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TRAI/FY24-25/057
19th November 2024

Shri Akhilesh Kumar Trivedi
Advisor (Networks, Spectrum and Licensing)
Telecom Regulatory Authority of India,
World Trade Centre, Nauroji Nagar,
New Delhi – 110029

Subject : **Bharti Airtel's Comments on Consultation Paper on *The Terms and Conditions of Network Authorisations to be Granted Under the Telecommunications Act, 2023***

Reference : **TRAI's Consultation Paper dated 22nd October 2024**

Dear Sir,

This is in reference to TRAI's Consultation Paper on *The Terms and Conditions of Network Authorisations to be Granted Under the Telecommunications Act, 2023* dated 22.10.2024.

In this regard, we are pleased to enclose our comments on the said consultation paper for your kind consideration.

Thanking You,

Yours' Sincerely,
For **Bharti Airtel Limited**

Rahul Vatts
Chief Regulatory Officer

Encl: a.a

Preamble:

Airtel thanks the Authority for giving it the opportunity to comment on this critical Consultation Paper (**"CP"**) titled *The Terms and Conditions of Network Authorisations to be Granted Under the Telecommunications Act, 2023*.

Telecommunications networks are the backbone of a digitally connected India and are playing an ever-growing and critical role in the nation's journey towards becoming a $5 trillion economy, bringing high speed broadband access to every citizen and bridging the digital divide. The investments in telecom networks made by Telecom Service Providers (**"TSPs"**) are worth billions of dollars as evident from the more than 8 lakh telecom towers deployed today and the millions of base transceiver stations (**"BTS"**) connecting mobile devices to cellular networks. It is also evident from the fact that a population of more than a billion people is being successfully served through a mix of technologies and services available in every nook and cranny of the country and from the fact that India has grown in global stature in terms of competitiveness and reforms.

None of this would have been possible without the supportive technology-neutral policies and regulatory frameworks created by the DoT and TRAI who together enabled the conditions under which TSPs were able to meet their goals as well as the growing demands for telecom services, pursue new innovations, bring new technologies and services into play and contribute to socio-economic development overall.

Airtel would like to applaud the Authority's effort to ensure continued engagement and consultation from all stakeholders and request that it continue this practice when it comes to any and all new authorisations or proposals and/or terms and conditions (T&Cs) that have any bearing on the present licensees/TSPs.

In the paragraphs that follow, Airtel submits the broad principles that the Authority and the Licensor should keep in mind while forming their views on the issues raised in the CP.

A. The Authority must avoid unnecessary delayering of a well-functioning, broad licensing framework that allows network infrastructure creation in a technology neutral manner:

The intent of the Telecom Act 2023, as well as creating an authorisation framework under it, was to bring in ease of doing business, reduce excessive compliances and facilitate easier deployments of networks infrastructure. But now, the Authority seems to be proposing or deliberating over too many new Authorisations, e.g., DCIP or cloud-based network providers.

It is Airtel's contention that many of these proposed authorisations are unnecessary as they not only introduce layers of authorisation that are not necessary but also impinge upon the principle of technology neutrality.

For instance, why is there a separate need for a cloud-based network authorisation when cloudification is nothing but an IT development that each TSP explores and is adopting according to its needs? It is nothing but moving certain tech capabilities of a legacy network/hardware onto to a software/cloud and integrating them for service delivery.

Similarly, the discussion again on the DCIP authorisation or merging it with the IP-I registration serves no purpose. The IP-I registration has worked extremely well in creating pan-India telecom infrastructure and ensuring non-discriminatory access for service providers. As submitted by Airtel

in recent past consultations on the issue of DCIP, there is absolutely no requirement for creating DCIP license/authorisation, let alone merging it with IP-I.

Similarly, the Authority has floated the idea of allowing In-building Solutions (IBS) for property managers. Again, this is a selective delayering of a very specific category of elements of a TSP network. Airtel believes such an approach should not be followed.

B. <u>The authorisation/licensing framework must ensure the sanctity of the contractual nature of the license and spectrum to retain and boost business and investor confidence, while ushering in ease of doing business and other simplified processes.</u>

The license is sacrosanct. It instills regulatory certainty and predictability into all proceedings. It also upholds the Constitutional mandates of transparency and fair play. The contractual right under the existing licenses creates legitimate expectations and assurances that the terms and conditions laid down will not be unilaterally amended. Such stability is a necessity, especially in a capital-intensive industry like telecom.

It is particularly important, therefore, that the extant practice of the Central Government of entering into a license agreement with the applicant entity is continued with for the purposes of granting authorisations under Section 3(1) of the Telecom Act.

It is Airtel's sincere hope that the reformist zeal shown by the Authority will not take away the contractual nature of certain T&Cs and mutual powers in the hands of operators so that it gives the investors a surety of investment protection, business sustainability and fair play.

C. <u>The Authority must ensure that the migration to the new licensing/authorisation regime is voluntary and that the situation for existing players remains as before.</u>

In the interests of effective and fair competition and in order to ensure that all investments made by companies remain sustainable, the new rules and regime should allow the following:

- Allow existing operators/licensees to migrate to the new regime voluntarily.
- Ensure that the existing operators/licensees are no worse-off than before, as has been the practice.
- Ensure that the playing field remains level in terms of the existing operators/licensees vis-à-vis the new authorisation regime.
- Adjust and apply T&Cs (financial/technical/operational) in a non-discriminatory and uniform manner on existing operators/licensees, if the particular T&C has been dropped or reduced for any new authorisation holder.

<u>In summary:</u>

- ✓ *A separate DCIP authorisation should not be introduced and, accordingly, it should also not be merged with the IP-I registration*
- ✓ *There is no need for a separate authorisation for establishing, operating, maintaining or expanding IBS by any property manager within the limits of a single building, compound or estate controlled, owned or managed by it.*

- ✓ *On the aspect of CDNs:*
  - *CDNs should be required to meet certain minimum QoS standards.*
  - *The content blocking orders should be issued directly to the CDN or to the platform hosting the content in India or to the content providers.*
  - *The CDNs should be mandated to set up their infrastructure in tier-2 and tier-3 cities based on a defined criterion (viz. quantum of traffic).*
  - *The commercial arrangements between CDN and ISPs should continue to be governed by market forces and no regulatory interventions should be made.*

- ✓ *On the role and aspects of IXPs, no content-to-content peering should be allowed, i.e., the end user should not be allowed to connect at exchanges/IXP for any content-to-content peering.*

- ✓ *Framework for SESG / Satellite Communications Network Operator:*
  - *There should be a separate light-touch registration for SESG/Satellite Communication Network operators. They should not be required to obtain any license/authorisation.*
  - *In addition to the scope recommended by the Authority for SESG License, SESG/Satellite Communication Network operators should be allowed to acquire/use spectrum required for the operation of SESGs/SNPs and to install baseband equipment at the SESGs/SNPs.*
  - *The spectrum required for the operation of UTs should be allocated to service licensees.*
  - *An SESG/Satellite Communication Network operator should be allowed to connect its SESGs with its PoPs without having to acquire any other license/authorisation.*

- ✓ *There is no need for a separate authorisation for establishing, operating, maintaining or expanding cloud-hosted telecom networks.*

- ✓ *Migration to the new regime should be voluntary and in line with the provisions of the Telecom Act. Further, the terms and conditions applicable to the existing players who choose not to migrate should be no worse than those applicable to the ones who choose to migrate as well as to the new entrants who obtain an authorisation under the new regime.*

- ✓ *There is no need for mandating a reference agreement between authorised entities establishing, operating, maintaining or expanding the telecommunication network, and authorised entities providing telecommunication services.*

Airtel now provides its replies to the specific questions asked, in the sections that follow.

Q1. Whether there is a need to merge the scopes of the extant Infrastructure Provider-I (IP-I) and Digital Connectivity Infrastructure Provider (DCIP) authorization (as recommended by TRAI in August 2023), into a single authorisation under Section 3(1)(b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

&

Q2. In case your response to the Q1 is in the affirmative, kindly provide a detailed response with justifications on –
- **(a) Eligibility conditions for the grant of the merged authorisation; and**
- **(b) Area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the merged authorisation.**

&

Q3. In case your response to the Q1 is in the negative, –
- **(a) What changes (additions, deletions or modifications) are required to be incorporated in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the IP-I authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 as compared to the extant IP-I registration?**
- **(b) Whether there is a need to make certain changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the DCIP authorisation (as recommended by TRAI in August 2023)? If yes, kindly provide a detailed response with justifications.**

Airtel Response:

At the outset, we would like **to reiterate Airtel's earlier submissions on the issue of DCIP, that there is no need to introduce a separate DCIP authorisation**.[1]

Since we do not concur with the TRAI's recommendations on the DCIP authorization, we would like to respectfully submit that there is no need to merge the scopes of the extant Infrastructure Provider-I (IP-I) and Digital Connectivity Infrastructure Provider (DCIP) authorisation (as recommended by TRAI in August 2023), into a single authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 (**"Telecom Act"**).

The present licensing framework works well and effectively, with all the relevant elements of infrastructure, network and service duly disaggregated. The following reasons underscore the submission that there is no justification or need to create a new and separate DCIP authorisation, let alone its merger with IP-I authorization:

i. The Indian telecom industry, under the extant regime, has already made substantial investment for faster network rollout. It has already achieved a tele-density of 85.43%,[2] with

[1] Please refer to the response filed by Airtel to the Authority's Consultation Paper dated 09.02.2023 on 'Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License (UL)', as well as our response to the specific questions regarding DCIP raised in the Consultation Paper dated 11.07.2024 on 'the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023'

[2] As per the Telecom Subscription Data, as on 31.08.2024, published by the Authority (available at https://trai.gov.in/sites/default/files/PR_No.78of2024.pdf)

over 96% of the population under terrestrial coverage. What is needed now are measures to rationalise regulatory levies, remove the USOF levy, introduce faster and cost-effective RoW policies, etc. to enable TSPs to reach the hitherto uncovered areas, rather than tampering with the prevailing licensing framework.

ii. Regarding the scale of investments, there is nothing to show that the investments under the current regime are at any less than the desired level. The industry participated whole-heartedly in the 5G Auctions, and the 5G rollouts in India have been one of the fastest in the world. A stable and predictable regime is required to attract more investments.

iii. The introduction of DCIPs will make the business decisions of TSPs, like the launch of new services, deployment of new technology, etc. dependent on third parties (DCIPs) as these decisions will depend on the availability of a corresponding network. It will also discourage innovation and lead to India lagging behind in technological development as DCIPs will be unwilling to keep shifting to new technologies before the existing ones are sufficiently monetised.

iv. With DCIPs being exempt from the LF levy, they will always have a competitive advantage over TSPs wishing to offer their infrastructure for sharing with other TSPs. This will lead to an uneven playing field in the sector.

v. The Authority, in its Recommendations dated 18.09.2023[3], had highlighted the issue of the unwillingness of TSPs to share their infrastructure with each other. The straightforward solution for encouraging infrastructure-sharing among TSPs would have been to allow pass-through deductions for the infrastructure-sharing charges. This has also been an overwhelming demand of the whole industry. It has been rejected, however, as being "*outside the purview of this consultation process*". Instead, a tortuous and completely unnecessary route is sought to be adopted by introducing an entirely new category of licensees.

vi. Not allowing pass-through deductions for the charges paid to DCIPs amounts to unjust enrichment of one licensed operator at the cost of another. In fact, the Authority has stated that there is no need to levy LF on DCIPs as the Government would be able to earn LF from the services that TSPs would offer using DCIP infrastructure. This clearly shows that preventing exchequer loss is a consideration. However, instead of distributing the same evenly across all the stakeholders involved, the whole burden of ensuring this is sought to be put on the TSPs.

vii. Lastly, the proposed scope of DCIP Authorisation includes the setting up of Wireline Access Network, Radio Access Network, Wi-Fi systems and Transmission Links. However, DCIPs are exempt from having to comply with QoS Regulations. Further, it is also proposed to not impose any PBG on DCIPs. Instead, a principal-agent relationship is envisaged between TSPs and DCIPs. Thus, TSPs will end up having to bear the consequences of failing to meet QoS benchmarks for no fault of theirs, making one licensed entity accountable for the omissions and commissions of another licensed entity.

It is clear from this that the introduction of a separate DCIP Authorisation would create regulatory arbitrage, lead to policy uncertainty and have an adverse impact on investments in the sector.

Therefore, Airtel recommends that a separate DCIP authorisation should not be introduced and, accordingly, it should also not be merged with the IP-I registration.

[3] https://trai.gov.in/sites/default/files/Recommendation_18092024.pdf

Q4.

(a) Which telecommunication equipment/elements should be included in the ambit of 'in-building solution' (IBS)?

(b) Whether there is a need to introduce a new authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding in-building solution (IBS) by any property manager within the limits of a single building, compound or estate controlled, owned, or managed by it? If yes, what should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of such an authorisation? Please provide a detailed response with justifications.

Airtel Response:

No, there is neither any need to be prescriptive to include specific telecommunication equipment/ elements under the IBS, since it is well understood, nor is there any need to introduce a new authorisation under Section 3(1)(b) of the Telecom Act for establishing, operating, maintaining or expanding IBS by any property manager within the limits of a single building, compound or estate controlled, owned, or managed by it. The IBS are active elements of a TSP network, and hence should continue to remain so. There should not be any attempts to delayer the active network element of an access network and allow it to be installed/operated by an entity who is not an authorised service provider.

Specifically on the aspect of digital communications infrastructure (DCI), while Airtel agrees with the importance of digital connectivity and making DCI an integral part of the building construction and approval process, similar to other amenities like electricity, gas, etc., Airtel does not agree with the idea of allowing IBS to be deployed by a property manager.

Even in the case of these other amenities, the role of property managers is limited to enabling the access to such services, and they are not authorised to offer these services themselves. Similarly, in the case of DCI, property managers should only be required to provide space, duct and power, for TSPs to be able to deploy, operate and maintain the DCI, including IBS.

Here, Airtel notes that the Authority has made mention of a proposed provision in line with the extant provision under the Indian Telegraph Rules, 1951, enabling the deployment of wireline network by property managers within their properties. However, it may be appreciated that IBS is essentially wireless equipment and Airtel submits that there is no need or justification to expand the scope of the exemption granted to property managers beyond the wireline network, specifically to deploy IBS.

In any case, if a property manager intends to deploy such equipment, it may obtain relevant authorisation from DoT within the existing framework (IP-I for passive equipment and the relevant service authorisation for active equipment). A separate authorisation need not be introduced for property managers, as that may result in unnecessary complexities in the licensing/authorisation regime.

In fact, even the Authority, in its latest Recommendations dated 18.09.2024 on 'the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023',[4] has, inter alia, recommended for clubbing of NLD & ILD Authorisations and GMPCS & Commercial VSAT CUG Authorisations – with a view to minimising the number of authorisations and simplifying the regime. The Authority should continue with a similar approach here as well.

It is also pertinent to mention here that the concept of property managers was introduced by the Authority in the specific context of rating of buildings for digital connectivity, in its Recommendations dated 20.02.2023[5] – which have not even been accepted by the DoT yet. Given that, it may not be appropriate to discuss a separate authorisation for property managers at this stage.

Therefore, Airtel recommends that there is no need for a separate authorisation for establishing, operating, maintaining or expanding IBS by any property manager within the limits of a single building, compound or estate controlled, owned or managed by it.

Q5. Whether there is a need to make any changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the Content Delivery Network (CDN) authorisation, as recommended by TRAI on 18.11.2022? If yes, what changes should be made in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the CDN authorisation? Kindly provide a detailed response with justification.

Airtel Response:

Content Delivery Networks (CDNs) are an important component of the internet bringing, as they do, content closer to the user in order to provide a better quality of experience. **They should continue to be governed by market forces but with certain minimal regulatory obligations**.

In line with the above, here are some inputs regarding the terms and conditions recommended by the Authority for the proposed CDN registration:

QoS Compliance:

The Authority vide Recommendations dated 18.11.2022[6] recommended the following as one of the conditions under the proposed CDN registration certificate: "*The registered company shall ensure that interconnectivity between CDN registered company and the licensed service providers do not compromise the overall QoS of the networks.*"

This is extremely important considering the huge amount of internet traffic that CDNs are carrying nowadays. CDNs have become critical not only for the growth of the internet but also for maintaining the quality of service to consumers as any failure or malfunction at the CDN level is likely to adversely impact the performance of a significant amount of the traffic on the internet. There have been multiple examples of outages in a CDN resulting in problems for websites throughout the world.[7] The

[4] https://trai.gov.in/sites/default/files/Recommendation_18092024.pdf
[5] https://trai.gov.in/sites/default/files/Recommendation_20022023.pdf
[6] https://trai.gov.in/sites/default/files/Recommendations_18112022.pdf
[7] https://www.theverge.com/2024/4/12/24128276/open-source-unpkg-cdn-down; https://www.globaldots.com/resources/blog/the-costly-toll-a-cdn-outage-crisis-has-on-

widespread impact affects users across the world (not limited to a single ISP), which is unlike an outage in the ISP network wherein impact is mostly confined to the users of that ISP.

To this effect, while ISPs are bound by regulatory conditions for maintaining QoS, the CDNs, operated as they are by unlicensed entities and despite carrying considerable internet traffic, do not have any obligation to maintain quality of service. Therefore, considering the huge dependency of the digital economy (and internet performance) on the CDNs, **it is necessary to put some regulations on CDNs operated by unlicensed entities, for meeting minimum QoS standards**.

Content/URL Blocking:

In addition to the responsibility to ensure QoS standards as mentioned above, it is also important to recognise that the content which is either hosted in India by local entities or cached locally within India on the CDN is within Indian Jurisdiction. In such cases, **content should always be blocked by issuing orders directly to the concerned CDN or platform hosting the content in India or to the content providers**. This would help establish better control over security and avoid duplication of efforts at multiple ISPs.

In order to bring an element of efficiency and effectiveness to the approach, the complete process of content/URL blocking should be automated. It will ensure better compliance and reduce manual intervention. In this regard, a central portal can be created wherein security agencies or other empowered bodies can directly submit their requests for blocking of internet content. This portal will be integrated with ISPs/CDNs through APIs to receive requests for blocking of content in an automated manner. The proposed portal can be developed under the aegis of DoT/MeitY in a collaborative manner.

Location of CDNs:

The CDN's role is to bring content closer to consumers through the network of licensed telecom/internet service providers. Even though various ISPs/TSPs have established their infrastructure in various tier-2/tier-3 cities to serve the customers, CDNs, owing to their business decisions/objectives, have mostly concentrated their set up in bigger cities.

Thus, it is essential that unlicensed CDN providers should invest in infrastructure and set up their CDNs in tier-2 and tier-3 cities as well so that internet customers in these cities can also enjoy a better service experience. Therefore, **CDNs should be mandated to set up their infrastructure in tier-2 and tier-3 cities based on a defined criterion (viz. quantum of traffic)**.

Agreements between TSPs and CDNs:

Proliferation of broadband technologies and availability of affordable tariffs have led to the exponential growth of internet traffic. Today, the internet is being used for accessing video and other multimedia content, which has put an unprecedented load on networks. This has necessitated bringing content closer to customers on CDNs to improve quality of service by reducing latency, improving page load speed, ensuring better handling of high traffic loads and sudden peaks, reducing bandwidth consumption, etc.

ecommercecompanies/; https://www.thehindu.com/sci-tech/technology/explained-what-is-cdn-and-how-is-it-linked-tothe-massiveinternet-outage/article34769398.ece

CDNs have emerged as a collaborative framework of Content Providers and Internet Service Providers since they help both content providers (to improve the accessibility of their content) and ISPs (to improve customer experience and save bandwidth requirements). Since the benefits from CDNs are mutual for Content Providers and ISPs, the **commercial arrangements between CDN and ISPs should continue to be governed by market forces and no regulatory interventions should be made**.

It is pertinent to mention here that one of the conditions recommended by the Authority under the Draft Guidelines for Registration of CDN Providers is: "*The Content Delivery Network (CDN) Provider registered company shall submit a copy of an agreement entered into with the telecom service providers to the DoT and TRAI within 15 days of signing of such agreement.*" Airtel proposes that while the Authority may require submission of copies of agreements, the terms and conditions should be left to market forces and mutual agreements between parties.

In any case, the Authority has also recommended that "*Content Delivery Network (CDN) Provider registered company shall offer delivery of content to Service Providers and users in a non-discriminatory manner.*" This condition is adequate to prevent anti-competitive practices and there is no need for any further intervention.

Therefore, Airtel recommends the following:

(i) CDNs should be required to meet certain minimum QoS standards.

(ii) Content blocking orders should be issued directly to the CDN or to the platform hosting the content in India or to the content providers.

(iii) CDNs should be mandated to set up their infrastructure in tier-2 and tier-3 cities based on a defined criterion (viz. quantum of traffic).

(iv) Commercial arrangements between CDN and ISPs should continue to be governed by market forces and no regulatory interventions should be made.

Q6. Whether there is a need to make any changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the Internet Exchange Point (IXP) authorisation, as recommended by TRAI on 18.11.2022? If yes, what changes should be made in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the IXP authorisation? Kindly provide a detailed response with justification.

Airtel Response:

In India, there is a clear regulatory and market structure for Internet services, which consist of two entities – a Customer and a Service Provider (ISP). This is evident in license definition as well as the business model of ISP.

The current regulatory and corresponding market structure has been an extremely successful model, as is evident by the huge number of ISPs prevalent in every state of India. Like in any other location across the globe, a lower Tier ISP buys the capacity from the higher TSP/ISP. This is a universal

practice and the peering of ISPs at a mutually acceptable commercial structure exists even now either at the ISP location or at exchanges.

The role of the exchanges in this framework should only be to provide a common location or colocation place (i.e., DC facility) where different ISPs can place their equipment to peer with each other on the commercial conditions previously mutually agreed upon. The footprint of such exchanges should be increased so as to optimise the access cost for ISPs and to give them more options.

But it is important that such exchange points only enable the peering arrangements among ISPs at mutually agreed upon commercial models and the exchanges remain restricted to providing colocation and related infrastructure. **The arrangement should certainly not be expanded to cover the services provided by the ISPs.**

This means that **no content-to-content peering should be allowed, i.e., the end user should not be allowed to connect at exchanges/IXP for any content-to-content peering** as this would be inconsistent with the licensing and regulatory framework (wherein the content 'access' to a user is provided by a licensed ISP) and thus contradict the entire notion of user and provider. What is more, it will create a non-level playing field and pose risks to security monitoring and investments.

In light of the above, **the Authority should reconsider its Recommendations dated 18.11.2022[8] (wherein it recommends a separate IXP Authorisation).**

[8] https://trai.gov.in/sites/default/files/Recommendations_18112022.pdf

Q7. Whether there is a need to make any changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the Satellite Earth Station Gateway (SESG) authorisation, as recommended by TRAI on 29.11.2022? If yes, what changes should be made in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the SESG authorisation? Kindly provide a detailed response with justification.

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Q8. Whether there is a need to introduce a new authorisation for establishing, operating, maintaining or expanding satellite communication network, which may be used to provide network as a service to the entities authorised under Section 3(1)(a) of the Telecommunications Act, 2023? If yes –

(a) What should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of such authorisation?

(b) Whether an entity holding such authorisation should be made eligible for the assignment of spectrum for both feeder link as well as user link?

Kindly provide a detailed response with justification.

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Q9. Whether there is a need to introduce an authorisation under Section 3(1) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding ground stations, which may be used to provide ground station as a service (GSaaS)? If yes, what should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) for the authorisation to establish, operate, maintain, or expand ground stations, which may be used to provide GSaaS? Kindly provide a detailed response with justifications.

Airtel Response:

Currently, there is no separate registration for SESG or Satellite Communication Network operators in India. While the Authority has recommended that a separate SESG License be introduced, the Recommendations have not yet been accepted. Airtel believes that there are some important considerations which have not been taken into account in the said Recommendations. These include:

The current regime forces even satellite operators to obtain UL:

The current regime in India is such that even satellite operators – who only wish to set up Satellite Earth Station Gateways (SESGs)/Satellite Network Portals (SNPs) and acquire satellite spectrum to operate the SESG/SNP to provide satellite bandwidth to TSPs and do not intend to provide any retail services to end customers directly – have no choice but to take a UL.

Consequently, they have to deal with various onerous conditions, including security compliances like LIM facilities and the payment of hefty LF, even though they have no intention of ever providing satellite communication services to end consumers. In fact, the cost of such compliance makes up a significant portion of the estimated revenue of satellite operators.

The regime for the SatCom sector in India has not evolved over the past 20 years and has thus not kept pace with the sector's significant technological advancements. It is high time that the framework was holistically reviewed, especially in light of the recent opening up of the space sector for private players.

TRAI's Recommendations did not review the issue holistically:

The Authority recognised this issue and recommended, vide its Recommendations dated 29.11.2022[9], for a separate SESG License – a simple registration for establishing and operating SESGs. However, the Authority failed to address the issue holistically, as it recommended that SESG licensees should not be allowed to install baseband equipment at the SESG and, accordingly, should also not be permitted to use spectrum (which is required for establishing the feeder link between the SESG and satellites).

The framework proposed by the Authority is based on the one followed for the registration of tower companies (IP-I) and does not acknowledge the unique requirements and business models of global-level satellite operators.

Moreover, the Authority has failed to consider the difference between GSO and NGSO satellites. The Recommendations may be relevant in the case of GSO satellites, where the baseband is operated by the service provider. However, in the case of NGSO constellations, the baseband is technically required to be installed and operated by the satellite operator itself.

SESG/Satellite Communication Network operators need to be allowed to use spectrum and install baseband equipment:

Following on from the above, in order to effectively operate the SESGs/SNPs and provide satellite connectivity to TSPs, SESG/Satellite Communication Network operators should be permitted to use the frequency required for establishing the feeder link between the SESGs/SNPs and the satellites. Needless to say, the frequencies required for the operation of UTs should be allocated to service licensees.

As noted by the Authority itself in the consultation paper preceding the said recommendations, multiple jurisdictions follow the approach of having a separate registration for SESG operators and allocating the frequencies for SESGs/SNPs to the SESG operators and UT frequencies to service licensees.

It is to be noted that even in the broadcasting sector, teleport operators are allowed to use spectrum to uplink signals from a teleport to the satellite. Similarly, SESG/ Satellite Communication Network operators should also be permitted to use spectrum to operate SESGs/SNPs.

SESG operators also need to be allowed to carry traffic from SESGs to PoPs:

On a separate note, it is also pertinent to highlight the operating model of global-level NGSO operators – in addition to SESGs, they also set up multiple Points-of-Presence (PoPs). It is at the PoP, and not the SESG, where the traffic is handed back over to the different partners/service providers. Now, a PoP may not necessarily be located at the same location as the SESG and, when at different locations, they would need to be connected with each other through a fibre/leased line. Therefore,

[9] https://trai.gov.in/sites/default/files/Recommendation_29112022.pdf

it follows, that in order to enable such global-level players to efficiently operate in India, it would be essential to allow these operators to also be able to connect the SESG with the PoP, including through a leased line from licensed/authorised TSPs, without having to acquire any separate license/ authorisation.

Therefore, Airtel recommends the following:

(i) There should be a separate light-touch registration for SESG/Satellite Communication Network operators. They should not be required to obtain any license/authorisation.

(ii) In addition to the scope recommended by the Authority for SESG Licenses, SESG/Satellite Communication Network operators should be allowed to acquire/use the spectrum required for the operation of SESGs/SNPs and to install baseband equipment at the SESGs/SNPs.

(iii) The spectrum required for the operation of UTs should be allocated to service licensees.

(iv) An SESG/Satellite Communication Network operator should also be allowed to connect its SESGs with its PoPs, without having to acquire any other license/authorisation.

Q10. Whether there is a need to introduce an authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding cloud-hosted telecommunication networks, which may be used to provide telecommunication network as a service to the authorised entities under Section 3(1)(a) of the Telecommunications Act, 2023? If yes, what should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of such an authorisation? Kindly provide a detailed response with justifications.

Airtel Response:

No, there is no need to introduce an authorisation under Section 3(1)(b) of the Telecom Act for establishing, operating, maintaining or expanding cloud-hosted telecommunication networks, which may be used to provide telecommunication network as a service to the authorised entities under Section 3(1)(a) of the Act.

Earlier, telecom networks used to be highly dependent on hardware and physical infrastructure. Any new service generally required the introduction of yet another variety of proprietary hardware, in turn necessitating operators to find the space and power to accommodate these arrangements. Given these constraints, Airtel applauds the Authority's observations regarding the benefits of virtualisation of telecom networks in, inter alia, reducing costs and increasing efficiency.

However, it is to be noted that there are no restrictions on virtualisation even under the extant regime. In fact, TSPs in India have already moved towards virtualisation of their networks. With the evolution in technology, TSPs have now shifted from hardware to software and from physical infrastructure to cloud-hosted networks. vRAN (Virtual Radio Access Network), SDN (Software Defined Network), etc. are just a few examples. This has been possible because the existing licenses are not restricted to either the physical or the virtual layer. These are natural, organic technological evolutions and developments that bring efficiencies and effectiveness to a telecom network.

Thus, the extant regime already provides the requisite flexibility for virtualisation. While some capabilities of telecom networks have been moved to cloud, and while there may be scope for still more, it does not call for a separate authorisation for cloud-hosted telecom networks.

In fact, as also submitted in the response to Q4 earlier, even the Authority, in its latest Recommendations dated 18.09.2024,[10] has, inter alia, recommended that NLD & ILD Authorisations and GMPCS & Commercial VSAT CUG Authorisations be clubbed so as to minimise the number of authorisations and simplify the regime. The Authority should continue with a similar approach here as well.

Therefore, Airtel recommends that there is no need for a separate authorisation for establishing, operating, maintaining or expanding cloud-hosted telecom networks.

Q11. What should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the authorisation for Mobile Number Portability Service under Section 3(1)(b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

Airtel Response:

No comments.

Q12. What provisions should be included in the terms and conditions of various network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023 considering the various sections including Sections 4 to 9, 19 to 24, 32 to 42, 44, 45, 49, and 55 of the Telecommunications Act, 2023 and technological/market developments in the telecommunication sector? Kindly provide a detailed response with justifications.

Airtel Response:

The sections of the Telecom Act, as mentioned in the instant question, relate to various important aspects – including spectrum management, standards, national security, Digital Bharat Nidhi, adjudication, etc. Any specific condition proposed to be imposed on operators under these sections may have broader ramifications and would thus need a separate detailed consultation. It is pertinent to mention here that even DoT is holding public consultations on the draft rules being framed under different provisions of the Telecom Act.

Therefore, Airtel recommends that any specific terms and conditions proposed to be included in authorisations under the provisions of the Telecom Act should be deliberated with the industry before being proposed.

[10] https://trai.gov.in/sites/default/files/Recommendation_18092024.pdf

Q13. What provisions should be included in the terms and conditions of various network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023 considering the policy/Act in the Space Sector and other relevant policies/Acts in the related sectors? Kindly provide a detailed response with justifications.

Airtel Response:

No comments.

Q14. What should be the terms and conditions for the merger, demerger, acquisition, or other forms of restructuring of the entities holding network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023? Please provide a detailed response with justifications in respect of each network authorisation.

Airtel Response:

The terms and conditions for the merger, demerger, acquisition or other forms of restructuring of the entities holding authorisations under the Telecom Act should be simple and lead to faster approvals. Some of the issues which need to be addressed are:

(a) Recognition of Transactions other than those pursuant to an NCLT-Sanction Scheme

Presently, DoT only allows the merger/demerger/transfer of telecom licenses/business, pursuant to a scheme of arrangement/demerger to be sanctioned by NCLT.

However, a transfer pursuant to the scheme of demerger/merger is not the only method available for the transfer of an undertaking by a company. Various legislations, including the ones set out below, recognise other methods of transferring an undertaking or a business from one entity to another:

Companies Act, 2013:

The board of directors of a Company may "*sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings*", and such action shall be subject to approval of the shareholders of the Company by way of a special resolution as provided under Section 180 of the Companies Act.

Therefore, the Companies Act recognises that the board of directors of a company is empowered to dispose of/sell an undertaking, including by way of a slump sale/business transfer.

In fact, the transfer of an undertaking by way of a slump sale/business transfer agreement (under Section 180 of the Companies Act) is common in industrial parlance.

Securities Laws:

Regulation 30 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR Regulations") requires listed companies to make

certain disclosures to the Stock Exchanges of certain events or information within prescribed timelines.

As per Regulation 30, read with Schedule III, of the SEBI LODR Regulations, one of the events that is required to be disclosed by a listed company to the Stock Exchanges is "*Acquisition(s) (including agreement to acquire), Scheme of Arrangement (amalgamation/ merger/demerger/restructuring), or sale or disposal of any unit(s), division(s) or subsidiary of the listed entity or any other restructuring*".

Hence, the SEBI LODR Regulations also recognise that the sale or disposal of any unit or division of a company may be undertaken by way of a slump sale/business transfer.

Tax Laws:

The Income Tax Act, 1961, specifically defines a 'slump sale' to mean the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales. Therefore, it is evident that the Income Tax Act also specifically contemplates a transfer of an undertaking by an entity by way of a slump sale.

As is evident from the above, various statutes contemplate transfer of a business undertaking pursuant to a slump sale/business transfer. Slump sale is also an internationally recognised method of transfer as it is less complex and allows entities to complete the transaction in an expeditious manner.

Therefore, Airtel recommends that methods of transfer of business other than those pursuant to an NLCT-sanctioned scheme, including slump sale and business transfer agreement, should also be recognised.

(b) No Requirement of Prior DoT Approval

Section 230 of the Companies Act requires the applicant companies to file the Scheme with the Central Government (Regional Director), the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India, if applicable, and such other sectoral regulators or authorities, including DoT, which are likely to be affected by the Scheme.

All requisite approvals from the said authorities under the Listings Regulations and the Companies Act are required to be obtained prior to sanction of the Scheme by NCLT; and the applicant companies involved in the Scheme do not need to revisit any authority after the sanction by NCLT. Objections, if any, from all the other authorities are dealt with during the NCLT process itself.

DoT is a part of the NCLT process and actively participates in the same. Any requirement of DoT's approval for merger/demerger, post the completion of the NCLT proceedings, would unnecessarily result in delay and loss of value to the merging entities.

Therefore, Airtel recommends that there should be no separate requirement of DoT's approval for merger/demerger, post the completion of the NCLT proceedings.

(c) No Requirement of Clearance of Dues

Any merger/demerger exercise generally involves the transfer of all the liabilities of the Transferor Company to the Transferee Company, including the dues of all government bodies, and the same is also recorded in the NCLT approval. In this context, DoT should not mandate the clearance of any outstanding dues of the Transferor Company since such dues would automatically transfer to the Transferee Company.

Further, the Transferee Company continues to run its business and continues to hold its telecom license and, therefore, there is no reason why it should be asked to clear its outstanding dues.

Therefore, Airtel recommends the following:

(i) Neither the Transferor Company nor the Transferee Company should be required to clear their outstanding dues for the purposes of obtaining DoT's permission for merger/demerger.

(ii) If such a requirement is to be imposed, there should be a fixed cut-off date for clearing dues – which should be prior to the final approval of the merger by the NCLT.

(iii) A consistent definition of sub-judice matters should be stated so that the merging entities are not forced to approach the Court for matters that are sub-judice but interpreted differently.

(iv) All objections should be consolidated by DoT and raised only once and not piece meal on multiple occasions.

(d) Timeline for Transfer/Merger of Licenses/Authorisations

Over the past few years, most mergers and acquisitions have been marred by litigation between the merging entities and DoT. It is inevitable that either the merging entities or DoT will approach the appropriate forum to protect their legal rights.

First, it needs to be clarified that the time spent in pursuing any litigation on account of which the final approval for merger/demerger is not granted by DoT or any other authority stands excluded while calculating the aforesaid period of one year. This is necessary to protect the rights of an operator and allow it to pursue its remedies in Court while also ensuring that the aforesaid period of one year does not become redundant through no fault of the operator's on account of the issue pending before a Court.

However, it is also imperative that such litigation is reduced and completed quickly so as to allow for the mergers/demergers to proceed swiftly. To that extent, it is submitted that strict timelines should be stipulated for DoT to exercise its legal remedies.

Therefore, Airtel recommends the following:

(i) The time spent in pursuing any litigation on account of which the final approval for merger/demerger is not granted by DoT or any other authority should be excluded while calculating the one-year time frame granted post NCLT approval for transfer/ merger of licenses/authorisations.

(ii) DoT must be held to strict timelines when exercising its legal remedies against any mergers/demergers.

Q15. What conditions should be made applicable for the migration of existing network licenses, registrations etc. to the new network authorisation regime under Section 3(1)(b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

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Q16. What procedure should be followed for the migration of existing network licenses, registrations etc. to the new network authorisation regime under Section 3(1)(b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

Airtel Response:

At the outset, it is submitted that the contractual nature of the existing network licenses, registrations, etc. must be preserved even under the new regime. In any case, the rights of these entities under the existing instruments should be protected.

With respect to migration to the new regime, it is first important to acknowledge that Section 3(6) of the **Telecom Act already envisages such a process to be optional**. It is important to mention here that it is imperative that the rules remain consistent with the provisions under the Act and do not require any of the existing players to mandatorily migrate to the new regime.

Airtel submits that the conditions for migration should **enable a smooth transition for those who wish to migrate, but also not be worse-off for the ones who choose not to migrate for any reason**.

Further, the terms and conditions should not create any disparity between those who choose to migrate to the new authorisation regime and those who do not. The latter cannot be put at a competitive disadvantage as it is a Constitutional mandate to maintain a level playing field in the industry.

Furthermore, **migration should be on such terms that it does not affect any existing legal rights of the existing players**. Accordingly, those wishing to migrate to the new regime should not be required to withdraw any sub-judice matters or to submit any bank guarantees (**"BGs"**)/undertakings regarding payment of dues regarding such matters.

Airtel believes that the process of migration to the new regime will be voluntary and in line with the provisions of the Telecom Act. It, therefore, recommends the following:

(i) Migration to the new regime should not create any disparity and principles of fairness and equity should be maintained. The terms and conditions applicable to the existing players who choose not to migrate should be no worse-off than those applicable to the ones who choose to migrate as well as to the new entrants who obtain an authorisation under the new regime.

(ii) Migration should not be conditional upon withdrawal of sub-judice matters or upon submission of BGs/undertakings regarding payment of dues with respect to such matters.

Q17. Whether there is a need to introduce certain new authorisations (other than the authorisations discussed above) to establish, operate, maintain or expand telecommunication networks under Section 3(1)(b) of the Telecommunications Act, 2023? If yes, –

(a) For which type of telecommunication networks, new authorisations should be introduced?

(b) What should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of such authorisations?

Kindly provide a detailed response with justifications.

Airtel Response:

No comments.

Q18. Whether there is a need to remove certain existing authorisations to establish, operate, maintain or expand telecommunication networks, which may have become redundant with technological advancements? If yes, kindly provide a detailed response with justifications.

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Q19. Whether there is a need to club the scopes of certain authorisations to establish, operate, maintain or expand telecommunication networks into a single network authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for bringing more efficiency in the telecommunication networks? If yes, kindly provide a detailed response with justifications.

Airtel Response:

The intent of the Telecom Act 2023, as well as creating an authorisation framework under it, is to bring in ease of doing business, reduce excessive compliances and facilitate easier deployments of networks infrastructure. However, the instant CP seems to deliberating over multiple new Authorisations, e.g., DCIP or cloud-based network providers. As submitted above, Airtel believes that there is no need or justification for introduction of many of these proposed authorisations, and such unnecessary delayering must be avoided.

Q20. What provisions should be included in the terms and conditions of various network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023 to improve the ease of doing business? Kindly provide a detailed response with justifications.

Airtel Response:

Some measures which may be taken to improve the ease of doing business are discussed in detail below:

(a) Removing the Requirement for In-Principle Clearance from the Inter-Ministerial Committee for SatCom Networks

As part of the 2022 SatCom reforms, the Government took several very welcome steps with regard to satellite-based services like the removal of MPVT charges and scope enhancement of Commercial VSAT. However, the sector still yearns for more crucial reforms to be initiated such as doing away with the requirement of in-principle clearance from the Inter-Ministerial Committee for Satellite Network Clearance (IMC-SNC) for various activities.

Even after obtaining the license/authorisation, the satellite operator is still required to obtain in-principle clearance from IMC-SNC for the following activities:

- Establishing any satellite-based communication network.
- Starting totally new service/network or change in the service/network.
- Use of new technology for the first time, change of technology.
- Setting up of additional hub/gateway station.
- Change of frequency band.
- Any proposal not exactly similar to a previously cleared proposal or not scrutinised and approved by the IMC-SNC for any other licensee.

Airtel believes that these requirements are archaic, serve no purpose and, hence, should be done away with.

Moreover, there is no corresponding requirement of obtaining such a clearance from an Inter-Ministerial Committee, not even in the case of the vast terrestrial networks deployed across India that provide services to over a billion customers, operate millions of BTSs, operate in multiple spectrum bands (e.g., 700 MHz/900 MHz/1800 MHz/2.1 GHz/2.3 GHz/2.5 GHz/3.3 GHz/26 GHz) and multiple tech-nologies (2G/3G/4G/5G) and manage interference with other operators at circle level with unlicensed operators and various government users.

As SatCom will remain a very niche segment relative to terrestrial, there is no point in continuing with such onerous requirements for SatCom. This reform will boost investor confidence, simplify the procedure and still meet the objectives of the Government, without impacting the precious time to launch service.

Therefore, Airtel recommends that the requirement of in-principle clearance of IMC-SNC for establishing/modifying satellite-based communication networks should be done away with.

(b) Removing the need for a Carrier Plan Approval from NOCC for SatCom

Currently, a SatCom operator is required to obtain a carrier plan approval from NOCC.

Airtel understands that this requirement flows from GSO-based networks, where the same satellite is shared among multiple operators, thus necessitating interference monitoring by NOCC.

However, in the case of NGSO, the whole constellation serves only one entity, which is the satellite operator itself. Hence, there is no case for interference monitoring by a third party.

Even interference with adjacent satellites is a non-issue, as ITU already has well-defined processes for coordination among different satellite systems, with which all satellite operators have to mandatorily comply.

In case it is still felt that the submission of information regarding carrier plans, antenna parameters, etc. is necessary, NGSO operators could continue to provide the same on the Saral Sanchar portal on a self-intimation basis – rather than having to seek an approval.

Therefore, Airtel recommends that the requirement of carrier plan approval from NOCC for SatCom services should be done away with and replaced with a simple intimation-based process.

Q21. Whether there is a need for mandating a reference agreement between authorised entities establishing, operating, maintaining or expanding the telecommunication network, and authorised entities providing telecommunication services? If yes, –
(a) Between which type of entities, reference agreements are required to be mandated?
(b) What should be the salient features of the reference agreements between such entities?
Kindly provide a detailed response with justifications.

Airtel Response:

No, there is no need for mandating a reference agreement between authorised entities establishing, operating, maintaining or expanding the telecommunication network and authorised entities providing telecommunication services.

Under the existing regime, reference agreements have been mandated by the Authority in very limited scenarios. The same has been working well so far – and there is no justification for disturbing it. Even the Consultation Paper has not provided any specific scenarios where such reference agreements are proposed or the rationale behind them.

Accordingly, the commercial arrangements between network operators and service providers should continue to be governed by market forces and there is no need for ex-ante regulatory interventions at this stage. In any case, the Authority or Government can always intervene should they see the need for such a requirement at a later stage.

Therefore, Airtel recommends that there is no need for mandating a reference agreement between authorised entities establishing, operating, maintaining or expanding the telecommunication network and authorised entities providing telecommunication services.

Q22. Are there any other inputs or suggestions relevant to the subject? Kindly provide a detailed response with justifications.

Airtel Response:

Airtel would like to take this opportunity to highlight the **need for bringing over-the-top (OTT) communication services within the authorisation/licensing framework.**

The services traditionally provided by TSPs can now be provided through applications over the internet:

Voice/video calling and messaging services have traditionally been provided only by licensed TSPs – being governed by the licenses granted under the Indian Telegraph Act, 1885 (**"Telegraph Act"**). However, the market has undergone a paradigm shift with the IP-fication of network and services layers. Today, these services can be delivered using traditional text messaging and CS voice or packet switched (IP) voice/SMS over a Telco network and also via a standalone untethered application as a packet switched VoIP/ messenger.

OTT services have reached a high level of maturity:

In the past decade, there has been an exponential rise in the number of internet subscribers both at national and international level. The increase in broadband subscribers and data consumption has witnessed an increased penetration of OTT services and applications in the country.

OTT services and applications have thrived and multiplied, enabling factors being absence of any regulatory barriers and instant access to a global audience through the broadband connectivity powered internet, a fact noted by the Authority as well. As a result of such unfettered access, they have become significant players in the global as well as national economy.

Services provided by licensed TSPs and OTT communication services are functionally similar and/or substitutable and offer the same core utility:

While there may be a difference in the underlying modes of delivery of OTT communication services through an internet application or a licensed TSP's traditional service, the services are used interchangeably by end users. The core utility of the service remains the same, i.e., exchange of inter-personal communication in real-time with another user. The richness of features or add-ons of an application do not change this. The similarity/substitutability in functionality can be clearly seen in the following services:

a. **Messaging services –** Instant messaging services provided on internet-based applications are similar to text messaging services provided by TSPs, which do not require internet connectivity.

b. **Voice calling services –** One of the primary services provided by TSPs is voice calling. Voice and video calling services provided by OTTs through the internet on internet-based applications are similar to the voice calling services provided by TSPs. Similarly, the VoIP services offered by OTT communication service providers are a perfect substitute for internet telephony services offered by licensed TSPs.

There has been a regulatory lacuna for OTT communication services:

As opposed to traditional licensed TSPs, OTT communication service providers offering these interpersonal communication services are not covered under the extant telecom licensing and regulatory framework. It is submitted that such services should be governed by the same set of rules irrespective of whether they are provided by an operator on its own network or through the internet. This would be in line with the principle of 'Same Service – Same Rules' and enable a level playing field in the industry.

The definition of telecommunications under the Telecom Act is broad enough to cover OTT

communication services:

The Telecom Act has a broad definition of 'telecommunications,' which includes "*any sign, signal, writing, text, image, sound, video, data stream, intelligence or information sent through telecommunication*." It leaves ample room for the inclusion and regulation of OTT communication services under the Act.

Security, privacy and consumer protection are sine qua non:

While license conditions ensure that communications exchanged through traditional telecom services can be monitored by law enforcement agencies, the same is not true of OTT communications services which continue to be unmonitored – hindering the processes of law enforcement and crime prevention. Similarly, there are checks and balances w.r.t. customer data handled by TSPs but that is not the case with OTT communications services and this risk is further exacerbated by the fact that most of their servers are located outside India. It is, therefore, doubly important that security, privacy and consumer protection measures are horizontally applied across all interpersonal (P2P and business alike) communication.

An authorisation regime would allow the government to monitor and analyse traffic data generated by OTT services, which could be crucial for identifying and mitigating potential cybersecurity threats. This oversight could lead to better regulation of content and communication, ensuring compliance with national security and public safety requirements.

Further, bringing OTT services under the authorisation regime could enhance consumer protection by ensuring that these platforms adhere to specific standards regarding data privacy, security and accountability. This could include requirements for stronger user authentication processes and measures to combat fraud. OTT services could be mandated to implement Know Your Customer (KYC) processes to verify user identities.

Regulation of OTT communication services will make the regime future-ready:

As the digital landscape continues to evolve, a well-structured regulatory framework that includes OTT services could help address future challenges more effectively. By proactively incorporating OTTs into the authorisation regime, the government can ensure that the law remains adaptable and responsive to technological advancements.

Other sectoral regulators are also regulating OTT players:

Various sectoral regulators in India have been proactively keeping track and modifying the regulatory framework to include any OTT players that may be offering services similar to those being offered by the traditional players under their jurisdiction.

Regulators like RBI, SEBI, IRDAI, etc. have created a virtuous framework in their respective sectors that allows innovation and the growth of OTTs/online players while simultaneously ensuring legal and regulatory oversight without disrupting the level playing field.

In contrast, thus far, no regulations have been drawn up for OTTs operating in the telecom sector and as a result a non-level playing field has emerged between them and the traditional TSPs. The Authority has debated the issue, but no concrete steps have been taken till date. It is thus high time that these services were brought within the legal and regulatory framework.

There are international precedents of regulation of OTT communication services:

The European Electronic Communications Code adopted by the EU has classified OTT communication services providers into number-based (like VoIP) and number-independent (like instant messaging) service providers. While the number-based services are subject to the same rules as traditional TSPs, a lighter regime is in place for number-independent services.

Singapore requires OTT communication services providers to obtain a Service-Based Operating License that prescribes some minimum QoS standards. Regulation of OTT players is also under consideration in Trinidad and Tobago. In Turkey, the ICT Authority has been explicitly empowered to regulate OTT service providers through an amendment in 2022, and the issue is being closely monitored by it. Zimbabwe has proposed to move to a converged licensing framework, which would also cover OTT service providers.

Therefore, Airtel recommends the following:

(i) OTT communication services should be brought under the authorisation/licensing framework.

(ii) As the services provided by traditionally licensed TSPs and OTT Communication Service providers are functionally substitutable, parity should be maintained in the T&Cs applicable to both – as per the principle of 'Same Service – Same Rules.'

Q23. In case it is decided for merging the scopes of the extant Infrastructure Provider-I (IP-I) and the Digital Connectivity Infrastructure Provider (DCIP) authorization into a single authorization under the Section 3(1)(b) of the Telecommunications Act, 2023, what should be the:-
(a) Minimum equity and networth of the Authorised entity.
(b) Amount of application processing fees
(c) Amount of entry fees
(d) Any other Fees/Charge
Please support your response with proper justification.

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Q24. In case it is decided not to merge the scopes of IP-I and DCIP, what changes/ modifications are required to be made in the financial conditions of –
(a) DCIP authorisation as recommended by TRAI in August 2023
(b) IP-I authorisation under the Telecommunications Act, 2023 with respect to the extant IP-I registration?
Please provide a detailed response with justification.

Airtel Response:

As submitted earlier in the response to Q1-3 with detailed justifications, Airtel reiterates that there is no justification for either creating a new category of infrastructure provider, i.e., DCIP, or merging the scope of IP-I and DCIP.

Q25. In case it is decided to introduce a new authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding in-building solution (IBS) by any property manager within the limits of a single building, compound or estate controlled, owned, or managed by it, then –

(a) Whether there is a need to have financial conditions associated with such an authorisation?

(b) In case your response to the above is in the affirmative, then what should be financial conditions for such an authorisation?

Please provide detailed response with justification.

Airtel Response:

Please refer to the response to Q4. It is re-iterated that there is no need to introduce a new authorisation for establishing, operating, maintaining or expanding IBS by any property manager within the limits of a single building/compound/estate controlled/owned/managed by it.

Q26. Whether there is a need to change/modify any of the financial conditions of the IXP and CDN authorisations from those recommended by TRAI on 18.11.2022? If yes, please provide a detailed response with justification(s).

Airtel Response:

Please refer to the responses to Q5-6.

Q27. Whether there is a need to change/modify any of the financial conditions of the Satellite Earth Station Gateway (SESG) authorization from those recommended by TRAI on 29.11.2022? If yes, please provide a detailed response with justification(s).

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Q28. In case it is decided to introduce a new authorisation for establishing, operating, maintaining or expanding satellite communication network under Section 3(1)(b) of the Telecommunications Act, 2023, then, what should be the financial conditions for such authorisation?

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Q29. In case it is decided to introduce an authorisation under Section 3(1) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding ground stations, which may be used to provide Ground Station as a Service (GSaaS), then:

(a) Whether there is a need to have financial conditions associated with such an authorisation?

(b) In case your response to the above is in the affirmative, then what should be financial conditions for such an authorisation?

Please provide detailed response with justification.

Airtel Response:

Please refer to the response to Q7-9.

Q30. In case it is decided to introduce an authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding cloud-hosted telecommunication networks, which may be used to provide telecommunication network as a service to the authorised entities under Section 3(1)(a) of the Telecommunications Act, 2023, then:

(a) Whether there is a need to have financial conditions associated with such an authorisation?

(b) In case your response to the above is in the affirmative, then what should be financial conditions for such an authorisation?

Please provide detailed response with justification.

Airtel Response:

Please refer to the response to Q10. It is re-iterated that there is no need for a separate authorisation to establish, operate, maintain or expand cloud-hosted telecom networks.

Q31. For Mobile Number Portability Service authorisation under Section 3(1)(b) of the Telecommunications Act, 2023, should the amount of entry fee and provisions of bank guarantees be:

(a) kept same as per existing MNP license.

(b) kept the same as recommended by the Authority vide its Recommendations dated 19.09.2023 (c) or some other amount/provisions may be made for the purpose of Entry Fee and Bank Guarantees.

Please support your response with proper justification.

&

Q32. For Mobile Number Portability Service authorisation under Section 3(1)(b) of the Telecommunications Act, 2023, whether there is a need to review/modify:

(a) Definition of GR, AGR, ApGR

(b) Rate of authorisation fee

(c) Format of Statement of Revenue Share and License Fee

(d) Norms for the preparation of annual financial statements

(e) Requirement of Affidavit

Please provide your response with detailed justification.

Airtel Response:

No comments.

Q33. What financial conditions should be made applicable for the migration of the existing licensees/registration holders to the relevant new authorisations under section 3(1) (b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

Airtel Response:

Please refer to the response to Q15-16 above. It is re-iterated that the process of migration to the new regime should be voluntary, in line with the provisions of the Telecom Act. The terms and conditions applicable to the existing players who choose not to migrate should be no worse-off than those applicable to the ones who choose to migrate as well as to the new entrants who obtain an authorisation under the new regime. Further, migration should not be conditional upon withdrawal of sub-judice matters or upon submission of BGs/ undertakings regarding payment of dues with respect to such matters.

Q34. In case it is proposed for introducing certain new authorisations to establish, operate, maintain or expand telecommunication networks under Section 3(1)(b) of the Telecommunications Act, 2023, what should be the respective financial conditions for each of such authorisation(s)? Please provide a detailed response with justifications in respect of each network authorisation, separately.

Airtel Response:

No comments.

Q35. What should be the financial conditions for the merger, demerger, acquisition, or other forms of restructuring of the entities holding network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023? Please provide a detailed response with justifications in respect of each network authorisation.

Airtel Response:

Please refer to the response to Q14 above.

Q36. In case it is decided to club the scopes of certain authorisations to establish, operate, maintain or expand telecommunication networks into a single network authorisation under Section 3(1)(b) of the Telecommunications Act, 2023, then, what should be the financial conditions for such authorisations? Please provide a detailed response with justifications for each network authorisation, separately.

Airtel Response:

Please refer to the response to Q19 above. There is no need to club the scopes of certain authorisations to establish, operate, maintain or expand telecommunication networks into a single network authorisation.

Q37. Whether there are any other issues/suggestions relevant to the fees and charges? The same may be submitted with proper explanation and justification.

Airtel Response:

No comments.