

Consultation on Voice Mail/Audiotex/Unified Messaging Services License

Introduction

The review of the regulatory regime for the Voice Mail/Audiotex/Unified Messaging Services is a welcome step by the regulator in the background of changes in technology and the resultant new user applications and service delivery scenarios. The aforementioned services are recognised globally as well-established services which are provided by using the telecom resources from licensed telecom operators as well as equipment used for such service. As on June 30, 2016, the total number of operative licenses are 63, which cover around 12 cities and have been issued to about 31 companies.

Inclusion of the Voice Mail/Audiotex/Unified Messaging Services under the Unified Licensing regime would be unbalanced as it would tantamount to equating the licenses of Voice Mail/Audiotex/Unified Messaging Services in the same category with licensees holding licenses for carriage based services

Unified License Regime

One of the objectives of the National Telecom policy-2012 is “Strive to create *One Nation - One License*” across services and service areas. The National Telecom Policy - 2012 recognizes the evolution from analog to digital technology, which has facilitated the conversion of voice, data and video to the digital form. It has been recognised now as imperative to move towards convergence between various services, networks, platforms, technologies and overcome the existing segregation of licensing, registration and regulatory mechanisms in these areas to enhance affordability, increase access, delivery of multiple services and reduce cost. Further, it envisages providing secure, reliable, affordable and high quality converged telecommunication services anytime, anywhere for an accelerated inclusive socio-economic development.

The main issue which arises for discussion under the Consultation Paper is whether the Unified Licensing Regime should be applicable to the licensees of the Voice Mail/Audiotex/Unified Messaging Services. Notably, amongst the provisions which are being considered to be included are Entry Fee, License Fee, Performance Bank Guarantees, Financial Bank Guarantees. In addition to the financial sanctions, it is apparent that the applicability of the Unified Licensing Regime will entail a number of onerous obligations such as maintaining security, interception, monitoring etc, which in fact are not applicable to licensees of the Voice Mail/Audiotex/Unified Messaging Services.

It may be noted that a distinction has to be made between the services under the Unified Licensing regime and services provided by licensees of the Voice Mail/Audiotex/Unified Messaging Services as they are passive and interactive services which are non-real time communication services. The services are in the nature of content services and not carriage services. Even though the licensees of the Voice Mail/Audiotex/Unified Messaging Services provide services using telecom resources of telecom service providers, there is no by-pass of revenue since the cost of the local calls or STD calls are made to the respective telecom service provider. Application service providers take telecom resources from licensed TSP at commercial rates and build applications over and above it. Hence putting financial obligations on licensees of the Voice Mail/Audiotex/Unified Messaging Services such as payment of Entry Fee, License Fee, Performance Bank Guarantees, Financial Bank Guarantees would be onerous and burdensome and would on the contrary create tremendous financial stress on the businesses of such licenses.

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It has been stated that the revenue earned through Voice Mail/Audiotex Services is also counted towards revenue for the purpose of licence fee in case of Basic Service Licence, UAS Licence and UL whereas there is no licence fee in case of Voice Mail/Audiotex/Unified Messaging Services Licence. Hence, one of the issues which needs to be considered is the overlap of the services of the licensees of Voice Mail/Audiotex/Unified Messaging with Basic Service licensees, UASL Licensees and UL licensees. This itself cannot form the basis for inclusion of the licensees of Voice Mail/Audiotex/Unified Messaging under the Unified Licensing Regime since it would be contrary to the level playing field. It would be incorrect to equate a Unified License holder who holds a license under a specific authorisation, provides a carriage based service and may/may not provide Voice Mail/Audiotex Services with a licensee of Voice Mail/Audiotex/Unified Messaging whose primary business is to provide content based services through Voice Mail/Audiotex/Unified Messaging.

It may be noted that a licensee is not involved in the provision of services to subscribers, does not provide switching systems which control flow of data from a consumer to another and even in hordes, nor does it provide transmission and delivery of voice and/or non-voice messages over a licensee's network. The distinction that needs to be carved out is that a licensee of Voice Mail/Audiotex/Unified Messaging is only hiring telecom resources from the telecom service providers to enable it to provide its services to its customers. Hence the equation of the UL License Holder with a licensee of Voice Mail/Audiotex/Unified Messaging would be incorrect.

Further the imposition of license fee on licensees of Voice Mail/Audiotex/Unified Messaging would tantamount to double taxation on license fee since the provision of services by licensee of Voice Mail/Audiotex/Unified Messaging is done by hiring of telecom resources for which the charges for a call are paid, and thereafter, the licensee of Voice Mail/Audiotex/Unified Messaging would also be under an obligation to pay license fee on the revenues it has earned on the provision of services. In this sense, it appears that the very definition of the AGR would be subject to challenge. One needs license to produce a resource, but not on gainful utilisation of that resource-in which case a simple broad band domestic connection should attract licensing. If a consumer acquires a phone line, or an Internet access is asked for, by same analogy parlance we should be asking for licenses.

Outdated and Antiquated Regulations

The Guidelines for Voice Mail/Audiotex/Unified Messaging Services dated July 16, 2001 ("**Guidelines for Audiotex**") was issued by the Department of Telecommunications, Government of India ("**DoT**") to streamline the terms and conditions applicable to service providers providing Voice Mail, Audiotex and Unified Messaging Services. The Guidelines for Audiotex was issued in the background of the NTP-99 and TRAI Recommendations of December 29, 2000 ("**TRAI Recommendations (2000)**"), wherein it was recommended that:

- Audiotex is a generic term for interactive voice response equipment and services. Audiotex to a telephone instrument is what data processing is to a data terminal;
- The Voicemail/ Audiotex service provider was essentially a Content Provider and both the services are essentially Content Services and not a Carriage Service;
- As per the internet policy, pure Content Services are not to be licensed at all, and an identical policy should be followed for all kinds of content services;
- No Entry Fee should be charged but performance bank guarantee of Rs. 3 lakhs should be obtained.
- Licenses should be granted to cover Short Distance Charging Area (SDCA) on the basis of local dialling i.e. local call rates as far as charges for accessing the Mail Box is concerned. However, there should be no bar on accessing these Services on STD call basis.

The Guidelines for Audiotex have been in force since 2001, with the exception of amendments made by letter No. 846-38/96-VAS (Vol II)/80 dated 26.8.2004 and letter no. 846-110/2013-CS-I dated 6.12.2013. In view of changes in technology and resultant new user applications, it is stated that some of the provisions of the Guidelines for Audiotex of 2001 cannot be applied to the services which fall within the scope of Voice Mail/Audiotex/Unified Messaging Services, which notably include the following:

- Point to Point Conferencing not being permitted;
- Dial-out Facility not permissible if resources are taken by the Voice Mail/Audiotex service licensee from more than one service provider;
- Multiparty conferencing is allowed with the prohibition of point to point conferencing and illegal bypass of STD/ISD traffic of licenses access service providers.

With globalisation and technological advancement, the world has become smaller and with the press of a button, it is now possible to communicate with anyone in the world. For business enterprises and multinationals, it has become imperative for employees to participate in conference calls to minimise costs and maximise output. We can understand the apprehensions in the year 2001, of dial-out facility not being permitted if resources were to be taken from more than one service provider but it would be unfair to apply the same principles in the year 2016, where human lives are being ruled by technology. We note the Government's need to recognise that a user should maintain his identity provided by a number irrespective of the telecom operator and an example of this principle has been in the adoption of Number Portability for consumers. In case of conferencing solutions, it should be made possible that participants use multiple telecom operators based on their preference and costs. Having constraints on the ability to dial out to multiple operator's causes sub-optimal conferencing solutions available to customers. If Dial-out facility is permitted, the calls still happen through PSTN and hence the respective CDRs are available for inspection as and when required. Further, the term point to point conferencing has not been defined under the existing regime and needs to be defined or amended in the new regime envisaged.

Scope of Services

Traditionally, Audiotex services have been defined and understood to mean the automatic answering of calls and the subsequent provision of audio information to the callers. Audiotex service can be either passive – where the caller simply listens to a fixed service format or can be interactive where the caller can choose various information by interacting with the database computer via telecom network. A subscriber can retrieve the information at any time by interacting with the main data base computer by using the existing telephone line. However, for any interaction with the computer DTMF telephone instrument is required.

With the advent of technology and communications across the world being provided by the push of a button, the user experience has also undergone a change, where while the call can be interactive, there should also be an element of human voice involved as well. Similarly, point to point conferencing not being permitted is also a challenge in today's times since the user demands a variety of options to be able to initiate conference calls.

To keep up with the changing technology as well as meet the business needs, it is necessary to expand the scope of the Audiotex License, to include interactive as well as voice services via a telecom network and the conferencing facilities should include audio/video and web conferencing.

Issues for Consultation

In light of our views expressed hereinabove, our humble submission to the Regulator on the questions posed by the Regulator are as follows:

- Q1. *In view of the discussion in Para 2.13, is it necessary to have a separate standalone licence for Voice Mail Service? If so, why? Please provide detailed justification?*
- Q2. *If the answer to the Q1 is in the affirmative, whether the existing technical specifications need to be revised or redefined? What should be the revised technical specifications?*
- Q3. *In view of Para 2.17 and present technological developments, is it necessary to have a separate standalone licence for only Audiotex Service? If so, why? Please provide detailed justification?*
- Q4. *If the answer to the Q3 is in the affirmative, whether the existing technical specifications need to be revised or redefined? What should be the revised technical specifications?*
- Q5. *Whether there is a need for standalone licence for providing Audio Conferencing Service? If yes, whether the technical specifications need to be explicitly defined? Please provide detailed justification?*
- Q6. *If the answer to the Q5 is in the affirmative, what should be the technical specifications for providing Audio Conferencing Service?*

(Combined Answer for Q1-6)

I. *Standalone License for Voice Mail Service, Audiotex Service and Audio Conferencing Service*

In our view, a standalone license is required for Voice Mail Service, Audiotex Service and Audio Conferencing Service for the reasons stated below:

(a) Voice Mail

Voice mail service is a content service and not a carriage service. It is the ability of a subscriber to access and retrieve stored messages in scenarios where there is no immediate or convenient direct communication with a caller. Voice Mail Services are an ancillary service on top of the PSTN network. It uses the telephony infrastructure as its backbone but is essentially an add on that should not be covered under a Unified Licence that includes core telephony infrastructure.

(b) Audiotex Services/Audio Conferencing

AudioTex/Audio Conferencing services are also an add-on service over and above the telephony infrastructure. **They also are a content service and not carriage service.** In themselves, the services under Audiotex licenses are nothing but a caller interacting with a database through a telecom network. The interaction could be passive - where a caller simply listens to a recorded message or interactive where the caller can choose various information by interacting with the database computer via a telephone network. All of these services are ancillary to a telecom network and use the telecom network as a backbone but provide an enriched content to a subscriber which is far advanced that the core telephony service.

II. *Technical Specifications for Voice Mail Service, Audiotex Service and Audio Conferencing Service*

In our view, the technical specifications for Voice Mail Service, Audiotex Service and Audio Conferencing Service should be revised for the reasons stated below:

(a) Voice Mail

The existing technical specifications for Voice Mail need a revision with respect to accessibility and retrieval of the stored messages by the subscriber. The current access protocols are limiting in nature as the subscribers increasingly want non real time accessibility to stored messages through medium of internet or via email. The technical specifications with respect to physical infrastructure and equipment should continue to be the prerogative of the telecom providers. The revision is required in the current technical specifications for access to the subscriber. As the technology and business needs continue to evolve in the market, subscribers increasingly need deeper analytics, integration with their Customer Relationship Management (CRM) systems, and hence access and retrieval is required through mediums like email or directly accessible online via internet on a non real time basis.

(b) Audiotex/Audio Conferencing

The key changes for consideration are:

- ❖ Technical definition of point-to-point conference is necessary.
- ❖ Remove SDCA based license -With the presence of over 600 SDCAs in the country, the ability to provide services across the country becomes limited because of need for that many licenses.
- ❖ Define conference to accommodate technological innovation and evolving use cases - It should allow inbound leg as well as an outbound leg and a combination of inbound and outbound legs to the conferencing server. Outbound is critical as increasingly businesses want to take the onus of the cost of the call away from the end-user and customer. This should in no way be construed as revenue loss to either a telecom operator or the Government in return as only the entity paying for a call is changing from end user to business but not the occurrence of revenue.
- ❖ Dial out with multiple operators - The government recognises the need for a user to maintain his identity provided by a number irrespective of the telecom operator and hence adopted Number Portability for consumers. In case of conferencing solutions, it is possible that participants use multiple telecom operators based on their preference. Having constraints on the ability to dial out to multiple operator's causes sub-optimal conferencing solutions available to an SMB. The calls still happen through PSTN and hence the respective CDRs are available.
- ❖ Clearer technical definition of some key terms to reduce multiple interpretations by various stakeholders

Q7. Is it necessary to have a separate licence for Unified Messaging Service when holding an ISP licence is mandatory to provide the Unified Messaging Service and standalone ISP licence is also allowed to provide Unified Messaging Service? If so, why? Please provide detailed justification?

For the reasons stated above, we are of the view that a separate licence for Unified Messaging Service when holding an ISP licence is mandatory to provide the Unified Messaging Service and standalone ISP licence should be allowed to provide Unified Messaging Service.

Q8. *If the answer to Q7 is in the affirmative, whether the existing technical specifications need to be revised or redefined? What should be the revised technical specifications?*

Please refer to our comments for Q2, 4 and 6.

Q9. *In case Voice Mail/Audiotex/Unified Messaging Service requires a licence should they be made a part of the Unified Licence as one of the services requiring authorisation? Please provide detailed justification?*

No. Voice Mail/Audiotex/Unified Messaging Services are an add-on service that uses the current telecom infrastructure at its background. As such they should not need a separate authorisation from a Unified License perspective. Please refer to our comments under Section 2.4

Q10. *If the answer to the Q9 is in the affirmative, what should be Service Area? Whether Service Area may be similar to the Service Area of ISP (National Area, Telecom Circle/Metro Area, Secondary Switching Area) to bring in uniformity among the Service Areas of different services? Please provide detailed justification?*

Not Applicable

Q11. *If Voice Mail/Audiotex/Unified Messaging Services is made a part of the Unified Licence as one of the services requiring authorisation, then what should be the Entry Fee?*

Voice Mail/Audiotex/Unified Messaging Services should not need a separate authorisation from a Unified License perspective thereby eliminating the need for an entry fee for authorisation. Even assuming that Voice Mail/Audiotex/Unified Messaging Services is made a part of the Unified Licence as one of the services requiring authorisation, the entry fee should be nominal.

Q12. *Whether there should be any requirement for Minimum Net worth and Minimum Equity for Voice Mail/Audiotex/Unified Messaging Services authorisation under Unified Licence?*

There should not need a separate authorisation from a Unified License perspective thereby eliminating the need for Minimum Net Worth & Minimum Equity.

Q13. *The annual licence fee for all the services under UL as well as for existing UASL/CMTS/Basic Service/NLD/ILD/ISP licensees have been uniformly fixed at 8% of AGR since 1st April 2013. Whether it should be made same for Voice Mail/Audiotex/Unified Messaging Services authorisation under Unified Licence? If not, why?*

Voice Mail/Audiotex/Unified Messaging Services use the existing telephony infrastructure as backbone and are essentially add ons. The telecom service providers earn revenue for utilizing their telephony infrastructure. As this revenue already forms a part of AGR, there is no requirement of additional annual licence fee. Please refer to our comments under Section 2.4

Q14. *In case the answer to Q13 is in the affirmative then what should be the definition of AGR for Voice Mail/Audiotex/Unified Messaging Services authorization under Unified Licence?*

Not Applicable

Q15. *What should be Performance Bank Guarantee, Financial Bank Guarantee and Application Processing Fee for Voice Mail/Audiotex/Unified Messaging Services authorisation under Unified Licence?*

We do not suggest the need for authorisation for Voice Mail/Audiotex/Unified Messaging Service under Unified License.

- Q16. Whether the duration of the licence with Voice Mail/Audiotex/Unified Messaging Services authorisation be made 20 years as in the other licence authorisations under Unified Licence? If not, why?*

It may be considered to make the term of the license with Voice Mail/Audiotex/Unified Messaging Services as 20 years.

- Q17. What should be the terms and conditions for the migration of existing Voice Mail/Audiotex/Unified Messaging Services Licensees to Unified Licence?*

If at all, it is decided to migrate the existing Voice Mail/Audiotex/Unified Messaging Services Licensees to Unified Licence, it is suggested that there may be relaxation in the norms applicable to other authorisations vis-à-vis the Voice Mail/Audiotex/Unified Messaging Services and the terms and conditions should not be so stringent that it becomes difficult to do business for the provision of these services. Please refer to Section 2 of our response.

- Q18. Whether the existing Voice Mail/Audiotex/Unified Messaging Services Licensees may be allowed to continue or it would be mandatory to migrate to the Voice Mail/Audiotex/Unified Messaging Services authorization under Unified Licence?*

Yes, the existing licensees should be allowed to continue under the earlier regime and should not mandate a migration to Unified Licence.

- Q19. What should be the annual licence fee for existing Voice Mail/Audiotex/Unified Messaging Services Licensees who do not migrate to the Voice Mail/Audiotex/Unified Messaging Services authorization under Unified Licence?*

We recommend no additional fees in case of companies that do not migrate to Unified License.

The current licensees have already complied with all financial stipulations as detailed at the time of obtaining these licenses. They should not need to take additional financial burden for providing services for which they already hold a license. The telecom service providers earn revenue for utilizing their telephony infrastructure. As this revenue already forms a part of AGR, there is no requirement of additional annual licence fee.

- Q20. Please give your comments on any related matter, not covered above.*

It is most respectfully submitted that the policy framework for Voice Mail/Audiotex/Unified Messaging Services should be liberalised in a manner that it takes care of customer aspirations as well as an entrepreneur who is desirous of providing innovative technologies to its customers at large under this regime. Needless to add that security issues as well as leakage of any revenue loss to the Government should be of primary importance while reviewing changes to this framework.

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