

Counter Comments

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as individual

CP¹PR^{2,3}

Introduction:

1. Objective of the 'CP'⁴ ostensibly is a step towards "segregating the infrastructure/network layer and service/application layers" **Page '7' of '43'** of CP⁵. And that too, presumably, in the current operative frame work attributes adopted by TRAI summed up as follows:

(i) Soft/Light Touch light touch license **page of 18-CP**⁶

(ii)Ease of doing business(EoDB)

(iii)Level Playing Played

Reiterated by **TRAI** as:

(a)"Similar services should be subject to similar rules" **page 18** of CP⁷

But TRAI has stated in:

(b)"that DCIP license should not be standalone, but part of UL regime.,no LF **Page-19** of CP⁸

as opposed to declared no LF is being proposed is being proposed **Page-24** of CP⁹

(c)a maximum penalty of Rs. 20 Lakh is being suggested to DCIPs. **P25 age** of CP¹⁰

(d)DCIP authorization under UL? **Page-12** & Fig-2 **Page-13** of CP¹¹

While elaborating the significance of Fig-2 (d) above¹².

TRAI has elaborated that:

(e)As has been illustrated in **figure 2.1**¹³, existing IP-I can continue to work at infrastructure layer 1 for provision of passive infrastructure. While the newly envisaged Digital Connectivity Infrastructure Providers (DCIPs) can work at both layer 1 and layer 2 and provide passive infrastructure and create active networks (excluding core elements) **page Page-13 CP**¹⁴ albeit initially proposal considered was to enhance the scope of IP-I to enable them to function in Layer 1 & Layer 2,however,"In the legal opinion sought by DoT on this issue, it has been opined that: (i) Active Infrastructure can be provided only by Telecom Licensees. (ii) IP-I registration holders cannot be allowed to provide active infrastructure under their IP-I registration unless they are shifted to licensing regime." **page 12** of CP¹⁵.

2.Scope:

(a) The scope is implied in the 'Issues for Consideration" and the Questions have been framed leading to achieve the explicit **Objective**.

B. Need for Introduction of new DCIP license /authorization under Unified License (UL) **page-15** of CP¹⁶

3. The concept of "Property Manager' has been referred in **Page '3'** of VI¹⁷ & "Rating of Buildings or Areas for Digital Connectivity"10 "The Property Manager" **Page '7'**of VIL¹⁸ .

Issues for consultation

Q1. Comments of stakeholders are invited on the proposed DCIP Authorization under UL (attached at Annexure V). They may also offer their comments on the issues flagged in the

discussions on terms and conditions and scope of the proposed authorization. Any suggestive changes may be supported with appropriate text and detailed justification.

Q 2. Are there any amendments required in other parts/chapters of UL or other licenses also to make the proposed DCIP authorization chapter in UL effective? Please provide full details along with the suggested text.

Q3. Are any issues/hurdles envisaged in migration of IP-I registered entities to the proposed DCIP Authorization under UL? If yes, what are these issues and what migratory guidelines should be prescribed to overcome them? Please provide full text/details.

Q4. What measures should be taken to ensure that DCIP Licensee lease/rent/sell their infrastructure to eligible service providers (i.e., DCI items, equipment, and system) on a fair, non-discriminatory, and transparent manner throughout the agreed period? Please provide full details along with the suggested text for inclusion in license authorization, if any.

Q5. How to ensure that DCIPs lease/rent/sell out the DCI items, equipment, and system within the limit of their designed network/ capacity so that the service delivery is not compromised at the cost of other eligible service provider(s)? Please suggest measures along with justification and details

Ans. Q1 to Q4. No specific. Kindly refer to **Ans.6.**

Q 6. Stakeholders may also submit their comments on other related issues, if any.

Ans.6.

4.

(a) Kindly refer **1,1(a),(b),(c),(d),(e)** above: TRAI considered that the Objective could be achieved by enhancing the scope of IP-I. But due to legal issues as intimated by DoT in lieu of enhancing the SCOPE IP-I the present CP is under consideration for a DCIP operating as UL entity without 'LF'.

But:

(i) "However, charging zero LF on DCIPs, while levying fees as high as 8% on the other licensees, creates a non-level playing field within the telecom industry and **inter-se** licensees." **Page '11' of BAL**¹⁹.

(ii) Thus TRAI is a violator of its own assertion as of **1(a)** above. Moreover "Similar services should be subject to similar rules" is just a variant substitute for 'Level Playing Field Concept'. It has appeared again & again many times earlier and even now in extant 'comments' received from stake holders as per details- '4' times ISPA²⁰, '1' time Consumer Protection Association²¹, '6' times TCL²², level/non-level '2' Times BAL²³, '3' Times VIL²⁴. It has been appearing in TRAI documents and comments of stake holders since inception of TRAI. Right in beginning while describing mission **inter-alia** TRAI has asserted that "One of the main objectives of TRAI is to provide a fair and transparent policy environment which promotes a level playing field and facilitates fair competition."²⁵ TRAI appears to have realised that a fresh look is required at the concept of 'Level Playing Field' by asserting that "2.64 Further, DoT has made a reference to TRAI regarding, convergence of carriage of broadcasting services and telecommunication services which is already under active consideration. Therefore, the Authority, after due consideration will deal with the issue of level playing field separately"²⁶.

5. In the extant CP²⁷ TRAI is trying to enable **UCIP** under UL by changing ‘INPUT RULES’ for this proposed entity thus violating its own assertion as discussed in para ‘3’ above.

6. Please refer para ‘3’ above. ‘Property Manager’ is not defined any where in CP²⁸.

7. The following is submitted for kind consideration please:

(a) The **legal issues** of DoT not supporting upgradation of IP-1 may be put in public domain.

(b) The extant CP is based on **asymmetrical in-puts ‘Rules’** as per **4(a)(i),(ii)** above as not adhering to “**Same Service Same Rules**” concept strictly.

(c) if (a),(b) above are in sync then **extant CP** promoting **DCIP** may be **shelved**

(i) And scope of **IP-I** may be considered for enhancing the same in place of shelved DCIP consideration duly shelved.

(d) The consideration of concept of ‘**Level Playing Field**’ may be done on top priority by **TRAI** as the same is only of historical benefit as of now because it is just does not fit in with the advent of **converging** networks and **NGN** technologies.

(e) Attributes of a ‘Property Manger’ may be put in public domain along with legal single/multiple backingbackings for the same.

References

1. https://traigov.in/sites/default/files/Consultation_Paper_09022023.pdf

2. https://traigov.in/sites/default/files/PR_No.11of2023.pdf

3. https://traigov.in/sites/default/files/PR_No.23of2023_0.pdf

4. supra ‘1’.

5. *ibid.*

6. *ibid.*

7. *ibid.*

8. *ibid.*

9. *ibid.*

10. *ibid.*

11. *ibid.*

12. *ibid.*

13. supra ‘11’.

14. supra ‘1’.

15. *ibid.*

16. *ibid.*

17. https://traigov.in/sites/default/files/VIL_10042023.pdf

18. *ibid.*

19. https://traigov.in/sites/default/files/Bharti_Airtel_10042023.pdf

20. https://traigov.in/sites/default/files/ISPAI_10042023.pdf

21. https://traigov.in/sites/default/files/Consumer%20Protection%20Association_10042023.pdf

22. https://traigov.in/sites/default/files/TCL_10042023.pdf

23. supra ‘19’.

