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October 7, 2014

Shri Sanjeev Banzal
Advisor (Networks, Spectrum and Licensing)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg, (Old Minto Road),
New Delhi – 110 002

Subject: Pre-Consultation Paper issued vide Press Release [No. 58/2014 dated September 3, 2014] on “Delinking of licenses for networks from the delivery of services by way of virtual network operators (VNO)”

Dear Sir,

This is with reference to the captioned Consultation Paper [Press Release No. 58/2014] released by Hon'ble Authority on September 3, 2014.

AT&T Global Network Services India Private Limited (“AT&T”) would like to respectfully submit its comments on the captioned pre-consultation (enclosed as Annexure – I).

AT&T in India is licensed to provide National Long Distance (NLD), International Long Distance (ILD) and Internet Service Provider (ISP) services and began providing these services in 2007 and 2009 respectively.

We trust our comments will merit the kind consideration of Hon'ble Authority for inclusion in the main consultation paper which will follow.

Thanking you,

Respectfully submitted,
for **AT&T Global Network Services India Private Limited**

Naveen Tandon

Naveen Tandon
Authorised Signatory

Encl.: As above

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**Comments of AT&T on TRAI Pre-Consultation Paper on
Delinking of License for Networks from Delivery of Services
By Way of Virtual Network Operators, September 3, 2014**

AT&T Global Network Services India Private Limited ("AT&T") respectfully submits these comments on the above-referenced TRAI Pre-Consultation Paper issued on September 3, 2014 (the "Pre-Consultation Paper").

AT&T is a wholly-owned subsidiary of AT&T Inc., which, through its affiliates, operates one of the world's most advanced global backbone networks, provides services to virtually every country and territory in the world, and is a leading U.S. provider of international private line and other business and consumer communications services on the U.S.-India route. AT&T is licensed to provide National Long Distance (NLD), International Long Distance (ILD) and Internet Service Provider (ISP) services in India and began providing these services in 2007 and 2009 respectively.

The Pre-Consultation Paper asks for input from stakeholders on the request by the Department of Telecommunication (DOT) for recommendations concerning the "delinking of licenses for networks from the delivery of services by way of virtual network operators (VNOs) etc., including associated issues such as definition of Adjusted Gross Revenue, terms of sharing of passive & active infrastructure etc. under the UL [Unified Licensing] regime."¹ AT&T is pleased to provide these comments in support of this proposal.

The liberalized licensing policies of the Government of India and the various regulatory measures adopted by the Authority have brought significant competition to India's telecommunications market in recent years and major benefits to consumers and operators in India. The Government's National Telecom Policy 2012 states that consumers and operators in India would obtain significant additional benefits from the greater competition that would result from delinking telecom network licenses from service delivery in order to allow the resale of telecommunications services at both the wholesale and retail levels. AT&T agrees. The experience of countries throughout the world, particularly over the past two decades, demonstrates that the removal of restrictions on resale encourages the more efficient use of facilities, increases competition, increases availability of innovative service offerings to meet niche demand opportunities, and reduces end-user prices. Amending the current license regime to allow the unrestricted resale of all fixed or mobile telecommunications services through VNO or other similar arrangements would allow customers and operators in India to obtain similar and rapid benefits, including in areas of the country where there is still low competition.

To expand and optimize the benefits of competition in telecommunications services throughout India in this way, the licensing regime should allow VNOs to provide all telecommunications services with minimal licensing and other regulatory requirements. Also, VNOs should receive the same rights as other operators to enter into agreements for interconnection, number porting, numbering resources, and other necessary services. Likewise, to fully optimize the potential of a resale market, the license fee structure must be amended to remove the double license fees currently paid by operators using leased or resold airtime or capacity and resulting higher end-user prices.

¹ Pre-Consultation Paper at 1.

This current anomaly in the definition of Adjusted Gross Revenue results in a cascading impact at each service level which both impedes competition and harms consumers. There are many models from other countries for how to do this, most frequently, by enabling licensees to deduct wholesale service input costs from their retail revenues.

Also, to allow all operators to use the benefits of resale arrangements to serve their customers, it is critical to allow network operators to operate as VNOs by leasing and reselling the airtime or capacity of other fixed or mobile network operators.

Last, AT&T respectfully requests that the need for interconnection between the Public Switched Telephone Network (PSTN), and Closed User Group (CUG) networks and services, including between IP (or Virtual Private Network (VPN)) and TDM networks and services, also should be addressed as part of the main consultation that will follow this proceeding to promote the convergence of networks and services under the Unified License in accordance with the objectives of National Telecom Policy 2012.

These priorities are described in more detail below.

1. The Government has Properly Determined That Resale Would Provide Significant Public Benefits

The National Telecom Policy 2012 affirms that both consumers and network operators would benefit by amending current licensing restrictions to allow the resale of fixed and mobile telecommunications services at both the wholesale and retail levels. The Policy states that facilitating resale by VNOs in India would promote “the need for robust competition at consumer end,” and that delinking network licensing from service delivery to end users would allow network operators to “optimally and efficiently utilize their networks and spectrum by sharing active and passive infrastructure.”² Such action would “enhance the quality of service, optimize investments and help address the issue of the digital divide.”³

These findings are amply supported by experience in markets throughout the world. For example, the U.S. Federal Communications Commission (FCC) emphasizes, based on that regulator’s more than three decades of experience with resale in the U.S. long-distance market, that resale provides significant public benefits:

*“Real market experience has shown that resale can spur competition. The growth of competition in the U.S. long distance market resulted from a combination of the facilities-based and resale competition models. From the early stages of long distance competition, facilities-based providers and resellers have actively competed against one another. This approach resulted in more affordable rates, new service offerings, and numerous new entrants.”*⁴ (emphasis supplied).

² National Telecom Policy 2012, June 13, 2012, Sects. 3.3. & 3.8.

³ *Id.*, Sect. 3.3.

⁴ See FCC, *Connecting the Globe*, <http://transition.fcc.gov/connectglobe/sec5.html>.

The public benefits of telecommunications resale arrangements are further demonstrated by the large number of countries – including all industrialized countries – that have made binding multilateral trade commitments under the World Trade Organization (WTO) General Agreement on Trade in Services to allow foreign operators from WTO Member countries to enter their domestic markets to provide resold telecommunication services.⁵

Additionally, as indicated by the Pre-Consultation Paper, the European Union, Singapore, Malaysia, Argentina and Australia all maintain licensing policies that further facilitate the provision of resale services by maintaining simple authorization regimes or other procedures under which VNOs and other providers of resale services are subject to fewer licensing requirements and less regulation than that applied to network operators.⁶ As described further below, the adoption of similar “light touch” policies by the Government and the Authority would greatly benefit the Indian market.

2. VNOs Should Be Allowed Maximum Commercial Flexibility To Enter Markets and Provide Service

The Pre-Consultation Paper states that “VNOs can provide any telecom service being provided by the network provider’s viz. tele-services (voice, data, video), internet/broadband, IPTV, Value Added Services, content delivery services etc.”⁷ To optimize the potential benefits of opening the Indian market to resale competition, VNOs should be licensed in a manner that allows them to provide any of these or other future services on a resale basis in any geographic location by entering into commercial arrangements with fixed and mobile network operators. To optimize innovation and competition, the Indian approach to resale should authorize the provision of any electronic communications service, and should not prescribe authorization only to a limited set of existing services.

A major priority should be to rely on market mechanisms rather than regulation to determine where VNOs may provide services, the nature of their agreements with network operators, and any issues relating to the sharing of infrastructure. The experience of other countries has been that commercially-negotiated arrangements generally better serve the interests of all parties and avoid the significant costs, delays and other significant inefficiencies that are inherent in any regulatory approach. Under a market-based approach, the Authority would not attempt to identify a need for more competition in a geographic area or for a particular type of service before allowing VNOs to provide service.⁸ Instead, VNOs should be able to provide service based on their business judgment that it may be profitable to do so in light of available market opportunities and required resources.

VNOs also should be allowed the greatest possible flexibility to determine the manner in which they provide service to customers.

⁵ See WTO,

http://www.wto.org/english/tratop_e/serv_e/telecom_e/telecom_commit_exempt_list_e.htm.

⁶ Pre-Consultation Paper at 4.

⁷ *Id.*

⁸ *Id.* at 11.

As noted by the Pre-Consultation Paper, the defining characteristic of VNOs is that they do not own the underlying network infrastructure or spectrum.⁹ Consistent with this definition, VNOs potentially may provide telecommunications service to end-users by using various possible combinations of the VNO's own capabilities and resources with underlying network infrastructure or spectrum purchased or leased on a commercial basis from network operators. The extent to which they self-provide or lease these various resources should be a commercial matter for the VNO.

For example, under the VNO arrangements allowed in many countries, a mobile VNO enters into a commercial agreement with a mobile network operator to access spectrum via the mobile network operator's radio access network, or purchase minutes, megabytes or SMS, but may itself provide other requirements such as switching points, home location register, mobile network code, client management activities, and SIM cards. Under such regimes, some MVNOs themselves provide all these requirements, while other MVNOs simply resell wireless voice or data/SMS plans purchased under a commercial agreement with a mobile network operator. The latter entities may or may not use the commercial brand of the network operator and may have their own client management activities, but do not have their own switching points, home location register, mobile network code, or SIM cards.

The provision of services by VNOs provides competitive benefits to consumers under either scenario. VNOs with greater control over their activities may be better able to offer innovative service offerings, pricing plans, and services tailored for under-served customers and thus compete more effectively with network operators.

On the other hand, VNOs that simply repackage and resell network operators' services may require less upfront investment and be likely to enter in greater numbers, thus providing more choices for consumers. To best serve consumer interests, VNOs should have the flexibility to adopt these or any other approaches provided they do not own or control the underlying network facilities (in the case of wireline VNOs) or spectrum (in the case of mobile VNOs) over which they provide service.

It is also important that VNOs (and especially mobile VNOs) be allocated their own number blocks and mobile network codes so that they may operate independently of the underlying network operator in these respects and, if necessary, change to another underlying network operator to obtain improved service. The ability of VNOs to obtain local numbers, which is widely available in Europe and elsewhere, leads to improved service quality and prevents VNOs from being "locked in" to their underlying network operator by the potential need to repopulate multiple databases with new numbers, thereby increasing competition.

Lastly, to allow all operators to use the benefits of resale arrangements to serve their customers, network operators should be allowed to operate as VNOs by leasing and reselling the capacity of other network operators pursuant to commercial arrangements. Such arrangements would provide some of the same benefits as the resale of such capacity by VNOs, by allowing network operators to provide service where they do not otherwise have adequate capacity and by allowing network operators with underused networks to operate more efficiently. This practice can be helpful in promoting efficient network deployment and utilization.

⁹ *Id.* at 3.

3. Additional Regulatory Measures Are Also Necessary To Facilitate Resale Competition

In addition to the above measures, VNOs should be accorded the same rights as other operators to enter into agreements for interconnection, number porting, numbering resources (such as E.164, E.212, and destination point codes), mobile roaming, and other necessary services. Without such equal treatment, VNOs will have more limited ability to compete effectively with network operators and India will fail to obtain the full potential benefits of resale competition.

Additionally, the Authority should amend the license fee structure to remove the duplicative fees that are paid on resold services. The current license fee is levied on revenues from all sales at both the wholesale and retail levels, with no deductions for the costs of any leased or resold airtime or capacity used to provide services. As a result, VNOs will be required to pay the licensee fee for this capacity twice – once when they acquire the airtime or capacity from the underlying network operator (as part of the cost of the lease or resale agreement), and again when they resell this airtime or capacity as part of their service to the end customer. In contrast, network operators pay license fees on their services only once.

To remove this significant disadvantage to VNOs and other operators using leased or resold airtime or capacity, and the resulting higher prices paid by their customers, the Authority should allow all operators to deduct the cost of leased or resold airtime or capacity used to provide service from the revenue upon which the license fee is levied.¹⁰ This is a practice applied in many markets for calculation of their regulatory or similar fees.¹¹

¹⁰ See also, Comments of AT&T, filed Sept. 15, 2014, on Consultation Paper No. 09/2014 dated July 31, 2014 on Definition of Revenue Base (AGR) for the Reckoning of Licence Fee and Spectrum Usage Charges.

¹¹ For example, in Malaysia, the cost of circuits obtained from other Malaysia carriers is deductible from the revenues used to determine the universal service charge. In Thailand, operators may deduct up to 50 percent of the revenues used to determine the universal service charge based on these circuit costs. The United States prevents the universal service fee being charged twice on capacity that is resold to end-users by exempting capacity sales at the wholesale level where the wholesale provider obtains a universal service reseller certificate from the resale provider. If a wholesale provider obtains a reseller certificate, it does not report that associated revenue in its universal service contribution base. Instead, the reseller reports its revenue for this capacity in its universal service contribution base.

4. The Consultation Also Should Address the Need to Remove Barriers to Interconnection under the Unified License

The DOT has requested the Authority to submit its recommendations on VNOs including associated issues under the unified licensing regime. AT&T therefore respectfully requests the Authority also to include in the proceeding that will follow this pre-consultation address a major issue that the National

Telecom Policy 2012 states should be addressed by the unified licensing regime. This issue is the need for interconnection between the Public Switched Telephone Network (PSTN), and Closed User Group (CUG) networks and services, including between IP (or Virtual Private Network (VPN)) and TDM networks and services, to promote the convergence of networks and services under the Unified License.

The National Telecom Policy 2012 seeks the full convergence of services, networks and devices to allow services to be delivered to customers in India in a technology-neutral manner. The policy objectives include the following:

“3.1. To orient, review and harmonise the legal, regulatory and licensing framework in a time bound manner to enable seamless delivery of converged services in a technology and service neutral environment. Convergence would cover:

3.1.1. Convergence of services i.e. convergence of voice, data, video, Internet telephony (VoIP), value added services and broadcasting services.

3.1.2 Convergence of networks i.e. convergence of access network, carriage network (NLD/ILD) and broadcast network.

3.1.3. Convergence of devices i.e. telephone, Personal Computer, Television, Radio, set top boxes and other connected devices.”

The National Telecom Policy 2012 further states that the primary purpose of the Unified License is to promote the achievement of the benefits of convergence, and that the new licensing regime should address the need for non-discriminatory interconnection, including at the IP level:

“3.3. To move towards Unified Licence regime in order to exploit the attendant benefits of convergence, spectrum liberalization and facilitate delinking of the licensing of networks from delivery of services to the end users in order to enable operators to optimally and efficiently utilize their networks and spectrum by sharing active and passive infrastructure. This will enhance the quality of service, optimize investments and help address the issue of digital divide. *This new licensing regime will address the requirements of level playing field, rollout obligations, policy on merger & acquisition, non-discriminatory interconnection including interconnection at IP level etc. while ensuring adequate competition.*” (Emphasis Supplied).

Contrary to these important objectives, however, the Unified License currently restricts interconnection between the PSTN, and CUG networks and services, including between IP/VPN and TDM networks and services. To promote the convergence objectives of the National Telecom Policy 2012, and in accordance with the requirement of this policy that the new license regime should address the need for non-discriminatory interconnection to achieve these objectives, the Authority should expand the scope of the present proceeding to address the need to remove these outdated restrictions.



Ensuring seamless interconnection between CUGs and the PSTN, including between IP/VPN and TDM networks, is vital to ensure that consumer, business and enterprise customers receive the advanced IP services they require in today's digital age by assisting the development of a more advanced and open IP platform that would provide increased capabilities for end-users while avoiding the unnecessary duplication of voice and data network infrastructure.

AT&T accordingly requests that, in order to further the objectives of National Telecom Policy 2012, the need for CUG-PSTN interconnection, including between IP/VPN and TDM networks, to promote the convergence of networks and services under the Unified License should be addressed as part of the main consultation that will follow this proceeding.

* * * *

AT&T would be pleased to answer any questions on these matters.

Respectfully submitted,
for **AT&T Global Network Services India Private Limited**

A handwritten signature in blue ink that reads "Naveen Tandon".

Naveen Tandon
Authorized Signatory

October 7, 2014