Public Telecommunications Service Provider**	**0.5% of gross revenues for the telecommunications implementation fee (called Biaya Hak Penyelenggaraan (BHP) Telekomunikasi). This was reduced from 1% of gross revenues in 2009 pursuant to**	**Universal service obligation (USO) fee is 1.25% of annual gross revenues.[5]**	**None specified by regulator.**

[5] USF fee set by Government's Decree No. 7/2009 dated January 16, 2009. See Telkom, "Consolidated Financial Statements (Unaudited)," (September 30, 2011), Section 47(h), http://www.telkom.co.id/download/File/UHI/Tahun2011/LapKeuEngl/FS_30_Sep_11_Tlkm_english.pdf.

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Country	Type of License	Annual License/Regulatory Fee	Universal Service Fund Fee	Other Fee(s)
		Government Regulation No.7/2009 regarding Type and Tariff for Non-Tax State Revenue.[4]		
Macau (SAR)	Public Fixed Telecommunications Network	5% of operating revenues.[6]	None specified by regulator.	None specified by regulator.
Malaysia	Individual Licenses (Including Network Facilities Provider)	0.5% of annual gross revenues, but may be reduced based on various contributions, such as R&D and local content development.[7] Licensees must pay	6% of annual weighted net revenue,[8] unless net revenue is below the minimum threshold of MYR 2 million	None specified by regulator.

[4] Telkom, "Annual Report 2009," (2009), p. 45, http://www.telkom.co.id/download/File/UHI/2010/ar_eng.pdf.
[6] Bureau of Telecommunications Service Regulation, "Despacho do Chefe do Executivo n.º 3/2012," (January 6, 2012), available at http://www.gdtti.gov.mo/por/laws/3_2012.html.
[7] On January 16, 2009, the Government issued Government Regulation No.7/2009 regarding Type and Tariff for Non-Tax State Revenue that applies to the Department of Communication and Information. See http://www.skmm.gov.my/link_file/the_law/NewAct/Act%20588/Rules%20&%20Regulations/pua%20129y2000/pua129y2000bi/pua0129y2000sc001.htm.
[8] Malaysian Communications and Multimedia Commission, "Communications and Multimedia (Universal Service Provision) (Amendment) Regulations 2003," (2003), Art. 27, http://www.skmm.gov.my/link_file/the_law/legislation/regulations/TheLaw-USPRegs2003.pdf.

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Country	Type of License	Annual License/Regulatory Fee	Universal Service Fund Fee	Other Fee(s)
		a minimum of 0.15% of gross turnover per license or MYR 50,000 (USD 17,000) per license, whichever is greater.	**(USD 664,000).[9]** **Weighted net revenue means gross revenue less settlement payments to other licensees or foreign network operators for international calls.[10]**	
Pakistan	**Fixed Line Network Facilities Licenses: Local Loop (LL) and Long Distance and International (LDI)[11]**	**0.5% of the licensee's annual gross revenues from licensed services minus inter-operator**	**1.5% of the licensee's annual gross revenues from licensed services**	**R&D Contribution Fund fee based on 1% of the licensee's**

[9] Malaysian Communications and Multimedia Commission, "Universal Service Provision Policy and Fund in Malaysia: Evolution of the Policy and Institutional Framework," (May 10, 2010), http://www.itu.int/ITU-D/asp/CMS/Events/2010/ITU-ADB/Malaysia/S2-Mr_Aminuddin_Basiron.pdf.

[10] Malaysian Communications and Multimedia Commission, "Communications and Multimedia (Universal Service Provision) Regulations 2002," (2002), Art. 2, http://www.skmm.gov.my/link_file/Admin/Legislation/USP_reg2002_eng.pdf.

[11] Pakistan Telecommunications Authority, "Information Memorandum: Long Distance International (LDI) and Local Loop (LL) Fixed Line Telecommunication Service Licenses," (March 8, 2004), www.pta.gov.pk/media/im.zip.

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		payments and payments required by the regulator.	**minus inter-operator payments and payments required by the regulator.**	**annual gross revenues from licensed services minus inter-operator payments and payments required by the regulator.**
Singapore	**Facilities-Based Operator**	**1% of the licensee's Annual Gross Turnover (AGTO), subject to a minimum amount which differs, depending on the services offered.[12] Public Telecommunication**	**No USF in place.**	**None specified by regulator.**

[12] Info-communications Development Authority, "Guidelines on Submission of Application for Facilities-Based Operator Licence," (rev. June 2011), Sec. 3.9, http://www.ida.gov.sg/doc/Policies%20and%20Regulation/Policies_and_Regulation_Level3/licensing/FBOGuidelines.pdf.

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		Licensees (wire line network operator offering local, long distance and international) must pay a minimum of SGD 250,000 (USD 200,000).		

EUROPE

Country	Type of License	Annual License/Regulatory Fee	Universal Service Fund Fee	Other Fee(s)
Ireland	**General Authorization for Electronic Communications Services and Networks (ECS/N)**	**0.2% of the "relevant" turnover imposed on ECS/N providers with an annual turnover of EUR 500,000 (USD 658,000) or more.[13] Relevant turnover refers to the provider's gross revenue excluding**	**No USF currently in place.** **However, in Nov. 2011 ComReg consulted on the introduction of a USF that would require**	**None specified by regulator.**

[13] ComReg, "Communications Regulation Act, 2002 (Section 30) Levy Order, 2003," S.I. No. 346 of 2003, Section 5, http://www.comreg.ie/_fileupload/publications/SI346of2003.pdf.

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		value added tax (VAT) in relation to its ECS/N (i.e., excluding revenues associated with radio and TV broadcasting).	**ECS/N providers to contribute.[14]** **ComReg stated in the consultation document that due to Ireland's legislative framework, it is not permitted to set USF fees at a flat, fixed percentage of revenues (e.g., 1% of revenues) because this would essentially "cap" providers' contributions in contravention of the law. The law does not provide for the use of public funding for**	

[14] ComReg, "Consultation on Sharing Mechanism for Any USO Fund: Principles and Methodologies," (October 28, 2011), http://www.comreg.ie/_fileupload/publications/ComReg1177.pdf.

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			financing universal service. As such, providers subject to the USF would be fully responsible for funding. Instead, ComReg has proposed that USF fees should be set in the following way: 1) determine the positive net cost (if any) for USF projects; 2) determine the relevant turnover of each provider subject to the USF fee (allowable deductions for interconnection	

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			, termination rates, leased line charges, etc.); and 3) charge providers proportionally based on their revenues (e.g., provider with 20% of the total revenues of all providers pays 20% of the positive net costs of the USF). ComReg proposes exempting any provider with gross revenues (excluding VAT) below EUR 500,000 (USD 658,000). A decision is expected in the first half of	

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			2012.	
United Kingdom	General Authorization for Electronic Communications Services and Networks (ECS/N)	0.0534% of relevant turnover for ECS/N providers with annual relevant turnover of GBP 5 million (USD 8 million) or more. Relevant turnover refers to revenues associated only with ECS/N activities (i.e., excluding revenues associated with radio and TV broadcasting).[15]	No USF in place. Ofcom last considered implementing a USF in 2006, but determined that one was not necessary to achieve universal service goals.[16]	Electronic Communications Code ("Code") annual fee: The Code sets out the powers that can be granted to ECS/N providers for access to rights-of-way over public or private property in order to install and maintain network infrastructure and equipment.[17] To

[15] Ofcom, "Ofcom's Tariff Tables 2011/12," (March 31, 2011), Section 2.1-2.3, http://stakeholders.ofcom.org.uk/binaries/research/Tariff_Tables_2001112.pdf.
[16] Ofcom, "Review of the Universal Service Obligation – Statement," (March 4, 2006), http://stakeholders.ofcom.org.uk/consultations/uso/?a=0.
[17] Ofcom, "Electronic Communications Code Notices,"

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				be granted the powers established under the Code, ECS/N providers must pay an annual fee of GBP 1,000 (USD 1,580).[18]

http://stakeholders.ofcom.org.uk/telecoms/policy/electronic-comm-code/notices/.

[18] Ofcom, "Ofcom's Tariff Tables 2011/12," (March 31, 2011), Section 2.5.